Federal Register

8–29–00 **Tuesday**
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Pages 52287–52638

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: September 13, 2000, 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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Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
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Tuesday, August 29, 2000

Presidential Documents

Title 3—

The President

Proclamation 7333 of August 24, 2000

Minority Enterprise Development Week, 2000

By the President of the United States of America

A Proclamation

Today, America is enjoying the longest economic expansion in our history, with 22 million new jobs created since my Administration took office in 1993 and the lowest unemployment and inflation rates in more than 30 years. The American people are looking to the future with renewed hope and optimism, eager to embrace the exciting opportunities and meet the new challenges of a dynamic and evolving global marketplace.

If we are to extend this remarkable period of growth and sustain our leadership of the world economy, we must use this time of extraordinary prosperity to ensure that every citizen of our Nation plays a role in our economic growth and benefits from its rewards. One of the surest means of achieving that goal is to promote the full inclusion of minority enterprises in the mainstream of our economy.

My Administration has encouraged the growth and success of minority businesses by ensuring their participation in Government procurement; introducing the New Markets Initiative to bring jobs and capital to America's underserved communities; and strengthening the Community Reinvestment Act. Over the last 8 years, the Small Business Administration has guaranteed $18 billion in loans to more than 80,000 minority-owned firms. And the Department of Commerce's Minority Business Development Agency (MBDA) has assisted more than 430,000 minority-owned businesses with start-up and expansion financing. At Minority Business Development Centers across the country, the MBDA also assists minority clients by providing a variety of business services, including the preparation of business plans, market research and development, financial counseling, and bid preparation.

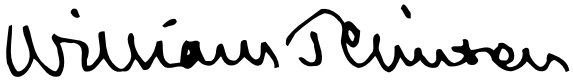
All Americans stand to benefit from the success of our minority entrepreneurs. With energy and determination, these hardworking men and women create jobs, attract investment, bolster pride, and generate revenue in communities across our Nation. People of different races, people of diverse ethnic backgrounds, people with disabilities—all have skills, new ideas, and fresh perspectives to bring to the marketplace. Minority entrepreneurs have unique contributions to make to our economy and the talent and imagination to produce goods and services that meet the needs of their fellow Americans and of consumers around the world.

The unprecedented strength of America's free enterprise system demonstrates that when people have access to the tools and opportunities they need, there is no limit to what they can achieve. During Minority Enterprise Development Week, let us reaffirm our national commitment to equality in the economic as well as the civic life of our Nation by providing minority entrepreneurs around the country with an equal opportunity to use their abilities, creativity, and motivation to move our Nation forward. By doing so, we will help preserve America's leadership in the global economy.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 24 through September 30, 2000, as Minority Enterprise Development Week. I call on

all Americans to join together with minority entrepreneurs across the country in appropriate observances.

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



[FR Doc. 00–22227
Filed 8–28–00; 8:45 am]
Billing code 3195–01–P

Presidential Documents

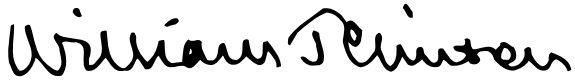
Memorandum of August 21, 2000

Delegation of Responsibility Under the Open-Market Reorganization for the Betterment of International Telecommunications (ORBIT) Act

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the functions vested in me by section 646 of the ORBIT Act (Public Law 106–180), relating to submission of annual reports to the appropriate congressional committees regarding the privatization of intergovernmental satellite organizations. The authority delegated by the memorandum may be further redelegated within the Department of State.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, August 21, 2000.

[FR Doc. 00–22208
Filed 8–28–00; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 2000–28 of August 22, 2000

Presidential Determination on Waiver of Certification Under Section 3201 ''Conditions on Assistance for Colombia,'' in Title III, Chapter 2 of the Emergency Supplemental Act, FY 2000, as Enacted in Public Law 106–246

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 3201(a)(4) of the FY 2000 Emergency Supplemental Act (the ''Act''), I hereby determine that it is in the national security interest of the United States to furnish assistance made available under the Act to the Government of Colombia without regard to the following provisions of section 3201 of that Act:

(a)(1)(A)(ii) the Commander General of the Colombian Armed Forces is promptly suspending from duty any Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights or to have aided or abetted paramilitary groups;

(a)(1)(A)(iii) the Colombian Armed Forces and its Commander General are fully complying with section 3201 (a)(1)(A)(i) and (ii) of the Act;

(a)(1)(B) the Colombian Armed Forces are cooperating fully with civilian authorities in investigating, prosecuting, and punishing in the civilian courts Colombian Armed Forces personnel who are credibly alleged to have committed gross violations of human rights;

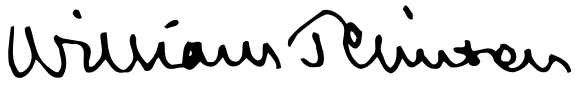
(a)(1)(C) the Government of Colombia is vigorously prosecuting in the civilian courts the leaders and members of paramilitary groups and Colombian Armed Forces personnel who are aiding or abetting these groups;

(a)(1)(D) the Government of Colombia has agreed to and is implementing a strategy to eliminate Colombia's total coca and opium poppy production by 2005 through a mix of alternative development programs; manual eradication; aerial spraying of chemical herbicides; tested, environmentally safe mycoherbicides; and the destruction of illicit narcotics laboratories on Colombian territory; and

(a)(1)(E) the Colombian Armed Forces are developing and deploying in their field units a Judge Advocate General Corps to investigate Colombian Armed Forces personnel for misconduct.

I have attached a Memorandum of Justification for the decision to waive the foregoing certifications.

You are hereby authorized and directed to report this waiver to the appropriate Committees of the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, August 22, 2000.

[FR Doc. 00–22209
Filed 8–28–00; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 65, No. 168
Tuesday, August 29, 2000

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206–AI56

Interagency Career Transition Assistance for Displaced Former Panama Canal Zone Employees

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations that provide certain displaced employees of the former Panama Canal Zone with interagency priority consideration for vacant competitive service positions in the continental United States. These regulations are applicable to eligible displaced employees of the former Panama Canal Zone who were separated because of the transfer of Panama Canal operations and full control to the Republic of Panama.

DATES: These final regulations are effective September 28, 2000.

FOR FURTHER INFORMATION CONTACT: Thomas A. Glennon or Jacqueline R. Yeatman, 202–606–0960, FAX 202–606–2329.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 1999, OPM published interim regulations at 64 FR 24504 that authorize special interagency selection priority for certain employees who are displaced from positions under the Panama Canal Employment System. The interim regulations were effective upon publication in the **Federal Register**. Interested parties had 60 days to submit written comments.

For reference, the Panama Canal Treaty of 1977, as implemented through Public Law 96–70 (93 Stat. 452, The Panama Canal Act of 1979, approved September 27, 1979, and generally effective October 1, 1979), provides for the final transfer of Panama Canal operations and full control of the former Canal Zone geographic area from the Government of the United States to the Republic of Panama on December 31, 1999. This action resulted in the involuntary separation, or geographic relocation, of most United States citizens working as Federal employees in the Canal Area.

Section 1212(a) of the Panama Canal Act, as codified in 22 U.S.C. 3652, authorized the President to establish the *Panama Canal Employment System* in accordance with applicable Treaty requirements and other provisions of law. Most Federal employees in the Canal Area held excepted service positions under the Panama Canal Employment System. However, § 1212(a) requires full interchange between these excepted service Panama Canal Employment System positions and positions in the competitive service.

Section 1232 of the Panama Canal Act, as codified in 22 U.S.C. 3672, provides certain employees of the former Canal Zone with priority consideration for continuing vacant Federal positions.

Specifically, § 1232(a) of the Act authorizes special selection priority for any citizen of the United States who was an employee of the Panama Canal Company or the Canal Zone Government on March 31, 1979, and was subsequently involuntarily separated by reduction in force. This priority is not available to otherwise eligible employees who are placed in another appropriate Federal position that is located in the Republic of Panama.

Similarly, § 1232(b) of the Act authorizes special selection priority for any citizen of the United States who, on March 31, 1979, was employed in the Canal Zone under the Panama Canal Employment System as an employee of an executive branch agency (including the Smithsonian Institution), and whose position was eliminated as the result of the Panama Canal Treaty of 1977 and related agreements. This priority is not available to otherwise eligible employees who are appointed to another appropriate Federal position that is located in the Republic of Panama.

Section 1232(c) of the Act mandates that OPM establish and administer a Government-wide special selection priority program for all eligible displaced employees of the former Canal Zone.

Comments

OPM received one comment, from a Federal agency, on the interim regulations.

The agency suggested that the final regulations limit interagency selection priority only to positions with no greater promotion potential than the displaced employee's former position under the Panama Canal Employment System. OPM did not adopt this suggestion because of the difficulty that a hiring agency could encounter in determining the promotion potential of the employee's former Panama Canal Employment System position, particularly after the cessation of activities on December 31, 1999.

The agency also suggested that the final regulations clarify that, in order to be eligible for this interagency selection program, a displaced employee must have a last performance rating of ''Fully Successful'' or equivalent (i.e., Summary Level 3, as defined in 5 CFR 430.208(d)). OPM adopted this suggestion, which was implied in the interim regulations. The final regulations clarify OPM's intention that the placement program for displaced former Panama Canal Zone employees follows the general eligibility requirements set forth in 5 CFR 330.704(a)(2) for other displaced employees, who are eligible for selection priority under the Interagency Career Transition Assistance Plan, which is authorized by 5 CFR 330, subpart G.

On another item, the agency suggested that OPM clarify that these regulations follow the same general order of selection that is provided under 5 CFR 330.705(a) for actions under the Interagency Career Transition Assistance Plan. OPM has also adopted this suggestion, again because the final regulations clarify OPM's intention that the placement program for displaced former Panama Canal Zone employees follows the general provisions applicable to displaced employees who are eligible for selection priority under the Interagency Career Transition Assistance Plan.

In addition, the agency suggested that OPM provide a definition of ''Continental United States.'' Upon review, we believe that this issue is presently covered by paragraph 5 CFR 210.102(b)(9), which provides that ''*Overseas* means outside the continental United States, but does not include Alaska, Guam, Hawaii, the Isthmus of Panama, Puerto Rico, or the Virgin Islands.''

Finally, the agency suggested that OPM provide information on the payment of relocation expenses for displaced employees. This issue is beyond the scope of OPM's statutory and regulatory responsibility, and is therefore not covered in these final regulations.

Final Regulations on the Interagency Career Transition Assistance Program for Displaced Panama Canal Zone Employees

Eligible displaced employees of the former Panama Canal Zone are eligible for interagency special selection priority in this new program on a similar basis as that provided to many displaced Federal employees under the *Interagency Career Transition Assistance Plan.* However, eligible displaced employees of the former Canal Zone receive special selection priority when applying for vacant positions throughout the continental United States, while the Interagency Career Transition Assistance Plan provides priority consideration to other displaced Federal employees only in the local commuting area where the displaced employee was separated.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 330

Armed Forces reserves, Government employees.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the interim rule which was published at 64 FR 24504 is adopted as final with the following changes:

PART 330—RECRUITMENT, SELECTION, AND PLACEMENT (GENERAL)

1. The authority citation for part 330 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218; § 330.102 also issued under 5 U.S.C 3327; subpart B also issued under 5 U.S.C. 3315 and 8151; § 330.401 also issued under 5 U.S.C. 3310, subpart I also issued under sec. 4432 of Pub. L. 102–484, 106 Stat. 2315; subpart K also issued under sec. 11203 of Pub. L. 105–33, 111 Stat. 738; subpart L also issued under sec. 1232 of Pub. L. 96–70, 93 Stat. 452.

2. Subpart L of part 330 is revised to read as follows:

INTERAGENCY CAREER TRANSITION ASSISTANCE FOR DISPLACED FORMER PANAMA CANAL ZONE EMPLOYEES

Sec.

Subpart L—Interagency Career Transition Assistance for Displaced Former Panama Canal Zone Employees

§ 330.1201 Purpose.

This subpart implements Section 1232 of Public Law 96–70 (the Panama Canal Act of 1979) and provides eligible displaced employees of the former Panama Canal Zone with interagency special selection priority for continuing Federal vacant positions in the continental United States.

§ 330.1202 Definitions.

For purposes of this subpart:

(a) *Agency* means an Executive Department, a Government corporation, and an independent establishment as cited in 5 U.S.C. 105. For the purposes of this program, the term ''agency'' includes all components of an organization, including its Office of Inspector General.

(b) *Canal Zone* is the definition set forth in 22 U.S.C. 3602(b)(1), and means the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(c) *Eligible displaced employee of the former Panama Canal Zone* means a citizen of the United States who:

(1) Held a position in the Panama Canal Employment System that is in retention tenure group 1 or 2, as defined in § 351.501(a) of this chapter;

(2)(i) Was an employee of the Panama Canal Company or the Canal Zone Government on March 31, 1979, and was continuously employed in the former Panama Canal Zone under the Panama Canal Employment System; or

(ii) Was continuously employed since March 31, 1979, in the former Panama Canal Zone under the Panama Canal Employment System as an employee of an executive agency, or as an employee of the Smithsonian Institution;

(3) Held a position that was eliminated as the result of the implementation of the Panama Canal Treaty of 1977 and related agreements;

(4) Was not appointed to another appropriate Federal position located in the Republic of Panama; and

(5) Received a specific notice of separation by reduction in force, and meets the additional eligibility criteria covered in § 330.1203.

(d) *Special selection priority* means that an eligible displaced employee of the former Panama Canal Zone who applies for a competitive service vacancy, and who the hiring agency in the continental United States determines is well-qualified, has the same special selection priority as a current or former displaced Federal employee who is eligible under 5 CFR part 330, subpart G (the Interagency Career Transition Assistance Plan), or under 5 CFR part 330, subpart K (Federal Employment Priority Consideration for Displaced Employees of the District of Columbia Department of Corrections). Eligible displaced employees of the former Panama Canal Zone have special selection priority under this subpart to positions throughout the continental United States.

(e) *Vacancy* means a competitive service position to be filled for a total of 121 days or more, including all extensions, which the agency is filling, regardless of whether the agency issues a specific vacancy announcement.

(f) *Well-qualified* employee means an eligible displaced former employee of the Panama Canal Zone who possesses the knowledge, skills, and abilities that clearly exceed the minimum qualification requirements for the position. A well-qualified employee will not necessarily meet the agency's definition of *highly or best qualified,* when evaluated against other candidates who apply for a particular vacancy, but must satisfy the following criteria, as determined and consistently applied by the agency:

(1) Meets the basic qualification standards and eligibility requirements for the position, including any medical qualifications, suitability, and minimum educational and experience requirements;

(2) Satisfies one of the following qualifications requirements:

(i) Meets all selective factors where applicable. Meets appropriate quality rating factor levels as determined by the agency. Selective and quality ranking factors cannot be so restrictive that they run counter to the goal of placing displaced employees. In the absence of selective and quality ranking factors, selecting officials will document the job-related reason(s) the eligible employee is or is not considered to be well-qualified; or

(ii) Is rated by the agency to be above minimally qualified in accordance with the agency's specific rating and ranking process. Generally, this means that the individual may or may not meet the agency's test for highly qualified, but would in fact, exceed the minimum qualifications for the position;

(3) Is physically qualified, with reasonable accommodation where appropriate, to perform the essential duties of the position;

(4) Meets any special qualifying condition(s) that OPM has approved for the position;

(5) Is able to satisfactorily perform the duties of the position upon entry; and

(6) Has a last performance rating of at least ''Fully Successful'' or equivalent.

§ 330.1203 Eligibility.

(a) In order to be eligible for special selection priority, an eligible displaced employee of the former Panama Canal Zone must:

(1) Have received a specific notice of separation by reduction in force;

(2) Have not been appointed to another appropriate position in the Government of the United States in Panama;

(3) Apply for a vacancy within the time frames established by the hiring agency; and

(4) Be found by the hiring agency as well-qualified for that specific vacancy.

(b) Eligibility for special selection priority as an eligible displaced employee of the former Panama Canal Zone begins on the date that the employee received a specific notice of separation by reduction in force.

(c) Eligibility for special selection priority as an eligible displaced employee of the former Panama Canal Zone expires on the earliest of:

(1) One year after the effective date of the reduction in force;

(2) The date that the employee receives a career, career-conditional, or excepted appointment without time limit in any agency at any grade level; or

(3) The date that the employee is separated involuntarily for cause prior to the effective date of the reduction in force action.

§ 330.1204. Selection.

(a) If two or more individuals apply for a vacancy and the hiring agency determines the individuals to be well-qualified, the agency has the discretion to select any of the individuals eligible for priority under subpart G of this part (the Interagency Career Transition Assistance Plan), under subpart K of this part (Federal Employment Priority Consideration for Displaced employees of the District of Columbia Department of Corrections), or under subpart L of this part (Interagency Career Transition Assistance for Displaced Former Panama Canal Zone Employees).

(b) Except as provided in § 330.705(c), when filling a position from outside the agency's workforce, the agency must select:

(1) Current or former agency employees eligible under the agency's Reemployment Priority List described in subpart B of this part; then

(2) At the agency's option, any other former employee displaced from the agency (under appropriate selection procedures, then:

(3) Current or former Federal employees displaced from other agencies who are eligible under subparts G, K, or L of this part, and then:

(4) Any other candidate (under appropriate selection procedures) (optional).

[FR Doc. 00–21947 Filed 8–28–00; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206–AI66

Retirement Eligibility for Nuclear Materials Couriers Under CSRS and FERS

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting its interim regulations applicable to nuclear materials couriers employed under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). These final rules are pursuant to the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 enacted on October 17, 1998. The Act provides early retirement and enhanced annuity benefits for nuclear materials couriers employed by the United States Department of Energy under CSRS and FERS; requires an increase in the percentage rate of withholdings from the basic pay of nuclear material couriers; and establishes mandatory retirement of nuclear materials couriers at age 57. These regulations are necessary to put the new retirement provisions into effect.

DATES: Final rules effective September 28, 2000.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Brown, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On January 18, 2000, we published (at 65 FR 2521) interim regulations to implement the provisions of section 3154 of Public Law 105–261, enacted October 17, 1998, which governs the retirement eligibility, annuity benefits and deductions from basic pay of nuclear materials couriers employed by the United States Department of Energy under CSRS and FERS.

OPM received comments from one Federal agency. The commenter proposed that, for the purpose of entitlement to early retirement and enhanced annuity authorized by Public Law 105–261, the regulations be amended to extend coverage under that law for service performed as a nuclear materials courier prior to October 1, 1977, by employees of the predecessor agencies of the Department of Energy. We are unable to implement that proposal. Section 3154 of Public Law 105–261, for purposes of benefits under CSRS and FERS, specifically defines nuclear materials courier as ''an employee of the Department of Energy * * *'' We are aware that the nuclear materials courier function was performed by employees of the Department of Energy's predecessor agencies (Atomic Energy Commission and the Energy Research and Development Administration). However, the statutory definition reflects the specific intent and understanding between OPM and the Department of Energy that only service performed by couriers since the establishment of the Department of Energy on October 1, 1977, would be used in determining entitlement to early retirement and enhanced benefits under sections 8336(c) (CSRS) and 8412(d) (FERS) of title 5 U.S. Code as amended by Public Law 105–261. This intent is further manifested in 5 U.S.C. 8334, as amended by the law, which lists the applicable employee deductions for nuclear materials couriers under CSRS beginning on October 1, 1977. Additionally, the higher agency contributions and additional annual

payments by the Department of Energy to reimburse the Civil Service Retirement and Disability Fund for the estimated increase in the unfunded liability to the Fund are based on estimated additional costs of using courier service only since October 1, 1977, to provide the enhanced benefits and early retirement.

Accordingly, we are now adopting the interim regulations as final without change.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect retirement benefits of retired nuclear materials couriers and their survivors.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Alimony, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is adopting its interim rules amending 5 CFR parts 831 and 842 published on January 18, 2000, at 65 FR 2521, as final rules without change.

[FR Doc. 00–22003 Filed 8–28–00; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99–044–3]

Oriental Fruit Fly; Removal of Quarantined Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Oriental fruit fly regulations by removing the quarantine on a portion of Hillsborough County, FL, and by removing the restrictions on the interstate movement of regulated articles from that area. The quarantine was necessary to prevent the spread of the Oriental fruit fly to noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from this area and that restrictions on the interstate movement of regulated articles from this area are no longer necessary. This portion of Hillsborough County, FL, was the last remaining area in Florida quarantined for Oriental fruit fly. Therefore, as a result of this action, there are no longer any areas in Florida quarantined for Oriental fruit fly.

EFFECTIVE DATE: The interim rule became effective on October 7, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Invasive Species and Pest Management Staff, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

SUPPLEMENTARY INFORMATION

Background

In an interim rule effective October 7, 1999, and published in the **Federal Register** on October 15, 1999 (64 FR 55811–55812, Docket No. 99–044–2), we amended the Oriental fruit fly regulations, contained in § 301.93 through 301.93–10, by removing a portion of Hillsborough County, FL, from the list of quarantined areas in § 301.93–3(c). That action relieved unnecessary restrictions on the interstate movement of regulated articles from this area.

Comments on the interim rule were required to be received on or before December 14, 1999. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 64 FR 55811–55812 on October 15, 1999.

PART 301—DOMESTIC QUARANTINE NOTICES

Authority: Title IV, Pub. L. 106–224, 114 Stat. 438, U.S.C. 7701–7772; 7 U.S.C. 166; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 24th day of August 20000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–22005 Filed 8–28–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98–084–2]

Mexican Fruit Fly Regulations; Removal of Regulated Area

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the Mexican fruit fly regulations by removing the quarantined portion of Los Angeles County, CA, from the list of areas regulated because of the Mexican fruit fly. The quarantine was necessary to prevent the spread of the Mexican fruit fly to noninfested areas of the United States. We have determined that the Mexican fruit fly has been eradicated from Los Angeles County, CA, and that restrictions on the interstate movement of regulated articles from the previously regulated area are no longer necessary.

EFFECTIVE DATE: The interim rule became effective on August 15, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations Office, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236 (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective August 15, 1998, and published in the **Federal Register** on August 20, 1998 (63 FR 44537–44538, Docket No. 98–084–1), we amended the Mexican fruit fly regulations (contained in 7 CFR 301.64 through 301.64–10) by removing a portion of Los Angeles County, CA,

from the list of quarantined areas in § 301.64–3(c). That action relieved unnecessary restrictions on the interstate movement of regulated articles from this area.

Comments on the interim rule were required to be received on or before October 19, 1998. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also confirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301and that was published at 63 FR 44537–44538 on August 20, 1998.

Authority: Title IV, Pub. L. 106–224, 114 Stat. 438, 7 U.S.C. 7701–7772; 7 U.S.C. 166; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 24th day of August 2000.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–22006 Filed 8–28–00; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–355–AD; Amendment 39–11875; AD 2000–17–02]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 and Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model BAe 146 and certain Model Avro 146–RJ series airplanes, that requires inspections and torque checks of the stringer crown fittings and bolts at Ribs 0 and 2 of the wings for discrepancies, corrective action, if necessary; and eventual modification of the stringer crown fittings, which terminates the inspections and checks. This amendment is necessary to prevent increased loads on the upper wing skin due to looseness of the stringer fittings and bolts at Ribs 0 and 2 of the wings, which could result in reduced structural integrity of the wings. This action is intended to address the identified unsafe condition.

DATES: Effective October 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 3, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all British Aerospace Model BAe 146 and certain Model Avro 146–RJ series airplanes was published in the **Federal Register** on June 28, 2000 (65 FR 39831). That action proposed to require inspections and torque checks of the stringer crown fittings and bolts at Ribs 0 and 2 of the wings for discrepancies, corrective action, if necessary; and eventual modification of the stringer crown fittings, which would terminate the inspections and checks.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 20 airplanes of U.S. registry will be affected by this AD.

It will take approximately 8 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $9,600, or $480 per airplane, per inspection cycle.

It will take approximately 450 work hours per airplane (including access and close) to accomplish the required modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required modification on U.S. operators is estimated to be $540,000, or $27,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–17–02—British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Amendment 39–11875. Docket 99–NM–355–AD.

Applicability: All Model BAe 146 series airplanes; and Model Avro 146–RJ series airplanes, as listed in British Aerospace Service Bulletin SB.57–56, dated September 2, 1999; certificated in any category; except those on which British Aerospace Modification HCM01307A or HCM01307B [Reference Repair Instruction (R.I.L. HC571H9033)] has been accomplished.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent increased loads on the upper wing skin due to looseness of the stringer fittings and bolts at Ribs 0 and 2 of the wings, which could result in reduced structural integrity of the wings, accomplish the following:

Inspections and Modification

(a) Prior to the accumulation of 14,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later: Perform a detailed visual inspection of the stringers and a torque check of the Jo-bolts at Ribs 0 and 2 of the wings for discrepancies (including loose Jo-bolts and stringer crown fittings, fretting of fittings and stringers, and cracking or damage of attachments); in accordance with British Aerospace Service Bulletin SB.57–56, dated September 2, 1999.

(1) If no discrepancy is found, or, if 1, 2, or 3 loose Jo-bolts are found per rib side and no loose crown (dagger) fittings are found (Category 1 or 2, as specified in Table 2 of paragraph D. ''Compliance'' of the service bulletin), accomplish the actions required in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Repeat the inspection thereafter at the applicable times specified in Table 2, until accomplishment of the actions required by paragraph (a)(1)(ii) of this AD.

(ii) Prior to accumulation of 40,000 total flight cycles, or within 4,000 flight cycles after the effective date of this AD, whichever occurs later: Modify all stringer crown fittings at Ribs 0 and 2 of the wings (including inspections, repairs, and installation of oversize interference fit fasteners per R.I.L. HC571H9033) in accordance with the service bulletin, except as required by paragraph (b) of this AD. This modification terminates the requirements of this AD.

(2) If any other discrepancy is found, as specified in Table 2 (Categories 3 through 6): At the applicable times specified in Table 2, repeat the inspection thereafter, and modify all crown fittings at Ribs 0 and 2 of the wings (including inspections, repairs, and installation of oversize interference fit fasteners per R.I.L. HC571H9033); in accordance with the service bulletin, except as required by paragraph (b) of this AD. This modification terminates the requirements of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Approved Repairs

(b) Where British Aerospace Service Bulletin SB.57–56, dated September 2, 1999, specifies to contact the manufacturer for a repair, prior to further flight, repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority of the United Kingdom (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) Except as provided by paragraph (b) of this AD, the actions shall be done in accordance with British Aerospace Service Bulletin SB.57–56, dated September 2, 1999, including Repair Instruction (R.I.L.) HC571H9033, Issue 3, dated April 23, 1999. (**Note**: Only the first page of Repair Instruction (R.I.L.) HC571H9033 shows the issue level and date; no other page contains this information.) This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directive 004–09–99.

(f) This amendment becomes effective on October 3, 2000.

Issued in Renton, Washington, on August 17, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21460 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–02–AD; Amendment 39–11876; AD 2000–17–03]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 0100 series airplanes, that currently requires a one-time visual inspection and a one-time eddy current and/or dye penetrant inspection of the

nose landing gear (NLG) main fitting to detect cracking; and rework of the NLG main fitting, if necessary. This amendment requires new inspections (one-time detailed visual inspection and repetitive eddy current or dye penetrant inspections) to detect cracking of the NLG main fitting subassembly, and corrective actions, if necessary. This amendment also revises the applicability of the existing AD. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent cracking of the NLG main fitting, which could lead to collapse of the NLG during takeoff and landing, and possible injury to the flightcrew and passengers.

DATES: Effective October 3, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 3, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–22–01, amendment 39–10847 (63 FR 58625, November 2, 1998), which is applicable to certain Fokker Model F.28 Mark 0100 series airplanes, was published in the **Federal Register** on March 15, 2000 (65 FR 13923). The action proposed to require new inspections (one-time detailed visual inspection and repetitive eddy current or dye penetrant inspections) to detect cracking of the nose landing gear (NLG) main fitting subassembly, and corrective actions, if necessary. The action also proposed to revise the applicability of the existing AD.

Comments

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

One commenter states that it has completed the inspections and has a repetitive inspection program already in place to comply with the requirements of this AD.

Type Certificate Holder

One commenter requests that the Explanation of Relevant Service Information section of the AD be revised to refer to the current type certificate holder (Fokker Services B.V.), rather than the now defunct airplane manufacturer, as the issuer of the relevant service information. The FAA acknowledges the accuracy of this information; however, since this section is not repeated in the final rule, no change is made to the AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 87 airplanes of U.S. registry that will be affected by this AD.

The one-time detailed visual inspection required by this AD action will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the one-time inspection required by this AD on U.S. operators is estimated to be $5,220, or $60 per airplane.

The repetitive eddy current or dye penetrant inspections required by this AD action will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the repetitive inspection required by this AD on U.S. operators is estimated to be $5,220, or $60 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations 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.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10847 (63 FR 58625, November 2, 1998), and by adding a new airworthiness directive (AD), amendment 39–11876, to read as follows:

2000–17–03 Fokker Services B.V.: Amendment 39–11876. Docket 2000-NM–02-AD. Supersedes AD 98–22–01, Amendment 39–10847.

Applicability: Model F.28 Mark 0100 series airplanes, certificated in any category; equipped with Messier-Dowty nose landing gear (NLG) having part

number (P/N) 201071001 or 201071002, on which a main fitting subassembly (MFSA) having P/N 201071200, 201071228, 201071248, or 201071249 is installed.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent cracking of the NLG main fitting, which could lead to collapse of the NLG during takeoff and landing, and possible injury to the flightcrew and passengers, accomplish the following:

One-Time Detailed Visual Inspection

(a) Prior to the accumulation of 7,500 total flight cycles or within 50 flight cycles after the effective date of this AD, whichever occurs later: Perform a one-time detailed visual inspection of the NLG main fitting subassembly to detect cracking, in accordance with Part 1 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–118, dated October 8, 1999.

(1) If no cracking is detected, no further action is required by this paragraph.

(2) If any cracking is detected, prior to further flight, accomplish the actions required by paragraph (b) of this AD.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirrors, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Note 3: Actions accomplished prior to the effective date of this AD, in accordance with Fokker Service Bulletin SBF100–32–112, dated November 14, 1997, which was cited in AD 98–22–01, amendment 39–10847, are not considered acceptable for compliance with any requirements of this AD.

Repetitive Eddy Current and/or Dye Penetrant Inspections

(b) Except as required by paragraph (a)(2) of this AD: Prior to the accumulation of 7,875 total flight cycles or within 375 flight cycles after the effective date of this AD, whichever occurs later, perform an eddy current or dye penetrant inspection of the NLG main fitting subassembly to detect cracking, in accordance with Part 2 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–118, dated October 8, 1999. Such inspection within the compliance time required by paragraph (a) of this AD terminates the requirements of paragraph (a) of this AD. Repeat the inspection thereafter, using an eddy current or dye penetrant technique, at intervals not to exceed 750 flight cycles.

(c) If any cracking is detected during any inspection required by paragraph (b) of this AD: Prior to further flight, rework the main fitting of the NLG, in accordance with Part 3 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–32–118, dated October 8, 1999. If, after rework, any cracking remains that exceeds the limits specified in the service bulletin, prior to further flight, accomplish the actions specified by either paragraph (c)(1) or (c)(2) of this AD.

(1) Replace the NLG in accordance with the service bulletin; and within 7,875 flight cycles after such replacement, perform the inspection as specified in paragraph (b) of this AD, and repeat the inspection thereafter at intervals not to exceed 750 flight cycles. Or

(2) Repair in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Rijksluchtvaartdienst (RLD) (or its delegated agent). For a repair method to be approved by the Manager, International Branch, ANM–116, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Note 4: The Fokker service bulletin references Messier-Dowty Service Bulletin F100–32–92, Revision 1, dated October 8, 1999, as an additional source of service information for accomplishing the inspections and rework of the NLG main fitting subassembly.

Reporting Requirements

(d) Submit a report of the detailed visual inspection findings (positive and negative) required by paragraph (a) of this AD and a report of the initial eddy current or dye penetrant inspection findings (positive and negative) required by paragraph (b) of this AD to Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands; at the applicable time specified in paragraph (d)(1) or (d)(2) of this AD. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMP) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the detailed visual inspection specified by paragraph (a) of this AD and the initial repetitive eddy current or dye penetrant inspection specified by paragraph (b) of this AD are accomplished after the effective date of this AD: Submit each report within 7 days after performing the applicable inspection.

(2) For airplanes on which the detailed visual inspection specified by paragraph (a) of this AD and the initial repetitive eddy current or dye penetrant inspection specified in paragraph (b) of this AD have been accomplished prior to the effective date of this AD: Submit the reports within 7 days after the effective date of this AD.

Spares

(e) As of the effective date of this AD, no person shall install a NLG having P/N 201071001 or 201071002 unless the installed MFSA has been inspected, by means of an eddy current or dye penetrant inspection, in accordance with paragraph (b) of this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(h) Except as provided by paragraph (c)(2) of this AD, the actions shall be done in accordance with Fokker Service Bulletin SBF100–32–118, dated October

8, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 6: The subject of this AD is addressed in Dutch airworthiness directive BLA 1997–116/2 (A), dated October 29, 1999.

Effective Date

(i) This amendment becomes effective on October 3, 2000.

Issued in Renton, Washington, on August 17, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21459 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 47

Court of Competent Jurisdiction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Interpretive rule.

SUMMARY: The Federal Aviation Administration (FAA) interprets the phase ''court of competent jurisdiction'' as used in Title 14, Code of Federal Regulations § 47.37 as meaning a court of the country where the aircraft was last registered.

EFFECTIVE DATE: August 29, 2000.

FOR FURTHER INFORMATION CONTACT: Joseph R. Standell, Federal Aviation Administration (AMC–7), Post Office Box 25082, Oklahoma City, OK 73125. Telephone (405) 954–3296.

SUPPLEMENTARY INFORMATION: Section 37.37(b)(2) of the Code of Federal Regulations (14 CFR Part 47) requires an applicant for United States registration of an aircraft to provide evidence satisfactory to the Administrator that foreign registration of the aircraft has terminated. Satisfactory evidence included ''a final judgment or decree of a court of competent jurisdiction that determines, under the law of the country concerned, that the registration has in fact become invalid.'' (14 CFR 47.37(b)(2)) FAA interprets the phrase ''court of competent jurisdiction'' to mean a court of the country where the aircraft was last registered.

Issued in Oklahoma City, OK on August 22, 2000.

Joseph R. Standell,

Aeronautical Center Counsel.

[FR Doc. 00–22037 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–15]

Amendment to Class E Airspace; Coffeyville, KS

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Coffeyville, KS.

EFFECTIVE DATE: The direct final rule published at 65 FR 38722 is effective on 0901 UTC, October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on June 22, 2000 (65 FR 38722). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 5, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on August 16, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–22040 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ACE–14]

Amendment to Class E Airspace; Pratt, KS; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which revises the Class E airspace at Pratt, KS, and corrects an error in the airport name of the Pratt Municipal Airport as published in the **Federal Register** June 22, 2000 (65 FR 38721), Airspace Docket No. 00–ACE–14.

DATES: The direct final rule published at 65 FR 38721 is effective on 0901 UTC, October 5, 2000.

This correction is effective on October 5, 2000.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329–2525.

SUPPLEMENTARY INFORMATION:

History

On June 22, 2000, the FAA published in the **Federal Register** a direct final rule; request for comments which revises the Class E airspace at Pratt, KS, (FR document 00–15534, 65 FR 38721, Airspace Docket No. 00–ACE–14). An error was subsequently discovered in the airport name of the Pratt Municipal Airport. This action corrects that error. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action or add any additional burden on the public beyond that already published. This action corrects the error in the name of the Pratt Municipal airport and confirms the effective date to the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a

written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 5, 2000. No adverse comments were received, and thus this notice confirms that this direct final rule will be effective on that date.

Correction to the Direct final rule

Accordingly, pursuant to the authority delegated to me, the name of the Pratt Municipal Airport as published in the **Federal Register** on June 22, 2000 (65 FR 38721), **Federal Register** Document 00–15534; page 38722, column one) is corrected as follows:

§ 71.1 [Corrected]

On page 38722, in the first column, in the text header, correct the name of the Pratt Municipal Airport, KS, by removing Pratt Municipal Airport, KS, and substituting Pratt Industrial Airport, KS.

Issued in Kansas City, MO on August 17, 2000.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 00–22039 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 56

[Docket No. 98N–0144]

Biological Products Regulated Under Section 351 of the Public Health Service Act; Implementation of Biologics License; Elimination of Establishment License and Product License; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the biologics regulations to correct inadvertent errors. This action is necessary to ensure the accuracy and consistency of the regulations.

DATES: This rule is effective August 29, 2000.

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: FDA has discovered that errors have inadvertently become incorporated into the agency's regulations for biologics. In the **Federal Register** of October 20, 1999 (64 FR 56441), a final rule incorrectly revised § 56.102 (21 CFR 56.102) in paragraph (b)(11) instead of correctly revising paragraph (b)(10). Section 56.102 (b)(10) and (b)(11) were affected by this inadvertent error. This document corrects those errors.

List of Subjects in 21 CFR Part 56

Human research subjects, Reporting and recordkeeping requirements, Safety.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and authority delegated to the Commissioner of Food and Drugs, 21 CFR part 56 is amended as follows:

PART 56—INSTITUTIONAL REVIEW BOARDS

1. The authority citation for 21 CFR part 56 continues to read as follows:

Authority: 21 U.S.C. 321, 346, 346a, 348, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 371, 379e, 381; 42 U.S.C. 216, 241, 262, 263b–263n.

2. Section 56.102 is amended by revising paragraphs (b)(10) and (b)(11) to read as follows:

§ 56.102 Definitions.

* * * * *

(b) * * *

(10) An application for a biologics license, described in part 601 of this chapter.

(11) Data and information regarding a biological product submitted as part of the procedures for determining that licensed biological products are safe and effective and not misbranded, as described in part 601 of this chapter.

* * * * *

Dated: August 4, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–21895 Filed 8–28–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 333

[Docket No. 99N–1819]

RIN 0910–AA01

Topical Antifungal Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule amending the monograph for over-the-counter (OTC) topical antifungal drug products. The amendment makes a minor change in the indications for these drug products. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

DATES: This regulation is effective May 16, 2002. The compliance date for products with annual sales less than $25,000 is May 16, 2003. The compliance date for all other OTC drug products is May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2307.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 23, 1993 (58 FR 49890), FDA published a final monograph for OTC topical antifungal drug products in part 333 (21 CFR part 333), subpart C. That monograph includes labeling in § 333.250. Section 333.250(b)(1) contains the following introductory language for the indications statement: (Select one of the following: ''Treats,'' ''For the treatment of,'' ''For effective treatment of,'' ''Cures,'' ''For the cure of,'' ''Clears up,'' or ''Proven clinically effective in the treatment of''). Section 333.250(b)(2) contains similar language for products labeled for the prevention of athlete's foot.

In the **Federal Register** of July 22, 1999 (64 FR 39452), FDA published a proposed amendment of the monograph for OTC topical antifungal drug products to revise the indications in § 333.250(b)(1)(i) and (b)(2)(i). The proposed revision added the word ''most'' after the introductory parenthetical ''Select one of the following'' choices and before the name

of the condition(s) for which the product is to be used. The agency also proposed to add the word ''most'' in § 333.250(b)(2)(ii) after the word ''up'' and before ''athlete's foot.'' The agency explained that topical antifungal drug products will not cure or treat all conditions commonly thought by consumers to be athlete's foot or jock itch and that the revised labeling will more accurately inform consumers what they can expect from using these products. The agency stated that this approach is consistent with the current labeling approved for OTC vaginal antifungal drug products under new drug applications, which states ''cures most vaginal yeast infections.''

Interested persons were invited to submit comments on the proposal and on the agency's economic impact determination by October 20, 1999. In response to the proposed monograph amendment, one trade association of OTC drug manufacturers submitted a comment, a copy of which is on public display in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

The agency has considered the comment in proceeding with this final rule. A summary of the comment with FDA's response follows.

II. Summary of the Comment Received

The comment requested FDA to decide against the proposed amendment for several reasons:

1. Scientific documentation is lacking to show that adding the qualifier ''most'' would meet an important consumer need or is important for safe and effective use of these products. The comment noted that in the tentative final monograph for OTC topical antifungal drug products (54 FR 51136 at 51154, December 12, 1989) the agency stated that the statement ''kills most athlete's foot fungi'' described the performance of the product and was not related in a significant way to the safe and effective use of antifungal drug products that are already labeled with the required information. The comment contended that FDA did not provide information showing that addition of the word ''most'' relates in a significant way to the safe and effective use of OTC topical antifungal drug products or would have any value in assisting consumers to better use these products.

2. The use of a qualified indication statement resulting from addition of the word ''most'' is unprecedented in the OTC drug review. The comment noted that no other OTC drug monograph requires a statement that qualifies the effect of a drug category and questioned why topical antifungal drug products are now an exception to this labeling policy that has consistently omitted effectiveness qualifiers.

3. A qualified indications statement is potentially misleading, in that it implies inherent lack of efficacy of the active ingredient or questionable effectiveness of the drug product. The comment contended that this approach is inconsistent with the regulatory definition of effectiveness for OTC drug monograph products in § 330.10(a)(4)(ii) (21 CFR 330.10(a)(4)(ii)), which states: ''Effectiveness means a reasonable expectation that, in a significant proportion of the target population, the pharmacological effect of the drug, when used under adequate directions for use and warnings against unsafe use, will provide clinically significant relief of the type claimed.'' The comment argued that the standard for effectiveness does not require that every user of an OTC topical antifungal drug product gets complete relief (or prevention) for the condition for which he or she chose the product. The comment added that the monograph already requires a warning statement to consult a doctor if the product is not effective within the recommended treatment period.

4. Differences in labeling would occur between OTC drug products marketed under the monograph versus marketed under an approved application, resulting in consumer confusion. The comment noted that the amendment applies only to the monograph products and that FDA should coordinate label changes for all OTC products within a therapeutic category. The comment added that if monograph product labels are inconsistent with new drug application product labels for the same category of products, consumers could mistakenly believe that the monograph products are less effective because they are labeled to treat only ''most'' covered conditions.

III. The Agency's Response to the Comment and Final Conclusions

The agency disagrees with the comment's request to decide against the proposed amendment and is responding to the comment's reasons in the order in which they appear in section II of this document.

1. As stated in the proposed amendment (64 FR 39452), the agency believes that addition of the qualifier ''most'' to the indications for OTC antifungal drug products would more accurately inform consumers what they can expect from using these products. When it proposed this labeling revision, the agency was aware of previous labeling claims it had discussed in the tentative final monograph (54 FR 51136 at 51154), as noted by the comment. The agency stated, at that time, that the claim ''kills most athlete's foot fungi'' was one of a number of claims that did not relate in a significant way to the safe and effective use of antifungal drug products that are labeled with the required information.

The agency notes that the Advisory Review Panel on OTC Antimicrobial (II) Drug Products (the Panel) discussed this claim in its report (47 FR 12480 at 12511, March 23, 1982). The Panel stated that ''Many claims would appear to be acceptable; however, certain modifying words can make these claims unclear or even imprecise. For this reason, modifiers such as 'most' or 'fast' are not allowed.'' The Panel then listed the claim ''kills most athlete's foot fungi'' as unacceptable.

As noted in the proposed amendment (64 FR 39452), the word ''most'' is currently used in the labeling of OTC vaginal antifungal drug products, which are marketed under new drug applications. This labeling has been in effect since late 1990 when these products were initially approved for OTC marketing. In making its decision to include the word ''most'' in the labeling of these products, the agency disagreed with the Panel and its previous position stated in the tentative final monograph for OTC antifungal drug products. The agency now considers it imprecise not to state in the labeling of all OTC antifungal drug products that they treat or cure or prevent ''most'' athlete's foot [and the other treatment claims listed in the monograph]. As discussed in the proposal (64 FR 39452), topical antifungal drug products will not cure or treat all conditions commonly thought by consumers to be athlete's foot or jock itch. In addition, data reviewed by the Panel for the various monograph ingredients showed that varying percentages of subjects were clinically and mycologically ''cured.'' The agency, therefore, concludes that inclusion of the word ''most'' in the labeling of these products is related to their effective use and will assist consumers in knowing better what to expect from using these products.

2. The agency disagrees with the comment's assertion that it is the agency's policy to omit effectiveness qualifiers. In addition, the use of a qualified indication statement resulting from addition of the word ''most'' is not unprecedented in the OTC drug review. The final monograph for OTC topical acne drug products contains the following indication statement in

§ 333.350(b)(2)(ii): ''Penetrates pores to'' (select one of the following: ''eliminate most,'' ''control,'' ''clear most,'' or ''reduce the number of'') (select one or more of the following: ''acne blemishes,'' ''acne pimples,'' ''blackheads,'' or ''whiteheads''). The agency notes that both acne and antifungal drug products are included in the same part 333 of the *Code of Federal Regulations*, entitled ''topical antimicrobial drug products for over-the-counter human use.'' As discussed above, the agency concludes that the qualifier ''most'' will assist consumers in knowing better what to expect from using these products.

3. The agency disagrees that a qualified indications statement is potentially misleading or that it implies inherent lack of efficacy of the active ingredient or questionable effectiveness of the drug product. The regulatory definition of effectiveness in § 330.10(a)(4)(ii) (see section II.3 of this document) provides sufficient latitude for the word ''most'' in describing the pharmacological effect of the drug and relief of the type claimed. Many indications in OTC drug monographs contain qualifiers of one kind or another, e.g., ''helps,'' ''reduces,'' ''occasional,'' ''temporarily,'' ''temporary relief.'' Even with this qualifier in the indications statement, these OTC drug products also contain a warning statement to consult a doctor if relief is not obtained, just as the topical antifungal drug products do. The agency concludes that the presence of such a warning statement in the product's labeling is not a sufficient basis not to have a qualified indications statement.

4. The agency does not intend for labeling differences to occur between topical antifungal drug products marketed under the monograph or an approved application. While the amendment applies only to the monograph products, the agency intends to notify all holders of approved new drug applications for OTC topical antifungal drug products to revise their product labeling in accord with the monograph by the effective date of the amendment. Thus, the labeling changes will have a coordinated effective date, and consumer confusion should not occur.

In conclusion, the agency is finalizing its proposal to amend the monograph indications statements by inserting the word ''most'' between the introductory phrase and the name of the condition(s) for which the OTC topical antifungal drug product is to be used. Accordingly, the agency is revising the indications in § 333.250(b)(1)(i) and (b)(2)(i) to add the word ''most'' after the introductory parenthetical ''Select one of the following'' choices and in § 333.250(b)(2)(ii) to add the word ''most'' after the word ''up.'' This ''treats most'' or ''cures most'' language must also be used whenever the alternative labeling approach allowed by § 330.1(c)(2) (21 CFR 330.1(c)(2)) is used or whenever a general statement containing this information appears in the labeling of the product (e.g., on the principal display panel).

IV. Analysis of Impacts

FDA has examined the impacts of this final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501*et seq.*). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the Unfunded Mandates Reform Act requires that agencies prepare a written statement and economic analysis before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The purpose of this final rule is to make a minor revision in the indications for OTC topical antifungal drug products. This revision should improve consumers' self use of these products by better informing them about what they can expect from using the products.

The agency stated in the proposal that manufacturers of these products will incur minor costs to relabel their products to revise the indications statement and, in some cases, other statements that appear in product labeling (64 FR 39452 at 39453). The agency indicated that relabeling costs of the type required by this rule generally average about $2,000 to $3,000 per stockkeeping unit (SKU) (individual products, packages, and sizes). In determining this cost, the agency did not believe that manufacturers would need to increase the package size to make this minor labeling revision. Almost all of these products are marketed in an outer carton which should have adequate space for the minor labeling revision. The agency noted that approximately 50 manufacturers produce about 200 SKU's of OTC topical antifungal drug products marketed under the monograph. There may be a few additional small manufacturers or products in the marketplace that are not identified in the sources FDA reviewed. Assuming that there are about 200 affected OTC SKU's in the marketplace, FDA estimated that the rule would impose total one-time compliance costs on industry for relabeling of about $400,000 to $600,000. The agency did not receive any comments on these estimates.

The agency believes the actual cost could be lower for several reasons. First, most of the label changes will be made by private label small manufacturers that tend to use simpler and less expensive labeling. However, the final rule will not require any new reporting and recordkeeping activities. Therefore, no additional professional skills are needed. Second, the agency has made the compliance dates for this final rule the same as the dates for these monographed products to be in compliance with the new standardized format and standardized content requirements for the labeling of OTC drug products (21 CFR 201.66), which are now May 16, 2002 (and May 16, 2003, for products with annual sales less than $25,000). Thus, all required labeling changes can be made at the same time, thereby reducing the labeling cost of this final rule.

The agency considered but rejected several labeling alternatives: (1) A shorter or longer implementation period, and (2) an exemption from coverage for small entities. While the agency believes that consumers would benefit from having this new labeling in place as soon as possible, the agency also acknowledges that coordination of this labeling change with implementation of the new OTC ''Drug Facts'' labeling may significantly reduce the cost of this final rule. Both a shorter and a longer time period for this rule may cost more if firms would have to undertake two successive labeling revisions. In addition, a longer time period would unnecessarily delay the benefit of the new labeling to consumers who self-medicate with these OTC

antifungal drug products. The agency rejected an exemption for small entities because the new labeling information is also needed by consumers who purchase products marketed by those entities.

Under the Unfunded Mandates Reform Act, FDA is not required to prepare a statement of costs and benefits for this final rule because this final rule is not expected to result in any one-year expenditure that would exceed $100 million adjusted for inflation.

This analysis shows that the agency has considered the burden to small entities. Thus, this economic analysis, together with other relevant sections of this document, serves as the agency's final regulatory flexibility analysis, as required under the Regulatory Flexibility Act.

V. Paperwork Reduction Act of 1995

FDA concludes that the labeling requirements in this final rule are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Rather, the indications statements are a ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

VI. Environmental Impact

The agency has determined under 21 CFR 25.31(a) 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.

List of Subjects in 21 CFR Part 333

Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 333 is amended as follows:

PART 333—TOPICAL ANTIMICROBIAL DRUG PRODUCTS FOR OVER–THE–COUNTER HUMAN USE

1. The authority citation for 21 CFR part 333 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 371.

2. Section 333.250 is amended by revising paragraphs (b)(1)(i) introductory text, (b)(2)(i) introductory text, and (b)(2)(ii) to read as follows:

§ 333.250 Labeling of antifungal drug products.

* * * * *

(b) * * *

(1) * * * (i) (Select one of the following: ''Treats,'' ''For the treatment of,'' ''For effective treatment of,'' ''Cures,'' ''For the cure of,'' ''Clears up,'' or ''Proven clinically effective in the treatment of'') ''most'' (select one condition from any one or more of the following groups of conditions:

* * * * *

(2) * * * (i) (Select one of the following: ''Clinically proven to prevent,'' ''Prevents,'' ''Proven effective in the prevention of,'' ''Helps prevent,'' ''For the prevention of,'' ''For the prophylaxis (prevention) of,'' ''Guards against,'' or ''Prevents the recurrence of'') ''most'' (select one of the following: ''Athlete's foot,'' ''athlete's foot (dermatophytosis),'' ''athlete's foot (tinea pedis),'' or ''tinea pedis (athlete's foot)'') ''with daily use.''

(ii) In addition to the information identified in paragraph (b)(2)(i) of this section, the labeling of the product may contain the following statement: ''Clears up most athlete's foot infection and with daily use helps keep it from coming back.''

* * * * *

Dated: August 15, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–21896 Filed 8–28–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 3399]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Addition of Department of Labor for Approval of Certain Nonimmigrant Petitions

AGENCY: Department of State.

ACTION: Interim rule.

SUMMARY: This rule adds the Department of Labor as the source of approved petitions to accord the status of temporary agricultural workers, H–2A, in lieu of the Immigration and Naturalization Service (INS).

DATES: This interim rule is effective November 13, 2000. Written comments are invited and must be received on or before October 30, 2000.

ADDRESSES: Written comments may be submitted, in duplicate, to the Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20520–0106, (202) 663–1204, e-mail *odomhe@state.gov*, or fax at (202) 663–3898.

SUPPLEMENTARY INFORMATION: The current regulation relating to temporary workers, at 22 CFR 41.53(a)(2), requires receipt by a consular officer of a petition approved by the INS (or notification of an INS-approved extension of stay in H status) as a basis for the issuance of a temporary worker visa to an otherwise eligible alien. This interim rule amends that regulation to accord with new INS and Department of Labor (DOL) regulations. They reflect a recent INS delegation to the Department of Labor of the sole authority to approve (or disapprove) petitions filed to accord the status of temporary agricultural worker on certain aliens. This interim rule will permit consular officers to accept petitions in this category approved by the Department of Labor. The amendments in this rule consist of an insert relating to the DOL approval of such petitions in both 22 CFR 41.53(a)(2) and 41.53(b).

Regulatory Analysis and Notices

Administrative Procedure Act

The Department is publishing this rule as an interim rule, with a 60-day provision for public comments, based on the ''good cause'' exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). The change in INS and DOL regulations will become effective on November 13, 2000, as will this rule. That change simplifies and expedites procedures which benefit all employers of temporary agricultural workers, and therefore is in the interest of the United States. This rule gives consular effect to that change. The substance of this rule results solely from actions taken by the INS and DOL, over which the Department has no control.

Regulatory Flexibility Act

Pursuant to section 605 of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule, and the Assistant Secretary for Consular Affairs hereby certifies that it is not expected to have a significant economic impact on a substantial number of small entities and will benefit those that engage temporary agricultural workers.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

The Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section (6)(a)(3)(A).

Executive Order 131332

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Passports and visas.

Accordingly, the Department of State amends 22 CFR Chapter I as set forth below.

PART 41—[AMENDED]

1. The authority citation for part 41 continues to read as follows:

Authority: 8 U.S.C. 1104

§ 41.53 [AMENDED]

2. Amend Section 41.53 as follows:

a. In paragraph (a)(2), insert '', or by the Department of Labor in the case of temporary agricultural workers'' following the phrase ''approval by INS.''

b. In paragraph (b), insert ''or by the Department of Labor'' following ''Immigration and Naturalization Service.''

Dated: July 27, 2000.

Maura Harty,

Acting Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 00–22028 Filed 8–28–00; 8:45 am]

BILLING CODE 4710–06–U

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 3400]

Documentation of Nonimmigrants Under the Immigration and Nationality Act, As Amended—Waiver of Nonimmigrant Visa Fees for Members of Observer Missions to the United Nations

AGENCY: Department of State.

ACTION: Interim rule.

SUMMARY: Current regulations contain a waiver of visa application and issuance fees for aliens coming to the United States in various diplomatic classifications, including those related to international organizations. This rule extends that provision to include persons who are members of observer missions to the United Nations who apply for B–1 visas to enter as participants in their U.N. observer missions.

DATES: This rule is effective August 29, 2000.

FOR FURTHER INFORMATION CONTACT: H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, D.C. 20520–0106, (202) 663–1204.

SUPPLEMENTARY INFORMATION: The current regulation governing the waiver of visa fees for diplomats, on a reciprocal basis or as provided in the Headquarters Agreement with the United Nations, identifies the beneficiaries of the waiver by the classification of the visas they seek. In some instances, members of missions invited by the United Nations in observer status do not qualify for any of the applicable classifications and, instead, obtain B–1 visas for the purpose of attendance at the United Nations in observer capacity. This amendment will bring such individuals under the same umbrella with regard to visa fees as others at the United Nations.

Is This Within the Agreement With the United Nations?

Yes. Article 11 of the Headquarters Agreement identifies the persons who are to be granted certain privileges. The fifth category, although not using the term ''observer mission'', clearly encompasses members of such units. Article 13 requires, among other things, that visas for persons covered by Article 11 be issued gratis.

Why Now, and Not Earlier?

In the past, most persons entering for the purpose of attendance at the United Nations obtained visas in one of the identified classifications. The few who didn't faced fees of negligible amounts and did not object to them. Over time, however, some reciprocal visa issuance fees, in particular, have become substantial, and the unintended but obvious inequity became a problem. This change in the regulation rectifies that problem.

Regulatory Analysis and Notices

Interim Rule

The implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based on the ''good cause'' exceptions set forth at 5. U.S.C. 553(b)(3)(B) and 553(d)(3). The benefit conferred fulfills the international responsibility of the United States as host country. Delay of the benefit for public notice and comment is unnecessary.

The Regulatory Flexibility Act

Pursuant to Section 605 of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule, and the Assistant Secretary for Consular Affairs hereby certifies that it is not expected to have a significant economic impact on a substantial number of small entities.

Executive Order 12372 and Executive Order 13132

The rule does not directly affect states or local governments or Federal relationships, does not create unfunded mandates, and does not have sufficient federalism implications to warrant preparation of a federalism assessment.

5 U.S.C. Chapter 8

As required by 5 U.S.C., chapter 8, the Department has screened this rule and determined that it is not a major rule, as defined in 5 U.S.C. 80412.

Paperwork Reduction Act:

This rule will not affect paperwork requirements.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports and visas.

In view of the foregoing, 22 CFR Part 41 is amended as follows:

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read as follows:

Authority: 8 U.S.C. 1104.

2. 41.107(c)(1) is revised to read as follows:

41.107 Visa Fees

* * * * *

(c) * * *

(1) Upon a basis of reciprocity, or as provided in section 13(a) of the Headquarters Agreement with the United Nations (61 Stat. 716; 22 U.S.C. 287, Note), no fee shall be collected for the application for or issuance of a nonimmigrant visa to an alien who is within a class of nonimmigrants classifiable under the visa symbols A, G, C–2, C–3, or NATO, or B–1 issued for participation in an official observer mission to the United Nations, or who is issued a diplomatic visa as defined in § 41.26.

* * * * *

Dated: August 4, 2000.

Mary A. Ryan,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 00–22029 Filed 8–28–00; 8:45 am]

BILLING CODE 4710–06–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

CGD 08–00–014

RIN 2115–AE47

Drawbridge Operation Regulation; Upper Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the Rock Island Railroad & Highway Drawbridge, across the Upper Mississippi River at Mile 482.9, at Rock Island, Illinois. The Drawbridge need not open for river traffic and may remain in the closed-to-navigation position from 7:30 a.m. to 11:30 a.m. on September 24, 2000. This temporary rule is issued to allow the scheduled running of a foot race as part of a local community event.

DATES: This rule is effective from 7:30 a.m. Central Standard Time on September 24, 2000 to 11:30 a.m. Central Standard Time on September 24, 2000.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD 08–00–014 and are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule is being promulgated without an NPRM due to the short time frame allowed between the submission of the request by the U.S. Army and the date of the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This rule should be made effective in less than 30 days due to the short time frame allowed between the submission of the request by the U.S. Army and the date of the event.

Background and Purpose

On May 30, 2000, the Department of Army Rock Island Arsenal requested a temporary change to the operation of the Rock Island Railroad & Highway Drawbridge across the Upper Mississippi River, Mile 482.9 at Rock Island, Illinois. The Rock Island Railroad Drawbridge navigation span has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the draw opens on signal for passage of river traffic. The Rock Island Arsenal requested the drawbridge be permitted to remain closed-to-navigation from 7:30 a.m. until 11:30 a.m. on September 24, 2000. During this time a foot race will cross the bridge. This temporary drawbridge operation regulation has been coordinated with the commercial waterway operators. No objections to the proposed temporary rule were raised.

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).

The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because river traffic is not likely to be delayed more than 4 hours.

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.

This rule will be in effect for only 4 hours early in the day and the Coast Guard expects the impact of this action to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 378.

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

Collection of Information

This rule calls for no new collection of information 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 will not impose an unfunded mandate.

Taking of Private Property

This 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 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 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 rule and concluded that under figure 2–1, paragraph (32), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Promulgation of changes to drawbridge regulations has been found not to have significant effect on the human environment. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation of part 117 continues to read as follows:

Authority: 33 U.S.C. Sec. 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. Effective 7:30 a.m. to 11:30 a.m. on September 24, 2000, § 117.T394 is added to read as follows:

§ 117.T394 Upper Mississippi River. Rock Island Railroad and Highway Drawbridge, Mile 482.9, Upper Mississippi River.

From 7:30 a.m. to 11:30 a.m. on September 24, 2000, the drawspan need not open for river traffic and may be maintained in the closed-to-navigation position.

Dated: July 29, 2000.

Paul J. Pluta,

Rear Admiral, USCG, Commander, Seventh Coast Guard District.

[FR Doc. 00–22035 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–15–U

POSTAL SERVICE

39 CFR Part 111

NetPost Mailing Online Experiment: Changes in Domestic Classifications and Fees

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service to conduct the NetPost Mailing Online experiment pursuant to the favorable Decision of the Governors of the United States Postal Service on the Opinion and Recommended Decision of the Postal Rate Commission (PRC) on an Experimental Classification and Fee Schedule for Mailing Online (Docket No. MC2000–2). The experiment will begin September 1, 2000, and will be conducted for approximately three years. The Postal Service anticipates that by offering nationwide service on the Internet it will gain both valuable operational expertise and data that are necessary for a successful future filing of a request for permanent NetPost Mailing Online (formerly called Mailing Online) service. Customers will be able to use NetPost Mailing Online to prepare and transmit messages in electronic form using a personal computer and a Web browser for printing in hardcopy form and subsequent entry into the mailstream. As the service matures, hardcopy mail will be entered at a postal facility near one of a group of approximately 25 print sites that is located closest to the mail's delivery address. Individuals, small businesses, home offices, and charitable organizations are expected to make up the main customer base.

EFFECTIVE DATE: September 1, 2000.

FOR FURTHER INFORMATION CONTACT: Paul Lettmann, (202) 268–6261; or Kenneth N. Hollies, (202) 268–3083.

SUPPLEMENTARY INFORMATION: The NetPost Mailing Online experiment is the third of an expected four-step process that will culminate in the establishment of a permanent NetPost Mailing Online service. The Postal Service first conducted an operations test from March through September 1998, with a few customers. That was followed by a one-year market test with limited customer participation conducted from October 1998 through October 1999, pursuant to the Postal Rate Commission's Docket No. MC98–1 Opinion and Recommended Decision issued on October 7, 1998, and approved by the Postal Service Governors on October 16, 1998. In that docket, the Postal Service also requested authorization to conduct an experiment, which request was later withdrawn by Board of Governors Resolution No. 99–5 (May 3, 1999).

On November 16, 1999, the Postal Service filed a new Request for a Recommended Decision on an Experimental Classification and Fee Schedule for Mailing Online based on an upgraded information technology platform. The PRC designated this request as Docket No. MC2000–2 and published a notice with a description of the Postal Service's proposals in the **Federal Register** on November 26, 1999 (64 FR 66514). The PRC issued a favorable Opinion and Recommended Decision (Docket No. MC2000–2) dated June 21, 2000.

Accepting a Stipulation and Agreement developed by the Postal Service with several other parties, the Commission also recommended an adjustment to the limited waiver of minimum volume requirements in order to extend to providers of functionally equivalent services the same postage rates payable under NetPost Mailing Online.

The Postal Service Governors approved the Opinion and Recommended Decision on August 7, 2000, and the Board of Governors set September 1, 2000, as the implementation date (Resolution No. 00/10).

Background

The Postal Service views NetPost Mailing Online as fulfillment of its mandate to bind the nation together through the provision of secure and universal correspondence services to the public. The new ''hybrid'' service combines recent advances in electronic communications through the Internet, state-of-the-art printing technology, and conventional postal functions, thus creating an integrated service for the production, processing, and delivery of mail. Postal customers with access to a personal computer and the Internet will be able to create and transmit electronic documents to the Postal Service Web site. Their documents and address lists will be transmitted to one or more contract printers, who will then prepare them as hardcopy for mailing. The Postal Service maintains its commitment to the sanctity of mail by precluding others' access to or use of NetPost Mailing Online customers' electronic documents.

The NetPost Mailing Online service will appear from a user's perspective to be similar to the Mailing Online service that was offered during the market test. However, users will access the service by means of the Postal Service's main corporate Web site, usps.com, instead of PostOffice Online. In addition, the service will be available nationwide, rather than limited to five metropolitan areas and a few thousand customers.

During the market test, the Postal Service contracted with one printer to produce mailings for a relatively small number of customers. Currently, two printers are under contract with the Postal Service, one in Chicago and another in Philadelphia. The Postal Service plan for the experiment is to route mailpieces to the printer closest to their delivery address and to use as many printers as necessary for nationwide coverage. Printers will prepare the electronically transmitted mailpieces and address lists as automation basic rate mailings. NetPost Mailing Online thus helps to lower system costs by taking advantage of mail presorting, automation, and destination entry of mailings.

Service Description

NetPost Mailing Online provides an affordable, convenient option that makes using the mails easier for Postal Service customers, especially those running small offices or home offices who do not currently use more traditional mailing services. It employs advanced technology that benefits customers who otherwise might not have access to sophisticated digital printing technology or to list management and presort software necessary to qualify for lower automation rates. The Postal Service will batch all submitted jobs and send them via dedicated lines to one or more commercial digital printing contractors who then print the documents, finish them according to customer specifications, place them in envelopes bearing a delivery point barcode, and enter them as mail at a postal facility. Mailings will be accepted and verified using manifesting documentation and procedures specified in DMM P710.

Small-volume customers will be able to create First-Class Mail and Standard Mail (A) mailings and have them entered at the automation basic rates. There is no minimum or maximum volume requirement. The service is ideally suited for newsletters, flyers, statements, invoices, and small direct mailings. Customers can mail both letters and flats using a number of different document format, binding, and envelope options.

The Postal Service plans to offer service for mailings of letters and flats at Standard Mail (A) nonprofit automation rates some time in the future. While mailings at Priority Mail rates, First-Class Mail card rates, and Express Mail rates are not offered at this time, they should become available later during the experiment. The same is true for some special services. In the near future, service for international Letters and Letter Packages will be available.

In a single Web site visit to usps.com, a NetPost Mailing Online customer will be able to upload a word processing document and a list of addresses to a postal data center. The NetPost Mailing Online system will presort and distribute the mailing electronically to contract printers for printing and entry into the mail at a local postal facility. Additional features of the service include online document proofing, a ''file cabinet'' that retains customer jobs for 30 days and offers document and mailing list management capabilities, real-time status reports of jobs submitted, and a quick calculator that provides immediate price quotations.

A typical customer will compose a document using conventional desktop publishing or word processing software; access the Postal Service Web site and select various printing, finishing, and payment options; submit a mailing list for standardization based on the Postal Service's current address database; and complete submission of the job by sending the electronic version of the document and a mailing list to the Web site. All uploaded documents and mailing lists will be available for online proofing, and customers will have the option to receive copies of their documents either through the mail or by fax at no additional charge.

The software applications that are supported are Microsoft Word 6.0 or later, WordPerfect 6.0 or later, PageMaker 6.5 or later, VENTURA 7.0 or later, and QuarkXPress 3.2 or later. Mailing lists can be created in Microsoft Word 6.0 or later, WordPerfect 6.0 or later, Microsoft Access 95 or later, Excel 5.0 or later, or an ASCII text file. The service is accessible by means of widely used Internet browsers: Netscape 4.03 or later, or Microsoft Internet Explorer 4.01 or later. Any browser used must support JavaScript 1.2 or later.

Each uploaded mailing list will be checked against the Postal Service's National Address Management System to standardize the addresses, including abbreviations, directionals, and ZIP Codes. (Move update requirements for address quality are being waived temporarily while work is completed to integrate the FASTforward system with NetPost Mailing Online.) Unverifiable addresses will be extracted and returned for review and correction by the customer. Any addresses not in compliance with postal addressing standards will be purged from the address list prior to quotation of a final price. However, at the customer's option, pieces having nonstandard addresses may be mailed at the First-Class Mail single-piece rate.

While the service has been designed for ease of use, the Postal Service recognizes that customers may need assistance from time to time. This assistance is likely to range from basic ''how to'' questions to complex questions about software compatibility. The Postal Service has made provision for users to obtain online support seven days a week during the hours of 7:00 a.m. through 11:00 p.m. (EST). Customers can either telephone 1–800–344–7779 toll free or send an e-mail message to icustomercare@usps.com.

Pricing and Customer Payment

Customers will pay online with a major credit card for the applicable postage, plus a fee for commercial printing charges and other costs, such as those related to information technology. Prices will take into account any differences in printing and production costs around the country. Fees for NetPost Mailing Online service will be 1.52 times the sum of printer contractual costs for the particular mailing and $0.005 per impression (printing on one side of a page) for other Postal Service costs. Price quotes will be provided online for each mailing that individual customers create and will vary depending on such factors as paper size, number of impressions, use of spot color, finishing option (folding, stapling, saddle stitching, tape binding, self-mailer tabbing), envelope type, and print site.

NetPost Mailing Online totals the postage and production costs and displays a price quote on-screen as an order is created. If a customer changes any selection while creating the order, the displayed postage and fees also will change to reflect the new selection. The price quotes thus enable a customer to see immediately the effect of a selection upon the total cost. Once all information pertaining to a customer's job, including document options, delivery addresses, credit card authorization, and final price, are known and confirmed, a customer approves the transaction. The transaction then becomes final, and the total cost is billed to the customer's credit card account by NetPost Mailing Online, in accordance with the terms and conditions of use for the program.

Standard Mail (A) Mailings

Like other postal customers, NetPost Mailing Online customers may decide whether their mailings will be sent as First-Class Mail or Standard Mail (A), subject to the eligibility requirements for each mail class contained in the Domestic Mail Manual.

To help customers choose the proper postage rate, a screen is provided in the NetPost Mailing Online software. This screen notifies customers that a mailing sent as Standard Mail (A) could be subject to the payment of additional postage if it is later found to be ineligible for Standard Mail (A) rates. Eligibility requirements for items mailed as Standard Mail (A) are found in DMM E611 and E612, and information about items required to be sent as First-Class Mail is found in DMM E110. Customers also are advised that they may either consult their local post office or review pertinent sections of the DMM online at http://pe.usps.gov.

On occasion, Standard Mail (A) rates may be claimed in error. In such cases, the Postal Service has determined that all of the traditional procedures applicable to a customer's direct entry of a hardcopy mailing cannot apply to the NetPost Mailing Online service, because it is likely that a rate eligibility problem for a NetPost Mailing Online mailpiece would first be discovered only at the time it is presented commingled with the mailpieces of other customers. The Postal Service believes that it would be inappropriate to delay entry of the entire multicustomer mailing while a problem that may involve only one customer's mail is resolved. With a traditional mailing, when a rate eligibility problem is discovered by a Postal Service employee at the time a mailer presents a mailing to a post office acceptance unit, the mailer has an immediate choice of either paying the difference between the applicable First-Class Mail and the claimed Standard Mail (A) postage before the mailing is accepted, or withdrawing the mailing without paying the additional amount. A mailer might also elect to immediately challenge and seek appeal of the classification decision being made at that time in order to resolve the problem so that the mailing can proceed without further delay. (See DMM G020.)

The NetPost Mailing Online customer who submits the ineligible and underpaid electronic version of the mailpieces as Standard Mail (A) could be thousands of miles away from the entry post office. Moreover, by the time a printer presents the mail to an acceptance unit, the Postal Service will have incurred transaction costs, such as those associated with the electronic transmission of documents, address verification, production costs for printing and finishing, and transportation to the entry post office. Therefore, while NetPost Mailing Online and the contract printers will be responsible for meeting mail presorting and preparation requirements, content eligibility and revenue issues will be resolved after mail has entered the postal system, in accordance with the terms and conditions of use for the program.

Entry post offices will continue to use random sampling procedures to verify mail classification and rate eligibility as part of the acceptance process. If a customer has improperly claimed Standard Mail (A) rates, the Postal Service will accept the NetPost Mailing Online mailing without delaying it and without requiring a postage adjustment at the time of mailing. Subsequently, the entry post office will notify the NetPost Mailing Online coordinator of the deficiency. NetPost Mailing Online will in turn advise the manager of business mail entry, Northern Illinois District, who is the designated national coordinator responsible for debiting the NetPost Mailing Online centralized trust account for any revenue deficiencies that originate at print sites.

NetPost Mailing Online will review the circumstances of the mailing. If the classification decision that matter was ineligible for Standard Mail (A) rates is based upon a customer's failure to abide by content restrictions, the Postal Service may take steps to recover the deficiency amount from the customer by advising the customer that its credit card account will be billed for the difference between the applicable First-Class Mail rate and the rate paid, in accordance with the terms and conditions of use for the program. NetPost Mailing Online will make this notification to the customer. At this time, the customer also will be advised that the classification decision and related revenue deficiency may be appealed by submitting a letter to the Program Manager, NetPost Mailing Online, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–4413. If the customer appeals, NetPost Mailing Online will refer the appeal to the rates and classification service center in Chicago, Illinois, for a final agency decision.

Functionally Equivalent Systems

Under existing eligibility requirements for automation rates, First-Class Mail letters, flats, and cards must be prepared in minimum quantities of 500 pieces. Standard Mail (A) letters and flats must be prepared in minimum quantities of 200 pieces or 50 pounds of addressed mail. NetPost Mailing Online mailings that otherwise meet all addressing and machinability requirements for automation rates will be permitted entry at automation rates without meeting these minimum volumes. This same privilege also is available to other services that are functionally equivalent to NetPost Mailing Online after certification by the Postal Service.

The justification for such exceptions to otherwise applicable minimum volumes is based on expectations that NetPost Mailing Online volumes will usually exceed them (by a wide margin if the service is successful), deeper potential discounts will be foregone, processing costs will be inherently low, and the selection of a more appropriate set of current or new rate categories can

await a permanent form of NetPost Mailing Online.

Certification of functional equivalence requires payment of a $100.00 fee and demonstration that the service is comparable to NetPost Mailing Online service and capable of all of the following as specified by the Postal Service:

a. Accepting documents and mailing lists from remote users in electronic form, such as via the Internet, or converting documents and mailing lists to electronic form.

b. Using the electronic documents, mailing lists, and other software, including USPS-certified sortation software that sorts to the finest level of sortation possible, to create barcoded mailpieces meeting the requirements for automation category mail, with 100 percent standardized addresses on all pieces claiming discounted rates.

c. Commingling mailpieces from all sources without diversion to any other system and batching them according to geographic destination prior to printing and mailing.

d. Generating volumes that exceed, on average, otherwise applicable minimum volumes.

The Postal Service is unaware of any existing functionally equivalent services, but is willing to work with interested parties as services are developed to improve the likelihood of certification.

Implementation

Pursuant to 39 U.S.C. 3624, the PRC, on June 21, 2000, issued to the Governors of the Postal Service its Opinion and Recommended Decision on the Postal Service's request.

Pursuant to 39 U.S.C. 3625, the Governors acted on August 7, 2000 (Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on an Experimental Classification and Fee Schedule for Mailing Online, Docket No. MC2000–2), to approve the PRC's recommendation, and per resolution the Board of Governors set an implementation date of September 1, 2000, for fee and classification changes to take effect.

This final rule contains the DMM standards adopted by the Postal Service to implement the Governors' decision. Because of the experimental nature of NetPost Mailing Online service and previous experience with the Mailing Online market test, the Postal Service finds no need to solicit comments on the standards for NetPost Mailing Online. However, comments are invited in the expectation that these rules are likely to be modified during the course of the experiment.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the Domestic Mail Manual as follows:

E ELIGIBILITY

E100 First-Class Mail

E110 Basic Standards

* * * * *

4.0 FEES

4.1 Presort Mailing

[Amend 4.1 by adding a last sentence that states that NetPost Mailing Online mailers pay fees in accordance with G091 to read as follows; no other changes to text.]

* * * Customers using NetPost Mailing Online service to create mailings pay fees under G091 and are not required to pay an annual presorted mailing fee.

* * * * *

E140 Automation Rates

1.0 BASIC STANDARDS

1.1 All Pieces

[Amend item b to exempt NetPost Mailing Online or a functionally equivalent service in G091 from the minimum volume requirement, to read as follows:]

All pieces in a First-Class Mail automation rate mailing must:

* * * * *

b. Be part of a single mailing of at least 500 pieces of automation rate First-Class Mail, subject to 1.2, or be part of a mailing using NetPost Mailing Online service or a functionally equivalent service under G091.

* * * * *

E612 Additional Standards for Standard Mail (A)

* * * * *

2.0 CONTENT

2.1 Circulars

[Amend 2.1 to reference NetPost Mailing Online, or a functionally equivalent service in G091, to read as follows:]

Circulars, including printed letters that, according to their contents, are sent in identical terms to more than one person are Standard Mail (A), or are provided for entry using NetPost Mailing Online service, or a functionally equivalent service, as provided in G091. A circular does not lose its character as such if a date and the individual names of the addressee and sender are written (handwritten or typewritten) on the circular or written corrections of typographical errors are made on the circular.

* * * * *

4.0 RATES

* * * * *

4.7 Annual Fees

[Amend 4.7 by adding a last sentence that references NetPost Mailing Online fees in G091 and exempts NetPost Mailing Online mailers from paying the annual presorted mailing fee; no other changes to text.]

* * * Customers who use NetPost Mailing Online service to create mailings pay fees in accordance with G091 and are not required to pay the annual presorted mailing fee.

* * * * *

4.9 Preparation

[Amend the first sentence in item b to reference NetPost Mailing Online or a functionally equivalent service in G091 to read as follows:]

Each Standard Mail (A) mailing is subject to these general standards:

* * * * *

b. Each mailing must contain at least 200 pieces or 50 pounds of pieces, or be provided for entry using NetPost Mailing Online service or a functionally equivalent service under G091.***

* * * * *

E640 Automation Standard Mail (A) Rates

1.0 REGULAR AND NONPROFIT RATES

1.1 All Pieces

[Amend item b to reference a NetPost Mailing Online or a functionally equivalent service under G091 to read as follows:]

All pieces in an automation rate Regular or Nonprofit Standard Mail (A) mailing must:

* * * * *

b. Be part of a single mailing of at least 200 pieces or 50 pounds of pieces of automation rate Standard Mail (Regular and Nonprofit mailings must meet separate minimum volumes), or be part of a mailing using NetPost Mailing Online or a functionally equivalent service under G091.

* * * * *

G GENERAL INFORMATION

* * * * *

G090 Experimental Classifications and Rates

[Add new G091 to read as follows:]

G091 NetPost Mailing Online

1.0 BASIC ELIGIBILITY

1.1 Service Description

The standards in G091 apply to documents that are produced electronically by a customer who pays postage and fees established for the NetPost Mailing Online experimental service and that a printer under contract with the Postal Service converts into hardcopy mailpieces and enters at a postal facility. Certain standards in G091 also are applicable to functionally equivalent services as certified by the USPS.

1.2 Customer Eligibility

Any customer who pays the postage and fees quoted by USPS for a mailing may use the NetPost Mailing Online service subject to the terms and conditions of use for the program.

1.3 Mailings

NetPost Mailing Online mailings will be produced and entered as follows:

a. Customers create documents and address lists on a computer and transmit them electronically via the USPS Web site (usps.com) to NetPost Mailing Online. If a mailpiece in a job is not eligible for an automation rate, a customer may choose to have it entered at the single-piece First-Class Mail rate. There is no minimum or maximum volume requirement for a customer job.

b. Customer jobs will be submitted by NetPost Mailing Online to one or more commercial contract printers for production as a hardcopy mailing.

c. A printer is required to do the following:

(1) Print customer jobs, finish documents, and place them in letter- or flat-size envelopes bearing delivery point barcodes.

(2) Prepare mailings to be eligible for First-Class Mail and Standard Mail (A) automation basic rates as required by standards in E140, E640, and M800.

(3) Print an approved manifest in accordance with P710 for each mailing presented for entry at a postal facility.

1.4 Special Services

Special services are not available for NetPost Mailing Online mailings.

2.0 MAIL CLASSIFICATION

2.1 Customer Responsibility

A customer who uses the NetPost Mailing Online service is responsible for claiming the proper rate of postage, subject to the eligibility requirements in E100 for First-Class Mail and E600 for Standard Mail (A). If Standard Mail (A) rates are claimed in error, the customer may be required to pay the difference between the applicable First-Class Mail postage rate and the claimed Standard Mail (A) postage rate, in accordance with the terms and conditions of use for the program. The USPS will accept the NetPost Mailing Online mailing without delaying it and without requiring a postage adjustment at the time of mailing.

2.2 Revenue Deficiency Procedures

If a classification decision is made by the USPS that matter was ineligible for Standard Mail (A) rates because of a customer's failure to meet applicable standards, the USPS may take steps to recover the deficiency amount by advising the customer that its credit card account will be billed for the difference between the applicable First-Class Mail rate and the Standard Mail (A) rate paid, in accordance with the terms and conditions of use for the program. At such time, the customer will also be advised that the classification decision and related revenue deficiency may be appealed by submitting a letter to the Program Manager, NetPost Mailing Online, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–4413. If the customer appeals, NetPost Mailing Online will refer it to the rates and classification service center in Chicago, Illinois, for a final agency decision.

3.0 FUNCTIONALLY EQUIVALENT SYSTEMS

NetPost Mailing Online mailings that otherwise meet all addressing and machinability requirements for automation rates are permitted entry at automation rates without meeting required minimum volumes for First-Class Mail and Standard Mail (A) mailings. The automation rates applicable to NetPost Mailing Online mailings are also available to other services that are functionally equivalent to NetPost Mailing Online, after certification by the USPS. Certification of functional equivalence requires payment of a $100 fee and demonstration that the service is comparable to NetPost Mailing Online service and capable of all of the following as specified by the USPS:

a. Accepting documents and mailing lists from remote users in electronic form, such as via the Internet, or converting documents and mailing lists to electronic form.

b. Using the electronic documents, mailing lists, and other software, including USPS-certified sortation software that sorts to the finest level of sortation possible, to create barcoded mailpieces meeting the requirements for automation category mail, with 100 percent standardized addresses on all pieces claiming discounted rates.

c. Commingling mailpieces from all sources without diversion to any other system and batching them according to geographic destination prior to printing and mailing.

d. Generating volumes that exceed, on average, otherwise applicable minimum volumes.

4.0 POSTAGE AND FEES

4.1 Postage

Documents that are mailed during the experiment are eligible for the following rate categories only:

a. First-Class Mail, automation basic (letters and flats).

b. First-Class Mail, single-piece.

c. Standard Mail (A) Regular, automation basic (letters and flats).

4.2 Service Fees

Fees for NetPost Mailing Online service are 1.52 times the sum of printer contractual costs for the particular mailing and $0.005 per impression (printing on one side of a page) for other USPS costs. Price quotes are provided online by NetPost Mailing Online for each mailing that is created and will vary depending on such factors as paper size, number of impressions, use of spot color, finishing option (folding, stapling, saddle stitching, tape binding, self-mailer tabbing), envelope type, and the print site.

4.3 Mailing Fees

NetPost Mailing Online customers are not required to pay an annual presorted mailing fee or permit imprint fee.

5.0 CONFIDENTIALITY OF ELECTRONIC AND HARDCOPY MESSAGES

Electronic documents submitted by customers to NetPost Mailing Online, including messages and mailing lists, are treated as confidential by the USPS. Other than as required to process

customer jobs, pursuant to a federal warrant or otherwise pursuant to applicable law, the USPS itself will not review, disclose, or release the content of electronic materials submitted to NetPost Mailing Online. No other NetPost Mailing Online users are permitted to access a customer's documents, nor does the USPS make independent use of them. Once the documents are printed in hardcopy form, they are treated in accordance with E110 and E611.

6.0 REFUNDS AND LIMITATION OF LIABILITIES

6.1 Refunds

At the discretion of the USPS, refunds for NetPost Mailing Online postage and fees are available under P014.2. This standard provides the sole remedy available when matter submitted to NetPost Mailing Online is not delivered, not entered as hardcopy, or is not entered in the form specified by the NetPost Mailing Online customer.

6.2 NetPost Mailing Online Disclaimer

The USPS disclaims any responsibility for loss or negligent transmission of electronic files and mail on exactly the terms specified by the Federal Tort Claims Act (28 U.S.C. § 2680(b)) for traditional mail. Under no circumstances is the USPS liable for special or consequential changes that result from use or inability to use NetPost Mailing Online, which is provided ''as is'' and without warranties of any kind either express or implied. The terms and conditions upon which NetPost Mailing Online is provided to the public are governed solely by the applicable regulations and standards; as such, the USPS disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, and good faith and fair dealing.

As provided by 39 CFR 111.3, notice of issuance will be published in the **Federal Register**.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–22044 Filed 8–28–00; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 240–0254a; FRL–6856–4]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from the use of organic solvents. We are approving a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on October 30, 2000 without further notice, unless EPA receives adverse comments by September 28, 2000. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite #200, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1199.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4661	Organic Solvents	12/09/99	02/23/00

On March 7, 2000, this rule submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

We finalized a limited approval and limited disapproval of Rule 4661 on January 15, 1999 (64 FR 2573). The limited approval portion of that rulemaking incorporated Rule 4661 into the federally enforceable SIP and the limited disapproval portion of triggered sanctions and FIP clocks under sections 179(a) and 110(c) of the CAA. The SJVUAPCD adopted a revision to the SIP-approved version and CARB submitted it to us on the dates indicated in Table 1. This revision was submitted to correct the deficiency noted in EPA's January 15, 1999 rulemaking.

C. What Is the Purpose of the Submitted Rule Revision?

The rule revision identifies prohibitory rules referenced in the Exemptions section of the rule, thereby correcting the only rule deficiency noted in our January 15, 1999 rulemaking. The revision also adds

definitions of terms used in the rule and specifies recordkeeping, testing and compliance requirements. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193).

Guidance and policy documents that we used to define specific requirements include the following:

1. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

B. Does the Rule Meet the Evaluation Criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are also proposing approval of the same submitted rule. If we receive adverse comments by September 28, 2000, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on October 30, 2000. This will incorporate the rule into the federally enforceable SIP and permanently terminate any sanctions or FIP clocks associated with our January 15, 1999 action.

III. Background Information

Why Was This Rule Submitted?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of this local agency VOC rule.

TABLE 2.—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone nonattainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 8, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(276)(i)(B)(*1*) to read as follows:

52.220 Identification of plan.

* * * * *

(c) * * *

(276) * * *

(i) * * *

(B) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4661, adopted on December 9, 1999.

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[FR Doc. 00–21909 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN98–1a, IN125–1a; FRL–6854–6]

Approval and Promulgation of Implementation Plans; Indiana Source-Specific Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to air pollutant emission limitations for two facilities in Lake County, Indiana. These limitations concern particulate matter emissions from a Lever Brothers facility and both particulate matter and sulfur dioxide emissions from Northern Indiana Public Service Company's (NIPSCo's) Dean Mitchell Station. Indiana requested these revisions on February 3, 1999, and December 28, 1999, respectively.

DATES: This rule is effective on October 30, 2000, unless EPA receives written adverse comments by September 28, 2000. If adverse comments are received, timely notice will be published in the **Federal Register** withdrawing the rule and informing the public that the rule will not take effect.

ADDRESSES: Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal are available for inspection at the following address:

(We recommend that you telephone John Summerhays at (312) 886–6067, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION: This rulemaking approves revisions to limits in the Indiana State Implementation Plan (SIP) for two companies in Lake County, Indiana. The first company is Lever Brothers, for which the Indiana Department of Environmental Management (IDEM) requested emission limit revisions for particulate matter on February 3, 1999. The second company is Northern Indiana Public Service Company (NIPSCo), for which IDEM requested emission limit revisions for both particulate matter and sulfur dioxide limits on December 28, 1999.

This document is organized according to the following table of contents:

I. Lever Brothers

1. What Revisions Did IDEM Request?

The principal revision IDEM requested for Lever Brothers concerned a limit on pounds of particulate matter emissions per hour for one emission point, specifically the milling and pelletizer soap dust collection system. This emission point is also subject to a limit on particulate matter emissions per standard cubic foot of air, but IDEM did not request that this latter limit be revised. Indiana included emission limits for this facility in the Lake County SIP for small particles (''PM_{10}'') that EPA approved on June 15, 1995, at 60 FR 31413. According to the State, while the emissions per volume limit was correctly set, an erroneous multiplication of emissions per volume times capacity air volume flow rate yielded a mistakenly low value for the emissions per hour value. IDEM requested that the emissions per hour limit be raised to the corrected value.

2. What Is EPA's Evaluation of This Request?

The requested revision must be evaluated as a relaxation of the Lake County PM_{10} plan. As such, the principal criterion EPA must use is given in section 110(l) of the Clean Air Act, requiring that revisions must not ''interfere with any applicable requirement concerning attainment and reasonable further progress * * * or any other applicable requirement.''

To address this criterion, IDEM performed a dispersion modeling analysis of PM_{10} concentrations attributable to Lever Brothers and other Lake County sources. IDEM used virtually the same inputs and procedures as the attainment plan that EPA approved in 1995, except that IDEM used ISC3, a more current dispersion model, as well as the revised emission rate for Lever Brothers. This analysis demonstrated that, despite the slightly increased allowable emissions for Lever Brothers, the plan was still adequate to attain and maintain the air quality standards in the vicinity.

EPA believes the modeling analysis satisfies applicable guidance. EPA

approved most aspects of the analysis in 1995, and finds the use of an updated dispersion model and revised emission rate to be necessary and sufficient. EPA concurs with IDEM's conclusion from this analysis that the revision for Lever Brothers does not interfere with attainment or any other relevant requirements of the Clean Air Act. Therefore, EPA finds IDEM's request for a revision of Lever Brother's limit to be approvable.

II. NIPSCo-Dean Mitchell Station

1. What Revisions Did Indiana Request?

For Northern Indiana Public Service Company's (NIPSCo's) Dean Mitchell Station, IDEM requested revisions to SIP limits for both particulate matter and sulfur dioxide (SO_2). These revisions are intended to accommodate mixes of boiler use that are not allowed under restrictions in the current SIP. The current SIP prohibits NIPSCo from simultaneously operating both units 4 and 5 at the Dean Mitchell Station unless one of these boilers is burning natural gas. The revised rules that IDEM requested EPA to approve would allow operation of these units under any of three scenarios. The first scenario is essentially identical to the current SIP scenario. The second scenario would allow simultaneous operation of units 4, 5, 6, and 11, but would restrict total emissions to a slightly lower level than the current SIP by imposing a tighter limit on pounds per million British Thermal Units (mmBTU). The third scenario would allow operation of half the units, either units 4 and 5 or units 6 and 11, coupled with emission limits that are comparable to current SIP limits.

The following table summarizes the limits in the current and submitted rules. The first part of this table shows the limits for particulate matter, including columns for the pound per mmBTU and pound per hour limits for boilers 4 and 5 and for boilers 6 and 11, as well as a column showing the total allowable emissions from the plant in pounds per hour. The table includes rows for the limits currently in the SIP and the limits for each of the three scenarios in the submitted rule. These scenarios are labeled AA, BB, and CC, after the respective subparagraph numbers in 326 IAC 6–1–10.1(d)(33) of the submitted rule.

The second part of the table shows limits for SO_2, and uses the same columns and similar rows as the particulate matter part. Nevertheless, two differences warrant comment. First, for particulate matter the SIP rule is the rule in existence immediately prior to Indiana's adoption of the submitted rule. For SO_2, however, the SIP rule is an older rule with a higher limit than the submitted rule or the immediately preceding State rule. Thus, the table includes an extra row showing the reduced SO_2 limits of an intermediate State rule, adopted after EPA approved the SIP rule but before the State adopted the rule being evaluated here. (The intermediate State rule has never been approved into the SIP, and is not being approved in today's rulemaking.) Second, neither the SIP rule nor the intermediate State rule for SO_2 have limits on pounds of SO_2 emissions per hour. The entries in these portions of the table, shown in parentheses, instead reflect a de facto limit found by multiplying the limit in pounds per mmBTU times the boiler capacities in mmBTU per hour.

Scenario	Limit mmBTU	4 &5 hr	6 & 11 hr	Total max hr	Operating restriction
Particulate Matter					
SIP	.10	128.75	235.7	364.45	None, but see SO_2
AA	.10	128.75	236	364.75	4 *or* 5, not both
BB	.074	185	175	360	None
CC	.10	250	236	250	4+5 *or* 6+11
Sulfur Dioxide					
SIP	1.2	(1534.2)	(2828.4)	(4362.6)	4 *or* 5, not both
Int. Rule	1.05	(1342.4)	(2474.9)	(3817.3)	4 *or* 5, not both
AA	1.05	1313.0	2475.0	3786	4 *or* 5, not both
BB	.77	1925	1815	3740	None
CC	1.05	2625	2475	2625	4+5 *or* 6+11

2. What Is EPA's Evaluation of This Request?

The principal criterion for reviewing these rule revisions is their impact on air quality. To address this criterion, IDEM presented results of two types of atmospheric dispersion modeling. The first type of modeling evaluated the concentrations attributable to all sources in the area. The second type of modeling focused on the incremental impact of the revisions of the NIPSCo-Dean Mitchell limits.

The modeling for particulate matter impacts of the universe of Lake County sources was the same modeling the State submitted for Lever Brothers. In brief, this modeling was very similar to modeling performed for the Lake County PM_{10} SIP approved in 1995, except for updated model selection and incorporation of the revised limits. As with Lever Brothers, this updated modeling is acceptable, and EPA agrees with Indiana's conclusion from this modeling that no violations of the air quality standards are expected to result from the revision of NIPSCo's particulate matter limits. EPA did not review the single source modeling, insofar as the more comprehensive modeling provided a firmer basis on which to evaluate Indiana's request.

The situation for SO_2 is more complicated. Indiana conducted modeling of the emissions allowed by the submitted limits. This modeling estimated SO_2 concentrations well over both the 24-hour and the annual average air quality standards in the vicinity of NIPSCo's Dean Mitchell Station. Indiana states that the violation is predominantly due to a Marblehead Lime Company facility, and that other sources, including NIPSCo, contribute only 10.7 micrograms per cubic meter ($\mu g/m^3$) to the violation. Indiana also examined the impact of the revision from intermediate limits to the submitted limits. Indiana found the resulting incremental increase in concentrations to be insignificant, based on a significance threshold given in EPA's emission trading policy statement published in 1986 for Level II modeling analyses.

Indiana's submittal focuses on the difference between the new limits and the intermediate limits that existed in the State's rules prior to adoption of

these new limits. These two sets of limits are approximately equivalent. EPA, on the other hand, is focusing on the difference between the new limits and the limits in the SIP. As seen in the above table, the new limits are clearly tighter than the limits in the SIP.

EPA is not accepting Indiana's arguments for approving NIPSCo's new limits. While an attainment strategy for the relevant area must clearly focus on emissions from Marblehead Lime, NIPSCo has a sufficient impact that it must also be considered a candidate for further controls if needed to attain the standards. In addition, under EPA's emission trading policy statement, in footnote 39, EPA states that emission trades may not generally be approved if the trade would create or exacerbate a violation of the air quality standard.

On the other hand, from EPA's perspective, Indiana is not simply requesting approval of limits that are equivalent to existing SIP limits, but in fact is requesting a tightening of the SIP limits for this source. The revised limits will not achieve attainment, and therefore the submission does not fully meet the Clean Air Act applicable requirements for demonstrating attainment of the air quality standards. However, the submission will allow EPA to enforce emission levels under which the area would be closer to attainment than with the current SIP limits. EPA has authority to approve revisions that tighten limits, even if the revised limits are insufficient to assure attainment. EPA finds the revised limits approvable on that basis and for that limited SIP-strengthening purpose, but not for purposes of demonstrating attainment of the air quality standards.

EPA is also working with Indiana on the larger question of achieving attainment of the SO_2 air quality standards. EPA approved Indiana's plan for meeting the SO_2 standards in Lake County on January 19, 1989 (54 FR 2112) based on our belief at the time that the plan assured attainment. However, EPA has now become aware that modeling shows that portions of the county may still be violating these standards. Indiana has conducted analyses to indicate which sources contribute most significantly to these potential violations. EPA will be assisting Indiana in evaluating and adopting strategies for further emission reductions as needed to assure adequate protection of public health in Lake County. EPA intends to provide the State a reasonable period of time to devise and submit a plan that fully meets the Clean Air Act requirements for attainment, before taking further action to address the problem.

III. EPA Action

EPA is approving the limit revisions for Lever Brothers that Indiana requested on February 3, 1999. EPA is also approving the limit revisions for NIPSCo-Dean Mitchell Station that Indiana requested on December 28, 1999, for the limited purpose of strengthening the approved SIP. EPA is publishing this action without prior proposal because EPA views these as noncontroversial revisions and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing the action taken in this final rule. This final rule will be effective on October 30, 2000 unless, by September 28, 2000, adverse written comments are received.

If the EPA receives such comments, EPA will withdraw this final action before the effective date by publishing a subsequent document in the **Federal Register**. All public comments received will be addressed in a subsequent final rule based on the associated proposed rule. The EPA does not intend to provide a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 30, 2000.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

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

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

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

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds

necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

H. National Technology Transfer and Advancement Act

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

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

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: August 4, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

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

PART 52—[AMENDED]

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

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

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(134) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(134) On February 3, 1999, the State of Indiana submitted a revision to particulate matter limitations for the Lever Brothers facility in Lake County. On December 28, 1999, Indiana submitted revisions to particulate matter and sulfur dioxide limitations for NIPSCo's Dean Mitchell Station.

(i) Incorporation by reference.

(A) Title 326 of the Indiana Administrative Code (326 IAC) 6–1–10.1 (d)(28) and (d)(33), filed with the Secretary of State on May 13, 1999,

effective June 12, 1999. Published at Indiana Register Volume 22, Number 10, July 1, 1999 (22 IR 3047).

(B) Title 326 of the Indiana Administrative Code (326 IAC) 7–4–1.1 (c)(17), filed with the Secretary of State on May 13, 1999, effective June 12, 1999. Published at Indiana Register Volume 22, Number 10, July 1, 1999 (22 IR 3070).

[FR Doc. 00–21911 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6858–5]

RIN 2060–AH47

National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; notice of stay.

SUMMARY: The EPA is taking direct final action to indefinitely stay the compliance date for the process contact cooling tower (PCCT) provisions for existing affected sources producing poly(ethylene terephthalate) (PET) using the continuous terephthalic acid (TPA) high viscosity multiple end finisher process. This stay is being issued because the EPA is in the process of responding to a request to reconsider relevant portions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Group IV Polymers and Resins which may result in changes to the emission limitation which applys to PCCT in this subcategory. It is unlikely that the reconsideration process will be complete before actions are necessary to comply with the current PCCT standard; thus arises the need for an indefinite stay of the compliance date.

DATES: This rule is effective on October 30, 2000 without further notice unless the EPA receives adverse comments by September 28, 2000. However, the comment period may be extended if a hearing is held (see the proposed rule published elsewhere in this issue of the **Federal Register**). If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: *Comments.* Written comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–92–45 (Group IV Polymers and Resins), Room M–1500, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**). Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION.**

Docket. Docket number A–92–45, containing information relevant to this direct final rule, is available for public inspection between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor).

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel, Organic Chemicals Group, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5608, electronic mail address rosensteel.bob@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: *a-and-r-docket@epa.gov.* Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number A–92–45. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Robert Rosensteel, U.S. EPA, c/o OAQPS Document Control Officer, 411 W. Chapel Hill Street, Room 944, Durham, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Docket. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA).) An index for each docket, as well as individual items contained within the dockets, may be obtained by calling (202) 260–7548 or (202) 260–7549. A reasonable fee may be charged for copying docket materials. Docket indexes are also available by facsimile, as described on the Office of Air and Radiation, Docket and Information Center Website at http://www.epa.gov/airprogm/oar/docket/faxlist.html. *World Wide Web.* In addition to being available in the docket, an electronic copy of this action is also available through the World Wide Web (WWW). Following signature, a copy of this action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Entities potentially regulated by this direct final rule include:

Category	SIC	NAICS	Examples of regulated entities
Industry	2821	325211	Facilities that produce PET using the continuous TPA high viscosity multiple end finisher process.

This table is not intended to be exhaustive, but rather provides a guide regarding entities likely to be affected by this action. To determine whether your facility is regulated by this rule, you should carefully examine the applicability criteria in 40 CFR part 63, subpart JJJ and in the proposed amendments to subpart JJJ (64 FR 11560). If you have any questions regarding the applicability of this rule to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. *Judicial Review.* Under section 307(b)(1) of the CAA, judicial review of this direct final rule is available by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within December 27, 2000. Under section 307(b)(2) of the CAA, the requirements that are the subject of this direct final rule may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

The following outline is provided to aid you in reading the preamble to this direct final rule.

I. Why are we taking this action?
II. Whom does this stay impact?
III. What are the administrative requirements for this direct final rule?

I. Why Are We Taking This Action?

On September 12, 1996, we promulgated NESHAP for Group IV Polymers and Resins as subpart JJJ in 40 CFR part 63. The NESHAP establishes a new subcategory for PET manufacture specified as the continuous TPA high viscosity multiple end finisher subcategory. The NESHAP also establishes standards for PCCTs, contained in 40 CFR 63.1329, for existing affected sources in the new subcategory. The NESHAP requires existing affected sources in the continuous TPA high viscosity multiple end finisher subcategory to comply with 40 CFR 63.1329 beginning September 12, 1999. Subsequent to issuing the NESHAP, we extended the compliance date for the PCCT provisions contained in 40 CFR 63.1329 to February 27, 2001 (63 FR 15312).

A petition has been submitted to us requesting reconsideration of the technical basis for establishment of the continuous TPA high viscosity multiple end finisher subcategory (Docket: A–92–45). The petition presents new information related to the production processes for the manufacture of PET that the petitioner claims calls into question the need and justification for a separate subcategory for the continuous TPA high viscosity multiple end finisher process. The information presented in the petition has led us to accept the petitioner's request to reconsider the need for the continuous TPA high viscosity multiple end finisher subcategory.

There is a regulatory difference between the continuous TPA high viscosity multiple end finisher subcategory and other PET subcategories regarding the requirements to limit the concentration of ethylene glycol in PCCT for existing affected sources under the provisions contained in 40 CFR 63.1329. As a result of the petition for reconsideration, existing affected sources in this subcategory cannot be certain of subsequent amendments to the NESHAP.

In the past, representatives of one existing affected source in the continuous TPA high viscosity multiple end finisher subcategory informed us in writing (Docket: A–92–45) that they were on the verge of committing to capital expenditures to purchase equipment necessary to comply with the current PCCT standard. They did not want to commit to capital expenditures when the petition was still under consideration and requested relief from the PCCT standard. Because of the uncertainty regarding possible amendments to the final standard for PCCT, we provided a temporary extension of the compliance date to February 27, 2001 in a previous direct final rule (61 FR 15312).

As the February 27, 2001 compliance date approaches and we are still in the process of evaluating the petition to reconsider, the same need for relief from the compliance date exists. In addition, we have confirmed that the affected source in question cannot meet the current MACT standard for PCCT without making significant modifications to their existing recovery system which would require additional capital investment. Again, considering the level of uncertainty regarding possible amendment to the final standard for PCCT, the capital investment described above could be wasted if the control equipment installed to meet the current standards was not sufficient to meet subsequent amended standards. Therefore, we are now providing, under CAA section 301(a), an indefinite stay of the compliance date for the PCCT standard applicable to the continuous TPA high viscosity multiple end finisher subcategory.

This indefinite stay applies only to the PCCT emission limitation at existing affected sources producing PET using the continuous TPA high viscosity multiple end finisher process. It does not affect any other provisions of the NESHAP applying to this subcategory or any other subcategories. We intend to complete our reconsideration of the NESHAP and, following the notice and comment procedures of CAA section 307(d), take appropriate action as expeditiously as practical. We do not believe this stay will, as a practical matter, affect the overall effectiveness of the NESHAP. Following our reconsideration of the NESHAP, we will establish a new compliance date for the provisions contained in 40 CFR 63.1329.

We are publishing this direct final rule without prior proposal because we view this stay to be noncontroversial, and we anticipate no adverse comments. In addition, we believe that the ''indefinite stay'' of the compliance date associated with the PCCT standard should become effective as soon as possible. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as a proposal to stay the compliance date associated with the PCCT standard if adverse comments are filed. This rule will be effective on October 30, 2000 without further notice unless we receive adverse comment on this direct final rule by September 28, 2000. If we receive an adverse comment on this action, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

II. Whom Does This Stay Impact?

We are issuing a stay of the existing source compliance date associated with the PCCT standard for the Group IV (subpart JJJ) Polymers and Resins NESHAP for existing affected sources

producing PET using the continuous TPA high viscosity multiple end finisher process. Specifically, we are staying the provisions in 40 CFR 63.1311(c) by adding a note at the end of this paragraph explaining that the compliance date for the provisions of 40 CFR 63.1329 for existing affected sources producing PET using the continuous TPA high viscosity multiple end finisher process is stayed indefinitely.

This stay will affect you if you are the owner or operator of an existing affected source subject to the Group IV Polymers and Resins NESHAP that produces PET using the continuous TPA high viscosity multiple end finisher process and operate a PCCT. You will not be required to comply with the requirements for PCCT found in 40 CFR 63.1329 by February 27, 2001. Also, you will not be required to comply with the associated monitoring, recordkeeping, and reporting provisions at that time. When the final amendments to the NESHAP are promulgated, we will issue a new compliance date(s), providing you with a reasonable amount of time in which to comply with the amended NESHAP.

III. What Are the Administrative Requirements for This Direct Final Rule?

A. Executive Order 12866

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

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

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

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

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

The EPA has determined that this rule does not meet any of the criteria enumerated above and therefore, does not constitute a ''significant regulatory action'' under the terms of Executive Order 12866 and was not required to be reviewed by OMB.

B. Executive Order 13045

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and it is based on technology performance and not on health or safety risks.

C. Paperwork Reduction Act

For the Group IV Polymers and Resins NESHAP, the information collection requirements (ICR) were submitted to OMB under the Paperwork Reduction Act. At promulgation, OMB had already approved the ICR (#1737.01) and assigned OMB control number 2060–0351.

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 the EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The EPA has amended 40 CFR 9.1 to include the OMB control number assigned to the Group IV Polymers and Resins NESHAP.

This action has no impact on the information collection burden estimates made previously. Therefore, the ICR has not been revised. Also, since this action will stay the compliance date indefinitely, an ICR is not needed.

D. Regulatory Flexibility

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this direct final rule. The EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities. Only one entity is subject to the PCCT standard, and it is not a small entity. In addition, this rule will relieve regulatory burden for all entities subject to the PCCT standard.

E. The Congressional Review Act

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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective October 30, 2000.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal

governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in aggregate, or the private sector in any 1 year. Instead, this rule provides additional time to comply with certain requirements of the Group IV Polymer and Resins NESHAP. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

We also have determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This rule does not impose any enforceable duties on small governments, *i.e.*, they own or operate no sources subject to this rule and therefore are not required to purchase control systems to meet the requirements of this rule.

G. Executive Order 13132

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the EPA consults with State and local officials early in the process of developing the regulation.

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule merely provides additional time for one facility, which is not owned or operated by a State or local government, to comply with certain requirements of the Group IV Polymers and Resins NESHAP. Thus, the requirements of section 6 of Executive Order 13132 do not apply to this direct final rule.

H. Executive Order 13084

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

This direct final rule does not significantly or uniquely affect the communities of Indian tribal governments. This action imposes no enforceable duties on these entities. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, (15 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or would be otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, material specifications, test method, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like the EPA to provide Congress, through OMB, with explanations when the EPA decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 21, 2000.

Carol M. Browner,

Administrator.

Title 40 chapter I of the Code of Federal Regulations, is being amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

Subpart JJJ—National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

2. Amend § 63.1311 by revising paragraph (c) to read as follows:

§ 63.1311 Compliance dates and relationship to this subpart to existing applicable rules.

* * * * *

(c) Existing affected sources shall be in compliance with this subpart (except for § 63.1331 for which compliance is covered by paragraph (d) of this section) no later than June 19, 2001, as provided in § 63.6(c), unless an extension has been granted as specified in paragraph

(e) of this section, except that the compliance date for the provisions contained in § 63.1329 is extended to February 27, 2001, for existing affected sources whose primary product, as determined using the procedures specified in § 63.1310(f), is PET using a continuous terephthalic acid high viscosity multiple end finisher process.

Note to paragraph (c): The compliance date of February 27, 2001 for the provisions of § 63.1329 for existing affected sources whose primary product, as determined using the procedures specified in § 63.1310(f), is PET using a continuous terephthalic acid high viscosity multiple end finisher process is stayed indefinitely. The EPA will publish a document in the **Federal Register** establishing a new compliance date for these sources.

* * * * *

[FR Doc. 00–21907 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 97–82; FCC 00–274]

Competitive Bidding Procedures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document clarifies and amends the Commission's general competitive bidding rules for all, auctionable services. These modifications are intended to increase the efficiency of the competitive bidding process and provide more specific guidance to auction participants. In the past, the Commission adopted separate competitive bidding rules for each auctionable service. This rule making is part of the Commission's ongoing effort to establish a uniform and streamlined set of general competitive bidding rules for all auctionable services and to reduce the burden on both the Commission and the public of conducting service-specific auction rule makings.

DATES: Effective October 30, 2000. Public and agency comments on the information collection are due on or before October 30, 2000.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leora Hochstein, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of an Order on Reconsideration of the Third Report and Order, Fifth Report and Order (*Order on Reconsideration, Fifth Report and Order*) in the Commission's Part 1—Competitive Bidding proceeding adopted July 27, 2000 and released August 14, 2000. The complete text of this *Order on Reconsideration, Fifth Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800. It is also available on the Commission's web site at *http://www.fcc.gov/wtb/auctions.*

Synopsis of the Order on Reconsideration of the Third Report and Order, Fifth Report and Order

1. The Commission adopts an *Order on Reconsideration, Fifth Report and Order* in its Part 1—Competitive Bidding proceeding, clarifying and amending general competitive bidding rules for all auctionable services. These modifications are intended to increase the efficiency of the competitive bidding process and provide more specific guidance to auction participants. In the past, the Commission adopted separate competitive bidding rules for each auctionable service. This rule making is part of the Commission's ongoing effort to establish a uniform and streamlined set of general competitive bidding rules for all auctionable services and to reduce the burden on both the Commission and the public of conducting service-specific auction rule makings.

2. In 1994, in implementing the Omnibus Budget Reconciliation Act of 1993, the Commission prescribed certain general competitive bidding rules and procedures, indicating that it would use these general rules and procedures as a basis for adopting specific competitive bidding rules for each auctionable service. *See* Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Second Report and Order*, 59 FR 22980 (May 4, 1994) *(''Competitive Bidding Second Report and Order''). See* Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Second Memorandum Opinion and Order*, 59 FR 44272 (August 26, 1994). In 1997, after completing 15 spectrum auctions and adopting service-specific bidding rules for each such auction, the Commission initiated a proceeding to expand the general competitive bidding rules, contained in part 1, subpart Q of its rules, and replaced any inconsistent or repetitive service-specific auction rules. *See* Amendment of Part 1 of the Commission's Rules—Competitive Bidding Proceeding, WT Docket No. 97–82, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making, (''Part 1 NPRM'')* 62 FR 13570 (March 21, 1997). The most recent comprehensive order in this proceeding was the *Third Report and Order*, 63 FR 2315 (January 15, 1998), and *Second Further Notice of Proposed Rule Making*, 63 FR 770 (January 7, 1998), *(''Part 1 Third Report and Order''* and *''Second FNPRM'')*. In the *Order on Reconsideration*, the Commission addresses petitions for reconsideration and comments filed in response to the *Part 1 Third Report and Order.* The *Fifth Report and Order* addresses comments filed in response to the *Second FNPRM*, and the *Fourth FNPRM*, published elsewhere in this issue of the **Federal Register**, and adopted herein seeks comment on additional proposals relating to the general competitive bidding rules.

I. Executive Summary

3. In this *Order on Reconsideration* the Commission:

- Amends § 1.2105(c)(1) of its rules to clarify that the prohibition on collusion begins on the filing deadline for short-form applications and ends on the down payment deadline.
- Clarifies and corrects the ownership disclosure requirements contained in § 1.2112 of its rules. In particular, with respect to entities not seeking designated entity status, the Commission eliminates the requirement to include debt and instruments such as warrants, convertible debentures, options and other debt interests in reporting their ownership interests.
- Amends § 1.2104(g)(1) of its rules to clarify that in the case of multiple bid withdrawals on a single license, within the same or subsequent auction(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. The Commission further clarifies that no withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auction(s), equals or exceeds that withdrawn bid. In addition, the

Commission amends § 1.2104(g)(1) of its rules to provide that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the bid withdrawals.

• Retains, for the most part, the installment payment grace period and late payment fee provisions adopted in the *Part 1 Third Report and Order*, but adopts a slight modification to the payment due dates for late installment payments and associated late fees.

• Clarifies that licensees continue to have the opportunity to seek restructuring of installment payments. There is, however, no longer a procedure for requesting a grace period to stay installment payment deadlines pending such restructuring. Rather, licensees will be subject to the automatic late payment provisions of § 1.2110(g) as adopted herein.

• Clarifies that the assignee or transferee of a license paid for through installment payments is not responsible for the license debt until the assignment of license or transfer of control has been consummated.

• Clarifies that the unjust enrichment rules for bidding credits (§ 1.2111(d) of the Commission's rules) do not apply to assignments or transfers of C and F block licenses to non-entrepreneurs. The Commission further clarifies that pursuant to §§ 1.2111(c) and (d) of its rules, Commission approval of assignments of licenses and transfers of control that result in unjust enrichment with respect to bidding credits and installment payments is conditioned upon full payment of the required unjust enrichment payments on or before the consummation date.

• Clarifies that licensees defaulting on installment payments are subject to the default provisions of § 1.2110(f)(4) of its rules (redesignated herein as § 1.2110(g)(4)), and not to § 1.2104(g).

• Incorporates into the part 1 general competitive bidding rules the ''former defaulter'' policies adopted with respect to C block auction applicants. Specifically, the Commission: (i) allows ''former defaulters,'' *i.e.*, applicants that have defaulted or been delinquent in the past, but have since paid all of their outstanding non-tax debts and all associated charges or penalties, to certify on FCC Form 175 that they are not in default and are, therefore, eligible for auction participation; and (ii) requires ''former defaulters'' to pay an upfront payment amount of 1.5 times the normal amount set by the Bureau for any given license in a Commission auction.

• Clarifies that licensees defaulting on installment payments will be permitted to participate in future Commission spectrum auctions if they have either (i) paid all of their outstanding non-tax debt, along with all associated charges and penalties; or (ii) been relieved of such obligations pursuant to otherwise applicable law. In all instances, installment payment defaulters eligible to participate in future auctions will be required to pay an upfront payment amount of 1.5 times the normal amount set by the Bureau for any given license in a Commission auction to assure their future financial soundness.

4. In this *Fifth Report and Order* the Commission:

• Declines, at this time, to adopt special provisions for minority-and women-owned businesses pending completion of a series of market studies to determine whether, and under what circumstances, targeted preferences for minorities and women are appropriate. The Commission notes, however, that minority-and women-owned businesses that qualify as small businesses may take advantage of the provisions the Commission has adopted for small businesses.

• Declines, at this time, to adopt special provisions for rural telephone companies, such as bidding preferences or an unserved area fill-in policy. The Commission notes, however, that it will continue to provide rural telephone companies with bidding credits should such entities qualify as small businesses.

• Adheres to the Commission's previous decision to suspend the installment payment program. The Commission will, however, continue to provide small businesses with bidding credits as it has done in auctions for a number of services, *e.g.*, the Local Multipoint Distribution Service (''LMDS''), Location and Monitoring Service (''LMS''), 220 MHz and VHF Public Coast services.

• Adopts as its general attribution rule a controlling interest standard for determining which applicants qualify as small businesses. Under this standard, the Commission will attribute to the applicant the gross revenues of its controlling interests and their affiliates in assessing whether the applicant qualifies for its small business provisions, such as bidding credits. The Commission does not adopt a minimum equity threshold. Rather, applicants will be required to identify controlling interests based on the principles of either *de jure* or *de facto* control. Current C and F block licensees will continue to be eligible to hold their licenses regardless of whether or not they would qualify under the newly established attribution rules adopted herein. As to future C and F block auctions, however, all applicants, including existing C and F block licensees, will be subject to the attribution rules in effect at the time of filing their short-form applications.

• Maintains its rule of calculating default payment amounts on a license-by-license basis and implements the Balanced Budget Act provisions regarding administrative filing periods as set forth here.

• Delegates to the Wireless Telecommunications Bureau the authority to make any revisions to the Code of Federal Regulations that are necessary to conform the service-specific auction rules to the part 1 general competitive bidding rules.

II. Order on Reconsideration of the Third Report and Order

A. Introduction

5. In response to the *Part 1 Third Report and Order*, the Commission received seven petitions for reconsideration and two comments in support of the petitions for reconsideration. A list of the parties that filed pleadings in response to the *Part 1 Third Report and Order*, and the abbreviations used to refer to such parties, is included in Appendix B of the complete document. The petitioners raise various issues regarding installment payments for auction-won licenses. For the reasons discussed here, the Commission clarifies certain rules at petitioners' request and dismiss or deny these petitions in all other respects. Further, the Commission addresses comments filed in response to the *ULS NPRM* that relates to aspects of its auction rules. *See* Biennial Regulatory Review—Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, WT Docket No. 98–20, *Notice of Proposed Rulemaking*, 63 FR 16938 (April 7, 1998) *(''ULS NPRM'')*. In addition, the Commission takes this opportunity to clarify, on its own motion, certain aspects of the *Part 1 Third Report and Order*.

B. Clarification of Prohibition on Collusion

6. *Background.* Section 1.2105(c)(1) of the Commission's rules generally prohibits collusion between competing bidders from ''after the filing of short-form applications * * * until after the

high bidder makes the required down payment * * *'' *See* 47 CFR 1.2105(c)(1). The Commission's bidder information packages generally state that ''[t]his prohibition begins with the filing of short-form applications, and ends on the down payment due date.'' The Commission's Public Notices specifically provide that the collusion prohibition becomes effective on the ''filing deadline of short-form applications'' and ends on the ''post-auction down payment due date.'' To avoid any confusion regarding when the prohibition on collusion begins and ends, the Commission believes it is necessary to amend § 1.2105(c)(1) of its rules.

7. *Discussion.* On its own motion, the Commission amends § 1.2105(c)(1) of its rules to provide that applicants are prohibited from communicating with each other about bids, bidding strategies, or settlements from ''after the short-form application filing deadline * * * until after the down payment deadline * * *.'' This rule change makes clear that competing bidders may not engage in communications prohibited by the rule from the date that short-form applications are due to the Commission until after the down payment deadline has passed. The amendment affirms that there is a uniform date for all bidders on which restrictions on communications begin and end.

C. Clarification of § 1.2112

8. *Background.* In the *Part 1 Third Report and Order*, the Commission concluded that detailed ownership information is necessary to ensure that applicants claiming designated entity status qualify for such status and that all applicants comply with spectrum caps and other ownership limits. The Commission also stated that disclosure of ownership information helps bidders identify entities that are subject to its anti-collusion rules. To these ends, the Commission promulgated § 1.2112, based on its broadband PCS rules, to serve as a uniform ownership disclosure rule for all auctionable services.

9. *Discussion.* Because a number of applicants in the Phase II 220 MHz auction found § 1.2112 confusing, the Commission has decided, on reconsideration, to reorganize the rule in a more logical, straightforward manner. The Commission first revised § 1.2112(b)(1) to use the term ''controlling interest'' to describe the parties whose connection or relationship with another FCC-regulated business must be reported under (b)(1). A ''controlling interest'' includes individuals or entities, or groups of individuals or entities, that have control of the applicant under the principles of either *de jure* or *de facto* control as discussed herein. Then, because identification of controlling interests is significant only for applicants claiming designated entity status, the Commission includes those reporting requirements related to such status in paragraph (b), which applies only to applicants claiming eligibility for small business provisions. The Commission also corrects the rule to indicate that gross revenues must be reported not only on the long-form application, but also on the short-form application.

10. In addition, the Commission corrects § 1.2112(a)(3) in which it used language that was overly broad. Section 1.2112(a)(3) states erroneously that an applicant must provide: ''[a] list of any party holding a 10 percent or greater interest in any entity holding or applying for any FCC-regulated business in which a 10 percent or more interest is held by another party which holds a 10 percent or more interest in the applicant.'' This language has the unintended effect of requiring the reporting of parties with a distant relationship to the applicant. Section 1.2112(a)(3), however, also provides the following example: ''If Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C then Companies A and C must be listed on Company B's application.'' The rule's example accurately reflects which parties the Commission intended the applicant to report. That is, when a company (Company A) that must be reported under the rule because of its ownership interest in the applicant (Company B) also owns at least 10 percent of another company that is an FCC-licensed entity or applicant for an FCC license (Company C), Company C must be reported. The Commission's intent was to require that FCC-regulated entities be reported when there is a connection between such an entity and the applicant at issue through a common owner. The Commission therefore amends § 1.2112 to better reflect its intent and comport with the example provided in the rule. In addition, the Commission amends § 1.2112 to require applicants to disclose, in the case of a limited liability company, only those members that hold a 10 percent or greater interest in the applicant. Section 1.2112(a)(8), as adopted in the *Part 1 Third Report and Order,* required applicants to disclose all members of a limited liability company, regardless of their ownership interest in the applicant. The Commission now revises the disclosure requirement pertaining to limited liability companies to be consistent with those regarding limited partnerships. Finally, the Commission changes other aspects of the sequencing so that the revised rule begins by seeking general information in § 1.2112(a)(1) through (a)(4) and becomes progressively more detailed in (a)(5) and (a)(6). This ''building block'' approach is intended to provide applicants with a clearer understanding regarding the information that must be disclosed.

11. The Commission also takes this opportunity to address relevant comments that were filed separately in response to the *ULS NPRM.* In comments on the *ULS NPRM,* commenters object to the breadth of information collected in § 1.2112. In particular, they argue that the requirement to identify direct and indirect owners with an interest of 10 percent or greater is burdensome and overly broad. The Commission disagrees, and believes that the 10 percent reporting requirement helps competing, bidders accurately assess the legitimacy of their auction opponents and their respective bids. As discussed in the *Part 1 Third Report and Order,* the collection of detailed ownership information is necessary for ensuring compliance with ownership limits, such as spectrum caps. Disclosure of ownership information also aids bidders by providing them with information about their auction competitors and alerting them to entities subject to the Commission's anti-collusion rules. The Commission agrees with commenters, however, that § 1.2112 could be less burdensome in certain regards. Therefore, except for entities claiming special eligibility or designated entity status, the Commission will not require applicants to include information regarding warrants, convertible debentures, stock options, debt securities or other debt interests as part of the 10 percent reporting requirement unless and until conversion of such interests is effected. Generally, the Commission has not included such interests in calculating ownership interests under rules establishing various ownership limits. *See* 47 CFR 20.6(d) (CMAS spectrum cap), 22.942(d) (cellular cross-interest), 73.3555 Note 2 (broadcast multiple ownership), and 76.501 Note 2 (cable cross-ownership). The Commission agrees with commenters that the current reporting burden imposed on applicants may exceed the benefit of requiring disclosure of these interests. The Commission continues to believe, however, that in calculating ownership

interests for the purpose of determining designated entity status and eligibility for bidding credits, warrants, convertible debentures, options and other debt interests must be treated as having been exercised and must be reported as part of the applicant's disclosure. In the case of applicants seeking special eligibility or designated entity status, the Commission has traditionally treated these interests as being fully diluted because it is reaching determinations regarding the bona fide nature of the applicant. *See* 47 CFR. § 24.813 (1997). This section was subsequently removed from the Code of Federal Regulations. *See* Biennial Regulatory Review—Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, WT Docket No. 98–20, *ULS Report and Order,* 63 FR 68904 (December 14, 1998). Thus, the Commission agrees that it is reasonable for it to require more ownership information from these entities where such information is designed to show that the special eligibility and/or bidding credit is both legitimate and warranted.

D. Computation of Bid Withdrawal Payments Under § 1.2104

12. *Background.* Section 1.2104(g)(1) of the Commission's rules sets forth the payment obligations of a bidder that withdraws a high bid on a license during the course of an auction. Specifically, it provides that a bidder that withdraws a standing high bid is subject to a payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid the next time the license is offered by the Commission. As the auctions program has evolved, however, the Commission has encountered situations involving multiple bid withdrawals on a single license, which are not specifically addressed by § 1.2104(g)(1) of the Commission's rules. The Commission, therefore, believes it is necessary to broaden its rule to clarify its application to this particular contingency. In addition, the Commission wishes to modify § 1.2104(g)(1) to more specifically articulate its policy of assessing interim bid withdrawal payments.

13. *Discussion.* On its own motion, the Commission clarifies a policy that the Bureau has relied on in the past. If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the net high bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single license, within the same or subsequent auction(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auction(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s). This policy allows bidders to most efficiently allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureau retains the discretion to scrutinize multiple bid withdrawals on a single license for evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

14. The Commission also wishes to modify § 1.2104(g)(1) of its rules to state more specifically its policy of assessing interim bid withdrawal payments. The Commission amends § 1.2104(g)(1) to provide that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the bid withdrawals. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed at the close of the subsequent auction of the license. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment.

E. Installment Payment Grace Periods and Imposition of Late Payment Fees

15. *Background.* The installment payment rules, adopted in the *Competitive Bidding Second Report and Order,* permitted a licensee to make an installment payment up to 90 days after the due date without a late payment charge and without being considered in default. A licensee whose installment payment was more than 90 days past due, however, was in default, unless a ''grace period'' request was filed prior to the payment due date. See 47 CFR § 1.2110(b)(4)(x)(E)(4)(i) and (ii) (1994). Specifically, in anticipation of default on one or more installment payments, a licensee could request that the Commission grant a three to six month grace period during which no installment payments need be made. The licensee would not be declared in default during the pendency of such request. Grant of the request would result in the licensee not being considered in default during the grace period, and the interest that accrued while no payments were made would be amortized over the remaining term of the license. Following the expiration of any grace period without successful resumption of payment, or upon denial of a grace period request, or default with no such request submitted, the license would cancel automatically.

16. In the *Part 1 Third Report and Order,* the Commission modified the grace period provisions as applied to all licensees participating in an installment payment plan at that time. These provisions took effect on March 16, 1998. Thus, beginning with installment payments due on or after March 16, 1998, a licensee that did not make an installment payment when due automatically had an additional 90 days in which to submit its required payment without being considered delinquent, but was assessed a late payment fee equal to 5 percent of the amount of the past due installment payment. If the licensee failed to make the required payment within the first 90-day period, the licensee was automatically provided a subsequent 90 days to submit its required payment without being considered delinquent, this time subject to a second, additional late payment fee equal to 10 percent of the amount of the past due installment payment. The licensee was not required to submit a request to take advantage of these provisions. A licensee that failed to make payment within 180 days after an installment payment due date sufficient to pay all past due late payment fees, interest, and principal, was deemed to have failed to make full payment of its obligation and the license was automatically cancelled without further Commission action. The late payment fee and automatic cancellation provisions described did not apply to licensees with grace period requests that were properly filed prior to the effective date of the *Part 1 Third Report and Order* until such time as the Commission (or the Bureau upon delegated authority) addressed these grace period requests.

17. *Discussion.* All petitioners oppose some aspect of the modified provisions relating to the submission of late installment payments. In challenging

the modified late payment provisions, petitioners generally argue that: (i) they are unfair, punitive, and commercially unreasonable; (ii) they constitute impermissible retroactive rulemaking as applied to licensees currently participating in the installment payment plan; and (iii) they violate basic contract principles. The Commission addresses each of these arguments in turn.

18. While installment payments must be timely, the Commission's grace period provisions provide limited relief for entities that find themselves in financial distress. Petitioners claim that the revised late payment provisions are unfair because, in determining auction and construction strategies, petitioners had relied on the availability of a 90-day non-delinquency period and deferral of payment obligations while grace period requests remained pending. The Commission's late payment provisions, however, were not intended to serve as a tool that licensees might use in their normal course of planning auction strategy and build-out. These provisions are provided for extraordinary circumstances—instances of financial distress—for which temporary relief is appropriate. Petitioners' assertions of reliance on such provisions for any other purpose are misplaced. Petitioners also claim that it is punitive and commercially unreasonable to impose the same late payment fee amount whether the payment arrives one day late or ninety days late. The Commission disagrees. The Commission's fundamental goal in adopting the late payment provisions is to encourage payment by the due date. Achievement of this goal is best attainable by adhering to the 5 percent and 10 percent late payment fee schedule the Commission has adopted. A prorated approach towards late fees could serve as a disincentive to licensees to pay on time and, thereby, undermine achievement of the Commission's basic goal. As the Commission stated in the *Part 1 Third Report and Order,* the Commission's ''approach is consistent with the standard commercial practice of establishing late payment fees and developing financial incentives for licensees to resolve capital issues *before payment due dates*.'' Further, the approach the Commission has taken is a commercially reasonable debt management practice used with respect to a variety of debt instruments from credit cards to mortgages. Therefore, the Commission disagrees with petitioners' claims that the revised late payment provisions are unfair, punitive, and commercially unreasonable.

19. Petitioners also contend that the regulatory changes to the installment payment program adopted in the *Part 1 Third Report and Order* are unlawfully retroactive, insofar as they could have an adverse effect on the previously established installment payment obligations. For example, a commenter claims that the revised late payment rules unsettle the expectations of licensees that opted to pay for licenses in installments. Another commenter argues that a ''rule'' under the Administrative Procedure Act (''APA'') is supposed to embody ''the whole or a part of any agency statement of general or particular applicability and *future effect*. * * *'' These arguments do not withstand analysis.

20. The Commission's new Part 1 rules do not violate the prohibitions on ''primary retroactivity'' under the APA as set forth in Supreme Court cases such as *Bowen* v. *Georgetown Univ. Hospital,* 488 U.S. 204 (1988). The Commission has not, for example, gone back to past transactions and imposed new penalties for conduct, which was previously allowed by its rules. Rather, the Commission here merely prescribed rules for the future, *i.e.,* prospective procedures by which licensees remit installment payments after March 16, 1998, the effective date of the new rules, that deal with past transactions, *i.e.,* the previously established installment payment obligations. Such a rule change does not constitute unlawful retroactive rulemaking under the APA.

21. Further, the fact that the new rules may unsettle expectations about the economic benefits of participating in the installment payment plan does not make the new rules unlawfully retroactive. In that regard, the U.S. Court of Appeals for the D.C. Circuit has explained: ''[A] new rule or law is not retroactive 'merely because it * * * upsets expectations based on prior law.' '' *DirecTV, Inc.* v. *FCC* 110 F.3d 816, 826 (D.C. Cir. 1997) (quoting *Landgraf* v. *USI Film Products,* 511 U.S. 244, 269, 114 S. Ct. 1483, 1499 (1994)). This type of ''secondary'' retroactivity is an entirely lawful consequence of much agency rulemaking and does not by itself render a rule invalid. Commission licensees, in particular, have no vested right to an unchanged regulatory scheme throughout their license term. Therefore, petitioners' claim that the revised late payment provisions are unlawfully retroactive fails.

22. Finally, petitioners contend that contract law precludes application of the new late payment procedures to licensees paying for their licenses in installments prior to the effective date of the *Part 1 Third Report and Order.* For example, a commenter challenges the Commission's elimination of the 90-day non-delinquency period, which was incorporated as a term of the existing promissory notes executed by 900 MHz Specialized Mobile Radio service (900 MHz SMR) licensees. Other commenters argue that adoption of the new late payment procedures constitutes unilateral modification (*i.e.*, breach) of a contract between the Commission and the licensees for payment of licenses under specified payment terms even without a signed promissory note.

23. Installment payment programs currently exist in the following services: the 218–219 MHz Service, broadband Personal Communications Services (PCS) frequency block C, broadband PCS frequency block F, broadband PCS frequency block A (pioneers' preference licensees only), regional narrowband PCS, 900 MHz SMR, and the Multipoint Distribution Service (MDS). For some services in which the Commission has offered installment payments, far from being punitive and unreasonable, the Commission has afforded extraordinary relief regarding installment payment obligations. Specifically, the Commission suspended the effect of the new late payment provisions as applied to any license in the 218–219 MHz Service for which a properly filed grace period request was pending or for which adequate installment payments were made as of March 16, 1998, pending Commission resolution of issues raised in the *218–219 MHz Service Order,* 63 FR 54073 (October 8, 1998), and *NPRM,* 63 FR 52215 (September 30, 1998). Most recently, the Commission offered restructuring to certain 218–219 MHz Service licensees. Regarding these licensees, therefore, there is no conflict between the application of the new late payment procedures and contract law.

24. Among the remaining licensees that have benefitted from Commission installment payment plans, licensees in broadband PCS frequency block A and regional narrowband PCS did not sign separate loan documents. The payment terms and conditions with respect to these licenses, therefore, have always been a matter of Commission regulation through the part 1 rules. In this regard, the following language appears on the licenses themselves: ''This authorization is subject to the condition that the remaining balance of the winning bid amount will be paid in accordance with part 1 of the Commission's rules.'' These licensees were aware, or should have been aware, that the terms and conditions of part 1 or other aspects of the license can be modified by the Commission by rulemaking, and that such changes have been uniformly

upheld by the courts as lawful. The part 1 rules at issue in this proceeding were modified subject to APA-consistent administrative rulemaking procedures and are intended to provide greater flexibility to licensees in determining their use of grace periods and late payment provisions. The application of the Commission's modified late payment provisions does not constitute a breach of contract as argued by these petitioners.

25. Some SMR and MDS licensees argue that the Promissory Note and Security Agreements executed by these licensees bound the Commission to the rules in place at the time of the license grant. This is demonstrably incorrect. The Commission did not promise these licensees, or any other licensees, that the part 1 rules would remain unchanged during the license term. Rather, the Note and Security Agreement provide that the licensee must comply with ''all Commission orders and regulations applicable to the licensee,'' without regard to the time in which those applicable rules were promulgated or amended. The SMR and MDS notes emphasized that the Commission's rules, as amended, would take precedence over the terms of the notes in case of any conflict. Moreover, when addressing *future* events, such as the making of installment payments, applications for grace periods and incidents of default, the Note and Security Agreement refer to the ''then-applicable'' rules of the Commission, a clear reference to the rules that would be applicable at the time of such events. Specifically with respect to ''grace periods'' which were modified by the revision of part 1, the SMR and MDS Notes are worded conditionally—''if any such grace period or extension of payments is provided for in the then-applicable orders and regulations of the Commission.'' This conditional language confirms that the ''then-applicable'' grace period rules referred to in the Note are those rules that may exist at the time in the future when a grace period is sought, and not necessarily the rules that were in place at the time of the license grant; otherwise, the sentence would not have been phrased as a contingency, but would have cited whatever grace period rules were in effect at the time of the Note. Given these provisions, the last paragraph in the Note—which states that the Note may not be changed except by an agreement in writing executed by the party against whom enforcement of such change is sought—means that individual modifications to any particular agreement must be made in writing by mutual consent. Significantly, however, this clause does not preclude service-wide changes of the governing rules by the agency's public notice and comment rulemaking process. Specifically, the Payee, by signing such Note, has already agreed to be bound by the Commission's rules as they may be amended from time to time in the provisions of the Note and Security Agreement referencing the ''then-applicable'' rules of Commission. The Commission, therefore, retains the modified grace period and late payment fee provisions adopted in the *Part 1 Third Report and Order.*

26. As discussed, the Commission concludes that the revised late payment rules are not commercially unreasonable, do not constitute impermissible retroactive rulemaking, and do not violate basic contract principles. The Commission believes, however, that a slight modification to the payment due dates for late installment payments and associated late fees would benefit licensees. Under the *Part 1 Third Report and Order,* licensees that miss an installment payment are given up to two 90-day periods in which to submit the installment payment and associated late fee without being considered delinquent. Regularly scheduled installment payments, on the other hand, are due quarterly (*i.e.*, every 3 months), which may provide a licensee with up to 92 calendar days to make timely payment depending upon the month in which the payment is due. This discrepancy in payment due dates may cause confusion for licensees. For example, a late installment payment and associated late fee may be due a day or two before the next regularly scheduled quarterly installment payment. Because these due dates are so proximate, licensees may mistakenly assume that they can pay their late installment payment and late fee on the due date of the next regularly scheduled quarterly installment payment without incurring an additional late payment fee or being considered delinquent.

27. In order to avoid any confusion as to when late installment payments and accompanying late fees are due, the Commission will amend the due dates for late installment payments to comport with quarterly due dates. Specifically, rather than providing licensees that fail to make timely installment payments with two 90-day periods in which to satisfy their payment obligations, the Commission will provide such licensees with two quarters (two 3-month periods) in which to submit their late installment payments and required late fees without being considered delinquent. Thus, due dates for late installment payments and associated late fees will coincide with quarterly due dates for regularly scheduled installment payments. Although the Commission modifies the due dates for submitting late installment payments, it does not change the associated late fee provisions. The Commission, therefore, amends § 1.2110(f)(4) (redesignated herein as § 1.2110(g)(4)) of its rules to provide that a licensee that fails to make an installment payment when due will be permitted to make its required payment by the end of the next quarter (a 3-month period) without being considered delinquent, but will be assessed a late payment fee equal to 5 percent of the amount of the past due installment payment. If the licensee fails to make the required payment within the first quarter after the regularly scheduled due date, the licensee will be allowed to make its required payment by the end of the subsequent quarter without being considered delinquent, this time subject to a second, additional late payment fee equal to 10 percent of the amount of the past due installment payment. The licensee is not required to submit a request to take advantage of these provisions. A licensee that fails to make payment within two quarters (or 6 months) after an installment payment due date sufficient to pay all past due late payment fees, interest, and principal, will be deemed to have failed to make full payment of its obligation and, as has been the case since the inception of the Commission's competitive bidding and auction specific installment payment rules, the license will automatically cancel without further Commission action.

F. Installment Payment Restructuring

28. *Background.* In the *Competitive Bidding Second Report and Order*, the Commission stated that once it granted a grace period request, ''a defaulting licensee could maintain its construction efforts and/or operations while seeking funds to continue payments *or seek from the Commission a restructured payment plan.*'' Reference to a restructured payment plan also appeared in the former grace period rule, § 1.2110(e)(4)(ii), which permitted licensees to temporarily suspend their installment payments pending the restructuring of such payment obligations. In amending § 1.2110 to be consistent with the Commission's decision in the *Part 1 Third Report and Order* to revise the late payment provisions and eliminate the grace payment procedure, the Commission

removed language that referred to a restructured payment schedule.

29. *Discussion.* Commenter objects to the elimination of language in § 1.2110 referring to a restructuring of installment payments. Commenter contends that the Commission eliminated the option to restructure without providing notice and comment or any rationale for the elimination in violation of the APA. By removing language in § 1.2110(e)(4)(ii) that referenced a restructured payment schedule, the Commission did not intend to eliminate a licensee's option to request restructuring of its installment payment obligations. The Commission simply sought to amend the rule to provide for automatic grace periods rather than requiring a showing of financial need to support a grace period request. Licensees in the installment payment program may still submit requests for payment restructuring or workouts. There is, however, no longer a procedure for requesting a grace period to stay installment payment deadlines pending such restructuring. Rather, licensees will be subject to the automatic late payment provisions of § 1.2110(g) as adopted herein. Because licensees continue to have the opportunity to seek restructuring of installment payments, the Commission was not required under the APA to seek comment on the elimination of that option. Moreover, the reference to a ''restructured payment schedule'' in § 1.2110(e)(4)(ii) was part and parcel of the Commission's rule section that provided for individual grace period requests and financial distress showings. The Commission proposed to amend that rule section in its entirety and adopt automatic grace periods in the *Part 1 Notice of Proposed Rule Making.* Interested parties could reasonably have anticipated that the Commission's proposal to amend the grace period request rule could result in the amendment of language in that rule referencing restructuring. Thus, omitting a reference to a restructured payment schedule is within the specific scope of the *Part 1 Notice of Proposed Rule Making* to adopt automatic grace periods and eliminate the requirement to file financial distress showings and, therefore, is not violative of the APA.

G. Installment Payment Obligations Under Assignments of Licenses and Transfers of Control

30. *Background.* The Communications Act of 1934 (''Communications Act''), as amended, requires the Commission to approve assignments of licenses and transfers of control. Prior to the adoption of the *ULS Report and Order*, upon approval of an assignment or transfer, the Bureau amended its licensing database for certain private and microwave services. If an assignment or transfer was not consummated, the Commission required the filing of a second transfer application that reflected the ''return'' of the license from the putative transferee to the original licensee. The ULS rules, however, now require parties to assignments of licenses or transfers of control in all wireless services only to file a notice that they have consummated the underlying transaction, at which point the Bureau amends its licensing database.

31. *Discussion.* A commenter seeks clarification regarding an assignee's or transferee's responsibility for installment payment debt in the event of default by an assignor or transferor in cases where the Bureau amended its database simply upon approval of the assignment or transfer. Specifically, the commenter believes that the assignee or transferee should not be responsible for licensee debt until the transaction is consummated. As an initial matter, the Commission emphasizes that the consummation date of an assignment of license or transfer of control governs debt obligations irrespective of the post-consummation notification requirement. Therefore, regarding an assignment of license, the Commission clarifies that the assignee of a license paid for through installment payments is not responsible for the license debt until the transaction is consummated. As a practical matter, for services where licensees have signed promissory notes (*i.e.*, C block, F block, MDS and 900 MHz SMR) assignees must execute loan documents and consummation does not occur until the execution of such documents. In these instances, the assignee will, of course, be aware that consummation has occurred. However, for services where licensees did not sign promissory notes (*i.e.*, 218–219 MHz, regional narrowband PCS and broadband PCS frequency block A (pioneers' preference licenses)), if a default occurs prior to consummation, and the Commission mistakenly initiates debt collection procedures against the assignee that is not the actual licensee, that party should notify the Commission in writing that the underlying transaction was not consummated and the Commission will initiate debt collection procedures against the assignor that is the licensee.

32. In contrast to an assignment of license, with transfers of control the licensee does not change and, therefore, remains liable for the debt irrespective of consummation. In such cases, the Commission generally looks to the licensee for repayment of the debt. The Commission recognizes, however, that there may be unusual circumstances in which the Commission might look beyond the licensee for repayment of the debt, *e.g.*, pierce the corporate veil, and a new party to the licensing entity could become subject to debt collection at consummation. The Commission reiterates that the consummation date governs the debt obligations irrespective of the post-notification requirements. Therefore, if the Commission inadvertently initiates debt collection procedures against a party that is not part of the licensing entity because the transfer of control was not consummated, the party should notify the Commission in writing that the underlying transaction was not consummated and the Commission will stop its debt collection proceedings against the party that is not part of the licensing entity.

H. Clarification of Unjust Enrichment Rules

33. *Background.* In the *Part 1 Third Report and Order*, the Commission revised the part 1 unjust enrichment rules as applied to assignments and transfers of control of licenses acquired using bidding credits and/or installment payments. Specifically, if a licensee seeks to assign or transfer control of its license to an entity not meeting the same eligibility standards for installment payments at any time during the initial license term, the licensee must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of assignment or transfer as a condition of Commission approval. Similarly, if a licensee seeks to assign or transfer control of its license to an entity not meeting the same eligibility standards for bidding credits, the licensee must reimburse the government for the amount of the bidding credit, plus interest based on the rate for United States Treasury obligations applicable on the date the license is granted, as a condition of Commission approval. Unlike the unjust enrichment payment for installment payments, however, the unjust enrichment payment for bidding credits decreases based on the amount of time the initial license has been held, with no unjust enrichment payment due after the fifth year of initial licensing. In making these changes to the unjust enrichment rules in the *Part 1 Third Report and Order*, the Commission specifically superseded the existing service-specific unjust enrichment provisions, replacing each of those rules with a cross-reference to

the new part 1 unjust enrichment rule, 47 CFR § 1.2111.

34. *Discussion.* A commenter seeks clarification regarding the application of the revised unjust enrichment rules for bidding credits (§ 1.2111(d) of the Commission's rules) and the broadband PCS entrepreneurs' block prohibition on assignments and transfers to non-entrepreneurs during the first five years of initial licensing (§ 24.839 of the Commission's rules). As a practical matter, under the part 1 rules as modified in the *Part 1 Third Report and Order*, bidding credit unjust enrichment payments are not required for assignments or transfers of control of C and F block licenses to non-entrepreneurs because § 24.839 bars such assignments or transfers until five years after the date of the initial license grant, at which point the bidding credit unjust enrichment penalties of § 1.2111 lapse. The proscription of § 24.839, however, does not apply if an entrepreneur proposes to assign or transfer its C or F block license to another qualifying entrepreneur. In such a case, § 1.2111 provides for unjust enrichment payments with respect to assignments and transfers between entities qualifying for different tiers of bidding credits.

35. The commenter further argues that the Commission has not adequately explained why PCS entrepreneur block licensees are subject to a five-year transfer restriction when licensees in other services are allowed to assign or transfer licenses during the first five years of the license term, subject to the repayment of bidding credits. In order to fulfill its statutory duty to give opportunities to small businesses, the Commission set aside the PCS C and F blocks for participation only by smaller entities, in this case, entrepreneurs. *See* Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Fifth Report and Order*, 59 FR 37566 (July 22, 1994). To ensure that licenses in these blocks are used exclusively by smaller entities, the Commission adopted a rule to preclude the trafficking of entrepreneur block licenses to non-entrepreneurs for the first five years of licensing. See 47 CFR 24.839. In adopting this transfer restriction, the Commission explained that allowing parties to take advantage of bidding in the entrepreneurs' blocks and immediately assign or transfer control of the authorizations to non-entrepreneurs would undermine its goal of giving entrepreneurs the opportunity to provide PCS. Since these entrepreneur blocks are the only spectrum set aside specifically for smaller entities, these are the only licenses subject to the five-year anti-trafficking provision. In contrast, with respect to services in which all entities, large and small, are permitted to acquire licenses, the Commission's objective is to ensure that, irrespective of entity size, the license is awarded to the entity that values it most. In such cases, the Commission may offer bidding credits or other incentives to afford small entities an opportunity to acquire licenses. In these instances, the Commission is not concerned with ensuring that a block of spectrum is used exclusively by smaller entities and, therefore, permits the transfer of licenses early in the license term subject to repayment under its unjust enrichment rules for bidding credits and installment payments.

36. The Commission further clarifies that pursuant to § 1.2111(c) and (d) of its rules, Commission approval of assignments of licenses and transfers of control that result in unjust enrichment with respect to bidding credits and installment payments is conditioned upon full payment of the required unjust enrichment payments on or before the consummation date. In other words, consummation of an assignment of license or transfer of control will not be valid unless the Commission first receives the required unjust enrichment payment in full. The Commission believes that this clarification will ensure efficiency in the processing and consummation of assignments of licenses and transfers of control.

I. Inapplicability of § 1.2104 to Installment Payment Defaults

37. *Background.* In the *Part 1 Third Report and Order*, the Commission addressed matters relating to defaults on payment obligations by winning bidders in spectrum auctions. Under § 1.2104(g), winning bidders that default on a down payment or full payment after the close of an auction are subject to a payment equal to the difference between the amount of the defaulted bid and the amount of the winning bid the next time the license is auctioned, plus 3 percent of the lesser of these amounts. The Commission considered whether a licensee failing to make a timely installment payment should be subjected to these same provisions. In paragraphs 115 and 116 of the *Part 1 Third Report and Order*, the Commission decided against imposing the default provisions of § 1.2104(g) with respect to defaults on installment payments. The Commission found that without such additional payments, its other rules and installment payment terms are adequate to discourage defaults. Despite the clear statement on this point in paragraphs 115 and 116, the Commission believes that paragraph 122 of the *Part 1 Third Report and Order* may still have left some ambiguity in this matter. Specifically, the latter paragraph may be construed as stating that the additional payment requirements of § 1.2104(g)(2) relating to down payment and full payment defaulters are also applicable to installment payment defaulters.

38. *Discussion.* The Commission clarifies that licensees defaulting on installment payments (''installment payment defaulters'') are not subject to § 1.2104(g)(2). The automatic default provisions of § 1.2110(f)(4) (redesignated herein as § 1.2110(g)(4)) are adequate to discourage untimely installment payments. The Commission notes that while § 1.2109(c) identifies types of defaulters that are subject to § 1.2104(g)(2), the rule does not reference installment payment defaulters. Instead, installment payment defaults are covered by § 1.2110(g)(4), as designated herein, which does not incorporate § 1.2104(g)(2). As the Commission noted in the *Part 1 Third Report and Order*, the risk of losing a license should provide most licensees with a strong incentive to avoid default. Accordingly, the Commission concludes that § 1.2104(g)(2) does not apply to installment payment defaulters. Rather, pursuant to § 1.2110(g)(4)(iv), as designated herein, licensees that default on installment payment obligations will automatically lose their licenses and be subject to debt collection procedures.

J. Eligibility for Participation

39. *Background.* The Commission's FCC Form 175 short-form application for all auctions requires applicants to certify that they are not in default on any Commission licenses and that they are not delinquent on any non-tax debt owed to any Federal agency. The purpose of this rule is to preserve the integrity of the auction process and to ensure that bidders are capable of meeting their financial commitments to the Commission. In the *C Block Fourth Report and Order*, the Commission determined that ''former defaulters,'' *i.e.*, applicants that have defaulted or been delinquent in the past, but have since paid all of their outstanding non-Internal Revenue Service Federal debts and all associated charges or penalties, are eligible to participate in future auctions of C block spectrum, provided that they are otherwise qualified. *See* Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, WT Docket

No. 97–82, *C Block Fourth Report and Order*, 63 FR 50791 (September 23, 1998). In addition, the Commission adopted a special upfront payment policy for ''former defaulters'' seeking to participate in C block auctions. It required that ''former defaulters'' make an upfront payment of 50 percent more than the normal amount set by the Bureau for any given license in a C block auction. The Commission applied these policies in the broadband PCS auction that concluded on April 15, 1999 (Auction No. 22).

40. *Discussion.* On its own motion, the Commission hereby incorporates into the part 1 general competitive bidding rules the ''former defaulter'' policies adopted with respect to C block auction applicants. While the Commission has determined that it is necessary to limit participation in Commission auctions to entities that can certify that they are not in default on certain debts, the Commission also believes that past business misfortunes do not inevitably preclude an entity from being able to meet its present and future responsibilities as a Commission licensee. Therefore, the Commission will allow ''former defaulters,'' *i.e.*, applicants that have defaulted or been delinquent in the past, but have since paid all of their outstanding non-tax debts and all associated charges or penalties, to certify on Form 175 that they are not in default and are, therefore, eligible for auction participation. Thus, a bidder that has defaulted on its down or final payment obligation, but has paid, by the short-form application deadline, any default payments assessed by the Commission (*e.g.*, the initial default payment of 3 percent of the defaulted bid amount pursuant to 47 CFR 1.2104(g)(2)) is qualified to certify on Form 175 that it is not in default and is eligible to participate in Commission auctions. Such bidder, however, remains subject to any as yet unassessed payment obligations pursuant to § 1.2104(g) of the Commission's rules, unless otherwise relieved from such obligations under applicable law.

41. In determining the upfront payment amounts required by ''former defaulters'' seeking to participate in future C block auctions, the Commission reasoned that ''the integrity of the auctions program and the licensing process dictates requiring a more stringent financial showing from applicants with a poor Federal financial track record.'' The Commission believes that this reasoning applies with equal force to ''former defaulters'' seeking to participate in any Commission auction. Consequently, the Commission will amend § 1.2106(a) of its general competitive bidding rules to require that ''former defaulters'' pay an upfront payment amount of 1.5 times the normal amount set by the Bureau for any given license in a Commission auction. So that the Bureau may implement this rule, the Commission will require applicants to make an additional certification revealing whether they have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency. If any one of an applicant's controlling interests or their affiliates as defined by § 1.2110 of the Commission's rules (as adopted herein) has ever been in default on Commission licenses or has ever been delinquent on any non-tax debt owed to any Federal agency, but has made the requisite payment, the applicant will be eligible to participate in Commission auctions but will be considered a ''former defaulter'' for purposes of the upfront payment requirements. The Commission may use credit information concerning the applicant, its controlling interests and their affiliates to verify any certified statements regarding the history of payments made to the Federal government by such entities.

42. Under § 1.2110(g)(4), as designated herein, when a licensee defaults on an installment payment, its license automatically cancels without any action by the Commission, and the entire outstanding debt obligation becomes subject to debt collection procedures. A licensee that has previously defaulted on an installment payment will be permitted to participate in future Commission spectrum auctions under certain conditions. In order to be eligible for participation in a future auction, an installment payment defaulter must have either (i) paid all of its outstanding non-tax debt, along with all associated charges and penalties; or (ii) been relieved of such obligations pursuant to otherwise applicable law. *See, e.g.*, Debt Collection Improvement Act of 1996 (DCIA); 31 U.S.C. 3711 *et seq.; see also* 4 CFR 103.1 *et seq*; NextWave Personal Comms., Inc. 200 F.3d 43, 59 at n. 15 (2d Cir. December 22, 1999). In all instances, installment payment defaulters eligible to participate in future auctions will be required to pay an upfront payment amount of 1.5 times the normal amount set by the Bureau for any given license in a Commission auction to assure their future financial soundness.

III. Fifth Report and Order

A. Introduction

43. In the *Part 1 Third Report and Order*, the Commission established a uniform set of bidding rules for all auctionable services to increase the efficiency of its licensing process. In the *Second FNPRM*, the Commission sought comment on a variety of additional proposals relating to the general competitive bidding rules. In particular, the Commission sought comment on whether a sufficient evidentiary basis exists for creating bidding preferences for minority- and women-owned businesses, and whether there are mechanisms the Commission should employ to further the opportunities for rural telephone companies to participate in the provision of spectrum-based services. In addition, the Commission asked whether the Commission should continue its installment payment program for small businesses and, if not, whether appropriate alternatives exist that would further the goals of section 309(j) of the Communications Act. Next, the Commission requested comment on what uniform attribution standard it should adopt for determining whether entities seeking bidding credits qualify as small businesses. Finally, the Commission sought comment on a number of payment and administrative issues, including the appropriate formula for calculating default payments. In response to the *Second FNPRM*, the Commission received six comments and one reply comment.

B. Rules Governing Designated Entities

i. Designated Entities

44. *Background.* In *Adarand Constructors, Inc.* v. *Pena*, the Supreme Court held that ''all racial classifications * * * must be analyzed by a reviewing court under strict scrutiny.'' Under the *Adarand* decision, any federal program that uses race as a basis for decisionmaking must serve a compelling governmental interest and must be narrowly tailored to serve that interest in order to pass constitutional muster. In *United States* v. *Virginia, et al.*, the Supreme Court determined that gender-based programs are subject to intermediate scrutiny. Under this standard of review, there must be an ''exceedingly persuasive justification'' for a program in which gender is a determining factor in decisionmaking. Further, a gender-based government action is constitutional only if it serves an important governmental objective and is substantially related to the achievement of that objective.

45. In the *Second FNPRM*, the Commission sought comment on whether there is a compelling governmental interest that would justify the use of preferences for minority-owned businesses or an exceedingly persuasive justification to support gender-based preferences for women-owned businesses. In addition, the Commission asked commenters to provide evidence in support of their positions and to indicate what measures, if any, could be narrowly tailored to withstand judicial review. What specifically tailored tools, the Commission asked, such as bidding credits, might be appropriate or should preferences be given to minority-owned or women-owned businesses that also qualify as small businesses.

46. Finally, the Commission noted that the Office of Management and Budget (''OMB'') modified its standards for the classification of federal data on race and ethnicity. Specifically, OMB: (i) separated the category for Asian and Pacific Islander into two categories—''Asian'' and ''Native Hawaiian or Other Pacific Islander'' and (ii) changed the term ''Hispanic'' to ''Hispanic or Latino.'' The Commission sought comment on whether it should amend the designated entity provisions of the part 1 rules to reflect this change.

47. *Discussion.* The Commission did not receive any comments on these issues. Because the record is sparse, the Commission concludes that it is not appropriate to adopt special provisions for minority-owned and women-owned businesses at this time. The Commission has said that minority- and women-owned businesses that qualify as small businesses may take advantage of the special provisions it has adopted for small businesses.

48. The Commission notes, too, that the Office of Communications Business Opportunities (OCBO) has initiated several studies to gather information regarding barriers to entry faced by minority- and women-owned firms that wish to participate, or have participated, in Commission auctions. Further, the Commission has recently commenced several new studies to explore additional entry barriers and to seek further evidence of racial and gender discrimination against potential licensees. In addition, the Commission will continue to track the rate of participation in its auctions by minority- and women-owned firms and evaluate this information with other data gathered to determine whether provisions to promote participation by minorities and women can satisfy judicial scrutiny. If a sufficient record can be adduced, the Commission will consider race- and gender-based provisions for future auctions.

49. Finally, having received no comments on the issue, the Commission will amend its definition of the term ''minority'' in § 1.2110 of the general competitive bidding rules to reflect the changes identified. This will conform the Commission's definition of the term ''minority'' to that currently used by OMB.

ii. Rural Telephone Company Provisions

50. *Background.* In the *Second FNPRM*, the Commission noted that auctions have generally provided rural telephone companies with favorable opportunities. The Commission has also observed that the percentage of rural telephone companies that have won rural geographic area licenses in the United States is significant. The Commission sought comment on whether there were additional mechanisms that might increase opportunities for rural telephone companies to provide spectrum-based services to the public.

51. *Discussion.* Based on the limited record before it, the Commission will not, at this time, adopt mechanisms, such as bidding preferences or an unserved area fill-in policy, specifically for rural telephone companies. The Commission will, however, continue to provide rural telephone companies with bidding credits should such entities qualify as small businesses. The Commission will address issues affecting rural communities and underserved areas in other upcoming proceedings and believe a more extensive record can be developed at that time.

52. The Commission does, however, want to highlight one issue raised by commenters. It was proposed that the Commission establish geographic area licenses no larger than BTAs in all future auctions. Section 309(j) of the Communications Act requires the Commission to disseminate licenses to a wide variety of applicants, including small businesses and rural telephone companies, and to promote the development and rapid deployment of new technologies to the public, including those residing in rural areas. The Commission can best satisfy this mandate by establishing license areas that promote these goals on a service-specific basis. Although the Commission has used small license areas in several services (*e.g.*, broadband PCS D, E and F blocks and LMDS) and may do so in specific services in the future, the Commission is unwilling to limit its flexibility by adopting an ironclad rule against large service areas. The Commission anticipates, for example, that certain satellite-based services may not be particularly suited to small geographic area licensing, while other services may indeed be more suitable for this type of license category (*i.e.*, the broadband PCS C block auction). The Commission always invites comment on these issues so as to tailor its rules for specific services in ways that afford opportunities to a wide variety of entities.

iii. Installment Payments

53. *Background.* In the *Part 1 Third Report and Order*, the Commission suspended the installment payment program. Because, however, small businesses have been successful in the auctions in which installment payment plans were offered, the Commission sought comment on ways the Commission could provide an effective installment payment program while at the same time minimizing the concerns (*e.g.*, licensee default or difficulty meeting financial obligations to the Commission) that led to the suspension of installment payment plans for small businesses. The Commission also sought comment on how it could create an installment payment plan that would encourage only serious, financially qualified small business applicants to apply for licenses while ensuring the rapid provision of service to the public and guaranteeing that the American public is reasonably compensated for use of the spectrum. In addition, the Commission sought comment on how it might fashion an installment payment program that would meet the statutory requirement that all payments of principal and interest for covered auctions be deposited in the United States Treasury by the statutory deadline (September 30, 2002) for collection. The Commission further requested comment on means other than bidding credits and installment payments by which it might facilitate the participation of small businesses and other designated entities in its spectrum auction program. Finally, the Commission asked whether it should establish the interest rate for installment payments (if the program is reinstituted) based upon the rate of United States Treasury obligations on the date of the close of the auction.

54. *Discussion.* Having received no comments regarding reinstitution of its installment payment program or alternatives thereto, the Commission will adhere to its previous decision to suspend the installment payment program. In suspending the installment payment program, the Commission concluded that small businesses need

not receive installment payments to successfully participate in its spectrum auctions. The Commission noted, for example, that in the cellular auction for unserved areas, which had no installment payment plans, 36 percent of the licenses went to small or very small businesses. In addition, the Commission stated that requiring payment in full within a short time after the close of the auction ensures greater financial accountability from applicants. Finally, experience has shown that licensees filing for bankruptcy may impede the Commission's processes, resulting in delayed deployment of service.

55. The Commission believes that section 309(j) of the Communications Act requires it to explore ways of responding to the investment capital needs of small, minority-owned and women-owned businesses. Accordingly, while the Commission believes its decision to offer bidding credits has been extremely helpful in allowing these designated entities a foothold in many of its auctionable wireless services, it remains open to proposals that would result in even greater participation by these entities.

56. The Commission will, as it has done in the LMDS, LMS, 220 MHz Service, and VHF Public Coast Service auctions, continue to provide small businesses with bidding credits. In light of this decision, the Commission need not address the method of establishing interest rates for such installment payments. If the Commission reinstates an installment payment plan in the future, it will revisit this issue.

iv. Attribution of Gross Revenues of Investors and Affiliates

57. *Background.* In the *Second FNPRM*, the Commission discussed its earlier proposal to adopt a general attribution rule for determining small business eligibility for all future auctions. Specifically, the Commission sought further comment on whether to adopt a ''controlling interest'' standard for attributing to an applicant the gross revenues of its investors and affiliates in determining whether the applicant qualifies as a small business. The Commission explained that, in the past, the Commission adopted service-specific attribution rules with varying standards of attribution. In addition, the Commission asked whether a ''controlling interest'' standard is sufficient to calculate size so that only those entities truly meriting small business status qualify for bidding credits. The Commission also sought comment on whether alternate standards for attributing the gross revenues of investors and affiliates in an applicant would better meet its goals. The Commission further requested comment on whether or not the controlling interest standard would be strengthened by imposing a minimum equity requirement (*e.g.*, 15 percent) that any person or entity identified as controlling must hold.

58. *Discussion.* The Commission will adopt as its general attribution rule a ''controlling interest'' standard for determining which applicants qualify as small businesses. Under this standard, the Commission will attribute to the applicant the gross revenues of its controlling interests and their affiliates in assessing whether the applicant is qualified to take advantage of its small business provisions, such as bidding credits. The Commission notes that operation of its definition of ''affiliate'' will cause all affiliates of controlling interests to be affiliates of the applicant. The Commission believes that this approach is simpler and more flexible than the previously used control group approach, and thus will be more straightforward to implement. Moreover, application of the ''controlling interest'' standard will ensure that only those entities truly meriting small business status qualify for the Commission's small business provisions. The Commission used this same approach in the attribution rules for the LMDS, 800 MHz SMR, 220 MHz, VHF Public Coast and LMS auction proceedings.

59. A ''controlling interest'' includes individuals or entities, or groups of individuals or entities, that have control of the applicant under the principles of either *de jure* or *de facto* control. Thus, there may be more than one ''controlling interest'' whose revenues must be counted. The premise of this rule is that all parties that control an applicant or have the power to control an applicant, and their affiliates, will have their gross revenues counted and attributed to the applicant in determining the applicant's eligibility for small business status or for any other size-based status using a gross revenue threshold.

60. *De jure* control is typically evidenced by the holding of 50.1 percent or more of the voting stock of a corporation or, in the case of a partnership, general partnership interests. *De facto* control is determined on a case-by-case basis and includes the criteria set forth in *Ellis Thompson. See Ellis Thompson Corporation,* 60 FR 1776 (January 5, 1995). For instance, the gross revenues of managers may be attributed to the applicant if *de facto* control standards are met. The Commission does not believe it is necessary to presume that equity interests of less than 50.1 percent are attributable to the applicant because it relies on the concept of *de facto* control. An applicant may have interest holders that do not possess *de jure* control but have ''actual'' (*i.e., de facto*) control. Therefore, in determining the gross revenues to be attributed to the applicant, the Commission will include individuals or entities that have either *de jure* or *de facto* control. Accordingly, the Commission will amend § 1.2110 to incorporate these principles of control.

61. Controlling interests must be identified by the applicant seeking status as a small business. The ''controlling interest'' definition provides specific guidance on the calculation of various types of ownership interests. For purposes of calculating equity held in an applicant, the definition provides for full dilution of certain stock interests, warrants and convertible debentures. In addition, the definition provides for attribution of partnership and other ownership interests, including stock interests held in trust, non-voting stock and indirect ownership through intervening corporations. When an applicant cannot identify controlling interests under the definition, the revenues of all interest holders in the applicant and their affiliates will be attributed. For example, if a company is owned by four entities, each of which has 25 percent voting equity, and no shareholders' agreement or voting trust gives any one of them control of the company, the revenues of all four entities must be attributed to the applicant. Treating such a corporation in this way is similar to the Commission's treatment of a general partnership—all general partners are considered to have a controlling interest. This rule, the Commission believes, looks to substance over form in assessing eligibility for small business status.

62. Some commenters have expressed concern over whether the revenues of so called ''passive investors'' would be attributed to the applicant. The controlling interest standard adopted herein will be applied to all investors in an applicant. In other words, if any investor has either *de jure* or *de facto* control of the applicant, that investor's gross revenues will be attributed to the applicant for purposes of determining whether the applicant qualifies as a small business. Application of the principles of either *de jure* or *de facto* control will accurately identify those investors that are controlling interests and that are not, by definition, therefore, ''passive investors.'' The Commission notes too that, under the controlling

interest standard, the officers and directors of any applicant will be considered to have a controlling interest in the applicant.

63. The Commission believes that the *de jure* and *de facto* concepts of control, together with the application of its affiliation rules, will effectively prevent larger firms from illegitimately seeking status as small businesses. For this reason, the Commission disagrees with the commenter that urges it not to amend its attribution rules to include those that have management agreements and joint marketing agreements with the applicant or licensee. The Commission will adopt provisions that make attributable the gross revenues of those that have management or marketing agreements with the applicant or licensee where such agreements grant authority over key aspects of the applicant's or licensee's business.

64. The Commission declines to adopt a minimum equity requirement for controlling interests because it is contrary to its goal of providing legitimate small businesses maximum flexibility in attracting passive financing. A minimum equity requirement would require any person or entity identified as a controlling interest to retain some level of equity in the applicant, thereby reducing the amount of equity the applicant could offer to non-controlling interests in exchange for financing. This policy would thus limit a small business' ability to raise capital and undermine the Commission's intention of promoting small business participation in the highly competitive telecommunications marketplace.

65. Further, the Commission does not believe that the adoption of a minimum equity requirement is necessary to ensure appropriate identification of an applicant's controlling interests if the principles of *de jure* and *de facto* control are applied. These principles are, in effect, broader than the minimum equity requirement because they look to actual control irrespective of the amount of equity held in an applicant. While the Commission agrees with commenters that lack of equity may indicate lack of *de facto* control, it is not persuaded that this factor alone is dispositive. Rather than focusing solely on equity holdings, applicants are required to identify those controlling interests that actually have control through application of the principles of either *de jure* or *de facto* control. This approach, which has proven successful in the broadcast context, will operate equally well with respect to the calculation of gross revenues for purposes of determining eligibility for bidding preferences. By alerting the Commission to all attributable interests, application of the principles of *de jure* and *de facto* control will preclude unqualified applicants from taking advantage of its small business provisions. Moreover, as discussed in the *Part 1 Third Report and Order,* requiring detailed ownership information under § 1.2112 will ensure that applicants claiming small business status qualify for such status and that all applicants comply with spectrum caps and other ownership limits.

66. The Commission further concludes that these new rules should not make current C and F block licensees ineligible to hold their licenses. The eligibility of current C and F block licensees to continue to hold their licenses will not be reassessed based on the new attribution rules. These licensees will remain eligible to hold their licenses regardless of whether or not they would qualify under the newly established attribution rules. As to future C and F block auctions, however, all applicants, including existing C and F block licensees, will be subject to the attribution rules in effect at the time of filing their short-form applications. For auctions that begin within two years after the start of Auction No. 22, the C, E, and F block auction that began on March 23, 1999, the Commission's new attribution rules will have no effect on the eligibility as an entrepreneur of any entity that was eligible for, and participated in, Auction No. 5 or Auction No. 10. Eligibility for small business preferences, however, will be determined based on the attribution rules in effect at the time of an applicant's short-form filing. Similarly, with respect to transfers of control and assignments of license, existing C and F block licensees may be assignees or transferees within the first five years of license grant consistent with the anti-trafficking provision contained in § 24.839(d) of the Commission's rules. Non-licensees, however, are precluded from being assignees or transferees within the first five years of license grant unless they qualify as entrepreneurs based on the attribution rules in effect at the time of assignment or transfer.

C. Default Payments

67. *Background.* In the *Second FNPRM,* the Commission sought comment on whether it should modify § 1.2104(g) of its rules to provide that, where a winning bidder defaults on multiple licenses, the default payment will be determined based upon the aggregate winning bid and the aggregate winning bid the next time the licenses are offered by the Commission. The Commission sought comment on whether this system could encourage insincere bidding and defaults since it could greatly reduce the effective penalty for a default. The Commission questioned whether, since the potential defaulter would not be facing the full harm caused by the default on the additional license, the incentive for insincere bidding and default would be too great. Indeed, the Commission continued, this modification could encourage speculation by encouraging a high bidder on a relatively high valued license that anticipates default to purposely bid and default on a relatively low valued license in order to lessen the default payment assessed under its rules. Finally, the Commission sought comment on whether such a modification could function without nullifying the provision in § 1.2104(g) that assesses an additional default payment equal to three percent of the subsequent winning bid or the amount bid, whichever is lower. No comments were received on this issue.

68. *Discussion.* Section 1.2104(g)(2) of the Commission's rules is central to the integrity of the Commission's auction process. The principal function of this rule is to establish that the close of the auction creates a binding contractual obligation by the high bidder to pay the auction price for the license. Whether the obligation is thereafter breached by a default of payment or by a failure to qualify to receive the license for which the bid was placed, the winning bidder's liability remains a function of the high bid and is based on the obligation that was incurred at auction, plus an additional 3 percent payment as set forth in the rule.

69. Without more comment, the Commission will not amend its rule to adopt an aggregate approach to calculating default payments. Rather, the Commission will continue to evaluate each licensee's default payment obligations on a license-by-license basis. In other words, the Commission will calculate the default payment owed on each license separately, even in cases where a single bidder defaults on multiple licenses. Therefore, licensees may not use a subsequent auction gain from one defaulted license to reduce default payments on other licenses that are subsequently auctioned for less than that originally bid by the defaulting licensee.

70. When a winning bidder defaults on a license, the bidder becomes subject to a default payment equal to the difference between the amount bid and the subsequent winning bid, plus an additional payment equal to 3 percent of

the lower of the initial winning bid or the subsequent winning bid. In the case of multiple defaults, the Commission has determined that the amount of the default payment is calculated on a license-by-license basis and then added together to determine the total default payment.

71. The Commission's auction rules were designed to encourage bidders wishing to withdraw their bids to do so prior to the close of the auction, rather than default after the auction. In the case of withdrawal, the additional 3 percent payment is not required. Thus no withdrawal payment is assessed if the subsequent winning bid exceeds the withdrawn bid. Encouraging withdrawals over defaults increases auction efficiency. If a bidder withdraws its bid during the auction, there is an opportunity for another bidder to win the license. However, if the bidder defaults after the auction, a new spectrum license must be auctioned. A bidder that would have bid to win the license after a withdrawal may not be as willing or able to pay if it has to wait for another auction before it can obtain the license. In addition to the time and expense required to auction the new spectrum license and collect the default payment, a subsequent auction results in a delay in provision of service to the public.

72. The Commission believes if it were to allow a bidder that defaults on multiple licenses to offset subsequent auction losses with subsequent auction gains, it might encourage insincere bidding and defaults by greatly reducing the effective penalty for a default. If aggregation of subsequent auction gains and subsequent auction losses would result in a net gain, the defaulting bidder would be required to pay only the 3 percent penalty, an amount that could be lower than the withdrawal payments determined on a license-by-license basis.

D. Administrative Filing Periods for Applications and Petitions to Deny

73. *Background.* In the *Part 1 Third Report and Order,* the Commission amended § 1.2108 of its rules to conform to the provisions in the Balanced Budget Act of 1997 regarding the filing period for petitions to deny the long-form applications of winning bidders. The Balanced Budget Act of 1997 gives the Commission authority to shorten the period in which license applications are granted, notwithstanding section 309(b) of the Communications Act which generally prohibits the Commission from granting applications for licenses prior to 30 days following public notice of their filing. Section 1.2108, as amended, provides that the Commission shall not grant a license less than seven days after public notice that long-form applications have been accepted for filing and that, in all cases, the period for filing petitions to deny such applications shall be no shorter than five days.

74. Although noting its belief that a shortened petition to deny period is appropriate for future auctions, the Commission sought comment on the appropriate length of a petition to deny period in light of this legislation. For example, the Commission sought comment on whether there are instances in which the Commission should provide for a longer period than the minimums set forth in the statute for the filing of petitions to deny or for the grant of initial licenses in auctionable services (five days and seven days, respectively). In particular, the Commission asked commenters to address whether auctions for specific services (*e.g.,* broadcast licenses) require longer periods for the filing of petitions to deny and why this may be so. No comments on these matters were received.

75. *Discussion.* The Commission will adopt its proposal to shorten administrative filing periods, when possible, as directed by the Balanced Budget Act of 1997. This conclusion is consistent with the Commission's mandate in section 309(j)(3)(A) of the Communications Act, which obligates it to promote ''the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, *without administrative or judicial delays.''*

76. In order to have a consistent and general rule for filing petitions to deny, the Commission will establish a maximum ten-day period for the filing of such petitions. However, because the provision in the Balanced Budget Act anticipates—and the Commission believes—that the appropriate period for filing petitions to deny may vary from service to service, it will delegate to the appropriate licensing bureau the discretion, to be exercised in exigent circumstances, to reduce this period. This reduced filing period may not be shorter than that prescribed by the Balanced Budget Act. The Commission will increase the time period from 5 days (as originally adopted in the rule) to 10 days in order to afford parties (including small businesses) additional flexibility in challenging license awards. This approach, the Commission believes, is consistent with the intent of Congress in the Balanced Budget Act to more expeditiously resolve these disputes while, at the same time, ensuring that all parties (particularly small businesses) have a reasonable opportunity to exercise their rights under the Communications Act.

E. Conclusion

77. In the *Part 1 Third Report and Order,* the Commission stated that ''[t]hese changes to our general competitive bidding rules are intended to streamline our regulations and eliminate unnecessary rules wherever possible * * *.'' With the issuance of this *Order on Reconsideration, Fifth Report and Order,* the Commission has made a majority of the part 1, rule changes contemplated in its efforts to streamline the competitive bidding regulations. The next step in this process is to eliminate unnecessary rules to the best of the Commission's ability at this time. Some service-specific rules repeat portions of the Commission's new part 1 rules almost verbatim; others contain obvious discrepancies. In its attempt to provide the most specific guidance possible to future auction participants, the Commission believes it is in the public interest to conform the service-specific auction rules to the general competitive bidding rules in cases of obvious repetition and where the Commission specifically superseded inconsistent rules in the course of the part 1 proceeding. The Commission hereby instructs the Wireless Telecommunications Bureau to make conforming edits to the Code of Federal Regulations consistent with this decision.

Procedural Matters and Ordering Clauses

A. Regulatory Flexibility Analysis

78. Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 604, a Supplemental Final Regulatory Flexibility Analysis for the *Order on Reconsideration* and a Final Regulatory Flexibility Analysis for the *Fifth Report and Order* is incorporated herein.

B. Paperwork Reduction Act Analysis

79. This *Order on Reconsideration, Fifth Report and Order* contains a modified information collection. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (''OMB'') to take this opportunity to comment on the information collections contained in this *Order on Reconsideration, Fifth Report and Order* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency

comments are due on or before October 30, 2000. Comments should address: (a) whether the proposed 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 estimates; (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.

80. In addition to filing comments on the information collections contained in this *Order on Reconsideration*, *Fifth Report and Order* with the Secretary, a copy of any comments on the information collections 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* and to Edward Springer, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

C. Contacts for Further Information

81. For further information concerning this *Order on Reconsideration*, *Fifth Report and Order*, contact Leora Hochstein at (202) 418–1022 (Auctions and Industry Analysis Division, Wireless Telecommunications Bureau). For additional information concerning the information collections contained in this *Order on Reconsideration*, *Fifth Report and Order*, contact Judy Boley at (202) 418–0214 or via the Internet at jboley@fcc.gov.

D. Ordering Clauses

82. Authority for issuance of this *Order on Reconsideration*, *Fifth Report and Order* is contained in sections 4(i), 303(r) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 309(j).

83. Accordingly, it is ordered that, pursuant to the authority granted in sections 4(i), 5(b), 5(c)(1), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(b), 155(c)(1), 303(r), and 309(j), part 1 of the Commission's rules is amended as specified, effective October 30, 2000, following OMB approval, unless a document is published in the **Federal Register** stating otherwise.

84. It is further ordered that the Commission's Consumer Information Bureau, Reference Operations Division, shall send a copy of this *Order on Reconsideration*, *Fifth Report and Order*, including the Supplemental Final Regulatory Flexibility Analysis, the Final Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

Supplemental Final Regulatory Flexibility Analysis—Order on Reconsideration

85. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *FNPRM* (published elsewhere in this issue of the **Federal Register**) in WT Docket No. 97–82. The Commission sought written public comment on the proposals in the *FNPRM*, including comment on the IRFA. A Final Regulatory Flexibility Analysis (FRFA) was incorporated in the report and order section of the *Part 1 Third Report and Order* and *Second FNPRM.* The Commission received seven petitions for reconsideration in response to the *Part 1 Third Report and Order* and two comments in support of the petitions for reconsideration. This supplemental FRFA analyzes the modifications adopted in response to those petitions and comments, and conforms to the RFA.

A. Need for, and Objectives of, the Order on Reconsideration

86. The Order on Reconsideration of the Third Report and Order (''*Order on Reconsideration*'') amends and clarifies the Commission's general competitive bidding rules for all auctionable services. Specifically, the Commission clarifies that the prohibition on collusion begins on the filing deadline for short-form applications and ends on the down payment deadline. In addition, the Commission clarifies and corrects the ownership disclosure requirements. With respect to entities not seeking designated entity status, the Commission eliminates the requirement to include debt and instruments such as warrants, convertible debentures, options and other debt interests in reporting their ownership interests. The Commission also amends its rules to clarify that in the case of multiple bid withdrawals on a single license, within the same or subsequent auction(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. The Commission further amends its rules to provide that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the bid withdrawals. In addition, the Commission retains, for the most part, the installment payment grace period and late payment fee provisions adopted in the *Part 1 Third Report and Order*, but adopts a slight modification to the payment due dates for late installment payments and associated late fees. The Commission also concludes that licensees defaulting on installment payments are subject to the default provisions of § 1.2110(f)(4) of its rules (redesignated herein as § 1.2110(g)(4)) and not to § 1.2104(g). The Commission incorporates into the part 1 general competitive bidding rules the ''former defaulter'' policies adopted with respect to C block auction applicants. The Commission clarifies the circumstances under which installment payment defaulters will be eligible to participate in future auctions. Finally, the *Order on Reconsideration* makes a number of clarifications with respect to the restructuring of installment payments, the assignment and transfer of licenses paid for through installment payments, and the unjust enrichment rules for bidding credits.

87. These amendments and clarifications are intended to simplify the Commission's general competitive bidding rules, increase the efficiency of the competitive bidding process, and provide more specific guidance to auction participants.

B. Summary of Significant Issues Raised by Public Comment in Response to the FRFA Contained in the Part 1 Third Report and Order

88. No petitions for reconsideration directly addressed the FRFA contained in the *Part 1 Third Report and Order.* The Commission, however, did receive petitions for reconsideration of the *Part 1 Third Report and Order* that addressed issues affecting small businesses. In particular, the Commission received petitions opposing various aspects of the installment payment grace period and late payment fee provisions adopted in the *Part 1 Third Report and Order.* The *Order on Reconsideration* addresses petitioners' arguments and concludes that the revised late payment rules relating to the submission of installment payments are not commercially unreasonable, do not constitute impermissible retroactive rulemaking, and do not violate basic contract principles. The Commission further determines that the modified grace period and late payment fee provisions apply to 900 MHz SMR and MDS licensees that have signed Promissory Notes and Security Agreements. In addition, the Commission adopts a slight modification to the payment due

dates for late installment payments and associated late fees in order to avoid any confusion as to when such payments are due. The Commission clarifies that, despite amendments to the installment payment rules, licensees in the installment payment program continue to have the opportunity to seek restructuring of installment payments. The Commission notes, however, that there is no longer a procedure for requesting a grace period to stay installment payment deadlines pending such restructuring. Rather, licensees will be subject to the automatic late payment provisions of § 1.2110(g) of the Commission's rules as adopted in this *Order on Reconsideration.* The Commission further clarifies in response to comments that the assignee or transferee of a license paid for through installment payments is not responsible for the license debt until the assignment of license or transfer of control has been consummated. Also in response to requests for clarification, the Commission clarifies that the unjust enrichment rules for bidding credits do not apply to assignments and transfers of C and F block licenses to non-entrepreneurs.

C. Description and Estimate of the Number of Small Entities to Which Rules will Apply

89. The Commission is required to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. 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 section 3 of the Small Business Act, unless the Commission has developed one or more definitions that are appropriate for its activities. Under the Small Business Act, a ''small business concern'' is one which: (i) is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) meets 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, the Commission estimates that 81,600 (96 percent) are small entities. Nationwide, there are 4.44 million small business firms, according to SBA reporting data.

90. The rules adopted in the *Order on Reconsideration* apply to all entities, including small entities, seeking to obtain licenses in auctionable services through competitive bidding. These rules generally apply to future auctions. In estimating the number of small entities that may participate in future auctions of radio services, the Commission anticipates that current radio services licensees are representative of future auction participants. The following is the Commission's estimate of the number of small entities that are current radio licensees:

Cellular Licensees. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Therefore, even if all 12 of these firms were cellular telephone companies, nearly all, cellular carriers were small businesses under the SBA's definition. In addition, the Commission notes that there are 1,758 cellular licenses; however, it does not know the number of cellular licensees, since a cellular licensee may own several licenses. The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to the most recent *Telecommunications Industry Revenue* data, 808 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services. The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are no more than 808 small cellular service carriers.

220 MHz Radio Service—Phase I Licensees. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the definition under the SBA rules applicable to radiotelephone communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to a 1995 estimate by the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Therefore, assuming this general ratio has not changed significantly in recent years in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's definition.

220 MHz Radio Service—Phase II Licensees. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order*, 62 FR 16004 (April 3, 1997) the Commission adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. The Commission has defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.

Nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (''REAG'') licenses, and 875 Economic Area (EA) licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: 1 of the Nationwide licenses, 67% of the Regional licenses, 47% of the REAG licenses and 54% of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction. A second 220 MHz Radio Service auction began on June 8, 1999 and closed on June 30, 1999. This auction offered 225 licenses in 87 EAs and four REAGs. (A total of 9 REAG licenses and 216 EA licenses. No nationwide licenses were available in this auction.) Of the 215 EA licenses won, 153 EA licenses (71%) were won by bidders claiming small business status. Of the 7 REAG licenses won, 5 REAG licenses (71%) were won by bidders claiming small business status.

Private and Common Carrier Paging. The Commission has adopted a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. A small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $15 million. Because the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA's definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data. The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are no more than 172 small paging carriers. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted in the section concerning paging service carriers, the closest applicable definition under the SBA rules is that for radiotelephone (wireless) companies, and the most recent *Telecommunications Industry Revenue* data shows that 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services. Consequently, the Commission estimates that there are no more than 172 small mobile service carriers.

Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in blocks A and B. There were 90 winning bidders that qualified as small entities in the C block auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for blocks D, E, and F. On March 23, 1999, the Commission held another auction (Auction No. 22) of C, D, E, and F block licenses for PCS spectrum returned to the Commission by previous license holders. In that auction, 48 bidders claiming small business, very small business or entrepreneurial status won 272 of the 341 licenses (80%) offered. Based on this information, the Commission concludes that the number of small broadband PCS licensees includes the 90 winning C block bidders, the 93 qualifying bidders in the D, E, and F blocks, and the 48 winning bidders from Auction No. 22, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules.

Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions, however, have not yet been scheduled. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, for its purposes here, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). The Commission will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA's definition.

Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service. Accordingly, the Commission will use the SBA's definition applicable to radiotelephone companies, *i.e.,* an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

Specialized Mobile Radio (SMR). The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to two tiers of firms: (1) ''small entities,'' those with revenues of no more than $15 million in each of the three previous calendar years; and (2) ''very small entities,'' those with revenues of no more than $3 million in each of the three previous calendar years. The regulations defining ''small entity'' and ''very small entity''

in the context of 800 MHz SMR (upper 10 MHz and lower 230 channels) and 900 MHz SMR have been approved by the SBA. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes, for its purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz (upper 10 MHz) and 900 MHz SMR bands. There were 60 winning bidders that qualified as small and very small entities in the 900 MHz auction. Of the 1,020 licenses won in the 900 MHz auction, 263 licenses were won by bidders qualifying as small and very small entities. In the 800 MHz SMR auction, 38 of the 524 licenses won were won by small and very small entities.

Private Land Mobile Radio (PLMR). PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of small businesses that could be affected by the rules. However, the Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Any entity engaged in a commercial activity is eligible to hold a PLMR license. Therefore, these rules could potentially affect every small business in the United States if PLMR licenses are subject to auction.

Amateur Radio Service. The Commission estimates that 8,000 applicants will apply for vanity call signs in FY 2000. All are presumed to be individuals.

Aviation and Marine Radio Service. Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules for radiotelephone communications. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of its evaluations and conclusions here, the Commission estimates that there may be at least 712,000 potential licensees that are individuals or small entities, as that term is defined by the SBA.

Marine Coast Service. Between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of this auction, and for future public coast auctions, the Commission defines a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. A ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the Commission's definition, which has been approved by the SBA.

Location and Monitoring Service (LMS). The SBA has not developed a definition of small entities specifically applicable to LMS licensees. Therefore, the applicable definition under SBA rules of a small entity is the definition under the rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, using such data, even if all twelve of these firms were LMS companies, nearly all such carriers were small businesses under the SBA's definition. As a practical matter, there are only a handful of existing LMS licensees—those being those licensed under the former Automatic Vehicle Monitoring service.

Fixed Microwave Services. Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For its purposes here, the Commission will utilize the SBA's definition applicable to radiotelephone companies—*i.e.,* an entity with no more than 1,500 persons. Under this definition, the Commission estimates that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities.

Local Multipoint Distribution Service. The Commission held two auctions for licenses in the Local Multipoint Distribution Services (LMDS) (Auction No. 17 and Auction No. 23). For both of these auctions, the Commission defined a small business as an entity, together with its affiliates and controlling principals, having average gross revenues for the three preceding years of no more than $15 million but not more than $40 million. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million. Of the 144 winning bidders in Auction Nos. 17 and 23, 125 bidders (87%) were small or very small businesses.

24 GHz—Incumbent 24 GHz Licensees. The rules the Commission are adopting today may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The Commission has not developed a definition of small entities applicable to licensees in the 24 GHz band. Therefore, the applicable definition of small entity is the definition under the SBA rules for the radiotelephone industry that provides that a small entity is a radiotelephone company employing fewer than 1,500 persons. The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. This information notwithstanding, the Commission believes that there are only two licensees in the 24 GHz band that

were relocated from the 18 GHz band. Both licensees appear to have more than 1,500 employees. Therefore, it appears that no incumbent licensee in the 24 GHz band is a small business entity.

Future 24 GHz Licensees. The proposals also affect potential new licensees on the 24 GHz band. Pursuant to 47 CFR 24.720(b), the Commission has defined ''small business'' for Blocks C and F broadband PCS licensees as firms that had average gross revenues of less than $40 million in the three previous calendar years. This regulation defining ''small business'' in the context of broadband PCS auctions has been approved by the SBA. With respect to new applicants in the 24 GHz band, the Commission shall use this definition of ''small business'' and apply it to the 24 GHz band under the name ''entrepreneur.'' With regard to ''small business,'' the Commission shall adopt the definition of ''very small business'' used for 39 GHz licenses and PCS C and F block licenses: businesses with average annual gross revenues for the three preceding years not in excess of $15 million. Finally, ''very small business'' in the 24 GHz band shall be defined as an entity with average gross revenues not to exceed $3 million for the preceding three years. The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held. Even after that, the Commission will not know how many licensees will partition their license areas or disaggregate their spectrum blocks, if partitioning and disaggregation are allowed.

39 GHz. The Commission held an auction (Auction No. 30) for fixed point-to-point microwave licenses in the 38.6 to 40.0 GHz band (39 GHz Band). For this auction, the Commission defined a small business as an entity, together with affiliates and controlling interests, having average gross revenues for the three preceding years of not more than $40 million. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these definitions. Of the 29 winning bidders in Auction No. 30, 18 bidders (62%) were small business participants.

Multipoint Distribution Service (MDS). This service involves a variety of transmitters, which are used to relay data and programming to the home or office, similar to that provided by cable television systems. In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million. This definition of a small entity in the context of MDS auctions has been approved by the SBA. These stations were licensed prior to implementation of section 309(j) of the Communications Act of 1934, as amended. Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 meet the definition of a small business.

MDS is also heavily encumbered with licensees of stations authorized prior to the MDS auction. 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 systems, and thus applies to incumbent MDS licensees and wireless cable operators which may not have participated or been successful in the MDS auction. Information available to us indicates that there are 832 of these licensees and operators that do not generate revenue in excess of $11 million annually. Therefore, for purposes of this analysis, the Commission finds there are approximately 892 small MDS providers as defined by the SBA and the Commission's auction rules.

Public Safety Radio Services. Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. As noted, governmental entities with populations of less than 50,000 fall within the SBA definition of a small entity. There are 85,006 governmental entities in the nation, as of the last census. This number includes such entities as states, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000; however, this number includes 38,978 counties, cities, and towns and of those, 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, the Commission estimates that 96 percent or 81,600 are small entities that may be affected by its rules.

Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission is unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

Wireless Communications Services. This service can be used for fixed, mobile, radio-location and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities and one winning bidder that qualified as a small business entity. The Commission concludes that the number of geographic area WCS licensees affected includes these eight entities.

General Wireless Communication Service. This service was created by the Commission on July 31, 1995 by transferring 25 MHz of spectrum in the 4660–4685 MHz band from the federal government to private sector use. The Commission sought and obtained SBA approval of a refined definition of ''small business'' for GWCS in this band. According to this definition, a small business is any entity, together with its affiliates and entities holding controlling interests in the entity that has average annual gross revenues over the three preceding years that are not more than $40 million. By letter dated March 30, 1999, NTIA reclaimed the spectrum allocated to GWCS and identified alternative spectrum at 4940–4990 MHz. On February 23, 2000, the Commission released its *Notice of Proposed Rule Making*, 65 FR 14230 (March 16, 2000) in WT Docket No. 00–32 proposing to allocate and establish licensing and service rules for the 4.9 GHz band.

Television Broadcasting Stations. The SBA defines a television broadcasting station that has no more than $10.5 million 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. Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.

There were 1,509 television stations operating in the nation in 1992. That number has remained fairly steady as indicated by the approximately 1,590 operating television broadcasting stations in the nation as of January 1999. For 1992, the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments. Thus, of the 1,590 television stations approximately 77%, or 1,224, of those stations are considered small businesses. As of January 1999, 2136 low power television stations and 4921 television translator stations were also licensed, and the Commission believes the vast majority of these stations are small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television affiliated companies.

Radio Broadcasting Stations. The SBA defines a radio broadcasting station that has no more than $5 million 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 that primarily are engaged in radio broadcasting and that produce radio program materials are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number. The 1992 census indicates that 96% (5,861 of 6,127) of 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 January 1999, official Commission records indicate that 12,496 radio stations were operating. The Commission concludes that a similarly high percentage (96%) of current radio broadcasting licensees are small entities. As of January 1999, there were also 3171 FM translator/booster stations licensed, and the Commission believes the vast majority of these stations are small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-radio affiliated companies.

Instructional Television Fixed Service (ITFS). In addition, there are presently 2032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions may be included in the definition of a small entity. ITFS is a non-pay, non-commercial educational microwave service that, depending on SBA categorization, has, as small entities, entities generating either $10.5 million or less, or $11.0 million or less, in annual receipts. However, the Commission does not collect, nor is it aware of other collections of, annual revenue data for ITFS licensees. Thus, the Commission concludes that up to 1932 of these licensees are small entities.

Pending and Future Broadcast Applicants. The Commission has given the SBA broadcast size standards, *supra*. The competitive bidding procedures set forth in the *Order on Reconsideration* will affect: (i) any entity with a pending application for a construction permit for a new full service commercial radio or analog television broadcast station, if mutually exclusive applications have been filed; (ii) any entity that files an application in the future for a new full service commercial radio or analog television station, if mutually exclusive applications are filed; (iii) any entity with a pending application on file, or filing an application in the future, for a new low power television station, or a television or FM translator station, if mutually exclusive applications have been or are filed; (iv) any entity that has a pending or future application to make a make a major change in an existing facility in any commercial broadcast or secondary broadcast service, if mutually exclusive applications have been or are filed; and (v) any entity that has filed or files in the future an application for a license for an ITFS station, if mutually exclusive applications have been filed or are filed. The Commission estimates that there are currently pending before the Commission the following mutually exclusive applications:

- approximately 620 mutually exclusive applications for full power commercial radio stations, and approximately 165 competing applications for full power commercial analog television stations;
- approximately 275 mutually exclusive applications for low power television stations and television translator stations, and approximately 20 competing applications for FM translator stations; and
- approximately 200 or more mutually exclusive applications for ITFS stations.

Although applicants for broadcast construction permits have been required to demonstrate sufficient financing to construct and initially operate the proposed broadcast station, the Commission does not require the filing of financial information specifically concerning the entity seeking a construction permit, such as the entity's annual revenues. Thus, the Commission has no data on file as to whether entities with pending permit applications, which are subject to the new competitive bidding selection procedures adopted for the broadcast services, meet the SBA's definition of a small business concern. However, the Commission concludes that, given the smaller size of the markets at issue in the pending applications, most of the entities with pending applications for a permit to construct a new primary or secondary broadcast station are small entities, as defined by the SBA rules.

In addition to the pending applicants that may be affected by the auction procedures adopted for the broadcast services, any entity that applies for a construction permit for a new broadcast station in the future will be subject to these competitive bidding rules if mutually exclusive applications are filed. It is not possible, at this time, to estimate the number of markets for which mutually exclusive applications will be received, nor the number of entities that in the future may seek a construction permit for a new broadcast station. Given the fact that fewer new stations (particularly fewer analog television stations) will be licensed in the future and that these stations generally will be located in smaller, more rural areas, the Commission concludes that most of the entities applying for these stations will be small entities, as defined by the SBA rules.

Digital Audio Radio Service (DARS). The Commission has not developed its own definition of ''small entity'' for purposes of licensing satellite delivered services. Accordingly, the Commission relies on the definition of ''small entity'' provided under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. A ''small entity'' under these SBA rules is defined as an entity with $11.0 million or less in annual receipts. The two current U.S. satellite DARS licensees, XM Satellite Radio and Sirius Satellite Radio, are in the midst of deploying their systems, and appear to have no revenues. Thus,

XM and Sirius are ''small entities'' under the SBA definition.

Direct-to-Home (DTH) Satellite Service—Direct Broadcast Satellite (DBS) and Home Satellite Services (HSD). Video service is available from high power DBS satellites that transmit signals to small DBS dish antennas installed at subscribers' premises, and from medium and low power satellites requiring larger satellite dish antennas. In the last year, DirecTV merged with United States Satellite Broadcasting Co., Inc. (USSB) and acquired PrimeStar. DirecTV and EchoStar are among the ten largest providers of multichannel video programming service. DBS represented a 12.5% share of the national MVPD market in June 1999 and HSD represented another 2.2% of that market. Thus, it appears that no DBS or HSD operators meet the SBA's definition of ''small entity.''

D. Description of the Projected Reporting, Record-keeping, and Other Compliance Requirements

91. One rule amendment adopted in this *Order on Reconsideration* will decrease the reporting requirements for entities not seeking designated entity status. Other rule amendments, however, may increase the reporting and recordkeeping requirements for all license applicants, including small entities.

92. Specifically, the Commission amends § 1.2112 of its rules to reduce the amount of ownership information that applicants must report on their short- and long-form applications. Section 1.2112 requires applicants to identify direct and indirect owners with an interest of 10 percent or greater. Previously under § 1.2112, in calculating the 10 percent interest, the Commission required applicants to include debt and interests such as warrants and convertible debentures, stock options, debt securities or other debt interests. In this *Order on Reconsideration*, the Commission amends § 1.2112 to provide that such interests need not be reported unless the entity is seeking status as a designated entity. For the purpose of determining designated entity status and eligibility for bidding credits, the Commission believes that warrants, convertible debentures, options and other debt interests should be treated as having been exercised. For the broader purpose of determining all applicants' ownership interests, the Commission will not require information regarding interests in an applicant that have not yet vested.

93. The Commission amends its general competitive bidding rules to permit ''former defaulters,'' *i.e.*, applicants that have defaulted or been delinquent in the past, but have since paid all of their outstanding non-Internal Revenue Service Federal debts and all associated charges or penalties, to certify on FCC Form 175 that they are not in default and are, therefore, eligible for auction participation. ''Former defaulters'' will be required to pay an upfront payment amount of 1.5 times the normal amount set by the Bureau for any given license in a Commission auction. So that the Bureau may implement this rule, it will require applicants to make an additional certification revealing whether they or any of their controlling interests or affiliates have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency.

94. The *Order on Reconsideration* also clarifies that the assignee or transferee of a license paid for through installment payments is not responsible for the license debt until the assignment or transfer has been consummated. There may be cases in which the Commission believes that an assignment or transfer has been consummated when it has not. In such instances, the Commission may mistakenly initiate debt collection procedures against the wrong party. If such action occurs, the affected party should notify the Commission in writing that the underlying transaction was not consummated and the Commission will stop its debt collection proceedings against that party.

E. Steps Taken to Minimize the Economic Impact on Small Entities, and Significant Alternatives Considered

95. Incorporation into the part 1 general competitive bidding rules of the ''former defaulter'' policies adopted with respect to C block auction applicants will provide more opportunities for all entities, including small entities, to participate in spectrum auctions. The ''former defaulter'' policies adopted herein permit all ''former defaulters'' including small entities, to participate in future spectrum auctions under certain conditions.

96. All petitioners in this proceeding oppose some aspect of the Commission's installment payment grace period and late payment fee provisions adopted in the *Part 1 Third Report and Order*. The Commission has reviewed petitioners' arguments and concludes that it will retain these provisions, but will adopt a slight modification to the payment due dates for late installment payments and associated late fees. Specifically, the Commission amends the due dates for installment payments to comport with quarterly due dates. An alternative would be to maintain the current rules, but this modification may avoid confusion as to when such payments are due. Revisions to the Commission's installment payment rules were first proposed in the notice section of the *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making*, 62 FR 13540 (March 21, 1997). Comments on installment payment issues were received and addressed in the *Part 1 Third Report and Order*. In response to the *Part 1 Third Report and Order*, the Commission received petitions for reconsideration of its installment payment grace period and late payment fee provisions. In concluding to retain these provisions in this *Order on Reconsideration*, the Commission has thoroughly reviewed and carefully evaluated all of the opposing arguments presented. The Commission rejected the alternative of reinstating the requirement for licensees using installment payments to submit grace period requests demonstrating financial needs due, in part, to the burdens that procedure imposes on small business licensees.

97. The Commission determines that the revised late payment rules relating to the submission of installment payments are not commercially unreasonable, do not constitute impermissible retroactive rulemaking, and do not violate basic contract principles. The late installment payment provisions were not intended to serve as a tool that licensees might use in their normal course of planning auction strategy and build-out. These provisions are provided for extraordinary circumstances—instances of financial distress—for which temporary relief is appropriate. The Commission considered a number of alternatives presented by petitioners, but found that those proposals were not consistent with the Commissions fundamental goal in adopting the late payment provisions, which is to encourage payment on the due date. The Commission has determined that this goal is best attainable by adhering to the 5 percent and 10 percent late payment fee schedule adopted in the *Part 1 Third Report and Order*. The Commission further determines that the modified grace period and late payment fee provisions apply to 900 MHz SMR and MDS licensees that have signed Promissory Notes and Security Agreements. The SMR and MDS notes emphasized that the Commission's rules, as amended, would take

precedence over the terms of the notes in case of any conflict. The Commission clarifies that, despite amendments to the installment payment rules, licensees in the installment payment program continue to have the opportunity to seek restructuring of installment payments. The Commission notes, however, that there is no longer a procedure for requesting a grace period to stay installment payment deadlines pending such restructuring. Rather, licensees will be subject to the automatic late payment provisions of § 1.2110(g) of the Commission's rules as adopted in this *Order on Reconsideration*.

E. Report to Congress

98. The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Order on Reconsideration*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). *See* 5 U.S.C. § 604(b). A copy of the Order and this FRFA will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Final Regulatory Flexibility Analysis—Fifth Report and Order

99. This Final Regulatory Flexibility Analysis (FRFA) in the *Fifth Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996).

A. Need for, and Objectives of, The Fifth Report and Order

100. The *Fifth Report and Order* makes substantive amendments to the Commission's general competitive bidding rules for auctionable services. Specifically, the *Fifth Report and Order* adopts a ''controlling interest'' standard for the attribution of gross revenues in determining whether a license applicant qualifies as a small business. The ''controlling interest'' standard is intended to prevent larger firms from illegitimately seeking status as small businesses and ensure that only those entities truly meriting small business status are eligible for the small business provisions. In addition, the *Fifth Report and Order* establishes a maximum 10-day filing period for the submission of petitions to deny the long-form applications of winning bidders. The Commission increases the filing period from 5 days (as adopted in the *Part 1 Third Report and Order*) to 10 days in order to afford parties (including small businesses) additional flexibility in challenging license awards. The Commission also delegates to the Wireless Telecommunications Bureau the authority to make any revisions to the Code of Federal Regulations that are necessary to conform the service-specific auction rules to the part 1 general competitive bidding rules. Finally, the Commission addresses other issues raised by the *Second FNPRM* and affirms its existing rules relative to those issues.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

101. No comments were received directly in response to the IRFA. The Commission, however, did receive comments on issues affecting small businesses in response to the *Second FNPRM*. Specifically, a commenter proposed that the Commission establish geographic area licenses no larger than BTAs in all future auctions. Commenter argued that the use of small areas facilitates the delivery of service to rural areas by increasing the opportunity for rural small businesses and rural telephone companies to acquire licenses. Commenter also contends that authorizing smaller geographic areas increases the number of licenses available and the diversity of licenses, and facilitates the buildout of networks. The Commission rejects the commenter's proposal. Section 309(j) of the Communications Act requires the Commission to disseminate licenses to a wide variety of applicants, including small businesses and rural telephone companies, and to promote the development and rapid deployment of new technologies to the public, including those residing in rural areas. The Commission believes that it can best satisfy this mandate by establishing license areas that promote these goals on a service-specific basis. Although the Commission has used small license areas in several services (*e.g.*, broadband PCS D, E and F blocks and LMDS) and may do so in specific services in the future, it is unwilling to limit its flexibility by adopting an ironclad rule against large service areas. The Commission anticipates, for example, that certain satellite-based services may not be particularly suited to small geographic area licensing, while other services may indeed be more suitable for this type of license category (*i.e.*, the broadband PCS C block auction).

102. Comments were also filed in response to the Commission's proposal to adopt a ''controlling interest'' standard as its general attribution rule for determining which applicants qualify as small businesses. In this *Fifth Report and Order*, the Commission adopts a ''controlling interest'' standard and addresses the related comments. Under the ''controlling interest'' standard, the gross revenues of the applicant, its controlling interests and their affiliates will be aggregated and attributed to the applicant in determining whether the applicant qualifies as a small business. A ''controlling interest'' includes individuals or entities that have control of the applicant as determined by the principles of *de jure* or *de facto* control.

103. Commenters raised various issues regarding the attribution standard. Some commenters expressed concern over whether the revenues of so called ''passive investors'' would be attributed to the applicant. The Commission states that the controlling interest standard adopted herein will be applied to all investors of the applicant. In other words, if any investor has either *de jure* or *de facto* control of the applicant, that investor's gross revenues will be attributed to the applicant for purposes of determining whether the applicant qualifies as a small business. Some commenters suggested that the Commission adopt a minimum equity requirement for controlling interests. The Commission concludes that rather than focusing solely on equity-holdings, applicants will be required to identify those controlling interests that actually have control through application of the principles of *de jure* or *de facto* control. A Commenter urges the Commission not to amend its attribution rules to include entities that have management and joint marketing agreements with the applicant or licensee. The Commission adopts provisions that make attributable the gross revenues of those that have management or marketing agreements where such agreements grant authority over key aspects of the applicant's or licensee's business. Another commenter urges the Commission not to apply any new attribution or affiliation rules adopted in this proceeding to current C block licensees that won their licenses under the control group broadband PCS rules. The Commission will not reassess the eligibility of current C and F block licensees to continue to hold their licenses under the new attribution rules adopted herein. These licensees will remain eligible to hold their licenses regardless of whether or not they would qualify under the newly established attribution rules. As to future C and F block auctions, however, all applicants, including existing C and F block licensees, will be subject to the attribution rules in effect at the time of filing their short-form applications. For auctions that begin within two years after the start of Auction No. 22 (March

23, 1999), the Commission's new attribution rules will have no effect on the eligibility as an entrepreneur of any entity that was eligible for, and participated in, Auction No.5 or Auction No.10. Eligibility for small business preferences, however, will be determined based on the attribution rules in effect at the time of an applicant's short-form filing.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

104. The Commission is required to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. The rules adopted in this *Fifth Report and Order* apply to all entities, including small entities, seeking to obtain licenses in auctionable services through competitive bidding. These rules generally apply to future auctions. In estimating the number of small entities that may participate in future auctions of wireless services, the Commission anticipates that current wireless services licensees are representative of future auction participants. The Commission hereby incorporates into this FRFA section the detailed Supplemental FRFA analysis and descriptions of potentially affected small entities, *supra*, including the cellular, broadband and narrowband PCS, 220 MHz, paging, mobile service, air-ground, SMR, PLMR, aviation and marine, offshore radiotelephone services, GWCS, fixed microwave, rural, wireless, public safety, governmental entities and Marine Coast Services.

D. Description of the Projected Reporting, Record-keeping, and Other Compliance Requirements

105. All license applicants are subject to the reporting and record-keeping requirements of the competitive bidding rules. Specifically, applicants are required to apply for spectrum auctions by filing a short-form application prior to auction. Applicants are also required to file a long-form application at the conclusion of an auction. Entities seeking treatment as ''small businesses'' must disclose on their short-and long-form applications, separately and in the aggregate, the gross revenues of the applicant, its controlling interests (as that term is defined in the *Fifth Report and Order*), and their affiliates.

E. Steps Taken to Minimize the Economic Impact on Small Entities, and Significant Alternatives Considered

106. The Commission has considered the economic impact on small entities of the following rules and modifications adopted in the *Fifth Report and Order* and has taken steps to minimize the burdens on small entities.

Attribution of Gross Revenues of Investors and Affiliates. The Commission adopts a ''controlling interest'' standard for attributing to an applicant the gross revenues of its investors and affiliates in determining whether the applicant qualifies as a small business. Application of the controlling interest standard protects the interests of small businesses by preventing larger firms from illegitimately seeking small business status and ensuring that only those entities truly meriting such status are eligible for the small business provisions. The Commission further concludes that the eligibility of current C and F block licensees to continue to hold their licenses will not be reassessed based on the new attribution rules. Therefore, these licensees will continue to be eligible to hold their licenses regardless of whether or not they would qualify under the newly established attribution rules. By applying the current, rather than the new, rules to existing C and F block licensees, the Commission eliminates the burden on such licensees of having to restructure to meet new standards in order to remain licensees.

Administrative Filing Periods for Applications and Petitions to Deny. The Commission establishes a maximum 10-day filing period for submitting petitions to deny against long-form applications. The Commission increases the filing period from 5 days (as adopted in the *Part 1 Third Report and Order*) to 10 days in order to afford parties (including small businesses) additional flexibility in challenging license applications.

107. In addition to the modifications adopted in this *Fifth Report and Order*, the Commission affirms its existing rules with respect to certain other issues affecting small businesses. Specifically, the Commission declines, at this time, to adopt special provisions for minority-and women-owned businesses pending completion of a series of market studies to determine whether, and under what circumstances, targeted preferences for minorities and women are appropriate. The Commission notes, however that minority-and women-owned businesses that qualify as small businesses may take advantage of the provisions adopted for small businesses. In addition, the Commission declines, at this time, to adopt special provisions for rural telephone companies, such as bidding preferences or an unserved area fill-in policy. The Commission notes, however, that it will continue to provide rural telephone companies with bidding credits should such entities qualify as small businesses. The Commission further determines that, for the time being, it will not offer installment payments for auctionable services. The Commission notes that commenters did not offer suggestions as to how to retain the program or alternatives to replace the program. The Commission states that it will, as it has done in the LMDS, LMS, 220 MHz Service, and VHF Public Coast Service auctions, continue to provide small businesses with bidding credits.

F. Report to Congress

108. The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with the *Fifth Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). *See* 5 U.S.C. § 604(b). A copy of the *Order* and this FRFA will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 1

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

1. Section 1.2104 is amended by revising paragraphs (g)(1) and (g)(2) to read as follows:

§ 1.2104 Competitive bidding mechanisms.

* * * * *

(g) * * *

(1) *Bid withdrawal prior to close of auction.* A bidder that withdraws a high bid during the course of an auction is subject to a withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the winning bid in the same or subsequent auction(s). In the event that a bidding credit applies to any of the bids, the bid withdrawal payment is either the difference between the net withdrawn bid and the subsequent net winning bid, or the difference between the gross withdrawn bid and the subsequent gross winning bid, whichever is less. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent

winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid. The withdrawal payment amount is deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission. In the case of multiple bid withdrawals on a single license, the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn in the same or subsequent auction(s). In the event that a license for which there have been withdrawn bids is not won in the same auction, those bidders for which a final withdrawal payment cannot be calculated will be assessed an interim bid withdrawal payment equal to 3 percent of the amount of their bid withdrawals. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed at the close of the subsequent auction of the license.

Example: 1 to paragraph (g)(1). Bidder A withdraws a bid of $100. Subsequently, Bidder B places a bid of $90 and withdraws. In that same auction, Bidder C wins the license at a bid of $95. Withdrawal payments are assessed as follows: Bidder A owes $5 ($100 − $95). Bidder B owes nothing.

Example 2 to paragraph (g)(1). Bidder A withdraws a bid of $100. Subsequently, Bidder B places a bid of $95 and withdraws. In that same auction, Bidder C wins the license at a bid of $90. Withdrawal payments are assessed as follows: Bidder A owes $5 ($100 − $95). Bidder B owes $5 ($95 − $90).

Example 3 to paragraph (g)(1). Bidder A withdraws a bid of $100. Subsequently, in that same auction, Bidder B places a bid of $90 and withdraws. In a subsequent auction, Bidder C places a bid of $95 and withdraws. Bidder D wins the license in that auction at a bid of $80. Withdrawal payments are assessed as follows: At the end of the first auction, Bidder A and Bidder B are each assessed an interim withdrawal payment equal to 3 percent of their withdrawn bids pending Commission assessment of a final withdrawal payment (Bidder A would owe 3% of $100, or $3, and Bidder B would owe 3% of $90, or $2.70). At the end of the second auction, Bidder A would owe $5 ($100 − $95) less the $3 interim withdrawal payment for a total of $2. Because Bidder C placed a subsequent bid that was higher than Bidder B's $90 bid, Bidder B would owe nothing. Bidder C would owe $15 ($95 − $80).

(2) *Default or disqualification after close of auction.* A bidder assumes a binding obligation to pay its full bid amount upon acceptance of the high bid at the close of an auction. If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (g)(1) of this section plus an additional payment equal to 3 percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent payment will be calculated based on the defaulting bidder's bid amount. If either bid amount is subject to a bidding credit, the 3 percent credit will be calculated using the same bid amounts and basis (net or gross bids) as in the calculation of the payment in paragraph (g)(1) of this section. Thus, for example, if gross bids are used to calculate the payment in paragraph (g)(1) of this section, the 3 percent will be applied to the gross amount of the subsequent winning bid, or the gross amount of the defaulting bid, whichever is less.

* * * * *

2. Section 1.2105 is amended by revising paragraphs (a)(2)(xi) and (c)(1) to read as follows:

§ 1.2105 Bidding application and certification procedures; prohibition of collusion.

* * * * *

(a) * * *

(2) * * *

(xi) An attached statement made under penalty of perjury indicating whether or not the applicant has ever been in default on any Commission license or has ever been delinquent on any non-tax debt owed to any Federal agency.

* * * * *

(c) *Prohibition of collusion.* (1) Except as provided in paragraphs (c)(2), (c)(3) and (c)(4) of this section, after the short-form application filing deadline, all applicants are prohibited from cooperating, collaborating, discussing or disclosing in any manner the substance of their bids or bidding strategies, or discussing or negotiating settlement agreements, with other applicants until after the down payment deadline, unless such applicants are members of a bidding consortium or other joint bidding arrangement identified on the bidder's short-form application pursuant to § 1.2105(a)(2)(viii).

* * * * *

3. Section 1.2106 is amended by revising paragraph (a) to read as follows:

§ 1.2106 Submission of upfront payments.

(a) The Commission may require applicants for licenses subject to competitive bidding to submit an upfront payment. In that event, the amount of the upfront payment and the procedures for submitting it will be set forth in a Public Notice. Any auction applicant that has previously been in default on any Commission license or has previously been delinquent on any non-tax debt owed to any Federal agency must submit an upfront payment equal to 50 percent more than that set for each particular license. No interest will be paid on upfront payments.

* * * * *

4. Section 1.2108 is amended by revising paragraph (b) to read as follows:

§ 1.2108 Procedures for filing petition to deny against long-form applications.

* * * * *

(b) Within a period specified by Public Notice and after the Commission by Public Notice announces that long-form applications have been accepted for filing, petitions to deny such applications may be filed. The period for filing petitions to deny shall be no more than ten (10) days. The appropriate licensing Bureau, within its discretion, may, in exigent circumstances, reduce this period of time to no less than five (5) days. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

* * * * *

5. Section 1.2110 is amended by redesignating paragraphs (b) through (m) as (c) through (n), adding new paragraph (b), and revising newly redesignated paragraphs (c), (g)(4), and (j) to read as follows:

§ 1.2110 Designated entities.

* * * * *

(b) Eligibility for small business provisions. (1) *Size attribution.* The gross revenues of the applicant (or licensee), its controlling interests and their affiliates shall be attributed to the applicant and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as a small business under this section. An applicant seeking status as a small business under this section must disclose on its short-and long-form applications, separately and in the aggregate, the gross revenues of the applicant (or licensee), its controlling interests and their affiliates for each of the previous three years.

(2) *Aggregation of affiliate interests.* Persons or entities that hold interests in an applicant (or licensee) that are affiliates of each other or have an identity of interests identified in § 1.2110(c)(5)(iii) will be treated as though they were one person or entity and their ownership interests aggregated for purposes of determining an applicant's (or licensee's) compliance with the requirements of this section.

Example 1 to paragraph (b)(2). ABC Corp. is owned by individuals, A, B and C, each having an equal one-third voting interest in ABC Corp. A and B together, with two-thirds of the stock have the power to control ABC Corp. and have an identity of interest. If A&B invest in DE Corp., a broadband PCS applicant for block C, A and B's separate interests in DE Corp. must be aggregated because A and B are to be treated as one person or entity.

Example 2 to paragraph (b)(2). ABC Corp. has subsidiary BC Corp., of which it holds a controlling 51 percent of the stock. If ABC Corp. and BC Corp., both invest in DE Corp., their separate interests in DE Corp. must be aggregated because ABC Corp. and BC Corp. are affiliates of each other.

(3) *Exceptions.* (i) Small business consortia. Where an applicant (or licensee) is a consortium of small businesses, the gross revenues of each small business consortium member shall not be aggregated. Each small business consortium member must constitute a separate and distinct legal entity to qualify.

(ii) Applicants without identifiable controlling interests. Where an applicant (or licensee) cannot identify controlling interests under the standards set forth in this section, the gross revenues of all interest holders in the applicant, and their affiliates, will be attributable.

(c) Definitions. (1) *Small businesses.* The Commission will establish the definition of a small business on a service-specific basis, taking into consideration the characteristics and capital requirements of the particular service.

(2) *Controlling interests.* (i) For purposes of this section, controlling interest includes individuals or entities with either *de jure* or *de facto* control of the applicant. *De jure* control is evidenced by holdings of greater than 50 percent of the voting stock of a corporation, or in the case of a partnership, general partnership interests. *De facto* control is determined on a case-by-case basis. An entity must disclose its equity interest and demonstrate at least the following indicia of control to establish that it retains *de facto* control of the applicant:

(A) the entity constitutes or appoints more than 50 percent of the board of directors or management committee;

(B) the entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; and

(C) the entity plays an integral role in management decisions.

(ii) Calculation of certain interests.

(A) Ownership interests shall be calculated on a fully diluted basis; all agreements such as warrants, stock options and convertible debentures will generally be treated as if the rights thereunder already have been fully exercised.

(B) Partnership and other ownership interests and any stock interest equity, or outstanding stock, or outstanding voting stock shall be attributed as specified.

(C) Stock interests held in trust shall be attributed to any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal, or extra-trust business relationship to the grantor or the beneficiary, the grantor or beneficiary, as appropriate, will be attributed with the stock interests held in trust.

(D) Non-voting stock shall be attributed as an interest in the issuing entity.

(E) Limited partnership interests shall be attributed to limited partners and shall be calculated according to both the percentage of equity paid in and the percentage of distribution of profits and losses.

(F) Officers and directors of an entity shall be considered to have a controlling interest in the entity. The officers and directors of an entity that controls a licensee or applicant shall be considered to have a controlling interest in the licensee or applicant.

(G) Ownership interests that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated as if it were a 100 percent interest.

(H) Any person who manages the operations of an applicant or licensee pursuant to a management agreement shall be considered to have a controlling interest in such applicant or licensee if such person, or its affiliate, has authority to make decisions or otherwise engage in practices or activities that determine, or significantly influence:

(*1*) The nature or types of services offered by such an applicant or licensee;

(*2*) The terms upon which such services are offered; or

(*3*) The prices charged for such services.

(I) Any licensee or its affiliate who enters into a joint marketing arrangement with an applicant or licensee, or its affiliate, shall be considered to have a controlling interest, if such applicant or licensee, or its affiliate, has authority to make decisions or otherwise engage in practices or activities that determine, or significantly influence:

(*1*) The nature or types of services offered by such an applicant or licensee;

(*2*) The terms upon which such services are offered; or

(*3*) The prices charged for such services.

(3) Businesses owned by members of minority groups and/or women. Unless otherwise provided in rules governing specific services, a business owned by members of minority groups and/or women is one in which minorities and/or women who are U.S. citizens control the applicant, have at least greater than 50 percent equity ownership and, in the case of a corporate applicant, have a greater than 50 percent voting interest. For applicants that are partnerships, every general partner must be either a minority and/or woman (or minorities and/or women) who are U.S. citizens and who individually or together own at least 50 percent of the partnership equity, or an entity that is 100 percent owned and controlled by minorities and/or women who are U.S. citizens. The interests of minorities and women are to be calculated on a fully diluted basis; agreements such as stock options and convertible debentures shall be considered to have a present effect on the power to control an entity and shall be treated as if the rights thereunder already have been fully exercised. However, upon a demonstration that options or conversion rights held by non-controlling principals will not deprive the minority and female principals of a substantial financial stake in the venture or impair their rights to control the designated entity, a designated entity may seek a waiver of the requirement that the equity of the minority and female principals must be calculated on a fully-diluted basis. The term minority includes individuals of Black or African American, Hispanic or Latino, American Indian or Alaskan Native, Asian, and Native Hawaiian or Pacific Islander extraction.

* * * * *

(g) * * *

(4) A license granted to an eligible entity that elects installment payments shall be conditioned upon the full and timely performance of the licensee's payment obligations under the installment plan.

(i) Any licensee that fails to submit its quarterly payment on an installment

payment obligation (the ''Required Installment Payment'') may submit such payment on or before the last day of the next quarter (the ''first additional quarter'') without being considered delinquent. Any licensee making its Required Installment Payment during this period (the ''first additional quarter grace period'') will be assessed a late payment fee equal to five percent (5%) of the amount of the past due Required Installment Payment. The late payment fee applies to the total Required Installment Payment regardless of whether the licensee submitted a portion of its Required Installment Payment in a timely manner.

(ii) If any licensee fails to make the Required Installment Payment on or before the last day of the first additional quarter set forth in paragraph (g)(4)(i) of this section, the licensee may submit its Required Installment Payment on or before the last day of the next quarter (the ''second additional quarter''), except that no such additional time will be provided for the July 31, 1998 suspension interest and installment payments from C or F block licensees that are not made within 90 days of the payment resumption date for those licensees, as explained in Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, *Order on Reconsideration of the Second Report and Order*, WT Docket No. 97–82, 13 FCC Rcd 8345 (1998). Any licensee making the Required Installment Payment during the second additional quarter (the ''second additional quarter grace period'') will be assessed a late payment fee equal to ten percent (10%) of the amount of the past due Required Installment Payment. Licensees shall not be required to submit any form of request in order to take advantage of the first and second additional quarter grace periods.

(iii) All licensees that avail themselves of these grace periods must pay the associated late payment fee(s) and the Required Installment Payment prior to the conclusion of the applicable additional quarter grace period(s). Payments made at the close of any grace period(s) will first be applied to satisfy any lender advances as required under each licensee's ''Note and Security Agreement,'' with the remainder of such payments applied in the following order: late payment fees, interest charges, installment payments for the most back-due quarterly installment payment.

(iv) If an eligible entity obligated to make installment payments fails to pay the total Required Installment Payment, interest and any late payment fees associated with the Required Installment Payment within two quarters (6 months) of the Required Installment Payment due date, it shall be in default, its license shall automatically cancel, and it will be subject to debt collection procedures. A licensee in the PCS C or F blocks shall be in default, its license shall automatically cancel, and it will be subject to debt collection procedures, if the payment due on the payment resumption date, referenced in paragraph (g)(4)(ii) of this section, is more than ninety (90) days delinquent.

* * * * *

(j) Designated entities must describe on their long-form applications how they satisfy the requirements for eligibility for designated entity status, and must list and summarize on their long-form applications all agreements that affect designated entity status such as partnership agreements, shareholder agreements, management agreements and other agreements, including oral agreements, establishing, as applicable, *de facto* or *de jure* control of the entity. Such information must be maintained at the licensees' facilities or by their designated agents for the term of the license in order to enable the Commission to audit designated entity eligibility on an ongoing basis.

* * * * *

6. Section 1.2112 is revised to read as follows:

§ 1.2112 Ownership disclosure requirements for short- and long-form applications.

(a) Each application to participate in competitive bidding (*i.e.*, short-form application (*see* 47 CFR 1.2105)), or for a license, authorization, assignment, or transfer of control shall disclose fully the real party or parties in interest and must list the following information:

(1) The name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held.

(2) In the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to the percentage of equity paid in or the percentage of distribution of profits and losses);

(3) In the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership;

(4) In the case of a limited liability company, the name, address and citizenship of each of its members whose interest in the applicant is 10 percent or greater.

(5) All parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest.

(6) Any FCC-licensed entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (5) of this section, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant (*e.g.*, Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant);

(b) *Designated Entity Status:* In addition to the information required under paragraph (a) of this section, each applicant claiming eligibility for small business provisions shall disclose the following:

(1) On its application to participate in competitive bidding (*i.e.*, short-form application (*see* 47 CFR 1.2105)),

(i) List the names, addresses, and citizenship of all officers, directors, and other controlling interests of the applicant, as described in § 1.2110;

(ii) List any FCC-licensed entity or applicant for an FCC license, in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant;

(iii) List separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium;

(2) As an exhibit to its long-form application (*i.e., see* 47 CFR 1.2107):

(i) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of *de facto* or *de jure* control; such agreements and instruments include articles of incorporation and bylaws, shareholder agreements, voting or other trust agreements, franchise agreements, and any other relevant agreements (including letters of intent), oral or written; and

(ii) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees.

(iii) List separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium.

[FR Doc. 00–21982 Filed 8–28–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–1757; MM Docket No. 99–356; RM–9779]

Radio Broadcasting Services; Mertzon, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 266A at Mertzon, Texas, in response to a petition filed by Schleicher County Radio. *See* 64 FR 73463, December 30, 1999. The coordinates for Channel 266A at Mertzon are 31–15–30 NL and 100–49–00 WL. Although Mexican concurrence has been requested for the allotment of Channel 266A at Mertzon, notification has not been received. Therefore, operation with the facilities specified for Mertzon herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement or if specifically objected to by Mexico. A filing window for Channel 266A at Mertzon will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective September 18, 2000.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–356, adopted July 26, 2000, and released August 4, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Mertzon, Channel 266A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 00–21946 Filed 8–28–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 000822243–0243–01; I.D. 082100D]

RIN 0648-AO43

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS issues this temporary action to allow the use of limited tow times by shrimp trawlers as an alternative to the use of Turtle Excluder Devices (TEDs) in inshore waters of Galveston Bay, Texas, north of the Galveston jetties, east of the Galveston Island Interstate-45 Causeway, west of the ''Shellfish Line'' in East Bay (the line running from the entrance to Robinson Bayou to the tide gauge at Marsh Point), and, in Upper Galveston Bay, south of the overhead power lines crossing from near Evergreen Point to near Barbours Cut, and, in Trinity Bay, south of the line running from the entrance of Double Bayou to Umbrella Point. Dense concentrations of marine organisms have been documented in this area and are clogging TEDs, rendering the TEDs ineffective in expelling sea turtles from the shrimp nets as well as negatively impacting fishermen's catches.

DATES: This action is effective from August 23, 2000 through 11:59 p.m. local time on September 22, 2000. Comments on this action are requested, and must be received by September 22, 2000.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 727–570–5312, or Barbara A. Schroeder, 301–713–1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species as a result of shrimp trawling activities has been documented in the Gulf of Mexico and along the Atlantic. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation

regulations (50 CFR part 223, subpart B) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year-round.

The regulations provide for the use of limited tow times as an alternative to the use of TEDs for vessels with certain specified characteristics or under certain special circumstances. The provisions of 50 CFR 223.206 (d)(3)(ii) specify that the Assistant Administrator for Fisheries, NOAA (AA), may authorize compliance with tow time restrictions as an alternative to the TED requirement, if [she] determines that the presence of algae, seaweed, debris, or other special environmental conditions in a particular area makes trawling with TED-equipped nets impracticable. The provisions of 50 CFR 223.206(d)(3)(i) specify the maximum tow times that may be used when tow-time limits are authorized as an alternative to the use of TEDs. The tow times may be no more than 55 minutes from April 1 through October 31 and no more than 75 minutes from November 1 through March 31. These tow time limits are designed to minimize the level of mortality of sea turtles that are captured by trawl nets not equipped with TEDs.

Recent Events

The Texas Parks and Wildlife Department (TPWD), informed the NMFS Southeast Regional Administrator on August 18, 2000, that the shrimp fishery in Galveston Bay has been experiencing serious problems since early August caused by an unusually high abundance of the bryozoan, *Zoobotryon verticillatum*. TPWD has observed heavy catches of the bryozoans in working shrimp vessels in Galveston Bay, and has supplied NMFS with photographic documentation of the problem. TPWD divers have also encountered the bryozoans in mats over 2 feet (61 cm) thick along the bottom of the bay.

Drought conditions have produced salinities exceeding 30 parts per thousand in Galveston Bay. Elevated salinities and water temperatures are believed to be responsible for the extraordinarily high concentrations of bryozoans, *Zoobotryon verticillatum*. The dense, filamentous bryozoan fills shrimp nets and becomes lodged in the TEDs after relatively short periods of towing, rendering the TEDs ineffective in expelling sea turtles from the shrimp nets as well as negatively impacting fishermen's catches.

The TPWD requested that NMFS use its authority to allow the use of limited tow times for a 30-day period as an alternative to the use of TEDs in Galveston Bay, north of the Galveston jetties, east of the Galveston Island Interstate-45 Causeway, west of the ''Shellfish Line'' in East Bay (the line running from the entrance to Robinson Bayou to the tide gauge at Marsh Point), and, in Upper Galveston Bay, south of the overhead power lines crossing from near Evergreen Point to near Barbours Cut, and, in Trinity Bay, south of the line running from the entrance of Double Bayou to Umbrella Point. Essentially, most of Galveston Bay, excluding the upper half of Trinity Bay and the eastern quarter of East Bay, is included in the exemption area requested by TPWD. According to local shrimpers, they were able to relocate to bryozoan-free areas initially, but, as the bryozoan concentration has spread, they are unable to find clear areas to trawl throughout virtually all of the bay. TPWD's investigation has confirmed the widespread nature of the problem. Under the current conditions, tows longer than 20-30 minutes cannot be made because of the large catches of bryozoans. Shrimpers report that shrimp can be found interspersed within the bryozoan mats. TEDs become quickly blocked with the organisms, making them non-functional for turtle escape and sometimes requiring shrimpers to empty the net from the mouth rather than the tail bag. This process is much slower and a sea turtle that might be incidentally caught with the bryozoan mats would be submerged for a longer period of time than if the net can be emptied from the tail bag.

Special Environmental Conditions

The AA finds that the impacts of the current drought conditions in eastern Texas on Galveston Bay have created special environmental conditions that may make trawling with TED-equipped nets impracticable. Therefore, the AA issues this notification to authorize the use of restricted tow times as an alternative to the use of TEDs in inshore waters of Galveston Bay. TPWD is continuing to monitor the situation and will cooperate with NMFS in determining the ongoing extent of the bryozoan occurrence in Galveston Bay. Moreover, TPWD has stated that TPWD game wardens would enforce the restricted tow times and commit additional effort to the task. Ensuring compliance with tow time restrictions is critical to effective sea turtle protection, and the commitment from the TPWD Director of Coastal Fisheries to provide additional enforcement of the tow time restrictions is an important factor enabling NMFS to issue this authorization. NMFS and TPWD will monitor the situation to ensure there is adequate protection for sea turtles in this area and to determine whether bryozoan concentrations continue to make TED use impracticable.

Continued Use of TEDs

NMFS encourages shrimp trawlers in Galveston Bay, Texas, to continue to use TEDs if possible, even though they are authorized under this action to use restricted tow times. NMFS studies have shown that the problem of clogging by seagrass, algae or debris is not unique to TED-equipped nets. When fishermen trawl in problem areas, they may experience clogging with or without TEDs. A particular concern of fishermen, however, is that clogging in a TED-equipped net may hold open the turtle escape opening and increase the risk of shrimp loss. If shrimpers intend primarily to harvest shrimp that are intermixed with the bryozoans, then they will most likely want to remove their TEDs, but they will have to contend with extremely heavy catches of the bryozoan that will force them to use very short tows. On the other hand, TEDs do help exclude certain types of debris and allow shrimpers to conduct longer tows.

Shrimpers should consider legally modifying their TEDs to exclude the bryozoan mats to allow them to catch shrimp in clear areas of bottom. NMFS' gear experts recommend several modifications to maximize the debris exclusion ability of TEDs that may allow some fishermen to continue using TEDs without resorting to restricted tow times. To exclude debris, NMFS recommends the use of hard TEDs made of either solid rod or of hollow pipe that incorporate a bent angle at the escape opening, in a bottom-opening configuration. In addition, the installation angle of a hard TED in the trawl extension is an important performance element in excluding debris from the trawl. High installation angles can result in debris clogging the bars of the TED; NMFS recommends an installation angle of 45°, relative to the normal horizontal flow of water through the trawl, to optimize the TED's ability to exclude turtles and debris. Even lower angles may be necessary to exclude the bulky bryozoan. Furthermore, the use of accelerator funnels, which are allowable modifications to hard TEDs, is not recommended in areas with heavy amounts of debris or vegetation. Lastly, the webbing flap that is usually installed to cover the turtle escape opening may be modified to help exclude debris quickly: the webbing flap can either be cut horizontally to shorten it so that it does not overlap the frame

of the TED or be slit in a fore-and-aft direction to facilitate the exclusion of debris.

All of these recommendations represent legal configurations of TEDs for shrimpers fishing in inshore waters of Galveston Bay who are not subject to special requirements effective in the Gulf Shrimp Fishery-Sea Turtle Conservation Area. This action does not authorize any other departure from the TED requirements, including any illegal modifications to TEDs. In particular, if TEDs are installed in trawl nets, they may not be sewn shut.

Alternative to Required Use of TEDs

The authorization provided by this temporary rule applies to all shrimp trawlers that would otherwise be required to use TEDs in accordance with the requirements of 50 CFR 223.206(d)(2) who are operating in inshore waters of Galveston Bay, Texas, north of the Galveston jetties, east of the Galveston Island Interstate-45 Causeway, west of the ''Shellfish Line'' in East Bay (the line running from the entrance to Robinson Bayou to the tide gauge at Marsh Point), and, in Upper Galveston Bay, south of the overhead power lines crossing from near Evergreen Point to near Barbours Cut, and, in Trinity Bay, south of a line running from the entrance of Double Bayou to Umbrella Point. '' Inshore waters,'' as defined at 50 CFR 222.102, means the marine and tidal waters landward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by NOAA (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80. Instead of the required use of TEDs, shrimp trawlers may opt to comply with the sea turtle conservation regulations by using restricted tow times. A shrimp trawler utilizing this authorization must limit tow times to no more than 55 minutes, measured from the time trawl doors enter the water until they are retrieved from the water. This authorization is in effect until 11:59 p.m. local time on September 22, 2000.

Alternative to Required Use of TEDs; Termination

The AA, at any time, may modify the alternative conservation measures through publication in the **Federal Register**, if necessary to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the AA may modify the affected area or impose any necessary additional or more stringent measures, including more restrictive tow times or synchronized tow times, if the AA determines that the alternative authorized by this temporary rule is not sufficiently protecting turtles, as evidenced by observed lethal takes of turtles aboard shrimp trawlers, elevated sea turtle strandings, or insufficient compliance with the authorized alternative. The AA may also terminate this authorization for these same reasons, or if compliance cannot be monitored effectively, or if conditions do not make trawling with TEDs impracticable. The AA may modify or terminate this authorization, as appropriate, at any time. A document will be published in the **Federal Register** announcing any additional sea turtle conservation measures or the termination of the tow time option in Galveston Bay. This authorization will expire automatically at 11:59 p.m. on September 22, 2000, unless it is explicitly extended through another notification published in the **Federal Register**.

Classification

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

The AA has determined that this action is necessary to respond to an emergency situation to allow more efficient fishing for shrimp, while providing adequate protection for endangered and threatened sea turtles pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this temporary rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment. The AA finds that unusually high densities of bryozoans (*Zoobotryon verticillatum*) are creating special environmental conditions that may make trawling with TED-equipped nets impracticable. The AA has determined that the use of limited tow times for the described area and time would not result in a significant impact to sea turtles. Notice and comment are contrary to the public interest in this instance because providing notice and comment would prevent the agency from providing relief within the necessary time frame. The public was provided with notice and an opportunity to comment on 50 CFR 223.206(d)(3)(ii).

Pursuant to 5 U.S.C. 553(d)(1), because this temporary rule relieves a restriction, it is not subject to a 30-day delay in effective date. NMFS is making the rule effective August 23, 2000 through 11:59 p.m. local time on September 22, 2000.

Since prior notice and an opportunity for public comment are not required to be provided for this action by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 et seq. are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notices such as this. Copies of the EA are available (see **ADDRESSES**).

Dated: August 23, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries National Marine Fisheries Service.

[FR Doc. 00–21936 Filed 8–23–00; 4:56 pm]

Billing Code: 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 970930235-8028-02; I.D. 082300B]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

ACTION: Closure.

SUMMARY: NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the overfished Gulf king mackerel resource.

DATES: The closure is effective 12:01 a.m., local time, August 26, 2000, through June 30, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, 727-570-5305, fax 727-570-5583, e-mail Mark.Godcharles@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery

Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Based on the Councils' recommended annual total allowable catch and the allocation ratios in the FMP, NMFS implemented an annual commercial quota for the Gulf of Mexico migratory group of king mackerel in the western zone of 1.05 million lb (0.48 million kg) (63 FR 8353, February 19, 1998).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of Federal Register. NMFS has determined that the commercial quota of 1.05 million lb (0.48 million kg) for Gulf group king mackerel in the western zone will be reached on August 25, 2000. Accordingly, the commercial fishery for Gulf group king mackerel in the western zone is closed at 12:01 a.m., local time, August 26, 2000, through June 30, 2001, the end of the fishing year. The boundary between the eastern and western zones is 87°31'06″ W. long., which is a line directly south from the Alabama/Florida boundary.

Until July 1, 2001, no person aboard a vessel for which a commercial permit for king mackerel has been issued, other than a vessel operating as a charter vessel or headboat, may fish for or retain king mackerel in or from the western zone in the EEZ. A vessel for which a charter vessel/headboat permit and a commercial king mackerel permit have been issued is operating as a charter vessel or headboat when it carries a paying passenger or when more than three persons are aboard, including captain and crew. A person, other than captain or crew, aboard a vessel operating as a charter vessel or headboat may fish for or retain king mackerel in or from the western zone under the bag and possession limits of 50 CFR 622.39(c)(1)(ii).

During the closure, king mackerel taken from the western zone in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the western zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

Classification

This action responds to the best available information recently obtained from the fishery. The closure must be implemented immediately to prevent an overrun of the commercial quota (50 CFR 622.42(c)(1)) of Gulf group king mackerel, given the capacity of the fishing fleet to harvest the quota quickly. Overruns could potentially lead to further overfishing and unnecessary delays in rebuilding this overfished resource. Any delay in implementing this action would be impractical and contrary to the Magnuson-Stevens Act, the FMP, and the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is waived.

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

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

Dated: August 24, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–22045 Filed 8–24–00; 4:40 pm]

Billing Code: 3510–22–S

Proposed Rules

Federal Register
Vol. 65, No. 168
Tuesday, August 29, 2000

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

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 308

RIN 3064–AB41

Program Fraud

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation proposes to implement the Program Fraud Civil Remedies Act (PFCRA) of 1986 by means of a regulation. The proposed rule would establish administrative procedures to impose statutorily authorized civil penalties against any person who makes, submits, or presents a false, fictitious, or fraudulent statement or claim under $150,000 for property, services, or money to the FDIC in connection with FDIC employment matters, FDIC contracting activities, and the FDIC Asset Purchaser Certification Program. The scope of the proposed rule is expressly limited to exclude programs and activities of the FDIC (other than as set forth in the preceding sentence) that are related to FDIC regulatory, supervision, enforcement, insurance, receivership and liquidation matters.

DATES: Written comments must be received on or before October 30, 2000.

ADDRESSES: All comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, D.C. 20429. Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m. (FAX number (202) 898–3838; Internet address: comments@fdic.gov). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, D.C. 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Linda Rego, Counsel, Corporate Affairs Section, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, D.C. 20429, (202) 898–8740.

SUPPLEMENTARY INFORMATION:

I. Background

In October 1986, Congress enacted the Program Fraud Civil Remedies Act (PFCRA) to establish a new administrative procedure as a remedy against those who knowingly make false claims and/or false statements to entities of the federal government.[1] The statute requires specified entities of the federal government to adopt regulations that establish procedures to recover penalties and assessments against persons who file false claims or statements. The FDIC is subject to the requirements of the PFCRA pursuant to the Resolution Trust Corporation Completion Act (Pub. L. 103–204, 107 Stat. 2369), enacted December 20, 1993.

The FDIC is required by the PFCRA to promulgate the necessary rules and regulations to implement its provisions. To facilitate the implementation process and to promote uniformity in the government, an interagency task force was established by the President's Council on Integrity and Efficiency to develop model regulations for implementation of the PFCRA. The FDIC proposes to adopt the model regulations set forth by the Council's taskforce with certain substantive changes necessary due to the FDIC's status as an independent regulatory agency. Further, certain revisions have been made in order for the FDIC to comply with the requirement of section 722 of the Gramm-Leach-Bliley Act, Pub. L. 106–102, title VII, 113 Stat. 1472 (Nov. 12, 1999), codified at 12 U.S.C. 4809, for all regulations issued by the FDIC after January 1, 2000 to be written in ''plain language.''

The proposed regulation would apply to anyone who, with knowledge or reason to know, submits a false, fictitious, or fraudulent statement or claim under $150,000 for property, services, or money to the FDIC in connection with FDIC employment matters, contracting activities and the FDIC Asset Purchaser Certification Program.

The FDIC's implementation of the PFCRA is based on Congress's underlying purpose in enacting the PFCRA, which was to provide federal agencies with an administrative remedy for ''small dollar fraud'' cases for which there is no other remedy because the cases are too small for the United States Department of Justice (DOJ) to prosecute. Absent DOJ's prosecution, individuals who commit small dollar frauds against the government would profit from their wrongdoing because most agencies lack independent litigating authority. PFCRA was designed to remedy that problem.

The FDIC is different from most agencies because, pursuant to 12 U.S.C. 1819(a) Fourth, the FDIC has independent litigating authority and may pursue legal remedies through its own attorneys. The FDIC is particularly independent from representation by the DOJ when it is enforcing statutes governing financial institutions and in its receivership/liquidation activities.

Moreover, the FDIC has special administrative remedies available to it for the imposition of civil money penalties in cases relating to the FDIC's supervision and regulation of financial institutions. With respect to deposit insurance, since insurance coverage for financial institutions and deposit insurance payments to depositors are not federal benefit programs or federal payments for other purposes, PFCRA should not be applied. Furthermore, if fraud were ever to occur concerning the FDIC paying off a depositor of a failed financial institution, the FDIC would rely upon its independent litigating authority to bring an action in federal court to recover the precise amount of the insurance payment. A civil penalty procedure would not be particularly useful. For these reasons, FDIC's implementation of the PFCRA only to FDIC employment matters, FDIC contracting activities and the FDIC Asset Purchaser Certification Program recognizes Congress's intent that PFCRA provide administrative remedies for cases where the FDIC may have no other viable monetary remedy. The scope of the proposed rule is also limited to

[1] The Program Fraud Civil Remedies Act was originally enacted as subtitle VI(B) of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99–509, 100 Stat. 1874) and is codified at 31 U.S.C. 3801 *et seq.*

clearly exclude claims and statements pertaining to deposit insurance.

The PFCRA provides for designated investigative and reviewing officials, an administrative hearing process, and an agency appeal procedure with limited judicial review. In accordance with these requirements, the FDIC's proposed regulation provides that the Inspector General or a designee will act as the Investigating Official; the General Counsel or a designee will serve as the Reviewing Official; an administrative law judge provided by the Office of Financial Institution Adjudication will be the Presiding Officer; and the Board of Directors of the FDIC will act as Authority Head on appeals.

In addition to providing procedures for dealing with the filing of false claims or statements, § 308.502(c) of the proposed regulation provides procedures for assessing civil penalties against those doing business with the FDIC who intentionally fail to file declarations and/or certifications required by law. The provision carries out the statutory mandate of the so-called ''Byrd Amendment'' [2] (31 U.S.C. 1352) that the failure to file a declaration and/or certification concerning lobbying activities which is required by that statute is punishable using procedures adopted pursuant to the PFCRA. The same is true for any affirmative false statements concerning lobbying activities.

The proposed procedures would be established by adding a new subpart to 12 CFR part 308, subpart T. The procedures set forth in subpart T would apply only to proceedings under PFCRA or 31 U.S.C. 1352. Further, a technical amendment is proposed to make it clear that the Uniform Rules and subpart B of the Local Rules under part 308 would not apply to proceedings initiated under subpart T.

II. Debt Collection Improvement Act of 1996

The Debt Collection Improvement Act of 1996 provides for the FDIC adjusting civil money penalties every four years in accordance with a formula based on the rate of inflation, which is set forth in section 5 of 28 U.S.C. 2461, note. The draft notice of proposed rulemaking includes paragraph (d) to 12 CFR 308.530, determining the amount of penalties and assessments. The paragraph states that civil money penalties that may be assessed for PFCRA violations under the subpart are subject to adjustment on a four-year basis to account for inflation and cross-references 12 CFR 308.132(c)(3)(xv), which sets forth the current amount of the civil money penalty that may be assessed. The amount of civil money penalties that the FDIC may access for PFCRA violations has been adjusted for inflation in 12 CFR 308.132(c)(3)(xv) from the statutory amount of $5,000 per claim or statement to an amount that is currently $5,500. A conforming technical amendment to 12 CFR 308.132(c)(3)(xv) is also proposed, which would change the phrase ''$5,500 per day'' to correctly state ''$5,500 per claim or statement.''

Comments are invited on all issues relating to these proposed rules.

III. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the FDIC hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The FDIC has reached this conclusion because the rule imposes no compliance or regulatory requirements but will apply only when the FDIC determines that a false claim has been knowingly filed and pursues a PFCRA action to recover penalties and assessments.

IV. Paperwork Reduction Act

No collections of information pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

V. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998). No assessment or certification to the OMB and Congress is required.

For the reasons set forth in the preamble, the FDIC proposes to amend part 308 of title 12 of chapter III of the Code of Federal Regulations as follows:

Lists of Subjects in 12 CFR Part 308

Administrative practice and procedure, Banks, banking, Claims, Crime, Equal access to justice, Fraud, Hearing procedure, Investigations, Lawyers, Penalties, State nonmember banks.

PART 308—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 308 is revised to read as follows:

Authority: 5 U.S.C. 504, 554–557; 12 U.S.C. 93(b), 164, 505, 1817, 1818, 1820, 1828, 1829, 1829b, 1831o, 1832(c), 1884(b), 1972, 3102, 3108(a), 3349, 3909, 4717; 15 U.S.C. 78(h) and (i), 78o–4(c), 78o–5, 78q–1, 78s, 78u, 78u–2, 78u–3, and 78w; 28 U.S.C. 2461 note; 31 U.S.C. 330, 3809, 5321; 42 U.S.C. 4012a; sec. 31001(s), Pub. L. 104–134, 110 Stat. 1321–358.

2. Revise § 308.101(b) to read as follows:

§ 308.101 Scope of Local Rules.

* * * * *

(b) Except as otherwise specifically provided, the Uniform Rules and subpart B of the Local Rules shall not apply to subparts D through T of the Local Rules.

* * * * *

3. Revise § 308.132(c)(3)(xv) to read as follows:

§ 308.132 Assessment of penalties.

* * * * *

(c) * * *

(3) * * *

(xv) *Civil money penalties assessed for false claims and statements pursuant to the Program Fraud Civil Remedies Act.* Pursuant to the Program Fraud Civil Remedies Act (31 U.S.C. 3802), civil money penalties of not more than $5,500 per claim or statement may be assessed for violations involving false claims and statements.

* * * * *

4. Add new subpart T to read as follows:

Subpart T—Program Fraud Civil Remedies and Procedures

Sec.

[2] The Byrd Amendment prohibits recipients of federal contracts, grants, loans, or cooperative agreements from using funds appropriated by any act for lobbying of agency officials or employees and members of Congress in connection with the making, awarding, extension, continuation, renewal, amendment or modifications of any federal contract, grant, loan, or cooperative agreement. The Byrd Amendment also provides for certain disclosures, declarations and/or certifications concerning lobbying activities, in connection with federal contracts, grants, or loans, whether or not appropriated funds are used. These requirements apply to all persons who request or receive a federal contract, grant, or cooperative agreement valued at $100,000 or greater, and persons who request or receive a loan of at least $150,000.

Subpart T—Program Fraud Civil Remedies and Procedures

§ 308.500 Basis, purpose, and scope.

(a) *Basis.* This subpart implements the Program Fraud Civil Remedies Act, Pub. L. 99–509, sections 6101–6104, 100 Stat. 1874 (October 21, 1986), codified at 31 U.S.C. 3801–3812, (PFCRA) and made applicable to the Federal Deposit Insurance Corporation (FDIC) by section 23 of the Resolution Trust Corporation Completion Act (Pub. L. 103–204, 107 Stat. 2369). 31 U.S.C. 3809 of the statute requires each Authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This subpart: (1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present or cause to be made, submitted, or presented false, fictitious, or fraudulent claims or written statements to the FDIC or to its agents; and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

(c) *Scope.* This subpart applies only to persons who make, submit, or present or cause to be made, submitted, or presented false, fictitious, or fraudulent claims or written statements to the FDIC or to its agents acting on behalf of the FDIC in connection with FDIC employment matters, FDIC contracting activities, and the FDIC Asset Purchaser Certification Program. It does not apply to false claims or statements made in connection with programs (other than as set forth in the preceding sentence) related to the FDIC's regulatory, supervision, enforcement, insurance, receivership or liquidation responsibilities. The FDIC is restricting the scope of applicability of this subpart because other civil and administrative remedies are adequate to redress fraud in the areas not covered.

§ 308.501 Definitions.

For purposes of this subpart:

(a) *Administrative Law Judge (ALJ)* means the presiding officer appointed by the Office of Financial Institution Adjudication pursuant to 12 U.S.C. 1818 note and 5 U.S.C. 3105.

(b) *Authority* means the Federal Deposit Insurance Corporation (FDIC).

(c) *Authority head* or *Board* means the Board of Directors of the FDIC, which is herein designated by the Chairman of the FDIC to serve as head of the FDIC for PFCRA matters.

(d) *Benefit* means, in the context of ''statement'' as defined in 31 U.S.C. 3801(a)(9), any financial assistance received from the FDIC that amounts to $150,000 or less. The term does not include the FDIC's deposit insurance program.

(e) *Claim* means any request, demand, or submission:

(1) Made to the FDIC for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from the FDIC or to a party to a contract with the FDIC;

(i) For property or services if the United States:

(A) Provided such property or services;

(B) Provided any portion of the funds for the purchase of such property or services; or

(C) Will reimburse such recipient or party for the purchase of such property or services;

(ii) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States:

(A) Provided any portion of the money requested or demanded; or

(B) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(3) Made to the FDIC that has the effect of decreasing an obligation to pay or account for property, services, or money.

(f) *Complaint* means the administrative complaint served by the reviewing official on the defendant under § 308.506 of this subpart.

(g) *Corporation* means the Federal Deposit Insurance Corporation.

(h) *Defendant* means any person alleged in a complaint under § 308.506 of this subpart to be liable for a civil penalty or assessment under § 308.502 of this subpart.

(i) *Government* means the United States Government.

(j) *Individual* means a natural person.

(k) *Initial decision* means the written decision of the ALJ required by § 308.509 or § 308.536 of this subpart, and includes a revised initial decision issued following a remand or a motion for consideration.

(l) *Investigating official* means the Inspector General of the FDIC, or an officer or employee of the Inspector General designated by the Inspector General. The investigating official must serve in a position that has a rate of basic pay under the pay scale utilized by the FDIC that is equal to or greater than 120 percent of the minimum rate of basic pay for grade 15 under the federal government's General Schedule.

(m) *Knows or has reason to know*, means that a person, with respect to a claim or statement:

(1) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(2) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(3) Acts in reckless disregard of the truth or falsity of the claim or statement.

(n) *Makes*, wherever it appears, includes the terms ''presents'', ''submits'', and ''causes to be made, presented, or submitted.'' As the context requires, ''making'' or ''made'', likewise includes the corresponding forms of such terms.

(o) *Person* means any individual, partnership, corporation, association, or private organization, and includes the plural of that term.

(p) *Representative* means an attorney, who is a member in good standing of the bar of any state, territory, or possession of the United States or of the District of Columbia or the Commonwealth of Puerto Rico, and designated by a party in writing.

(q) *Reviewing official* means the General Counsel of the FDIC or his designee who is:

(1) Not subject to supervision by, or required to report to, the investigating official;

(2) Not employed in the organizational unit of the FDIC in which the investigating official is employed; and

(3) Serving in a position that has a rate of basic pay under the pay scale utilized by the FDIC that is equal to or greater than 120 percent of the minimum rate of basic pay for grade 15 under the federal government's General Schedule.

(r) *Statement* means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made:

(1) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(2) With respect to (including relating to eligibility for):

(i) A contract with, or a bid or proposal for a contract with; or

(ii) A grant, loan, or benefit received, directly or indirectly, from the FDIC, or any state, political subdivision of a state, or other party, if the United States government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the government will reimburse such state, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

§ 308.502 Basis for civil penalties and assessments.

(a) *Claims.* (1) A person who makes a false, fictitious, or fraudulent claim to the FDIC is subject to a civil penalty of up to $5,000 per claim. A claim is false, fictitious, or fraudulent if the person making the claim knows, or has reason to know, that:

(i) The claim is false, fictitious, or fraudulent; or

(ii) The claim includes, or is supported by, a written statement that asserts a material fact which is false, fictitious or fraudulent; or

(iii) The claim includes, or is supported by, a written statement that:

(A) Omits a material fact; and

(B) Is false, fictitious, or fraudulent as a result of that omission; and

(C) Is a statement in which the person making the statement has a duty to include the material fact; or

(iv) The claim seeks payment for providing property or services that the person has not provided as claimed.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim will be considered made to the FDIC, recipient, or party when the claim is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or on behalf of the FDIC, recipient, or party.

(4) Each claim for property, services, or money that constitutes any one of the elements in paragraph (a)(1) of this section is subject to a civil penalty regardless of whether the property, services, or money is actually delivered or paid.

(5) If the FDIC has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section will also be subject to an assessment of not more than twice the amount of such claim (or portion of the claim) that is determined to constitute a false, fictitious, or fraudulent claim under paragraph (a)(1) of this section. The assessment will be in lieu of damages sustained by the FDIC because of the claims.

(6) The amount of any penalty assessed under paragraph (a)(1) of this section will be adjusted for inflation in accordance with § 308.132(c)(3)(xv) of this part.

(7) The penalty specified in paragraph (a)(1) of this section is in addition to any other remedy allowable by law.

(b) *Statements.* (1) A person who submits to the FDIC a false, fictitious or fraudulent statement is subject to a civil penalty of up to $5,000 per statement. A statement is false, fictitious or fraudulent if the person submitting the statement to the FDIC knows, or has reason to know, that:

(i) The statement asserts a material fact which is false, fictitious, or fraudulent; or

(ii) The statement omits a material fact that the person making the statement has a duty to include in the statement; and

(iii) The statement contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement will be considered made to the FDIC when the statement is actually made to an agent, fiscal intermediary, or other entity, including any state or political subdivision thereof, acting for or on behalf of the FDIC.

(4) The amount of any penalty assessed under paragraph (a)(1) of this section will be adjusted for inflation in accordance with § 308.132(c)(3)(xv) of this part.

(5) The penalty specified in paragraph (a)(1) of this section is in addition to any other remedy allowable by law.

(c) *Failure to file declaration/certification.* Where, as a prerequisite to conducting business with the FDIC, a person is required by law to file one or more declarations and/or certifications, and the person intentionally fails to file such declaration/certification, the person will be subject to the civil penalties as prescribed by this subpart.

(d) *Intent.* No proof of specific intent to defraud is required to establish liability under this section.

(e) *Liability.* (1) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held jointly and severally liable for a civil penalty under this section.

(2) In any case in which it is determined that more than one person is liable for making a claim under this section on which the FDIC has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

§ 308.503 Investigations.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted:

(1) The subpoena will identify the person to whom it is addressed and the authority under which the subpoena is issued and will identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving such subpoena will be required to provide the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available, and the reasons therefor, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the PFCRA may be warranted, the investigating official will submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section will preclude or limit an investigating official's discretion to refer allegations

directly to the United States Department of Justice (DOJ) for suit under the False Claims Act (31 U.S.C. 3729 *et seq.*) or other civil relief, or to preclude or limit the investigating official's discretion to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

§ 308.504 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 308.503(b) of this subpart, the reviewing official determines that there is adequate evidence to believe that a person is liable under § 308.502 of this subpart, the reviewing official will transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 308.506 of this subpart.

(b) Such notice will include:

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 308.502 of this subpart;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known, or upon an absence of any information indicating that the person may be unable to pay such amount.

§ 308.505 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 308.506 of this subpart only if:

(1) The DOJ approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1); and

(2) In the case of allegations of liability under § 308.502(a) of this subpart with respect to a claim (or a group of related claims submitted at the same time as defined in paragraph (b) of this section) the reviewing official determines that the amount of money or the value of property or services demanded or requested does not exceed $150,000.

(b) For the purposes of this section, a group of related claims submitted at the same time will include only those claims arising from the same transaction (*e.g.*, grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section will be construed to limit the reviewing official's authority to join in a single complaint against a person claims that are unrelated or were not submitted simultaneously, regardless of the amount of money, or the value of property or services, demanded or requested.

§ 308.506 Complaint.

(a) On or after the date the DOJ approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 308.507 of this subpart.

(b) The complaint will state:

(1) The allegations of liability against the defendant, including the statutory basis for liability, or identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer and to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal, as provided in § 308.509 of this subpart.

(c) At the same time the reviewing official serves the complaint, he or she will provide the defendant with a copy of this subpart.

§ 308.507 Service of complaint.

(a) Service of a complaint will be made by certified or registered mail or by delivery in any manner authorized by rule 4(c) of the Federal Rules of Civil Procedure (28 U.S.C. App.). Service is complete upon receipt.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by:

(1) Affidavit of the individual serving the complaint by delivery;

(2) A United States Postal Service return receipt card acknowledging receipt; or

(3) Written acknowledgment of receipt by the defendant or his or her representative.

§ 308.508 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer will be deemed to be a request for hearing.

(b) In the answer, the defendant:

(1) Must admit or deny each of the allegations of liability made in the complaint;

(2) Must state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Must state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(c) If the defendant is unable to file an answer meeting the requirements of paragraph (b) of this section within the time provided:

(1) The defendant may, before the expiration of 30 days from service of the complaint, file with the reviewing official a general answer denying liability and requesting a hearing, and a request for an extension of time within which to file an answer meeting the requirements of paragraph (b) of this section.

(2) The reviewing official will file promptly with the ALJ the complaint, the general answer denying liability, and the request for an extension of time as provided in § 308.510 of this subpart.

(3) For good cause shown, the ALJ may grant the defendant up to 30 additional days within which to file an answer meeting the requirements of paragraph (b) of this section.

§ 308.509 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 308.508(a) of this subpart, the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ will promptly serve on defendant in the manner prescribed in § 308.507 of this subpart, a notice that an initial decision will be issued under this section.

(c) If the defendant fails to answer, the ALJ will assume the facts alleged in the complaint to be true, and, if such facts establish liability under § 308.502 of this subpart, the ALJ will issue an initial

decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision will become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision will be stayed pending the ALJ's decision on the motion.

(f) If, in the motion to reopen under paragraph (e) of this section, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ will withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and will grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion to reopen under paragraph (e) of this section is not subject to reconsideration under § 308.537 of this subpart.

(h) The decision denying the motion to reopen under paragraph (e) of this section may be appealed by the defendant to the Board by filing a notice of appeal with the Board within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal will stay the initial decision until the Board decides the issue.

(i) If the defendant files a timely notice of appeal with the Board, the ALJ will forward the record of the proceeding to the Board.

(j) The Board will decide whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the Board decides that extraordinary circumstances excuse the defendant's failure to file a timely answer, the Board will remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the Board decides that the defendant's failure to file a timely answer is not excused, the Board will reinstate the initial decision of the ALJ, which will become final and binding upon the parties 30 days after the Board issues such decision.

§ 308.510 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official will file the complaint and answer with the ALJ. The reviewing official will include the name, address, and telephone number of a representative of the Corporation.

§ 308.511 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ will promptly serve a notice of hearing upon the defendant in the manner prescribed by § 308.507 of this subpart. At the same time, the ALJ will send a copy of such notice to the representative of the Corporation.

(b) The notice will include:

(1) The tentative time, date, and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Corporation and of the defendant, if any; and

(6) Other matters as the ALJ deems appropriate.

§ 308.512 Parties to the hearing.

(a) The parties to the hearing will be the defendant and the Corporation.

(b) Pursuant to the False Claims Act (31 U.S.C. 3730(c)(5)), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

§ 308.513 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the FDIC who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case:

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the Board, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ will not be responsible to, or subject to the supervision or direction of, the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the FDIC will be an attorney employed in the FDIC's Legal Division; however, the representative of the FDIC may not participate or advise in the review of the initial decision by the Board.

§ 308.514 Ex parte contacts.

No party or person (except employees of the ALJ's office) will communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

§ 308.515 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. An affidavit alleging conflict of interest or other reason for disqualification must accompany the motion.

(c) Such motion and affidavit must be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections will be deemed waived.

(d) Such affidavit must state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of such facts. The representative of record must certify that the affidavit is made in good faith and this certification must accompany the affidavit.

(e) Upon the filing of such a motion and affidavit, the ALJ will proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ will dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case will be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the Board may determine the matter only as part of the Board?s review of the initial decision upon appeal, if any.

§ 308.516 Rights of parties.

Except as otherwise limited by this subpart, all parties may:

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law which will be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law.

§ 308.517 Authority of the ALJ.

(a) The ALJ will conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to:

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(12) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(13) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this subpart.

(c) The ALJ does not have the authority to make any determinations regarding the validity of federal statutes or regulations or of directives, rules, resolutions, policies, orders or other such general pronouncements issued by the Corporation.

§ 308.518 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ will schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleading, including the need for a more definite statement;

(3) Stipulations and admissions of fact as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses (subject to the objection of other parties) to waive appearance at an oral hearing and to submit only documentary evidence and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time, date, and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

§ 308.519 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 308.503(b) of this subpart are based, unless such documents are subject to a privilege under federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 308.504 of this subpart is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 308.508 of this subpart.

§ 308.520 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admission of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 308.521 and 308.522 of this subpart, the term *documents* includes information, documents, reports, answers, records, accounts, papers, and other data or documentary evidence. Nothing contained in this subpart will be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ will regulate the timing of discovery.

(d) *Motions for discovery.* (1) A party seeking discovery may file a motion with the ALJ a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition, must accompany such motions.

(2) Within 10 days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 308.523 of this subpart.

(3) The ALJ may grant a motion for discovery only if he or she finds that the discovery sought:

(i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 308.523 of this subpart.

(e) *Dispositions.* (1) If a motion for deposition is granted, the ALJ will issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena will specify the time, date, and place at which the deposition will be held.

(2) The party seeking to depose must serve the subpoena in the manner prescribed in § 308.507 of this subpart.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within 10 days of service.

(4) The party seeking to depose must provide for the taking of a verbatim transcript of the deposition, and must

make the transcript available to all other parties for inspection and copying.

(f) Each party must bear its own costs of discovery.

§ 308.521 Exchange of witness lists, statements, and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties must exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 308.532(b) of this subpart. At the time such documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, must provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ will not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided in paragraph (a) of this section unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section will be deemed to be authentic for the purpose of admissibility at the hearing.

§ 308.522 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena must file a written request not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request must specify any documents to be produced and must designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena must specify the time, date, and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena must serve it in the manner prescribed in § 308.507 of this subpart. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within 10 days after service or on or before the time specified in the subpoena for compliance if it is less than 10 days after service.

§ 308.523 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery will not be conducted;

(2) That the discovery will be conducted only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery will be conducted only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed or otherwise kept confidential;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.

§ 308.524 Witness fees.

The party requesting a subpoena must pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage must accompany the subpoena when served, except that when a subpoena is issued on behalf of the FDIC, a check for witness fees and mileage need not accompany the subpoena.

§ 308.525 Form, filing, and service of papers.

(a) *Form.* (1) Documents filed with the ALJ must include an original and two copies.

(2) Every pleading and paper filed in the proceeding must contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g., motion to quash subpoena).

(3) Every pleading and paper must be signed by, and must contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed by certified or registered mail. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ must, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than those required to be served as prescribed in § 308.507 of this subpart must be made by delivering a copy or by placing a copy of the document in the United States mail, postage prepaid, and addressed to the party's last known address. When a party is represented by a representative, service must be made upon such representative in lieu of the actual party. The ALJ may authorize facsimile transmission as an acceptable form of service.

(c) *Proof of service.* A certificate by the individual serving the document by personal delivery or by mail, setting forth the manner of service, will be proof of service.

§ 308.526 Computation of time.

(a) In computing any period of time under this subpart or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays observed by the federal government will be excluded from the computation.

(c) Where a document has been served or issued by placing it in the mail, an additional 5 days will be added to the time permitted for any response.

§ 308.527 Motions.

(a) Any application to the ALJ for an order or ruling must be by motion. Motions must state the relief sought, the authority relied upon, and the facts alleged, and must be filed with the ALJ and served on all other parties. Motions may include, without limitation, motions for summary judgment.

(b) Except for motions made during a prehearing conference or at the hearing, all motions must be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or any other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ will make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

§ 308.528 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for:

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to, those listed in paragraphs (c), (d), and (e) of this section, must reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought; and

(4) Strike any part of the related pleading or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this subpart commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief, or other document which is not filed in a timely fashion.

§ 308.529 The hearing and burden of proof.

(a) The ALJ will conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 308.502 of this subpart, and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The FDIC must prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant must prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing will be open to the public unless otherwise ordered by the ALJ for good cause shown.

§ 308.530 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the Board, upon appeal, should evaluate any circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the Board in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statement) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in a similar transaction;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a state, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section will be construed to limit the ALJ or the Board from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

(d) Civil money penalties that are assessed pursuant to this subpart are subject to adjustment on a four-year basis to account for inflation as required by section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (codified at 28 U.S.C. 2461, note) (*see also* § 308.132(c)(3)(xv)).

§ 308.531 Location of hearing.

(a) The hearing may be held:

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement at issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party will have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing will be held at the place and at the time ordered by the ALJ.

§ 308.532 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing will be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. The party offering a written statement must provide all other parties with a copy of the written statement along with the last known address of the witness. Sufficient time must be allowed for other parties to subpoena the witness for cross-examination at the hearing. Prior written statements and deposition transcripts of witnesses identified to testify at the hearing must be exchanged as provided in § 308.521(a) of this subpart.

(c) The ALJ will exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to:

(1) Make the interrogation and presentation effective for the ascertainment of the truth;

(2) Avoid needless consumption of time; and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ will permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination will be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ will order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of:

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party appearing for the entity pro se or designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Corporation engaged in assisting the representative for the Corporation.

§ 308.533 Evidence.

(a) The ALJ will determine the admissibility of evidence.

(b) Except as provided in this subpart, the ALJ will not be bound by the Federal Rules of Evidence (28 U.S.C. App.). However, the ALJ may apply the Federal Rules of Evidence where appropriate, *e.g.,* to exclude unreliable evidence.

(c) The ALJ will exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under federal law.

(f) Evidence concerning offers of compromise or settlement will be inadmissible to the extent provided in rule 408 of the Federal Rules of Evidence.

(g) The ALJ will permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record must be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 308.523 of this subpart.

§ 308.534 The record.

(a) The hearing will be recorded by audio or videotape and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits, and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the Board.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 308.523 of this subpart.

§ 308.535 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ will fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

§ 308.536 Initial decision.

(a) The ALJ will issue an initial decision based only on the record, which will contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact will include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions of such claims or statements, violate § 308.502 of this subpart; and

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 308.530 of this subpart.

(c) The ALJ will promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ will at the same time serve all parties with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the Board. If the ALJ fails to meet the deadline contained in this paragraph, he or she will notify the parties of the reason for the delay and will set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the Board, or a motion for reconsideration of the initial decision is timely filed, the initial decision will constitute the final decision of the Board and will be final and binding on the parties 30 days after it is issued by the ALJ.

§ 308.537 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service is made by mail, receipt will be presumed to be 5 days from the date of mailing in the absence of proof to the contrary.

(b) Every motion for reconsideration must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. The motion must be accompanied by a supporting brief.

(c) Responses to the motions will be allowed only upon order of the ALJ.

(d) No party may file a motion for reconsideration of an initial decision

that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) If the ALJ denies a motion for reconsideration, the initial decision will constitute the final decision of the FDIC and will be final and binding on all parties 30 days after the ALJ denies the motion, unless the final decision is timely appealed to the Board in accordance with § 308.538 of this subpart.

(g) If the ALJ issues a revised initial decision, that decision will constitute the final decision of the FDIC and will be final and binding on the parties 30 days after it is issued, unless it is timely appealed to the Board in accordance with § 308.538 of this subpart.

§ 308.538 Appeal to the Board of Directors.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the Board by filing a notice of appeal with the Board in accordance with this section.

(b)(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 308.537 of this subpart has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The Board may extend the initial 30-day period for an additional 30 days if the defendant files with the Board a request for an extension within the initial 30-day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the Board, the ALJ will forward the record of the proceeding to the Board.

(d) A notice of appeal will be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Corporation may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the Board.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the Board will not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the Board that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the Board will remand the matter to the ALJ for consideration of such additional evidence.

(j) The Board may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment determined by the ALJ in any initial decision.

(k) The Board will promptly serve each party to the appeal with a copy of the decision of the Board and a statement describing the right of any person determined to be liable for a penalty or an assessment to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this subpart and within 60 days after the date on which the Board serves the defendant with a copy of the Board's decision, a determination that a defendant is liable under § 308.502 of this subpart is final and is not subject to judicial review.

§ 308.539 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the Board a written finding that continuation of the administrative process described in this subpart with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the Board will stay the process immediately. The Board may order the process resumed only upon receipt of the written authorization of the Attorney General.

§ 308.540 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the Board.

(b) No administrative stay is available following a final decision of the Board.

§ 308.541 Judicial review.

Section 3805 of Title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the Board imposing penalties or assessments under this subpart and specifies the procedures for such review.

§ 308.542 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of Title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this subpart and specify the procedures for such actions.

§ 308.543 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 308.541 or § 308.542 of this subpart, or any amount agreed upon in a compromise or settlement under § 308.545 of this subpart, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this section against a refund of an overpayment of federal taxes, then or later owing by the United States to the defendant.

§ 308.544 Deposit in Treasury of United States.

All amounts collected pursuant to this subpart will be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

§ 308.545 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this subpart at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The Board has exclusive authority to compromise or settle a case under this subpart any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 308.541 of this subpart or during the pendency of any action to collect penalties and assessments under § 308.542 of this subpart.

(d) The Attorney General has exclusive authority to compromise or settle a case under this subpart during the pendency of any review under § 308.541 of this subpart or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the Board, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the Board, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

§ 308.546 Limitations.

(a) The notice of hearing with respect to a claim or statement will be served in the manner specified in § 308.507 of this subpart within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of notice under § 308.509(b) of this subpart will be deemed a notice of a hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

By order of the Board of Directors.

Dated at Washington, D.C., this 27th day of July, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–21999 Filed 8–28–00; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–35–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Limited Models BN–2T and BN–2T–4R Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; Withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) that would have applied to all Pilatus Britten-Norman Limited (Britten-Norman) Models BN–2T and BN–2T–4R airplanes. The proposed AD would have required you to revise the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD was the result of reports of in-flight incidents and an accident (on airplanes other than the referenced Britten-Norman airplanes) that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. Britten-Norman has demonstrated that the language currently included in the AFM is adequate to address the conditions identified in the proposed AD for these airplanes. Therefore, AD action is not necessary to address the conditions on these airplanes and we are withdrawing the NPRM.

ADDRESSES: You may look at information related to this action at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–35–AD, 901 Locust, Room 506, Kansas City, Missouri 64106, between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Larry E. Werth, Airworthiness Directive Coordinator, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4147; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What action has FAA taken to date? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Britten-Norman Models BN–2T and BN–2T–4R airplanes that are equipped with pneumatic deicing boots. The proposal was published in the **Federal Register** as an NPRM on October 8, 1999 (64 FR 54829). The NPRM proposed to require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first sign of ice accumulation on the airplane.

Was the public invited to comment? The FAA invited interested persons to participate in the making of this amendment. We received one comment on the proposed AD. Our analysis and disposition of this comment follow:

Comment Disposition

What is the commenter's concern? Britten-Norman believes that the present wording within the AFM has provided for safe operation of the affected airplanes for many years. Therefore, Britten-Norman states that FAA should withdraw the NPRM because the requirements would be redundant.

What is FAA's response to the concern? After reviewing the current wording in the Britten-Norman AFM, we agree that the actions included in the NPRM are not necessary. We will withdraw the NPRM per the Britten-Norman request.

The FAA's Determination

What is FAA's final determination on this issue? Based on the above information, we have determined that there is no need for the NPRM, Docket No. 99–CE–35–AD, and that we should withdraw it.

Withdrawal of this NPRM does not prevent us from issuing another notice in the future, nor will it commit us to any course of action in the future.

Regulatory Impact

Does this AD involve a significant rule or regulatory action? Since this action only withdraws a proposed AD, it is not an AD and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, FAA withdraws the notice of proposed rulemaking, Docket No. 99–CE–35–AD, published in the **Federal Register** on October 8, 1999 (64 FR 54829).

Issued in Kansas City, Missouri, on August 23, 2000.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21984 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–45–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Models 208, 208A, and 208B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; Withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) that would have applied to all Cessna Aircraft Company (Cessna) Models 208, 208A, and 208B airplanes. The proposed AD would have required you to revise the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD was the result of reports of in-flight incidents and an accident (on airplanes other than the referenced Cessna airplanes) that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. Cessna has demonstrated that the design of the affected airplanes, including the language currently in the AFM, is adequate to address the conditions identified in the proposed AD for these airplanes. Therefore, AD action is not necessary to address the

conditions on these airplanes and we are withdrawing the NPRM.

ADDRESSES: You may look at information related to this action at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–45–AD, 901 Locust, Room 506, Kansas City, Missouri 64106, between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Larry E. Werth, Airworthiness Directive Coordinator, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4147; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What action has FAA taken to date? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Cessna Models 208, 208A, and 208B airplanes that are equipped with pneumatic deicing boots. The proposal was published in the **Federal Register** as an NPRM on October 12, 1999 (64 FR 55181). The NPRM proposed to require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first sign of ice accumulation on the airplane.

Was the public invited to comment? The FAA invited interested persons to participate in the making of this amendment. We received a comment on the proposed AD from Cessna. Our analysis and disposition of this comment follow:

Comment Disposition

What is the commenter's concern? Cessna provides data it believes demonstrates that the design of the affected airplanes, including the language currently in the AFM, is adequate to address the conditions identified in the proposed AD for these airplanes. Therefore, Cessna requests that FAA withdraw the NPRM.

What is FAA's response to the concern? After evaluating the data that Cessna submitted, we have determined that the design of the affected airplanes, including the language currently in the AFM, is adequate to address the conditions identified in the proposed AD for these airplanes. We will withdraw the NPRM per the Cessna request.

The FAA's Determination

What is FAA's final determination on this issue? Based on the above information, we have determined that there is no need for the NPRM, Docket No. 99–CE–45–AD, and that we should withdraw it.

Withdrawal of this NPRM does not prevent us from issuing another notice in the future, nor will it commit us to any course of action in the future.

Regulatory Impact

Does this AD involve a significant rule or regulatory action? Since this action only withdraws a proposed AD, it is not an AD and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, FAA withdraws the notice of proposed rulemaking, Docket No. 99–CE–45–AD, published in the **Federal Register** on October 12, 1999 (64 FR 55181).

Issued in Kansas City, Missouri, on August 23, 2000.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21985 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–39–AD]

RIN 2120–AA64

Airworthiness Directives; LET, a.s. Model L–420 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; Withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) that would have applied to all LET, a.s. (LET) Model L–420 airplanes. The proposed AD would have required you to revise the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. The proposed AD was the result of reports of in-flight incidents and an accident (on airplanes other than the referenced LET airplanes) that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. LET only manufactured one Model L–420 airplane and LET controls that airplane. For an unsafe condition to exist, there must be a condition that could exist or develop on other airplanes of the same type design. Because there is only one affected airplane, an AD is not necessary and we are withdrawing the NPRM.

ADDRESSES: You may look at information related to this action at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-CE–39-AD, 901 Locust, Room 506, Kansas City, Missouri 64106, between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Larry E. Werth, Airworthiness Directive Coordinator, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4147; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What action has FAA taken to date? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all LET Model L–420 airplanes that are equipped with pneumatic deicing boots. The proposal was published in the **Federal Register** as an NPRM on October 8, 1999 (64 FR 54801). The NPRM proposed to require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first sign of ice accumulation on the airplane.

Was the public invited to comment? The FAA invited interested persons to participate in the making of this amendment. LET provided a comment to the proposed AD. Our analysis and disposition of this comment follow:

Comment Disposition

What is the commenter's concern? LET states that it only manufactured one Model L–420 airplane and controls this airplane. LET will work with the FAA to revise the AFM to incorporate appropriate AFM language to address this condition for this airplane and any manufactured in the future. LET requests that FAA withdraw the NPRM because, for an unsafe condition to exist, there must be a condition that could exist or develop on airplanes of the same type design.

What is FAA's response to the concern? Since LET only manufactured one Model L–420 airplane and LET controls that airplane, we have determined that an AD is not necessary.

We will withdraw the NPRM per the LET request.

The FAA's Determination

What is FAA's final determination on this issue? Based on the above information, we have determined that there is no need for the NPRM, Docket No. 99–CE–39–AD, and that we should withdraw it.

Withdrawal of this NPRM does not prevent us from issuing another notice in the future, nor will it commit us to any course of action in the future.

Regulatory Impact

Does this AD involve a significant rule or regulatory action? Since this action only withdraws a proposed AD, it is not an AD and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, FAA withdraws the notice of proposed rulemaking, Docket No. 99–CE–39–AD, published in the **Federal Register** on October 8, 1999 (64 FR 54801).

Issued in Kansas City, Missouri, on August 23, 2000.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21986 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–112–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Dornier Model 328–100 series airplanes, that currently requires revising the Airplane Flight Manual (AFM) to provide the flightcrew with additional information regarding procedures to ensure complete pressurization of the hydraulic lines for the flaps. This action would require revising the existing AFM revision to include a flap system test to be performed prior to the first flight of the day. This action also would add a requirement, for certain airplanes, for modification of the flap actuators of the flight controls. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent an uncommanded retraction of the flaps during takeoff, which could result in an aborted takeoff and consequent potential for runway overrun.

DATES: Comments must be received by September 28, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–112–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–112–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fairchild Dornier, Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–112–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–112–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On October 19, 1998, the FAA issued AD 98–22–07, amendment 39–10854 (63 FR 57244, October 27, 1998), applicable to all Dornier Model 328–100 series airplanes, to require revising the Airplane Flight Manual (AFM) to provide the flightcrew with additional information regarding procedures to ensure complete pressurization of the hydraulic lines for the flaps. That action was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The requirements of that AD are intended to prevent an uncommanded retraction of the flaps during takeoff, which could result in an aborted takeoff and consequent potential for runway overrun.

Actions Since Issuance of Previous Rule

In the preamble to AD 98–22–07, the FAA specified that the actions required by that AD were considered to be ''interim action'' and that the FAA may consider further rulemaking action. The manufacturer now has developed a hardware modification to install a locking collar and locking sleeve at the actuator cylinder. The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, advises that the modification is intended to prevent uncommanded retraction of the flaps. The FAA has determined that further rulemaking is necessary, to require the modification on affected airplanes; this proposed AD follows from that determination.

Explanation of Relevant Service Information

The manufacturer has issued Dornier 328 All Operators Telefax (AOT) AOT–328–27–016, Revision 1, dated October 28, 1998. The AOT describes procedures for revising the Normal and Abnormal Procedures Sections of the AFM to provide the flightcrew with additional information for resetting the flap system to ensure complete pressurization of the hydraulic lines for the flaps. This revision also includes a flap system test to be performed prior to the first flight of the day.

The manufacturer also has issued Dornier 328 Service Bulletin SB–328–27–293, dated November 10, 1999, which describes procedures for modification of the flap actuators of the flight controls. The modification involves installation of a locking collar and a locking sleeve at the actuator cylinder. The LBA classified the AOT and service bulletin as mandatory and issued German airworthiness directive 1998–359/3, dated April 6, 2000, in order to assure the continued airworthiness of these airplanes in Germany.

The Dornier service bulletin references Liebherr Aerospace Service Bulletin 1048A–27–02, dated November 9, 1999, as an additional source of service information for accomplishing the modification of the flap actuators of the flight controls.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede the requirements of AD 98–22–07. This proposed AD would require revising the previously required AFM revision to include a flap system test to be performed prior to the first flight of the day. The proposed AD also would add a requirement, for certain airplanes, for modification of the flap actuators of the flight controls. The actions would be required to be accomplished in accordance with the service information described previously.

Cost Impact

There are approximately 52 series airplanes of U.S. registry that would be affected by this proposed AD.

The AFM revision that is currently required by AD 98–22–07, and retained in this AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $3,120, or $60 per airplane.

The new AFM revision that is proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AFM revision on U.S. operators is estimated to be $3,120, or $60 per airplane.

The new modification that is proposed in this AD action would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed modification on U.S. operators is estimated to be $240 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10854 (63 FR 57244, October 27, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Dornier Luftfahrt GMBH: Docket 2000–NM–112–AD. Supersedes AD 98–22–07, Amendment 39–10854.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (d)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncommanded retraction of the flaps during takeoff, which could result in an aborted takeoff and consequent potential for runway overrun, accomplish the following:

Restatement of Requirements of AD 98–22–07

Airplane Flight Manual (AFM) Revision

(a) Within 14 days after November 12, 1998 (the effective date of AD 98–22–07, amendment 39–10854), accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) Revise the Normal Procedures Section of the Dornier 328 FAA-approved Airplane Flight Manual (AFM) to include the information specified in pages 6 and 7 of Dornier 328 All Operators Telefax (AOT) AOT–328–27–016, dated July 31, 1998. This may be accomplished by inserting a copy of pages 6 and 7 of the AOT into the AFM.

(2) Revise the Abnormal Procedures Section of the Dornier 328 FAA-approved AFM to include the information specified in page 4 of Dornier 328 AOT–328–27–016, dated July 31, 1998. This may be accomplished by inserting a copy of page 4 of the AOT into the AFM.

New Requirements of This AD

New AFM Revision

(b) For all airplanes: Within 3 days after the effective date of this AD, revise the Dornier 328 FAA-approved AFM as specified in paragraphs (b)(1) and (b)(2) of this AD. Concurrent with this AFM revision, remove the AFM revisions required by paragraph (a) of this AD from the AFM.

(1) Revise the Normal Procedures Section to include the information specified in pages 4, 5, and 6 of Dornier 328 All Operators Telefax (AOT) AOT–328–27–016, Revision 1, dated October 28, 1998. This may be accomplished by inserting a copy of pages 4, 5, and 6 of the AOT into the AFM.

(2) Revise the Abnormal Procedures Section to include the information specified in page 3 of Dornier 328 AOT–328–27–016, Revision 1, dated October 28, 1998. This may be accomplished by inserting a copy of page 3 of the AOT into the AFM.

Modification

(c) For airplanes with serial numbers 3005 through 3099 inclusive, 3101 through 3108 inclusive, and 3110 through 3119 inclusive: Within 5 months after the effective date of this AD, modify the flap actuators of the flight controls, in accordance with Dornier 328 Service Bulletin SB–328–27–293, dated November 10, 1999.

Note 2: The Dornier service bulletin references Liebherr Aerospace Service Bulletin 1048A–27–02, dated November 9, 1999, as an additional source of service information for accomplishing the modification of the flap actuators of the flight controls.

Alternative Methods of Compliance

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

(2) Alternative methods of compliance, approved previously in accordance with AD 98–22–07, amendment 39–10854, are approved as alternative methods of compliance with paragraph (a) of this AD.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in German airworthiness directive 1998–359/3, dated April 6, 2000.

Issued in Renton, Washington, on August 23, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21993 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–131–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain EMBRAER Model EMB–120 series airplanes. This proposal would require installation of an additional drain at the fuselage aft section. This action is necessary to prevent mechanical blockage of the elevator control cables due to the freezing of water collected inside the fuselage between the rear pressure bulkhead and the fire wall of the auxiliary power unit. Such cable blockage could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 28, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–131–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via the Internet must contain ''Docket No. 2000–NM–131–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Robert Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6071; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the

proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the proposed AD is being requested.

• Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–131–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–131–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Departmento de Aviacao Civil (DAC), which is the airworthiness authority for Brazil, notified the FAA that an unsafe condition may exist on certain EMBRAER Model EMB–120 series airplanes. The DAC advises that it has received a report of mechanical blockage of the elevator control cables. As a result of the cable blockage, the crew had significant difficulty controlling the airplane. The blockage was caused by the freezing of water that had collected inside the fuselage between the rear pressure bulkhead and the fire wall of the auxiliary power unit (APU). The water had collected because of an obstruction within the drain. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

EMBRAER has issued Service Bulletin 120–53–0064, dated October 31, 1995, which describes procedures for installing an additional drain on the right side of the bottom of the compartment located between the rear pressure bulkhead and the APU fire wall. The new drain's shape is different from that of the existing drain. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DAC classified this service bulletin as mandatory and issued Brazilian airworthiness directive 95–11–01, dated November 22, 1995, in order to ensure the continued airworthiness of these airplanes in Brazil.

FAA's Conclusions

This airplane model is manufactured in Brazil and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 200 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $34 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $126,800, or $634 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 2000–NM–131–AD.

Applicability: Model EMB–120 series airplanes, certificated in any category, as listed in EMBRAER Service Bulletin 120–53–0064, dated October 31, 1995.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent mechanical blockage of the elevator control cable due to the freezing of water collected inside the fuselage between the rear pressure bulkhead and the fire wall of the auxiliary power unit, which could result in reduced controllability of the airplane, accomplish the following:

Drain Installation

(a) Within 400 flight hours after the effective date of this AD, install an additional drain at the fuselage aft section, in accordance with EMBRAER Service Bulletin 120–53–0064, dated October 31, 1995.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in Brazilian airworthiness directive 95–11–01, dated November 22, 1995.

Issued in Renton, Washington, on August 23, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21994 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–26–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Aerospatiale Model ATR42–500 series airplanes. This proposal would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate life limits for certain items and inspections to detect fatigue cracking in certain structures. This proposal is prompted by issuance of a new revision of the ''Time Limits'' section of the ATR42–400/500 Maintenance Planning Document, which specifies new inspections and compliance times for inspection and replacement actions. The actions specified by the proposed AD are intended to ensure that fatigue cracking of certain structural elements is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: Comments must be received by September 28, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–26–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–26–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–26–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–26–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has notified the FAA that a new revision of the ''Time Limits'' section of ATR42–400/500 Maintenance Planning Document (MPD) has been issued. [The FAA refers to the information in that section of the MPD as the Airworthiness Limitations Section (ALS).] This new revision of the MPD affects Aerospatiale Model ATR42–500 series airplanes, which are built to damage-tolerant design standards with a design economic repair life of 70,000 flights. The new revision is applicable to structural items only, and provides mandatory replacement times and structural inspection intervals approved under Joint Aviation Requirements/ Federal Aviation Regulations (§ 25.571 of the Federal Aviation Regulations (14 CFR 25.571). As airplanes gain service experience, or as results of post-certification testing and evaluation are obtained, it may become necessary to add additional life limits or structural inspections in order to ensure the continued structural integrity of the airplane.

The DGAC advises that analysis of fatigue test data has revealed that certain inspections must be performed at specific intervals to preclude fatigue cracking in certain areas of the airplane. In addition, the DGAC advises that certain life limits must be imposed for various components on these airplanes to preclude the onset of fatigue cracking in those components. Such fatigue cracking, if not corrected, could adversely affect the structural integrity of these airplanes.

Explanation of Relevant Service Information

Aerospatiale has issued a new ''Time Limits'' section of ATR42–400/500 MPD, Revision 3, dated February 1999, which includes the following:

1. Life limit times for certain structural components, or other components or equipment.

2. Structural inspection times to detect fatigue cracking of certain Structural Significant Items (SSI's).

This new revision describes new inspections and compliance times for inspection and replacement actions. Accomplishment of those actions will preclude the onset of fatigue cracking of certain structural elements of the airplane.

The DGAC has approved the previously referenced MPD in order to assure the continued airworthiness of these airplanes in France. The DGAC has not issued a corresponding airworthiness directive, although accomplishment of the additional life limits and structural inspections contained in the MPD may be considered mandatory for operators of these airplanes in France.

FAA's Conclusions

The FAA has reviewed Revision 3 of the previously referenced MPD and all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States. Pursuant to the bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has determined that Revision 3 of the MPD must be incorporated into the ALS of the Instructions for Continued Airworthiness.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a revision to the ALS of the Instructions for Continued Airworthiness to incorporate inspections to detect fatigue cracking of certain SSI's and to revise life limits for certain equipment and various components that are specified in the previously referenced maintenance document.

Explanation of Action Taken by the FAA

In accordance with airworthiness standards requiring ''damage tolerance assessments'' for transport category airplanes [§ 25.1529 of the Federal Aviation Regulations (14 CFR 25.1529), and the Appendices referenced in that section], all products certificated to comply with that section must have Instructions for Continued Airworthiness (or, for some products, maintenance manuals) that include an ALS. That section must set forth:

- Mandatory replacement times for structural components,
- Structural inspection intervals, and
- Related approved structural inspection procedures necessary to show compliance with the damage-tolerance requirements.

Compliance with the terms specified in the ALS is required by §§ 43.16 (for persons maintaining products) and 91.403 (for operators) of the Federal Aviation Regulations (14 CFR 43.16 and 91.403).

In order to require compliance with these inspection intervals and life limits, the FAA must engage in rulemaking, namely the issuance of an AD. For products certificated to comply with the referenced part 25 requirements, it is within the authority of the FAA to issue an AD requiring a revision to the ALS that includes reduced life limits, or new or different structural inspection requirements. These revisions then are mandatory for operators under § 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403), which prohibits operation of an airplane for which airworthiness limitations have been issued unless the inspection intervals specified in those limitations have been complied with.

After that document is revised, as required, and the AD has been fully complied with, the life limit or structural inspection change remains enforceable as a part of the airworthiness limitations. (This is analogous to AD's that require changes to the Limitations Section of the Airplane Flight Manual.)

Requiring a revision of the airworthiness limitations, rather than requiring individual inspections, is advantageous for operators because it allows them to record AD compliance status only once—at the time they make the revision—rather than after every inspection. It also has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

Cost Impact

The FAA estimates that 8 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $480, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Aerospatiale: Docket 2000–NM–26–AD.

Applicability: All Model ATR42–500 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure continued structural integrity of these airplanes, accomplish the following:

Airworthiness Limitations Revision

(a) Within 30 days after the effective date of this AD, revise the Airworthiness Limitations Section of the Instructions for Continued Airworthiness by incorporating the ''Time Limits'' section of the ATR42–400/500 Maintenance Planning Document, Revision 3, dated February 1999, into the Airworthiness Limitations Section.

(b) Except as provided in paragraph (c) of this AD: After the actions specified in paragraph (a) of this AD have been accomplished, no alternative inspections or inspection intervals may be approved for the structural elements specified in the documents listed in paragraph (a) of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Issued in Renton, Washington, on August 23, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21995 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–348–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace (Jetstream) Model 4101 airplanes. This proposal would require inspection of certain components, and corrective action, if necessary. This action is necessary to prevent loosening of the locknut holding the main landing gear (MLG) piston to the ramrod, which could result in detachment of the MLG piston from the ramrod and loss of hydraulic control of the MLG. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 28, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–348–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via the Internet must contain ''Docket No. 99–NM–348–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications

received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the proposed AD is being requested.

• Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–348–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–348–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace (Jetstream) Model 4101 airplanes. The CAA advises that the peening of the lockwasher, which locks the locknut holding the main landing gear (MLG) piston to the ramrod, may be insufficient in some cases. The manufacturer of the landing gear, APPH, has reported that MLG units are being returned for overhaul with locknuts having incorrectly peened lockwashers. Incorrect peening of the lockwashers would allow loosening of the locknut during operation. This condition, if not corrected, could result in detachment of the MLG piston from the ramrod and loss of hydraulic control of the MLG.

Explanation of Relevant Service Information

British Aerospace has issued Jetstream Service Bulletin J41–32–068, Revision 1, dated May 12, 2000, which describes procedures for inspecting airplane records to determine the number of landings, the overhaul status, and the presence of ink mark ''32–03'' on the left and right MLG retract actuators. Depending on the results of this inspection, the service bulletin describes procedures for corrective actions, including overhaul and replacement of the actuator, inspection of the locknut peening of the MLG retract actuator, replacement of the lockwasher and addition of ink mark ''32–03.'' Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 007–09–99 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

The Jetstream service bulletin references APPH Service Bulletin AIR86496–32–03, Revision 2, dated March 2000, as an additional source of service information for accomplishment of the inspection for loosening of the locknuts and replacement of the lockwasher.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the Jetstream service bulletin described previously, except as discussed below.

Difference Between Proposed AD and Service Bulletin

The table in paragraph 2.A.(2) of the Accomplishment Instructions of the Jetstream service bulletin specifies that no further overhaul or inspection actions are necessary for certain MLG retract actuators with fewer than 8,000 landings. However, this AD would require, for any actuator that has not been overhauled, replacement of the actuator prior to further flight or prior to the accumulation of 8,000 total landings on the actuator, whichever occurs later. The FAA has determined that such a requirement is necessary to ensure that all actuators are overhauled by an appropriate compliance threshold.

Cost Impact

The FAA estimates that 59 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $3,540, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 99–NM–348–AD.

Applicability: Model Jetstream 4101 airplanes, certificated in any category; on which any APPH main landing gear (MLG) retract actuator having part number AIR86496, any suffix, is installed.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loosening of the locknut holding the MLG piston to the ramrod, which could result in detachment of the MLG piston from the ramrod and loss of hydraulic control of the MLG, accomplish the following:

Inspection and Corrective Actions

(a) Within 18 months after the effective date of this AD: Inspect the airplane records to determine the overhaul status and number of landings on the left and right MLG retract actuators, and inspect the actuators for the presence of ink mark ''32–03,'' in accordance with Jetstream Service Bulletin J41–32–068, Revision 1, dated May 12, 2000.

(1) If both actuators have been overhauled and ink mark ''32–03'' is present on each actuator, no further action is required by this AD.

(2) For any actuator that has been overhauled but does not have ink mark ''32–03'' present on the actuator: Within 2 years after the effective date of this AD, accomplish all applicable corrective actions for that actuator (including inspection of locknut peening, lockwasher replacement, and ink marking), in accordance with Part 3 or Part 4, as applicable, of the Accomplishment Instructions of the service bulletin.

(3) For any actuator that has not been overhauled: Prior to further flight, or prior to the accumulation of 8,000 total landings on that actuator, whichever occurs later, replace the actuator with an overhauled actuator having ink mark ''32–03'' present, in accordance with Part 1 or Part 2, as applicable, of the Accomplishment Instructions of the service bulletin.

Note 2: Jetstream Service Bulletin J41–32–068, Revision 1, dated May 12,2000, refers to APPH Service Bulletin AIR86496–32–03, Revision 2, dated March 2000, as an additional source of service information for the inspection of locknut peening and the lockwasher replacement.

Spares

(b) As of the effective date of this AD, no APPH MLG retract actuator having P/N AIR86496, any suffix, may be installed on any airplane unless the actuator is marked with ink mark ''32–03.'' Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 4: The subject of this AD is addressed in British airworthiness directive 007–09–99.

Issued in Renton, Washington, on August 23, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21996 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–152–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace (Jetstream) Model 4101 airplanes. This proposal would require a functional check of the rudder pedals to ensure full and free movement at all rudder pedal positions, and modification of the forward rudder pedal boxes. This action is necessary to prevent restricted movement of the rudder pedals due to structural interference, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by September 28, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–152–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–152–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager,

International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the proposed AD is being requested.

• Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–152–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–152–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all British Aerospace (Jetstream) Model 4101 airplanes. The CAA advises that, during maintenance of two airplanes, an operator found that rudder pedal parts had rubbed against the rudder pedal box. On one of these airplanes, a rudder pedal bolt also had caught on floor structure. The restrictions were worse at full rudder travel and maximum rudder travel adjustment.

Investigation revealed that these conditions are affected by build tolerances. Cross installation of floor panels from left to right could cause the conditions. These conditions could result in restricted movement of the rudder pedals due to structural interference. Such restricted movement, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Jetstream Alert Service Bulletin J41–A27–055, dated March 10, 2000. Part 1 of the Accomplishment Instructions of the alert service bulletin describes procedures for a functional check of the left and right rudder pedals to ensure full and free movement at all rudder pedal positions. Part 2 of the Accomplishment Instructions of the alert service bulletin describes procedures for modification of the forward pedal box. This modification involves:

• Moving the rudder pedals, and measuring and correcting (if necessary) the clearances between the rod attachment bolt and the flange of the floor channel; and

• Repeating the functional check of the rudder pedals (described in Part 1), as necessary.

Accomplishment of the modification specified in the alert service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this alert service bulletin as mandatory and issued British airworthiness directive 002–03–2000 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously.

Cost Impact

The FAA estimates that 58 British Aerospace (Jetstream) Model 4101 series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed functional check, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $3,480, or $60 per airplane.

It would take approximately 6 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $20,880, or $360 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action''

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Docket 2000–NM–152–AD.

Applicability: All Model Jetstream 4101 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent restricted movement of the rudder pedals due to structural interference, which could result in reduced controllability of the airplane, accomplish the following:

Functional Check

(a) Within 60 days after the effective date of this AD, perform a functional check of the left and right rudder pedals to ensure full and free movement at all rudder pedal positions, in accordance with Part 1 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A27–055, dated March 10, 2000. If any restriction in rudder pedal movement is found, prior to further flight, accomplish the modification required by paragraph (b) of this AD.

Modification

(b) Within 8 months after the effective date of this AD, modify the forward pedal boxes [including moving the rudder pedals and measuring clearances between the rod attachment bolt and the flange of the floor channel; correcting any incorrect clearances; and repeating the functional check of the rudder pedals specified in paragraph (a) of this AD] in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A27–055, dated March 10, 2000.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in British airworthiness directive 002–03–2000.

Issued in Renton, Washington, on August 23, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–21997 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–29]

Proposed Establishment of Class D and Class E4 Airspace; New Bern, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class D and Class E4 airspace at New Bern, NC. A Federal Contract Tower will become operational at Craven County Regional Airport, NC, by October 1, 2000. The air traffic controllers will be certificated as weather observers when the tower opens. Therefore, the airport will meet criteria for Class D and Class E4 airspace. Class D surface area airspace and Class E4 airspace designated as an extension to Class D airspace are required when the control tower is open to accommodate current Standard Instrument Approach Procedures (SIAPs) and for Instrument Flight Rules (IFR) operations at the airport. This action would establish Class D airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the airport.

DATES: Comments must be received on or before September 28, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–29, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made:

''Comments to Airspace Docket No. 00–ASO–29.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class D airspace and Class E4 airspace at New Bern, NC. Class D airspace designations for airspace areas extending upward from the surface and Class E4 airspace designations for airspace areas designated as an extension to a Class D airspace area are published in Paragraphs 5000 and 6004 respectively, of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E4 airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO NC D New Bern, NC [New]

Craven County Regional Airport, NC
(Lat. 35°04′23″ N, long. 77°02′35″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4-mile radius of the Craven County Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E4 Airspace Areas Designated as an Extension to a Class D Airspace Area

* * * * *

ASO NC E4 New Bern, NC [New]

Craven County Regional Airport, NC
(Lat. 35°04′23″ N, long. 77°02′35″ W)

New Bern VOR/DME, NC

(Lat. 35°04′23″ N, long. 77°02′42″ W)

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Issued in College Park, Georgia, on August 17, 2000.

Earl Newalu,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–22043 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 822

[Docket No. 00N–1367]

Postmarket Surveillance

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to implement the postmarket surveillance (PS) provisions of the Federal Food, Drug, and Cosmetic Act (the act), as amended by the FDA Modernization Act of 1997 (FDAMA). The purpose of this proposed rule is to provide for the collection of useful data or other information necessary to protect the public health and to provide safety and effectiveness information about devices.

DATES: Submit written comments on the proposed rule by November 27, 2000. See section III of this document for the proposed effective date of a final rule based on this document. Submit written comments regarding the information collection by September 28, 2000.

ADDRESSES: Submit written comments on the proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments and other data to http://www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm. For other information about filing comments electronically, see the **SUPPLEMENTARY INFORMATION** section for information on electronic access and filing address. Submit written comments on the information collection to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington,

DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: David L. Daly, Center for Devices and Radiological Health (HFZ–510), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3060.

SUPPLEMENTARY INFORMATION:

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I. What Is the Background of This Rulemaking?

The act (21 U.S.C. 301 *et seq.*) was amended by the Medical Device Amendments of 1976 (Public Law 94–295) to give FDA broad authority over medical devices. Other laws affecting FDA's device authority under the act include the Safe Medical Devices Act of 1990 (the SMDA) (Public Law 101–629), the Medical Device Amendments of 1992 (MDA) (Public Law 102–300), and FDAMA (Public Law 105–115). The SMDA established a new provision, section 522 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360l), which was later modified by the MDA and FDAMA. This section gives FDA the authority to require manufacturers of certain medical devices to conduct postmarket surveillance. This surveillance allows for identification of potential problems with medical devices by collecting useful data that can reveal unforeseen adverse events or other information necessary to protect the public health.

FDA's decision to approve or clear a particular device is ordinarily based on limited premarket data. Even when there are premarket clinical studies, those studies typically can detect only those adverse events that are relatively frequent. PS studies can allow FDA and manufacturers to identify less common, but potentially life-threatening, device problems that were not evident during premarket development, or were noted as a potential concern that did not warrant keeping the product from reaching the market. PS establishes a way to evaluate such relatively rare events and to identify actions that may minimize patient risk, such as training, labeling, or design modification.

The act provides that FDA may require a manufacturer to conduct PS of a class II or class III device if: (1) Failure of the device would be reasonably likely to have serious adverse health consequences, (2) the device is intended to be implanted in the human body for more than 1 year, or (3) the device is intended to be life-sustaining or life-supporting and is used outside a device user facility.

A. Legislative History

Congress first granted FDA the authority to require that manufacturers of certain medical devices conduct PS with the enactment of the SMDA. They later modified this authority in FDAMA, allowing the agency more discretion in imposing PS and establishing a time limit for prospective surveillance, but leaving intact the basic authority.

The legislative history of the SMDA makes clear that the authority granted FDA under section 522 of the act to require PS of certain devices is a flexible authority that is intended to enable the agency to order manufacturers to collect data about unforeseen adverse events and other information to protect the public health. See, e.g., section 522(a) of the act (listing types of devices covered by the requirement); H. Rept. 808, 101st Cong., 2d sess., p. 32, 1990; S. Rept. 513, 101st Cong., 2d sess., p. 42, 1990.

Many problems or risks that may occur after a device is marketed cannot be detected before the device enters commerce. For a substantial majority of devices, FDA sees no clinical data before the device is commercially distributed. Section 522 of the act allows for monitoring of the earliest experience with a device once it is distributed in the general population under actual use conditions. In discussing the requirements in section 522 of the act, the House Report states that ''premarket approval cannot detect all possible problems which may occur after a device is marketed. The Committee, therefore, expects that implants and other devices critical to human health will be subject to postmarket surveillance for some appropriate period of time after they are first marketed.'' (H. Rept. 808, 101st Cong., 2d sess., p. 32, 1990).

The legislative history of the SMDA also notes weaknesses in other PS mechanisms. During passage of the SMDA, the U.S. Senate observed that the General Accounting Office (GAO) and the Office of Technology Assessment had found that reporting to FDA of potentially serious device hazards was incomplete and untimely for certain device-related injuries and malfunctions, despite FDA's mandatory medical device reporting (MDR) system. This finding was confirmed during congressional hearings. (S. Rept. 513, 101st Cong. 2d sess., p. 15, 1990.)

Although reports of device-related problems increased following the issuance of the MDR regulation (49 FR 36325, September 14, 1984), GAO found apparent under-reporting of device-related reportable events and that many firms subject to the regulation were unaware of their obligation to report device-related deaths, serious injuries, and malfunctions to FDA. GAO reported that the more serious the event, the less likely it was to be reported. GAO found that only 50 percent of class I recalls, the recall classification associated with device-related serious adverse health consequences or death, were preceded by MDR's. (PEMD–89–10, February 1989.)

In addition to the under-reporting of device-related reportable events by manufacturers, GAO concluded that problems existed with the timely receipt of information. For example, information from legislative hearings

and elsewhere shows that the manufacturer of the Bjork-Shiley 60-degree Convexo-Concave heart valve had knowledge of unexpected device failures and deficiencies in its manufacturing process. FDA did not receive timely information necessary to initiate regulatory actions promptly to protect the public or to inform those persons implanted with the heart valve of what measures should be taken to minimize their risk.

GAO also documented significant weaknesses in FDA's information gathering ability and its followup mechanisms, once information is received. The legislative history indicated a concern that FDA had not used its postmarket device authorities under section 518 of the act (21 U.S.C. 360h). These authorities empower the agency to order a notification to persons subject to a risk, and to order repair or replacement of, or reimbursement for devices. Congress attributed the agency's failure to use its authority under section 518 of the act to the agency's reluctance to assert this authority and to a weak information base that did not support aggressive regulatory action.

To address these concerns, the SMDA added a number of very important postmarket authorities to FDA's existing MDR authority, including authority to require PS for certain types of devices. In addition, the SMDA required the device industry to notify FDA of certain corrective actions, to track certain devices from the place of manufacture through the distribution chain and to the ultimate consumer, to cease distribution of a device and to notify users to cease use of the device, and to certify the number of MDR reports submitted.

In practice, the provision for mandatory surveillance contained in the SMDA was so broadly worded that it caused uncertainty about the identity of devices subject to the requirement. There was also concern that the provision for mandatory surveillance could authorize studies of indeterminate duration for devices. To address these concerns, FDAMA amended section 522 of the act to repeal mandatory surveillance, to set a presumptive limit of 3 years on studies, and to provide FDA with broad discretion to implement PS on a case-by-case basis.

B. Legal Authority

Section 522 of the act gives the agency authority to require PS of certain devices. Other provisions of the act empower FDA to implement the agency's PS authority and to monitor and enforce compliance with section 522 of the act.

Section 502(t)(3) of the act (21 U.S.C. 352(t)(3)) provides that noncompliance with requirements imposed under section 522 of the act will result in the misbranding of the device that was subject to PS. Section 301 of the act (21 U.S.C. 331) makes several actions involving misbranded devices prohibited acts, and section 301(q) specifies that noncompliance with PS and submission of false reports related to PS are prohibited acts. FDA may initiate seizure of a misbranded device under section 304 of the act (21 U.S.C. 334), and may seek injunctive, criminal, and civil relief under sections 302 and 303 of the act (21 U.S.C. 332 and 333) against individuals who commit prohibited acts.

Section 519(a) of the act (21 U.S.C. 360i(a)) gives FDA authority to issue reporting and recordkeeping requirements necessary to show a product is not misbranded. The agency is proposing to require reports and records to demonstrate that devices subject to surveillance orders comply with them and are not misbranded under 502(t) of the act.

FDA's general authority to inspect entities subject to section 522 of the act orders comes from section 704(a) of the act (21 U.S.C. 374(a)). Section 704(e) of the act authorizes the agency to inspect records required under section 519(a) of the act, including PS records that would be required by a final rule based on this proposed rule.

II. What Are the Contents of This Proposed Rule?

A. Organization and Format

The Presidential Memorandum on Plain Language issued on June 1, 1998, directed the agency to ensure that all of its documents are clear and easy to read. Part of achieving that goal involves having readers of a regulation feel that it is speaking directly to them. Therefore, the agency has attempted to incorporate plain language concepts through the use of pronouns and other plain language in this proposed rule as much as possible.

We have also organized this proposed rule to make information easier to find by grouping related sections within subparts and placing them under unnumbered, centered headings. Section headings are phrased as questions that readers, especially anyone subject to a PS order, might ask, and we have incorporated first-person personal pronouns into these headings. For example, the heading of proposed § 822.14 is, ''May I reference information previously submitted instead of submitting it again?'' The text of each section contains the answer to the question posed in the heading. Frequently, the answer is stated in terms of what ''you'' (the reader) must do. For example, the answer to ''May I reference information previously submitted instead of submitting it again?'' is, ''Yes, you may reference information that you have submitted in premarket submissions as well as other postmarket surveillance submissions. You must specify the information to be incorporated and the document number and pages where the information is located.''

We have tried to make each section of the proposed rule easy to understand by using clear and simple language rather than jargon, keeping sentences short, and using active voice rather than passive voice whenever possible. We would like your comments on how effectively we have used plain language, the organization and format of the proposed rule, and whether these have made the document clear and easy to read.

B. General

We are proposing this regulation to implement section 522 of the act, as amended by FDAMA. If a manufacturer fails to comply with requirements that FDA orders under section 522 of the act and this regulation, the device subject to the order is misbranded. In addition, the manufacturer would be committing a prohibited act under section 301(q)(1)(C) of the act by failing to comply with PS requirements.

The proposed regulation is intended to ensure that useful data or other information will be collected to address public health issues or questions related to the safety or effectiveness of devices for which the agency has issued PS orders. These issues or questions may include, among other things, the identification of unanticipated adverse events. They also may include the rate of known adverse events as the indications or conditions for use of the device change, e.g., from professional to over the counter use. We believe that the manufacturer is most likely to collect useful information through clear identification of the surveillance question(s) or issue(s) and a PS plan designed to address the question(s) or issue(s).

We have defined the following terms in § 822.3 of this proposed rule: Act, designated person, device failure, general plan guidance, investigator, life-supporting or life-sustaining device used outside a device user facility, manufacturer, postmarket surveillance,

prospective surveillance, serious adverse health consequences, specific guidance, surveillance question, and unforeseen adverse event.

Proposed § 822.4 states that the regulation applies to any manufacturer that has been ordered to conduct PS by the agency, and identifies the statutory criteria that must be met before we may order PS.

C. Notification

Section 522(a) of the act provides criteria a device must meet before we can impose PS. We may order PS of any class II or class III device if: (1) The failure of the device would be reasonably likely to have adverse health consequences, (2) the device is intended to be implanted for more than 1 year, or (3) the device is intended to be life-sustaining/life-supporting and is used outside a device user facility. This provision applies to all such devices, including devices that we review under the act, and devices (such as licensed in vitro diagnostic products) that we review under the licensing provisions of section 351 of the Public Health Service Act. In addition to the statutory criteria, we have developed additional discretionary criteria to determine when PS under section 522 of the act is an appropriate mechanism for addressing a PS question or issue. We have discussed these criteria in ''Guidance on Criteria and Approaches for Postmarket Surveillance'' (www//fda.gov/cdrh/modact/critappr.pdf). Because we will make determinations about PS on a case-by-case basis, we will notify a manufacturer in writing of the requirement to conduct PS (proposed § 822.5) as soon as we make the determination (proposed § 822.6). This may be during the review of the marketing application for the device, as the device goes to market, or after the device has been marketed for some period of time. This notification is referred to as the surveillance ''order'' and will specify the device(s) subject to the surveillance order, the reason that we are requiring PS, and any general or specific guidance that is available. We have identified the mechanisms available to appeal our decision to order PS of a particular medical device (proposed § 822.7).

We recognize that a manufacturer may have difficulty designing and submitting a PS plan to FDA within the statutory timeframe of 30 days from receipt of a surveillance order. We may, therefore, request a meeting with the affected manufacturer(s) to discuss the surveillance question and the possible approaches for the surveillance. We anticipate that this would generally occur prior to issuing a surveillance order for a particular device for the first time, and would be less likely to occur for subsequent orders for the same or similar devices. We may also request information from or meetings with manufacturers to determine whether a surveillance order is appropriate and necessary.

D. Postmarket Surveillance Plan

By law, the manufacturer must submit a plan to conduct PS within 30 days of receipt of notification of the requirement to conduct PS (the order). The manufacturer would be required to submit the original and two copies of the plan (proposed § 822.8). Under the proposed rule, foreign manufacturers will be subject to the same reporting requirements as domestic manufacturers. We believe that the inclusion of foreign manufacturers will provide information that is needed to ensure the safety of medical devices. Domestic manufacturers marketing a device for export only are also subject to the provisions of section 522(a) of the act because they are introducing the device into interstate commerce under the terms of the act.

We have identified the contents of the submission in proposed § 822.9, and the issues to be addressed in the design of the PS plan in proposed § 822.11. It is essential that the manufacturer design the plan to address the specific PS question we have identified in the order. We will include guidance to manufacturers regarding the content, preparation, and submission of PS plans in the surveillance order.

The plan must clearly describe the content and timing of interim and final reports. Each plan must outline reporting objectives, the rationale for each objective, a description of information to be reported, a description of reporting mechanisms, and proposed timeframe(s) (proposed § 822.10).

The statute requires that we determine that the person designated to conduct the surveillance has appropriate qualifications and experience. The qualifications and experience necessary will depend on the surveillance approach being used. For example, a person qualified to conduct a review and analysis of the literature and complaint files would not necessarily be qualified to conduct a prospective clinical study. Under proposed § 822.9, the plan must clearly establish the qualifications and experience of the designated person responsible for conducting the proposed surveillance.

Proposed § 822.12 identifies guidance documents available to assist a manufacturer in the preparation of a submission or the design of a PS plan. ''Guidance on Criteria and Approaches for Postmarket Surveillance'' is also available through the Center for Devices and Radiological Health (CDRH) Facts-on-Demand system and on the Internet at the CDRH website at http://www.fda.gov/cdrh/modact/critappr.pdf.

Proposed § 822.14 describes the procedure for incorporating by reference information that the manufacturer has submitted in premarket or other postmarket submissions. For example, a manufacturer may reference the description of a device that he submitted as part of the premarket notification (510(k)) submission, or the PS plan that he submitted for another device. We believe referencing information will reduce duplicative reporting, thereby reducing the burden on both the manufacturer and FDA.

Proposed § 822.15 discusses the PS period. The statute limits the prospective surveillance period to 36 months, unless FDA and the manufacturer agree to a longer period. The surveillance period is the duration of actual surveillance, not the time elapsed since the issuance of the surveillance order. If we determine that a longer period of prospective surveillance is necessary and the manufacturer does not agree, FDA and the manufacturer may employ dispute resolution under section 562 of the act (21 U.S.C. 360bbb–1). We are in the process of issuing a guidance on using dispute resolution to resolve scientific disputes concerning the regulation of medical devices.

In general, the regulations governing protection of human subjects (21 CFR part 50) and institutional review boards (IRB's) (21 CFR part 56) apply to studies of unapproved and approved products regulated by FDA. This may include PS studies, depending on the approach used. There are some approaches to PS, such as the review of published literature, where the informed consent and IRB regulations would not be applicable. For other types of studies, for example, prospective studies, the patient should be provided with the basic elements of informed consent, including the extent to which records would be kept confidential. Therefore, a manufacturer should consider the need for IRB approval and informed consent when designing a surveillance plan.

The above discussion regarding informed consent and IRB approval is not intended to preempt any State or local requirement to obtain informed consent or IRB approval. In addition, individual institutions may have requirements for informed consent and

IRB approval that apply to all researchers.

FDA does not require, nor do we generally expect, PS to result in the collection of personal identifiers. In any PS study, we expect manufacturers to ensure that the surveillance approach they use incorporates whatever measures are appropriate to protect patient privacy. Some approaches to PS, such as the review of published literature, would not require the manufacturer to take any specific steps to protect patient privacy. Moreover, many existing data bases and registries either do not capture individual identifying data or restrict access to any information that would identify an individual patient. It is unlikely, therefore, that personal identifiers will be associated with study information.

In some cases, however, we may determine that a particular PS plan requires the sponsor to take special measures to protect patient privacy. A PS plan that includes collection of personal information in identifiable form should include procedures that minimize any likelihood that patient identifiers will be transferred from the health care provider to the sponsor or any other third party except for purposes of the surveillance activity, and then only under conditions ensuring that it will be used for no other purpose.

We invite comments on the issue of informed consent for PS.

E. FDA Review and Action

In proposed § 822.16, we describe the FDA review process for PS submissions. We will first determine that the submission is administratively complete, i.e., that the manufacturer has addressed all of the elements in proposed § 822.9. We will then evaluate whether the surveillance plan is likely to result in the collection of data that will answer the surveillance question. We will evaluate the plan for scientific soundness, feasibility, and appropriateness to address the surveillance question. We will then evaluate the qualifications and experience of the person the manufacturer has designated to conduct the surveillance.

Section 522(b) of the act requires that we review PS plan submissions within 60 days of receipt (proposed § 822.17). We will notify the manufacturer in writing of the result of our review and identify any actions the manufacturer must take (proposed § 822.18). Proposed § 822.19 is a table that identifies the kinds of decisions that we may make, based on the adequacy of the PS plan, and the action that a manufacturer must take as a result of our decision. For example, if we send a manufacturer a letter stating that specific revisions or information must be submitted before we can approve the plan (an ''approvable'' letter), the manufacturer must address the concerns in the letter and submit a revised plan within the specified timeframe. We intend to use an interactive review process whenever feasible, so some revisions may be requested, made, and submitted before a final decision letter is issued.

Proposed § 822.20 describes the consequences of failure to submit a PS plan, failure to conduct surveillance in accordance with an approved plan, or failure to submit a revised plan after we disapprove a plan. Each of these failures is a failure to comply with section 522 of the act. As discussed in section I.B of this document, the failure to comply with section 522 of the act is prohibited under section 301(q) of the act. This would also mean that the device is misbranded under section 502(t)(3) of the act.

Any proposed modifications or changes in an ongoing study by the manufacturer must be submitted in writing for FDA approval prior to execution. For example, if there is a change in the designated person, the manufacturer must submit information regarding the qualifications and experience of the proposed replacement. Periods of PS under a protocol with unapproved changes may invalidate the study. Final authorization of any change rests with the agency (proposed § 822.21).

Proposed § 822.22 discusses the procedures to be followed if FDA and the manufacturer do not agree about the content of the plan or if we disapprove the plan. We anticipate that most disagreements will be resolved through a meeting with the Director of the Office of Surveillance and Biometrics, CDRH. If there are still areas of disagreement about the content of the plan, a manufacturer may use the dispute resolution process (see discussion under proposed § 822.15 above) or request a hearing under 21 CFR part 16.

Proposed § 822.23 discusses the confidentiality of the plan. Until the plan is approved, FDA considers the contents of the submission confidential. Once we approve the plan, the contents of the original submission, amendments, supplements, and reports are disclosable in accordance with the Freedom of Information Act. We will continue to protect the confidentiality of trade secret or commercial confidential information, and information identifying individual patients.

F. Responsibilities of Manufacturers

Manufacturers subject to this proposed rule must submit a plan to conduct PS within 30 days of receipt of the surveillance order (proposed § 822.24). Once the plan has been approved, the manufacturer must conduct the surveillance in accordance with the approved plan (proposed § 822.25). This means that the manufacturer must ensure that he initiates PS in a timely manner, conducts the surveillance in a scientifically sound manner, collects the data identified in the plan, and submits required reports in a timely manner. The surveillance plan and the approval order will identify timeframes for initiation of the surveillance and submission of reports.

Any change of ownership of the device results in a change of responsibility for the corresponding surveillance plan, and does not terminate it (proposed § 822.26). This applies whether the company, as a whole, changes ownership, or if only the rights to manufacture and sell the device change hands. The proposed rule contains one exception to this requirement. A manufacturer subject to this rule that is going out of business, permanently and completely, must notify FDA and discuss plans to complete or terminate PS and identify where and by whom the records will be retained (proposed § 822.27). This exception would not apply if a manufacturer ceases distribution of a device subject to PS but still continues to do any other business; under those circumstances, the manufacturer must continue to fulfill the PS requirements (proposed § 822.28).

G. Waivers and Exemptions

We recognize that there may be some circumstances where a specific requirement of this regulation may not apply or may not be feasible, given the surveillance question and the design of the PS plan. Therefore, we will consider a request for a waiver of any specific requirement of this regulation. The manufacturer may submit this request as part of the PS plan submission or separately but must include information supporting the request (proposed § 822.29).

We will consider a request for exemption from the requirement to conduct PS for a manufacturer's device or a specific model of the device. The request must explain why we should exempt the device or specific model from PS and demonstrate why the surveillance question does not apply (e.g., the device does not have the

characteristic or feature that has raised the surveillance question) or does not need to be answered. Requests for exemption should not be used to request reconsideration of our determination that PS is necessary to address a public health or safety and effectiveness issue; a manufacturer may not submit a request for a waiver or exemption in lieu of the surveillance plan.

H. Records and Reports

Proposed §§ 822.31 and 822.32 specify the records to be maintained by the manufacturer and by the investigator. These records include correspondence between FDA and the manufacturer, the manufacturer and the investigator, and between investigators; signed investigator agreements; the approved PS plan; documentation of the date and reason for any deviation from the plan; all data collected and analyses conducted for PS; and any other records required by regulation or by order. The manufacturer must retain all records for a period of 2 years after we have accepted the final report. Under some circumstances, we may require, by order, that the records be retained for a longer period of time (proposed § 822.33).

If there is a transfer of ownership or an investigator in the plan changes, the manufacturer must ensure that all records are transferred to the new manufacturer or investigator and that we are notified within 10 days of the effective date of the change. The notification must include the name, address, and telephone number of the new manufacturer or investigator and certify that all records have been transferred on the specified date (proposed § 822.34).

We will review manufacturers' PS programs during inspections. In addition, persons with PS obligations other than manufacturers, e.g., clinical investigators, will be subject to periodic inspections. Any person authorized to grant access must permit authorized FDA employees, at reasonable times and in a reasonable manner, to enter and inspect any facilities where devices are held (including any establishment where devices are packed, held, used, or implanted, or where records of results from the use of devices are kept) (proposed § 822.35).

In general, we expect manufacturers to be able to produce records required under the proposed rule within 72 hours of the initiation of an inspection (proposed § 822.36). This includes records and information required to be kept by this regulation that are in the possession of others under contract with the manufacturer to conduct the manufacturer's PS. We will state the reason or purpose for the request, and will identify to the fullest extent possible the information or type of information we are seeking. Proposed § 822.37 discusses our authority to inspect and copy records that identify subjects. Proposed § 822.38 establishes that the manufacturer must submit interim and final reports in accordance with the approved PS plan. It also specifies that we may, in accordance with section 519(a) of the act, request information or reports that are not part of the plan when we believe that it is necessary for the protection of the public health and the implementation of the act. In any such request, we will identify the information to be provided, the reason for the request, and identify how we will use the information.

III. When Will the Regulation Be Effective?

We are proposing that any final rule that may issue based on this proposed rule become effective 30 days after its date of publication in the **Federal Register**.

IV. What Is the Environmental Impact of This Regulation?

We have determined under 21 CFR 25.30(h) that this action is of a class of actions 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.

V. What Is the Economic Impact of This Regulation?

A. Introduction

We have examined the impact of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Executive Order 12866 directs us 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). The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Section 202(a) of the UMRA requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation).

We believe that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. The proposed rule is not a significant regulatory action as defined by the Executive Order. Exercise of our PS authority could have a significant impact on a substantial number of small entities. We have included a preliminary regulatory flexibility analysis at the end of this section for comment. Finally, we have determined that the proposed rule is not a significant action as defined in the UMRA, and will not have an effect on the economy that exceeds $100 million in any one year.

B. Objectives of the Proposed Rule

The objective of the proposed rule is to enhance the public health by reducing the incidence of medical device adverse experiences. The primary problem is that we currently lack data that may reveal unforeseen adverse events relevant to the safety and effectiveness of specific devices. The proposed rule will address this concern by implementing section 522 of the act, as amended by FDAMA, to require manufacturers of specific medical devices to conduct PS. We expect PS to identify uncommon, but potentially life-threatening, device-related outcomes that were not noted during premarket development, or were noted as a continuing concern but did not warrant withholding the device from the market.

C. Risk Assessment/Baseline Conditions

In the absence of the proposed regulations, neither FDA nor device manufacturers will have complete confidence that uncommon and unforeseen events have been adequately identified for marketed devices. Currently, hundreds of medical devices are marketed each year for which failure could be reasonably likely to have serious adverse health consequences, or that are intended to be implanted in a human body for more than 1 year, or that are life-sustaining or life-supporting and used outside a device user facility. Devices with these characteristics range from implantable pacemaker pulse generators and vascular graft prostheses to dental and orthopedic implants.

Our decision to approve or clear a particular device for marketing is based on a comparison of the expected health benefits of the device to the expected risk of adverse outcomes due to device

failure. Premarket clinical studies, however, are typically designed to detect only relatively frequent adverse events. As a result, we often base premarket approval decisions on risk/benefit relationships that include only relatively frequent risks. Given this lack of complete data, neither FDA nor device manufacturers can be confident about the likelihood of serious, but infrequent, adverse events. Such events can have drastic consequences on dozens, if not hundreds of patients when a device is marketed to thousands of patients. PS provides a mechanism for gaining an early awareness and better understanding of such rare events, thus preventing further unnecessary risk to patients. Surveillance may identify actions that minimize risks, such as training, labeling, design modification, or patient selection criteria. In extreme cases, surveillance may show that the subject device should be removed from the market.

D. Costs of Postmarket Surveillance

A critical cost factor is the size of the expected surveillance. We have approved some surveillance protocols under SMDA, but rescinded most of these upon passage of FDAMA. While we cannot be precise, we estimate, based on a review of currently marketed devices, that an average of six generic device types, each with an average of five manufacturers, may be the subject of PS orders each year. This frequency would result in the initiation of 30 PS orders each year. Assuming that the duration of each PS is limited to 3 years, at any given time, 90 PS studies could be ongoing and subject to FDA review. An additional 30 PS plans would be in preliminary, design stages.

The surveillance becomes larger and more extensive as the acceptable rate of adverse events becomes smaller. Statisticians explain that if one assumes a cumulative Poisson distribution, a 0.95 probability of noting an adverse event with the incidence rate of (p) implies that the product of p and the number of observations (n) must approximately equal 3 (i.e., pn=3). For example, the surveillance must include about 30,000 observations to be 95 percent confident that a PS will detect events that occur at a frequency of 0.0001 (1 event out of 10,000 observations). The PS designed to detect more frequent events requires fewer observations. The surveillance must include about 1,500 observations to be 95 percent confident that PS will detect events that occur at a frequency of 0.002 (2 events out of 1,000 observations). We, along with device manufacturers, will need to take these considerations into account when designing PS plans.

The manufacturer would generally complete the required PS within 36 months, with at least semiannual observations. (PS utilizing literature searches may require monthly searches, although less frequent reviews may be appropriate at times.) These observations would be collected by either primary data collection from controlled clinical studies, secondary data collected from other data bases or sources (such as Medicare data bases, registries or tracking systems, and other types of studies), or published studies in the medical literature as supplemented by our current reporting systems. For purposes of this analysis, we estimate that 10 percent of the PS will require primary data collection, 50 percent may utilize secondary data sources, and 40 percent may collect adequate data from published reports. Manufacturers will incur varying costs for both design and analysis/reporting/recordkeeping phases of each surveillance in addition to the costs of data collection. In addition, we will incur costs to review the data submitted by manufacturers.

E. Design Costs

We would expect the manufacturer of each device that is subject to a PS order to develop an analysis plan for implementing the data collection. We would review and approve this plan prior to initiation. The design of a PS utilizing primary data collection would require more resources than either secondary collection or literature searches. Senior industry regulatory staff would review and approve each type of PS, however, before submission to us. For this estimate, we have assumed that the design of PS utilizing primary data collection would require 3 weeks of industry staff time, PS utilizing secondary data sources would require 2 weeks of time, and PS utilizing published literature would require only 1 staff week. According to the U.S. Bureau of Labor Statistics (1997), in 1997 the median weekly rate of compensation for managerial and professional personnel in this industry group (SIC 3841) was approximately $1,300. We have assumed an additional cost of $700 per week to account for administrative and clerical resources for a total estimate of industry resources at $2,000 per week. Therefore, the design of PS utilizing primary data collection would equal $6,000, PS utilizing secondary data collection would equal $4,000, and PS utilizing only a literature search would equal $2,000. These costs would occur prior to the first year of surveillance for each study.

F. Costs of Data Collection

1. Costs for Primary Data Collection

Primary data collection utilizing clinical trials will generally be impractical because of difficulties obtaining patient and clinician participation. In addition, this type of data collection would have significant resource requirements. Primary data could, however, be used to survey smaller populations, or populations that could experience relatively high rates of adverse events. For this analysis, we have assumed that a rigorous PS plan might call for observing 300 subjects semiannually over a 3-year period. This plan would generate 1,800 total observations and might be confidently expected to identify adverse events that occur with a frequency of 0.002, or 2 per 1,000. Moreover, patient dropouts would occur and some observations would not result in usable data, raising the number of required subjects to perhaps 350. Physicians would examine patients and provide the results of these required observations directly to manufacturers.

The costs of this data collection would be significant. While in most cases, we would not require additional procedures or tests for a patient, it is possible that some extra examinations would be required to ensure that the patient's device was still functional. In addition, normal physiologic data would likely be consistently recorded, submitted to the device manufacturers, and archived for further review. We have estimated that these data would require a direct cost of $150 per observation for the physician or medical facility to collect the data and submit it in proper form to the sponsoring manufacturer. Therefore, the cost of collecting these data would equal $300 per patient per year, or $105,000 per year. The present value of the costs of collecting these primary data over a 3-year period (using a 7 percent discount rate) is $276,000 per PS.

In addition, the patient/subject is likely to incur opportunity costs associated with being part of PS clinical studies. Because the ultimate purpose of the PS is to continue marketing the device, the patient is likely to incur costs for procedures and tests that provide him or her no direct benefit. We have estimated that such trials may require approximately 1 hour of patient time (including travel). Assuming that the opportunity cost of patients is approximately $26 per hour, the annual cost to patients of lost opportunity for PS utilizing primary data is $18,200 per year. The present value of the costs of

3 years of data collection (at 7 percent discount rate) is $48,000.

We, therefore, estimate the total present value of the costs for primary data collection to be $324,000 per PS study.

2. Costs for Secondary Data Collection

The use of secondary data for PS would not be as costly as the use of primary data. Manufacturers may obtain secondary data sets from both public and private sources, depending on the nature of the proposed surveillance, and we estimate that these data would cost approximately $50,000 per year to obtain and maintain for each surveillance. These data would include sufficient observations to ensure that infrequent events would be identified, but the expected frequency level may vary by device and patient characteristics. The present value of the costs of using secondary data sources for PS (at a 7 percent discount rate for 3 years) is $131,000.

3. Costs of Conducting Literature Searches

We believe that PS utilizing reviews of published literature and analyses of our current reporting system may require monthly collections, although less frequent reviews may be acceptable for some surveillances. As a rule, we assume that a professional employee would take approximately 3 days per month to assess published accounts and ensure that any useful data are considered. As stated earlier, the median weekly compensation rate for professional employees in this industry was approximately $1,300 in 1997. This implies that the cost of reviewing published literature would equal $780 per month for professional staff resources. Administrative and clerical support would likely add an additional $420 per month for a total cost of $1,200. Annual costs for conducting this type of PS would equal $14,400, and at a 7 percent discount rate, the present value of the costs of this data collection equals $38,000.

G. Costs of Data Analysis, Reporting, and Recordkeeping

PS is likely to entail the preparation and submission of four reports during the course of all types of surveillance: An initial report at the outset, two annual interim reports, and a final report including data analysis. In addition, manufacturers will be required to keep data available for 2 years. We assume that this category of costs is likely to be equivalent for each type of PS.

The initial and interim progress reports are expected to be relatively brief. We expect that each report would require only 1 resource week of supported professional time to be completed for a cost of $2,000 per report. The final data analysis and report would be much more extensive, and could require up to 3 months of resources to complete (statistical, medical research, legal, and senior regulatory affairs staff would likely all have input to final reports). The estimated cost of preparing and submitting a final PS report is $26,000.

We estimate that the total cost of maintaining records for 2 years after completion of the surveillance will equal $500 per year. The present value of these reporting/recordkeeping costs (at a 7 percent discount rate) equals $28,000 per surveillance.

H. Total Industry Costs of Postmarket Surveillance

The annual cost to industry for the conduct of PS is the sum of the present value of the costs of the expected studies. Each PS requiring primary data collection has a present value cost of $358,000 ($6,000 for design, $324,000 for data collection (including $48,000 of patient opportunity cost), and $28,000 for reports and recordkeeping). Each PS requiring secondary data collection has a present value cost of $163,000 ($4,000 for design, $131,000 for data collection, and $28,000 for reports and recordkeeping). Each PS requiring literature searches has a present value cost of $68,000 ($2,000 for design, $38,000 for data collection, and $28,000 for reports and recordkeeping).

We expect to issue 30 PS orders each year. We expect that 10 percent (3 PS') of these will require primary data collection. The present value of the costs for these surveillances is $1.1 million. We expect that 50 percent (15 PS') of the 30 PS orders will use secondary data collection. The present value of the costs for these surveillances is $2.4 million. The remaining 40 percent of annual PS orders (12 PS') will use literature searches. The present value of the costs for these surveillances is $0.8 million. Since we expect to issue only 30 surveillance orders each year, the annual cost to industry of this regulation is the sum of the present value costs, or $4.3 million.

I. Costs to FDA for Oversight and Review

We expect that 120 reports will be submitted each year as a result of this regulation (30 initial reports, 60 interim progress reports, and 30 final data analyses). If each report, on average, required 2 weeks of review time, we will need five review fulltime employees (FTE's) to oversee the program. We would require an additional 2.5 FTE's in support and management resources. We have estimated that the cost of each FTE is approximately $117,300. Therefore, the annual cost to FDA of maintaining PS is estimated to equal $0.9 million per year.

J. Total Annual Costs of Postmarket Surveillance

We estimate that the total annual cost for operating and maintaining a PS program is $5.2 million. Most of these costs ($4.3 million) are direct costs to manufactures while $0.9 million are our costs of operating the program.

K. Benefits of the Proposed Rule

The expected benefit of the proposed rule is the reduction in avoidable adverse events attributable to the earlier detection of potential problems. Possible outcomes of PS include withdrawal of the device from the market, changes in labeling, changes in user training, modification of the device design, or (most likely) assurance that the device does not pose an unreasonable risk to the public health. These benefits are not easily quantified because they would vary by device; but the greatest benefit would be realized when other regulatory safeguards, such as early warning through the MDR system or preproduction design controls, fail to detect and resolve serious problems. To illustrate the potential benefits of PS, we reviewed our historical records to identify and quantify the benefits of a major adverse event that could reasonably have been mitigated if this proposed rule had been in place.

L. Chronology of Historical Event

A particular type of implanted heart valve was approved and quickly accepted for patient use in 1979 because of its ability to reduce the risk of blood clots in patients. The premarket decision to approve the device considered clinical data that included an observation of one failure. The device was marketed for 8 years and implanted a total of 82,000 times. By 1999, there were 462 device failures and 300 resultant fatalities.

During the first marketing year, 5,000 patients received the device and 2 devices failed. During the second year, an additional 11,000 devices were implanted and 3 devices failed. During the third year, 14,000 devices were implanted and 7 devices failed. At this point of marketing, a total of 30,000 devices had been implanted and 12 had failed. No failures were reported in

other similar devices marketed during this period.

We believe that had PS been in effect at that time, we would have likely made this device subject to a PS order because of the noted premarket strut failure. In general, any failure to any heart valve would have been deemed serious, and potentially catastrophic. We would have been concerned about the occurrence of a strut failure during premarket testing. While this concern would not have delayed marketing approval, subsequent strut failures would have been sufficient to start the PS mechanism, if it had been available.

A likely surveillance plan would have required the manufacturer to determine the frequency of strut failures and identify contributing causes. Such a plan would have likely detected problems with the device by the end of the third year; potentially avoiding a total of 52,000 implants (82,000–30,000). Given the substantial number of patients implanted and the relatively low failure rate for the number of semiannual patient observations after 3 years (12÷102,000 = .0001), it is unlikely that the required PS would have involved the collection of primary data through prospective trials. Nevertheless, by analyzing their respective failure rates by using patient registries that would include all implanted devices, the manufacturer would have noted all complications and failures. Special attention would have been paid to all adverse events (both expected and unexpected), with special attention paid to strut fractures, early valve replacement, and deaths. Because all patients and all implants would have been entered into this registry, each occurrence of valve fracture would have been noted, and this information would have been used to determine the best course of action to protect the public health. In this case, it is likely that no valves would have been implanted in patients after the third year of marketing.

M. Postmarket Surveillance and Risk Reduction

If PS prevented 63 percent of the actual implants (52,000÷82,000), then it is likely that about 63 percent of the device failures could also have been avoided. As of 1999, the device has failed 462 times. Consequently, if the device had been removed from the market after its third year, about 293 failures would have been avoided over an 18-year period (1981 to 1999). Moreover, the 65 percent fatality rate for failures implies that the 190 fatalities associated with these 293 failures would have been avoided.

N. Value of Avoided Mortality

There are no precise methodologies for estimating the value of preventing human fatalities. Economists, however, have attempted to place a dollar value on the avoidance of fatal risks based on society's implicit willingness to pay to avoid such risks. Currently, the literature shows that $5 million may represent an approximate value of society's willingness to pay to avoid a statistical fatality. This value is reduced by an appropriate discount factor, however, to the extent that the averted fatalities would occur in future time periods.

O. Frequency of Adverse Events

To develop a possible scenario of future benefits we have assumed that, once within the next 25 years, the rule would prevent an event with characteristics identical to the heart valve incident discussed above. We cannot predict the precise year of the expected future event, but based on the past pattern of device failures, if the proposed rule identified a device with the described failure characteristics in the first year after completion of the first surveillance group (actually the fourth year of implementation), the current present value dollar benefit (assuming a 7 percent interest rate) of the avoided fatalities would be $405.5 million. If PS identified a potential device failure during the 10th project year, the present value of the dollar benefits for that event would be $270.2 million. If the device failure were not identified until the 25th year, the present value of the monetized benefits would be $97.9 million. Because we assume that, in the absence of this rule, the device failure would occur only once during the next 25 years, the likelihood of an initial failure in any 1 future year is only .04. Thus, we estimate the overall expected present value of avoiding such a future device failure at $192.0 million.

However, PS is not expected to be infallible. We have estimated that typical PS design will provide a 95 percent confidence that infrequent adverse events will be identified. Therefore, we would expect to identify potential device failures such as described 95 percent of the time. To account for this, the present value of avoiding future device failures attributable to this proposed regulation is expected to equal 95 percent of the total amount, or $182.4 million.

P. Annual Benefits of the Proposed Rule

In the illustrative case described above, we have amortized society's willingness to pay to avoid these fatalities over the evaluation period. This is because the costs of PS are ongoing and would be expended each year whether a device failure occurred or not. The current net value of avoiding these fatalities ($182.4 million), when amortized over 25 years, using a 7 percent discount rate, will result in average annualized benefits of $15.7 million.

Q. Annual Costs and Benefits of the Proposed Rule

We have estimated the annual costs of PS to equal $5.2 million. We estimated benefits based on the avoidance over the next 25 years of just one serious event to equal $15.7 million per year.

R. Small Business Analysis/Initial Regulatory Flexibility Analysis

We believe that it is likely that the proposed rule will have a significant impact on a substantial number of small entities and have conducted an initial regulatory flexibility analysis. This analysis is intended to assess the impact of the rule on small entities and to alert any potentially impacted entities of the expected impact. We request that such entities review the proposed rule and submit comments to us.

S. Description of Impact

The objective of the proposed rule is to reduce the number of adverse events associated with failure of medical devices by implementing section 522 of the act, as amended by FDAMA, to require PS of specific devices. This surveillance will be designed to identify, as early as possible, potentially dangerous but rare adverse device-related events. Our statutory authority for the proposed rule is discussed earlier in this preamble.

Makers of four categories of devices are likely to be affected by the proposed regulations: Diagnostic substances (SIC 2835), surgical and medical instruments (SIC 3841), dental equipment and supplies (SIC 3843), and ophthalmic goods (SIC 3851). This proposed rule would affect manufacturers (regardless of size) of: (1) Devices for which failure would be reasonably likely to have severe health consequences, (2) devices to be implanted in a human body for more than 1 year, and (3) devices that are life-sustaining or life-supporting outside a device user facility, because PS will likely be required for some of their currently marketed and new devices.

Manufacturers within these industry groups are typically small. Over 65 percent of the establishments in these 4 industries have 20 or fewer employees and the companies have an average of

1.09 establishments per company. Manufacturers in these industries are highly specialized, with between 83 and 98 percent of establishment sales within the affected industries. In addition, between 84 and 98 percent of diagnostic, medical, dental, and ophthalmic products are supplied by establishments within these industries. The Small Business Administration classifies as small any entity with 500 or fewer employees for all 4 industries. There is a high likelihood that manufacturers of some of the devices that would be subject to this proposed rule will include small entities.

The average company in these industries has about $9.8 million in annual revenues and about 72 employees. Based on the cost assumptions described above, any company conducting PS with primary data collection would expend 3.7 percent of annual revenues. Secondary data collection would cost an average company 1.7 percent of annual revenues. (Literature searches are not expected to impose significant costs). Because 60 percent of the expected PS orders would require significant outlays, we believe that a substantial number of small entities would be significantly affected.

We specifically solicit comment on the issue of the impact of this proposed rule on small entities.

T. Analysis of Alternatives

We examined and rejected the following alternatives to the proposed rule: (1) No action, (2) reliance on premarket approval application (PMA) annual reports, (3) increased use of PMA postapproval studies, (4) reliance on MDR reports, (5) increased educational effort to improve all reporting mechanisms, and (6) exemption of small manufacturers from PS requirements. We have rejected these alternatives at this time for the following reasons:

Alternative 1

Other sources of postmarket data or information exist, including PMA annual reports and other mechanisms. However, these sources are not always adequate to address specific postmarket issues that arise for specific devices. The proposed rule describes a process that is intended to identify sources of information available to the agency and determine their ability to address the postmarket issue prior to issuing a PS order. We would be able to meet with the affected industry sector to determine what information is currently available and whether that information may be modified to answer specific public health questions. Reliance on the current sources of postmarket data would not efficiently meet the objective of reducing avoidable adverse events.

Alternative 2

We considered increasing the requirements for data submission in PMA annual reports. This alternative was rejected because not all devices that meet the PS criteria are subject to PMA annual reports, and annual reports would not be specific enough to address issues for each type of device. In addition, the costs of requiring detailed data submissions for all affected devices would be extremely high. We rejected this alternative.

Alternative 3

If we increased postapproval studies, the expected compliance costs would be much greater, since postapproval studies generally consist of primary data collection. If a postmarket issue is identifiable at the time of approval, postapproval studies could be designed to collect meaningful data. However, if an issue would arise after FDA approval, this mechanism would not be helpful in meeting the objectives of the proposed rule. In addition, because all class II devices are marketed through premarket notification procedures, postapproval studies are not an option. We rejected this alternative.

Alternative 4

We rejected the alternative of relying on an enhanced MDR system. While MDR's are extremely important in assessing public health, it is a passive system of data collection that relies on reports from concerned professionals and manufacturers or their representatives who become aware of device problems. Often MDR reports are not specific enough to address discrete issues. We believe that the public health objectives are better met by requiring more active data collection and analysis by the responsible manufacturers of particular devices.

Alternative 5

FDA did not select the alternative of increased education in lieu of PS because any educational effort would require that FDA have sufficient information. Surveillance would be ordered to collect information that might lead to educational efforts to correct any noted problem. Thus, FDA did not believe that education alone would reduce adverse events.

Alternative 6

We rejected the alternative of exempting small device manufacturers from the proposed requirements. We recognize that surveillance would likely cause a significant impact on small entities. However, the vast majority of device manufacturers are small and any exemption would seriously reduce the effectiveness of the proposed rule. In addition, devices manufactured by small entities could as easily meet the criteria the law establishes and FDA uses to impose a PS order.

We solicit comments on any other alternatives that meet the stated objective.

U. Ensuring Small Entity Participation in Rulemaking

We believe it is possible that the proposed rule could have a significant impact on a substantial number of small entities. The impact would include the costs of conducting PS for specific devices. We solicit comments from affected entities to ensure this impact is analyzed.

The proposed rule will be available on the Internet at http://www.fda.gov for review by all interested parties and comments considered. In addition, CDRH's Division of Small Manufacturers Assistance will distribute the proposed rule through its established procedures for information dissemination during the comment period to ensure there is wide notice of the proposed rule and to solicit comments from small businesses.

VI. Conclusions

We have examined the impacts of the proposed rule implementing PS for specific medical devices. Based on these estimates, the average annual quantified benefits of $15.7 million exceed the average annualized costs of conducting surveillance ($5.2 million). These benefits assume that between three and four statistical fatalities will be avoided each year because of this proposed rule. We also expect additional benefits, not easily quantifiable, such as assurance that a marketed device does not pose an unreasonable risk to the public health and improvements in the design, labeling, and user training for devices.

We have concluded that it is likely that this rule will have a significant economic impact on a substantial number of small entities.

We solicit comment on all aspects of this analysis and all assumptions used.

VII. How Can I Comment on This Proposed Rule?

A. Electronic Access and Filing Address

You may view an electronic version of this proposed rule on the Internet at http://www.fda.gov. You may also

comment on the Internet at: http://www.accessdata.fda.gov/scripts/oc/dockets/comments/commentdocket.cfm. Please include ''Attention: Docket No. 00N–1367'' and your name and return address in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at 301–827–6880. FDA is working to set up a system that would allow commenters to view already submitted comments. When this system is available, we will publish a notice in the **Federal Register**.

B. Written Comments

You may send written comments on this proposed rule electronically or by hard copy (see the **ADDRESSES** section).

All comments on the proposed rule should be specific, confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where possible, you should reference the specific section or paragraph of the proposal that you are addressing. FDA may not consider or include in the administrative record for the final rule comments that we receive after the close of the comment period (see the **DATES** section) or comments delivered to an address other than that listed above (see the **ADDRESSES** section).

VIII. How Does This Regulation Comply With the Paperwork Reduction Act of 1995?

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

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Postmarket Surveillance

Description: FDA is proposing to implement the PS provisions of section 522(a) of the act, as added to the act by the SMDA and amended by FDAMA. The purpose of these proposed changes is to provide for the collection of useful data and other information necessary to protect the public health and to provide safety and effectiveness information about the device after the device is marketed. This data or information would be different from and supplemental to information collected under other provisions, such as MDR.

Description of Respondents: Manufacturers.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
822.9 and 822.10	30	1	30	120	3,600
822.21	7	1	7	40	280
822.27	1	1	1	8	8
822.28	3	1	3	40	120
822.29	5	1	5	40	200
822.30	1	1	1	120	120
822.34	5	1	5	20	100
822.38	90	2	180	80	14,400
Total					18,828

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

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
822.31	90	1	90	20	1,800
822.32	270	1	270	10	2,700
Total					4,500

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

FDA has had limited experience with PS under SMDA, and FDAMA significantly modified the provisions of section 522 of the act. We expect that at least some of the manufacturers will be able to satisfy the PS requirement using information or data they already have or are already collecting for other purposes. For purposes of calculating burden, however, we have assumed that each PS order can only be satisfied by a 3-year clinically-based surveillance plan, using three investigators. Based on current staffing and resources, we anticipate that we will identify surveillance issues for 6 generic devices each year. On average, 5 different manufacturers will market each of those devices, so we expect to issue 30 PS orders each year.

Each manufacturer will be required to submit a PS plan (21 CFR 822.8 and 822.10) within 30 days of the receipt of the order and interim and final reports on the progress of the surveillance (21 CFR 822.38) during the course of the surveillance. After the third year of

implementation, 30 manufacturers will complete their surveillance each year. Therefore, by year three, we will have reached a steady state, with 90 manufacturers and 270 investigators in various stages of PS each year. We anticipate that we may occasionally ask for additional information, such as distribution numbers or patterns, on a case-by-case basis. We anticipate that a small number of respondents will propose changes to their PS plans (21 CFR 822.21), request a waiver of a specific requirement of this regulation (21 CFR 822.29), or request exemption from the requirement to conduct PS of their device (21 CFR 822.30). Our experience has shown that a few respondents will go out of business (21 CFR 822.27) or cease marketing the device subject to PS (21 CFR 822.28) each year. In addition, manufacturers must certify transfer of records if the sponsor or the investigator in the plan changes (21 CFR 822.34). We anticipate that this will apply to a small number of respondents.

The regulations in 21 CFR 822.26 do not constitute information collection subject to review under the PRA because ''it entails no burden other than that necessary to identify the respondent, the date, the respondent's address, and the nature of the instrument'' (21 CFR 1320.3(h)(1)).

In compliance with section 3507(d) of the PRA, we have submitted the information collection requirements of this proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection by September 28, 2000, to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

List of Subjects in 21 CFR Part 822

Postmarket surveillance, Medical devices, Reporting and recordkeeping requirements.

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 part 822 be added to read as follows:

PART 822—POSTMARKET SURVEILLANCE

Subpart A—General Provisions

Sec.

Subpart B—Notification

Subpart C—Postmarketing Surveillance Plan

Subpart D—FDA Review and Action

Subpart E—Responsibilities of Manufacturers

Subpart F—Waivers and Exemptions

Subpart G—Records and Reports

Authority: 21 U.S.C. 331, 352, 360l, 330l, 371.

Subpart A—General Provisions

§ 822.1 What does this part cover?

This part implements section 522 of the Federal Food, Drug, and Cosmetic Act (the act) by providing procedures and requirements for postmarket surveillance of certain types of devices. If you fail to comply with requirements FDA orders under section 522 of the act and this part, your device is considered misbranded under section 502(t)(2) of the act and you are in violation of section 301(q)(1)(C) of the act.

§ 822.2 What is the purpose of this part?

This purpose of this part is to implement our postmarket surveillance authority to maximize the likelihood that these postmarket plans will result in the collection of useful data. These data can reveal unforeseen adverse events, the actual rate of anticipated adverse events, and other information necessary to protect the public health.

§ 822.3 How do you define the terms used in this part?

Some of the terms we use in this part are specific to postmarket surveillance and reflect the language used in the statute (law). Other terms are more general and reflect FDA's interpretation of the law. This section of the part defines the following terms:

(a) *Act* means the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*), as amended.

(b) *Designated person* means the individual who conducts or supervises the conduct of your postmarket surveillance. If your postmarket surveillance plan includes a team of investigators, as defined below, the designated person is the responsible leader of that team.

(c) *Device failure* means a device does not perform or function as intended, and includes any deviation from the device's performance specifications or intended use.

(d) *General plan guidance* means agency guidance that provides information about the requirement to conduct postmarket surveillance, the submission of a plan to the agency for approval, the content of the submission, and the conduct and reporting requirements of the surveillance.

(e) *Investigator* means an individual who collects data or information in support of a postmarket surveillance plan.

(f) *Life-supporting or life-sustaining device used outside a device user facility* means that a device is essential to, or yields information essential to, the restoration or continuation of a bodily function important to the continuation of human life and is used outside a hospital, nursing home, ambulatory surgical facility, or diagnostic or outpatient treatment facility. A physician's office is not a device user facility.

(g) *Manufacturer* means any person, including any importer, repacker, and/or relabeler, who manufactures, prepares, propagates, compounds, assembles, processes, or engages in any of the activities described in § 807.3(d) of this chapter.

(h) *Postmarket surveillance* means the active, systematic, scientifically valid collection, analysis, and interpretation of data or other information about a marketed device.

(i) *Prospective surveillance* means that the subjects are identified at the beginning of the surveillance and data or other information will be collected from that time forward (as opposed to retrospective surveillance).

(j) *Serious adverse health consequences* means any significant adverse experience related to a device, including device-related events that are life-threatening or that involve permanent or long-term injuries or illnesses.

(k) *Specific guidance* means guidance that provides information regarding postmarket surveillance for specific types or categories of devices or specific postmarket surveillance issues. This type of guidance may be used to supplement general guidance and may address such topics as the type of surveillance approach that is appropriate for the device and the postmarket surveillance question, sample size, or specific reporting requirements.

(l) *Surveillance question* means the issue or issues to be addressed by the postmarket surveillance.

(m) *Unforeseen adverse event* means any serious adverse health consequence that is either not addressed in the labeling of the device or occurs at a rate higher than anticipated.

§ 822.4 Does this part apply to me?

If we have ordered you to conduct postmarket surveillance of a medical device under section 522 of the act, this part applies to you. We have the authority to order postmarket surveillance of any class II or class III medical device, including a device reviewed under the licensing provisions of section 351 of the Public Health Service Act, that meets any of the following criteria:

(a) Failure of the device would be reasonably likely to have serious adverse health consequences;

(b) The device is implanted in the human body for more than 1 year; or

(c) The device is used to support or sustain life and is used outside a user facility.

Subpart B—Notification

§ 822.5 How will I know if I must conduct postmarket surveillance?

We will send you a letter (the postmarket surveillance order) notifying you of the requirement to conduct postmarket surveillance. We may require that you submit information about your device that will allow us to better define the scope of a surveillance order. We will specify the device(s) subject to the surveillance order and the reason that we are requiring postmarket surveillance of the device under section 522 of the act. We will also provide you with any general or specific guidance that is available to help you develop your plan for conducting postmarket surveillance.

§ 822.6 When will you notify me that I am required to conduct postmarket surveillance?

We will notify you as soon as we have determined that postmarket surveillance of your device is necessary, based on the identification of a surveillance question. This may occur during the review of a marketing application for your device, as your device goes to market, or after your device has been marketed for a period of time.

§ 822.7 What should I do if I do not agree that postmarket surveillance is appropriate?

If you do not agree with our decision to order postmarket surveillance for a particular device, there are a number of mechanisms you may use to request review of our decision. These include:

(a) Requesting a meeting with the Director, Office of Surveillance and Biometrics, Center for Devices and Radiological Health, who generally issues the order for postmarket surveillance;

(b) Seeking internal review of the order under 21 CFR 10.75;

(c) Requesting an informal hearing under 21 CFR part 16; or

(d) Requesting review by the Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee.

Subpart C—Postmarket Surveillance Plan

§ 822.8 When, where, and how must I submit my postmarket surveillance plan?

You must submit your plan to conduct postmarket surveillance within 30 days of the date you receive the postmarket surveillance order. For devices regulated by the Center for Devices and Radiological Health, you should send three copies of your submission to the Center for Devices and Radiological Health, Postmarket Surveillance Document Center (HFZ–510), 1350 Piccard Dr., Rockville, MD, 20850. For devices regulated by the Center for Biologics Evaluation and Research, you should send three copies of your submission to Center for Biologics Evaluation and Research, Document Control Center, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. When we receive your original submission, we will send you an acknowledgement letter identifying the unique document number assigned to your submission. You should use this number in any correspondence related to this submission.

§ 822.9 What must I include in my submission?

Your submission must include the following:

(a) Organizational/administrative information:

(1) Your name and address;

(2) Generic and trade names of your device;

(3) Name and address of the contact person for the submission;

(4) Premarket application/submission numbers for your device;

(5) Table of contents identifying the page numbers for each section of the submission;

(6) Description of the device (this may be incorporated by reference to the appropriate premarket application/submission);

(7) Product codes and a list of all relevant model numbers; and

(8) Indications for use and claims for the device;
(b) Postmarket surveillance plan;
(c) Designated person information:
(1) Name, address, and telephone number; and
(2) Experience and qualifications.

§ 822.10 What must I include in my surveillance plan?

Your surveillance plan must include a discussion of:
(a) The plan objective(s) addressing the surveillance question(s) identified in our order;
(b) The subject of the study, e.g., patients, the device, animals;
(c) The variables and endpoints that will be used to answer the surveillance question, e.g., clinical parameters or outcomes;
(d) The surveillance approach or methodology to be used;
(e) Sample size and units of observation;
(f) Sources of data, e.g., hospital records;
(g) The data collection plan and forms;
(h) The patient followup plan, if applicable;
(i) The procedures for monitoring conduct and progress of the surveillance;
(j) An estimate of the duration of surveillance;
(k) All data analyses and statistical tests planned; and
(l) The content and timing of reports.

§ 822.11 What should I consider when designing my plan to conduct postmarket surveillance?

You must design your surveillance to address the postmarket surveillance question identified in the order you received. You should also consider the function, operating characteristics, and intended use of your device when designing a surveillance approach.

§ 822.12 Do you have any information that will help me prepare my submission or design my postmarket surveillance plan?

We have issued guidance for the development of postmarket surveillance plans which discusses the contents of a plan and points to consider in developing one. We have also issued guidance on criteria and approaches for postmarket surveillance, which discusses the criteria that we use to determine when postmarket surveillance under section 522 of the act is appropriate and necessary. The guidance identifies and discusses a broad range of surveillance approaches and describes the circumstances for which each would be suitable. These guidance documents are available on the Internet and from the Center for Devices and Radiological Health, Office of Surveillance and Biometrics (HFZ–510), 1350 Piccard Dr., Rockville, MD 20850.

§ 822.13 [Reserved]

§ 822.14 May I reference information previously submitted instead of submitting it again?

Yes, you may reference information that you have submitted in premarket submissions as well as other postmarket surveillance submissions. You must specify the information to be incorporated and the document number and pages where the information is located.

§ 822.15 How long must I conduct postmarket surveillance of my device?

The length of postmarket surveillance will depend on the postmarket surveillance question identified in our order. We may order prospective surveillance for a period up to 36 months; longer periods require your agreement. If we believe that a prospective period of greater than 36 months is necessary to address the surveillance question, and you do not agree, we will use our dispute resolution procedures.

Subpart D—FDA Review and Action

§ 822.16 What will you consider in the review of my submission?

First, we will determine that the submission is administratively complete. Then, in accordance with the law, we must determine whether the designated person has appropriate qualifications and experience to conduct the surveillance and whether the surveillance plan will result in the collection of useful data that will answer the surveillance question.

§ 822.17 How long will your review of my submission take?

We will review your submission within 60 days of receipt.

§ 822.18 How will I be notified of FDA's decision?

We will send you a letter notifying you of our decision and identifying any action you must take.

§ 822.19 What kinds of decisions may FDA make?

If your plan:	Then we will send you:	And you must:
(a) Should result in the collection of useful data that will address the postmarket surveillance question	An approval order, identifying any specific requirements related to your postmarket surveillance	Conduct postmarket surveillance of your device in accordance with the approved plan.
(b) Should result in the collection of useful data that will address the postmarket surveillance question after specific revisions are made or specific information is provided	An approvable letter identifying the specific revisions or information that must be submitted before your plan can be approved	Revise your postmarket surveillance submission to address the concerns in the approvable letter and submit it to us within the specified timeframe. We will determine the timeframe case by case, based on the types of revisions or information that you must submit.
(c) Does not meet the requirements specified in this part	A letter disapproving your plan and identifying the reasons for disapproval	Revise your postmarket surveillance submission and submit it to us within the specified timeframe. We will determine the timeframe case by case, based on the types of revisions or information that you must submit.
(d) Is not likely to result in the collection of useful data that will address the postmarket surveillance question	A letter disapproving your plan and identifying the reasons for disapproval	Revise your postmarket surveillance submission and submit it to us within the specified timeframe. We will determine the timeframe case by case, based on the types of revisions or information that you must submit.

§ 822.20 What are the consequences if I fail to submit a postmarket surveillance plan, my plan is disapproved and I fail to submit a new plan, or I fail to conduct surveillance in accordance with my approved plan?

The failure to have an approved postmarket surveillance plan or failure to conduct postmarket surveillance in accordance with the approved plan constitutes failure to comply with section 522 of the act. Your failure would be a prohibited act under section 301(q)(1)(B) of the act, and your device would be misbranded under section 502(t)(2) of the act. This means that we could seek to impose a number of penalties, including civil money penalties, criminal penalties, seizure of your products, or court injunction against further marketing of your device.

§ 822.21 What must I do if I want to make changes to my postmarket surveillance plan after you have approved it?

You must submit a request to make the proposed change and a revised postmarket surveillance plan (if needed) and receive our approval prior to making changes in your plan. You should identify this as a supplement to your postmarket surveillance submission, citing the unique document number that we assigned, and specifically identify the changes to the plan and the reasons/justification for making the changes in your cover letter.

§ 822.22 What recourse do I have if I do not agree with your decision?

If you disagree with us about the content of your plan or if we disapprove your plan, there are a number of mechanisms you may use to request review of our decision. These include:

(a) Requesting a meeting with the Director, Office of Surveillance and Biometrics, Center for Devices and Radiological Health, who generally issues the order for postmarket surveillance;

(b) Seeking internal review of the order under 21 CFR 10.75;

(c) Requesting an informal hearing under 21 CFR part 16; or

(d) Requesting review by the Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee.

§ 822.23 Is the information in my submission considered confidential?

We consider the content of your submission confidential until we have approved your postmarket surveillance plan. After we have approved your plan, the contents of the original submission and any amendments, supplements, or reports may be disclosed in accordance with the Freedom of Information Act. We will continue to protect trade secret and confidential commercial information after your plan is approved. We will not disclose information identifying individual patients. You may wish to indicate in your submission which information you consider trade secret or confidential commercial.

Subpart E—Responsibilities of Manufacturers

§ 822.24 What are my responsibilities when I am notified that I am required to conduct postmarket surveillance?

You must submit your plan to conduct postmarket surveillance to us within 30 days from receipt of the order (letter) notifying you that you are required to conduct postmarket surveillance of a device.

§ 822.25 What are my responsibilities after my postmarket surveillance plan has been approved?

After we have approved your plan, you must conduct the postmarket surveillance of your device in accordance with your approved plan. This means that you must ensure that:

(a) Postmarket surveillance is initiated in a timely manner;

(b) The surveillance is conducted in a scientifically sound manner and with due diligence;

(c) The data identified in the plan is collected;

(d) Any reports required as part of your approved plan are submitted to the agency in a timely manner; and

(e) Any information that we request prior to your submission of a report or in response to our review of a report is provided in a timely manner.

§ 822.26 If my company changes ownership, what must I do?

You must notify us within 30 days of any change in ownership of your company. Your notification should identify any changes to the name or address of the company, the contact person, or the designated person (as defined in § 822.3(b)). Your obligation to conduct postmarket surveillance will generally transfer to the new owner, unless you have both agreed that you will continue to conduct the surveillance. If you will continue to conduct the postmarket surveillance, you still must notify us of the change in ownership.

§ 822.27 If I go out of business, what must I do?

You must notify us within 30 days of the date of your decision to close your business. You should provide the expected date of closure and discuss your plans to complete or terminate postmarket surveillance of your device. You must also identify who will retain the records related to the surveillance (described in subpart G of this part) and where the records will be kept.

§ 822.28 If I stop marketing the device subject to postmarket surveillance, what must I do?

You must continue to conduct postmarket surveillance in accordance with your approved plan even if you no longer market the device. You may request that we allow you to terminate postmarket surveillance or modify your postmarket surveillance because you no longer market the device. We will make these decisions on a case-by-case basis, and you must continue to conduct the postmarket surveillance unless we notify you that you may stop your surveillance study.

Subpart F—Waivers and Exemptions

§ 822.29 May I request a waiver of a specific requirement of this part?

You may request that we waive any specific requirement of this part. You may submit your request, with supporting documentation, separately or as a part of your postmarket surveillance submission to the address in § 822.7.

§ 822.30 May I request exemption from the requirement to conduct postmarket surveillance?

You may request exemption from the requirement to conduct postmarket surveillance for your device or any specific model of that device at any time. You must comply with the requirements of this part unless and until we grant an exemption for your device. Your request for exemption must explain why you believe we should exempt the device or model from postmarket surveillance. You should demonstrate why the surveillance question does not apply to your device or does not need to be answered for the device for which you are requesting exemption. Alternatively, you may provide information that answers the surveillance question for your device with supporting documentation to the address in § 822.7.

Subpart G—Records and Reports

§ 822.31 What records am I required to keep?

You must keep copies of:

(a) All correspondence with your investigators or FDA, including required reports;

(b) Signed agreements from each of your investigators, when applicable, stating the commitment to conduct the surveillance in accordance with the

approved plan, any applicable FDA regulations, and any conditions of approval for your plan, such as reporting requirements;

(c) Your approved postmarket surveillance plan, with documentation of the date and reason for any deviation from the plan;

(d) All data collected and analyses conducted in support of your postmarket surveillance plan; and

(e) Any other records that we require to be maintained by regulation or by order.

§ 822.32 What records are the investigators in my surveillance plan required to keep?

Your investigator must keep copies of:

(a) All correspondence with another investigator, FDA, or you, including required reports.

(b) The approved postmarket surveillance plan, with documentation of the date and reason for any deviation from the plan.

(c) All data collected and analyses conducted for postmarket surveillance.

(d) Any other records that we require to be maintained by regulation or by order.

§ 822.33 How long must we keep these records?

You and your investigators must keep all records for a period of 2 years after we have accepted your final report, unless we specify otherwise.

§ 822.34 What must I do with the records if the sponsor of the plan or an investigator in the plan changes?

If the sponsor of the plan or an investigator in the plan changes, you must ensure that all records related to the postmarket surveillance have been transferred to the new sponsor or investigator and notify us within 10 days of the effective date of the change. You must provide the name, address, and telephone number of the new sponsor or investigator, certify that all records have been transferred, and provide the date of transfer.

§ 822.35 Can FDA inspect my manufacturing site or other sites involved in my postmarket surveillance plan?

We can review your postmarket surveillance programs during regularly scheduled inspections, inspections initiated to investigate recalls or other similar actions, and inspections initiated specifically to review your postmarket surveillance plan. We may also inspect any other person or site with postmarket surveillance obligations, such as clinical investigators or contractors. Any person authorized to grant access to a facility must permit authorized FDA employees to enter and inspect any facility where the device is held or where records regarding postmarket surveillance are held.

§ 822.36 Can FDA inspect and copy the records related to my postmarket surveillance plan?

We may, at a reasonable time and in a reasonable manner, inspect and copy any records pertaining to the conduct of postmarket surveillance that are required to be kept by this part. You must be able to produce records and information required by this part that are in the possession of others under contract with you to conduct the postmarket surveillance. We also expect those who have signed agreements or are under contract with you to produce the records and information upon our request. This information must be produced within 72 hours of the initiation of the inspection. We generally will redact information pertaining to individual subjects prior to copying those records, unless there are extenuating circumstances.

§ 822.37 Under what circumstances would FDA inspect records identifying subjects?

We can inspect and copy records identifying subjects under the same circumstances that we can inspect any records relating to postmarket surveillance. The agency is likely to be interested in such records if we have reason to believe that required reports have not been submitted, or are incomplete, inaccurate, false, or misleading.

§ 822.38 What reports must I submit to FDA?

You must submit interim and final reports as specified in your approved postmarket surveillance plan. In addition, we may ask you to submit additional information when we believe that the information is necessary for the protection of the public health and implementation of the act. We will also state the reason or purpose for the request and how we will use the information.

Dated: August 18, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–21827 Filed 8–28–00; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 240–0254b; FRL–6856–5]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns volatile organic compound (VOC) emissions from the use of organic solvents. We are proposing to approve a local rule to regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by September 28, 2000.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revision at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite #200, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (Air–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1199.

SUPPLEMENTARY INFORMATION: This proposal addresses SJVUAPCD Rule 4661. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in a subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so

at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: August 8, 2000.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 00–21910 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN98–1b, IN125–1b; FRL–6854–5]

Approval and Promulgation of Implementation Plans; Indiana Source-Specific Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to limitations for two facilities in Lake County, Indiana. These limitations concern particulate matter from Lever Brothers facility and both particulate matter and sulfur dioxide from NIPSCo's Dean Mitchell Station. Indiana requested these revisions on February 3, 1999, and December 28, 1999, respectively.

In separate action in today's **Federal Register**, EPA is approving the submittals as a direct final rule without prior proposal, because the EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this action is set forth in the direct final rule.

If EPA receives no adverse written comments in response to these actions, we contemplate no further activity in relation to this proposed rule. If we receive adverse written comments, we will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: EPA must receive comments by September 28, 2000.

ADDRESSES: Mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the State submittal is available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, at (312) 886–6067.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 4, 2000.

Francis X. Lyons,

Regional Administrator, Region 5.

[FR Doc. 00–21912 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6858–6]

RIN 2060–AH47

National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to indefinitely stay the compliance date for the process contact cooling tower (PCCT) provisions for existing affected sources producing poly(ethylene terephthalate) (PET) using the continuous terephthalic acid (TPA) high viscosity multiple end finisher process. We are proposing this stay of the compliance date because the EPA is in the process of responding to a request to reconsider relevant portions of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Group IV Polymers and Resins which may result in changes to the emission limitation which applys to PCCT in this subcategory.

In the ''Rules and Regulations'' section of this **Federal Register**, we are finalizing this stay without prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule. If we receive an adverse comment on this action, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: *Comments:* Written comments must be received by September 28, 2000, unless a hearing is requested by September 8, 2000. If a hearing is requested, written comments must be received by October 13, 2000.

Public Hearing. Anyone requesting a public hearing must contact the EPA by September 8, 2000. If requested, a public hearing will be held in Research Triangle Park, North Carolina at 10:30 a.m. on September 12, 2000.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–92–45 (Group IV Polymers and Resins), Room M–1500, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. The EPA requests that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina.

Docket. Docket number A–92–45, containing information relevant to this proposed rulemaking, is available for public inspection between 8:00 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460, telephone: (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel, Organic Chemicals Group, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5608, electronic mail address rosensteel.bob@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: *a-and-r-docket@epa.gov.* Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number A–92–45. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed

online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Bob Rosensteel, U.S. EPA, c/o OAQPS Document Control Officer, 411 W. Chapel Hill Street, Room 944, Durham NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Maria Noell, U.S. Environmental Protection Agency, MD–13, Research Triangle Park, NC 27711, telephone (919) 541–5607, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Maria Noell to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning this proposed rule.

Docket. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA). An index for the docket, as well as individual items contained within the docket, may be obtained by calling (202) 260–7548 or (202) 260–7549. A reasonable fee may be charged for copying docket materials. The docket index is also available by facsimile, as described on the Office of Air and Radiation, Docket and Information Center Website at http://www.epa.gov/airprogm/oar/docket/faxlist.html.

World Wide Web. In addition to being available in the docket, an electronic copy of this proposed rule is also available through the World Wide Web (WWW). Following signature, a copy of the rule will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated category and entities affected by this action include:

Category	SIC	NAICS	Examples of regulated entities
Industry	2821	325211	Facilities that produce PET using the continuous TPA high viscosity multiple end finisher process.

This table is not intended to be exhaustive but, rather, provides a guide for readers likely to be interested in this proposed rule. To determine whether your facility is affected by this action, you should carefully examine all of the applicability criteria in 40 CFR part 63, subpart JJJ and in the proposed amendments to subpart JJJ (64 FR 11560). If you have any questions regarding the applicability of this proposed rule to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

This document concerns an indefinite stay, under the CAA section 301(a), of the compliance date associated with the PCCT standard of the Group IV Polymers and Resins NESHAP for certain existing affected sources. For further information, please see the information provided in the direct final rule that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

What Are the Administrative Requirements for This Pproposal?

Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, under the Administrative Procedure Act or another statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business that is a business with less than 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

This proposed rule would not impose any requirements on small entities, because only one entity is subject to the PCCT standard and it is not a small entity. In addition, this proposed rule would relieve regulatory burden for all entities subject to the rule. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

For information regarding other administrative requirements for this action, please see the direct final rule that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 21, 2000.

Carol M. Browner,

Administrator.

[FR Doc. 00–21908 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1304 and 1306

RIN 0970–AB90

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration on Children, Youth and Families is issuing this Notice of Proposed Rulemaking to propose family child care homes as a Head Start program option.

DATES: In order to be considered, comments on this proposed rule must be received on or before October 30, 2000.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration on Children, Youth and Families, 330 C Street, SW., Washington, DC 20447. Beginning 14 days after the close of the comment period, comments will be available for public inspection in room 2221, 330 C Street, SW., Washington, DC 20201, Monday through Friday between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Douglas Klafehn at (202) 205–8572.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

The Head Start program, authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*), is a national program providing comprehensive child development services to eligible low-income children from birth to five years of age and their families, as well as to pregnant women. To help enrolled children achieve their full potential, Early Head Start and Head Start programs provide comprehensive health, nutritional, educational, social and other services. Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs.

The Head Start program also provides parents with training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1998, Early Head Start and Head Start served a total of nearly 823,000 children and their families through a network of over 2,000 grantee and delegate agencies. A total of 16,892,000 children have been served since the Head Start program began in 1965.

While Early Head Start and Head Start are intended to serve primarily children whose families have incomes at or below the poverty line or who receive public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low-income criteria. The Act also requires that a minimum of 10 percent of the enrollment opportunities in each program be made available to children with disabilities. Such children are expected to participate in the full range of Head Start services and activities with their peers who do not have disabilities and to receive necessary special education and related services.

II. Background

Since the program's inception, Head Start grantee and delegate agencies have been required to use data from a community assessment as required by 45 CFR 1305.3, to design programs that support individual family goals. As a result, over the years, Head Start has developed program options, including the provision of comprehensive child development services in centers (the center-based option), in the child's home (the home-based option), or through a combination of center and home-based programming (combination option). With the issuance of this Notice of Proposed Rulemaking the Head Start Bureau is proposing to add family child care as a fourth Head Start program option.

In keeping with the goal of designing programs to meet community and family needs, some Head Start agencies have identified family child care as an approach they would like to be able to offer to families in their community. Many families believe their children will benefit from a home-like setting and Head Start agencies have found that family child care is a suitable arrangement for such families when they are working or are in training, or when they need care for more than one child.

The formal recognition of this setting as an option in Head Start is particularly timely given the changing circumstances in many communities where an increased number of families are moving into employment as the result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104–193 which created the Temporary Assistance for Needy Families (TANF) program. To support parents as they pursue training opportunities and seek and maintain employment, Head Start is committed to providing more opportunities for full day services. We are also committed to providing full day services through partnerships with other community agencies. Because family circumstances vary, full day services may include extended hours of care during non-traditional times such as evenings and weekends. The family child care option could be particularly appropriate in these and other situations and provide grantees with more flexibility in designing full day services to meet the needs of individual families. Early Head Start programs, in particular, may choose the home-like setting of family child care with smaller numbers of children for serving infants and toddlers from families that are working or in training as a result of TANF. Family child care can also be a particularly appropriate Head Start option for programs in rural areas where families are widely dispersed, where there is a shortage of facilities, and for children whose needs are better met in small-group settings.

Family child care has long been discussed as a possible option in Head Start. Since 1970, Head Start has served as a catalyst for promoting discussions and collaborations among a variety of organizations and agencies interested in expanding Head Start services to include family child care. With the intent of increasing the availability of family child care services beginning in 1984 and continuing through 1997, a number of Head Start grantees established family child care homes through innovative demonstration grants and program expansions. In keeping with its role as the national laboratory for the field of child development and early education, the Head Start Bureau funded these demonstration projects to provide resources and leadership in the implementation of family child care programs in Head Start settings. This effort helped agencies meet community and family needs, as well as provided opportunities for sharing experiences among the participating agencies and for networking with others with similar interests and experiences.

To help raise the level of quality in the family child care community and to support agencies in delivering Head Start's comprehensive child development services within the family child care setting, the Head Start Bureau has engaged in major initiatives to promote the professional development of family child care staff, including establishing the Child Development Associate (CDA) credential for family

child providers. This nationally awarded credential is recognized in 47 States as meeting staff qualifications for child care licensing. To promote developmentally appropriate programming for infants, toddlers, and preschoolers in family child care settings, Head Start has supported the development of a curriculum/training program, ''The Creative Curriculum for Family Child Care.'' Head Start has also engaged in extensive work with a satellite distance learning network and over 45 community colleges to offer family child care providers courses and other experiences relevant to family child care, leading to the award of the CDA credential. In 1988, Head Start collaborated with the State of Washington and local community colleges to support the Job Training Partnership Act (JTPA) and Welfare Reform by providing education and credentialing opportunities for family child care providers, including Head Start parents.

From 1992 to 1997, the Head Start Bureau conducted an ''Evaluation of the Head Start Family Child Care Homes' Demonstration'' to determine whether the services provided in family child care settings could meet the Head Start Program Performance Standards and have impacts comparable to those of children and families enrolled in center based programs. Based on the data derived from this study, family child care was found to be a viable setting for providing comprehensive Head Start services at costs comparable to those for full-day center-based services. Although the study focused on programs serving four year old children, the findings show that services delivered in a family child care setting can meet Head Start standards of quality and can produce similar outcomes for children and families.

Based on these experiences and initiatives, the Head Start Bureau identified indicators of quality family child care. These quality indicators include: use of licensed homes; very small groups of children, especially when infants and toddlers are enrolled; qualified family child care providers with suitable training and experience; implementation of a curriculum based on sound child development principles; the integral involvement of parents; and the provision of strong support from the Head Start program to providers, including paid staff to assist the family child care provider as needed and ongoing oversight of the family child care provider by qualified and experienced staff.

Through these demonstration efforts and through recent expansion of Head Start and Early Head Start enrollment, approximately five percent of programs currently provide family child care to some of their children and families. Approximately 5,000 children are enrolled in these programs. We expect this number to increase as family child care becomes a formal option in Head Start.

In the past few years, the Head Start Bureau has convened several groups of representatives from a cross section of for-profit and non-profit family child care programs, other organizations and agencies, experts, and parents to advise the Bureau regarding various aspects of family child care programming. The family child care issues addressed by these groups included staff-child ratios, staff qualifications, oversight and support for the family child care provider, and utilization of multiple funding sources. Informed by years of experience, and by a wide range of individuals and groups, as well as the findings of the evaluation study, the Head Start Bureau is proposing that family child care become a Head Start program option.

All Early Head Start and Head Start programs must implement the Head Start Program Performance Standards as revised. The revised standards (45 CFR part 1304) were published in the **Federal Register** (61 FR 57186) on November 5, 1996, and were effective January 1, 1998. The standards encompass Early Childhood Development and Health Services which includes child health and developmental services, education and early childhood development, child health and safety, child nutrition, and child mental health; Family and Community Partnerships; and Program Design and Management which includes program governance, management systems and procedures, human resources management, and facilities, materials and equipment. Programs providing Head Start services through the family child care program option would likewise be required to implement the Head Start Program Performance Standards, 45 CFR part 1304. Under 45 CFR part 1304, grantee and delegate agencies also must implement the requirements set forth in 45 CFR parts 1301, (Head Start Grants Administration), 1302 (Policies and Procedures for Selection, Initial Funding, and Refunding of Head Start Grantees, and for Selection of Replacement Grantees), 1303 (Appeal Procedures for Head Start Grantees and Current or Prospective Delegate Agencies), 1305 (Eligibility, Recruitment, Selection, Enrollment and Attendance in Head Start), 1306 (Head Start Staffing Requirements and Program Options), and 1308 (Head Start Program Performance Standards on Services for Children with Disabilities).

Several program elements are unique to family child care and thus are not addressed specifically in the Head Start Program Performance Standards. These elements include the hours and days of operation; the qualifications of the family child care staff; the approval by the policy council of contracted family child care teachers; group size and composition; indoor and outdoor space; content of pre- and in-service training for family child care teachers; specific health and safety issues related to providing Head Start services in home settings; and certain aspects of management policies and procedures.

Other program elements, such as child development and education, the proportionate representation of parents on policy groups, and the conduct of home visits are addressed in the revised Head Start Program Performance Standards and are made applicable to the Head Start family child care program option. In addition to the Head Start Program Performance Standards and other Head Start regulations, we are proposing that Early Head and Head Start grantee and delegate agencies implementing the family child care services option must ensure that the program requirements in this NPRM are met. Also, Early Head Start programs are required to ''provide early, continuous, intensive and comprehensive child development and family supportive services on a year-round basis''. This requirement can be found in the **Federal Register** publication of April 17, 1997 (62 FR 18966). Therefore, grantee and delegate agencies providing Early Head Start services through the family child care program option must provide these services year round.

III. Authority for the Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) is the Head Start Act, section 644(c); 42 U.S.C. 9839(c).

IV. Section by Section Discussion of the NPRM

This NPRM proposes amendments to 45 CFR part 1306 so that Early Head Start and Head Start grantees will have the option of providing family child care services under the Head Start program. This NPRM also proposes amendments to 45 CFR part 1304 to support program requirements which are in keeping with providing a comprehensive child development Head Start program in the center-based,

home-based and combination program options. In addition, this NPRM makes other conforming changes as necessary.

45 CFR Part 1306

Definitions—§ 1306.3

A new paragraph (n) has been added which defines ''Family Child Care'' as child care and education provided to children in a private home or other family-like setting other than the child's own home. ''Head Start Family Child Care'' means Head Start, Early Head Start and child care services provided to a small group of children, in a home or family-like setting, by an individual teacher.

A new paragraph (o) has been added which defines ''Family child care program option'' to mean Head Start and Early Head Start services provided to children receiving child care primarily in a home or home-like setting other than the child's own home. Comprehensive child development services are delivered to Head Start and Early Head Start children primarily in the home of a child care teacher or other family-like setting, such as an apartment in a public housing complex which has been set aside for the provision of child care services under the auspices of an Early Head Start or Head Start program.

In new paragraph (p), ''Family child care teacher'' is defined as the provider of Head Start services in his or her residence or in another family-like setting such as an apartment in a public housing complex, set aside for this purpose. The designation of ''teacher'' conveys the importance of the qualifications they must have to participate in Head Start. The ''Family child care teacher'' must meet certain ''professional'' qualifications such as a degree in early childhood development or a CDA or equivalent. (In non-Head Start settings the family child care teacher is generally referred to as a ''provider'' or ''caregiver.'')

Program Staffing Patterns—§ 1306.20

Section 1306.20(g)

Because the family child care teacher is generally the only adult on the premises, it is imperative that the group size allow, in an emergency, the teacher to evacuate all of the children from the home at the same time. Therefore, we propose a new paragraph (g) which requires that grantee and delegate agencies operating the family child care program option must ensure that, in any family child care home, at any time when Early Head Start or Head Start children are enrolled, there are no more than six children under the age of 6, including those of the family child care teacher. No more than two of these six children may be under the age of three.

In keeping with the staff-child ratio for center-based Early Head Start, the maximum group size is four children when serving more than 2 infants and toddlers (under the age of three). No more than two of these four children may be under the age of two. This maximum group size of four, includes the family child care teacher's own children up to the age of six.

MAXIMUM UNDER AGE 6

[Includes teacher's children]

6 children	4 children
Only 2 can be under age 3.	When more than 2 are under age 3, the maximum is 4 and only 2 of the 4 can be under age 2.

These group sizes may vary depending on the special needs of the children served. Also, that where State/local or tribal requirements are more stringent, the State/local or tribal requirements will control.

Section 1306.20(h)

We propose that grantee and delegate agencies operating the family child care program option ensure that there is oversight and support for family child care teachers at the ratio of one child development specialist to no more than twelve family child care homes.

Part-time child development specialists must be responsible for a proportionate number (*i.e.,* half-time coordinators must be responsible for no more than six family child care homes.) Adjustments to these ratios must be made for programs where distance or other factors would decrease the time available for mentoring and technical assistance. The ratio of one child development specialist to a maximum of 12 family child care teachers, is similar to the staffing pattern in the Head Start home-based program option, where one qualified home visitor works with 10 to 12 families, meeting with each family for one hour and a half each week. We propose this requirement to ensure the provision of quality child development and education services and because family child care teachers generally work alone and are isolated from other child development professionals.

At a minimum, the responsibilities of the child development specialist shall include both announced and unannounced visits to each family child care home, with at least one ninety minute visit per week. These visits are to enhance, not supplant, the capacity of the family child care teacher to provide positive, developmental experiences for the children.

During these visits, the child development specialist must observe the family child care teacher and the program being provided to the children, conduct health and safety checks of the home, observe and assess the implementation of the curriculum and the child development and education services provided to the children, provide on-site guidance, mentoring, training and technical assistance to the family child care teacher and assist the family child care teacher with the development of collegial or mentoring relationships with other child care professionals. This mentoring is designed to assure that each family child care teacher implements a program which promotes school readiness by supporting age-appropriate experiences.

Section 1306.20(i) .

In order that family child care staff and families are fully integrated into the agency's management and programmatic systems, in a new paragraph (i), grantee and delegate agencies must formally assign family child care program responsibilities to agency staff.

Section 1306.20(j)

To ensure that all program services are available to the children and families enrolled in the family child care program option, including children with disabilities, a new paragraph (j) requires that family child care teachers are regularly supported by other grantee or delegate agency staff with responsibilities related to the provision of comprehensive Head Start service areas, as specified in 45 CFR Parts 1304 and 1308. Comprehensive Head Start services include Early Childhood Development and Health Services (child health and developmental services, education and early childhood development, child health and safety, child nutrition and child mental health); Family and Community Partnerships; and Program Design and Management (program governance, management systems and procedures, human resources management, and facilities, materials and equipment).

Family Child Care Program Option—§ 1306.35

Current section 1306.35 has been redesignated as section 1306.36 and a new section 1306.35 on the family child care program option has been added.

Section 1306.35(a)

Paragraph (a)(1) sets forth requirements related to the minimum hours, days and months of operation for the family child care program option. Paragraph (a)(2)(i) requires that the grantee and delegate agencies have available homes capable of serving children and parents with disabilities affecting mobility. Paragraph (a)(2)(ii) ensures that children with disabilities enrolled in family child care programs are provided a schedule of services which supports their participation in early intervention, special education and related services required by their Individual Education Plan (IEP) and Individual Family Service Plan (IFSP); and are provided with a teacher with appropriate training. Paragraph (a)(3) sets forth the requirement that family child care homes have sufficient usable indoor and outdoor space to enable children to participate in developmentally appropriate activities that foster their development. Paragraph (a)(4) requires that the Policy Council be included in decisions to hire or terminate contracted family child care teachers.

Section 1306.35(b)

Paragraph (b)(1) requires grantees and delegate agencies to ensure the health and safety of enrolled children by developing and implementing a safety plan which addresses various aspects of the family child care homes. Paragraph (b)(2) requires precautions to reduce the risk of injury to children by: Keeping them away from hazardous situations; installing smoke and carbon monoxide detectors in space occupied by children; and removing weapons, alcohol, drugs, and animals from space occupied and accessible to the children.

Section 1306.35(c) and (d)

Paragraph (c) requires grantee and delegate agencies to develop, with the family child care teachers, emergency coverage plans to address health and safety emergencies. Paragraph (d) contains a requirement that the grantee must meet State, Tribal, and local licensing requirements that are applicable. These licensing requirements may be more stringent than Head Start program requirements, in which case the State, Tribal, and local requirements take precedence. Grantee and delegate agencies are required to comply with the more stringent regulations (whether they be Head Start, State, Tribal or local).

Newly Redesignated § 1306.36, Additional Head Start Program Options Variations, and § 1306.37, Compliance Waiver

Current § 1306.35 has been redesignated as section § 1306.36. Current § 1306.36 has been redesignated as section 1306.37. Both of the newly redesignated sections have been revised to add references to the new family child care program option.

45 CFR Part 1304

Human Resources Management—§ 1304.52

Staff Qualification Requirements—§ 1304.52(h)

We propose to amend § 1304.52 by redesignating paragraphs (h) through (k) as (i) through (l), and adding a new paragraph (h) that sets forth specific requirements regarding staffing qualifications for the family child care option. The requirements at the new paragraph (h)(1) provide that family child care teachers have previous child care experience and, at a minimum, possess, within one year of becoming a Head Start Family Child Care teacher or within one year of the effective date of this regulation, an Associate or Bachelors degree in child development or early childhood education or a Child Development Associate (CDA) credential as a Family Day Care Provider. Although this requirement may be challenging for some family child care teachers, it parallels the requirement that already exists in the Performance Standards for infant/toddler teachers. Similarly, we expect the same level of success in achieving this requirement for family child care teachers as we have had in credentialing infant/toddler teachers. Although this requirement may be challenging for some family child care teachers, it parallels the requirement that already exists in the Performance Standards for infant/toddler teachers. Similarly, we expect the same level of success in achieving this requirement for family child care teachers as we have had in credentialing infant/toddler teachers. Paragraph (h)(2) provides that family child care teachers have specific knowledge and experience necessary to foster the education and development of very young children and their families.

Paragraph (h)(3) requires that grantees and delegate agencies make alternative arrangements for the care of children when the family child care teacher is unavailable to provide care or the family child care home is unsuitable because of a structural deficiency or other hazard.

Paragraph (h)(4) states that substitute family child care teachers must receive initial and ongoing training and have the knowledge and experience to implement the family child care program.

Paragraph (h)(5) requires that staff providing oversight and support to family child care teachers must be qualified as child development specialists at the time of hire and must have, at a minimum, an Associate degree in child development or early childhood education.

Paragraph (h)(6) specifies the knowledge and experience the child development specialist must have, including the theories and principles of child growth and development, early childhood education (birth to five), and family support. The child development specialist must also have previous child care experience, knowledge and understanding of the CDA standards for family child care providers, and knowledge and understanding of the Head Start Program Performance Standards and other Head Start regulations.

Training—§ 1304.52(l) (currently § 1304.52(k))

Newly redesignated paragraph (l) on training and development in § 1304.52 is proposed to be amended by adding new paragraph (l)(5) that addresses training requirements for those grantees that provide services under the family child care program option. The training for family child care teachers and other staff working in family child care must develop knowledge of infant, toddler, and preschool development; the implementation of the agency's curriculum; safety issues in child care; and childhood health and illnesses. The training includes communicating effectively with infants, toddlers and preschoolers, their parents, and other adults as well as certification in cardiopulmonary resuscitation (CPR). In addition, it also includes information and skill development required for working with children with disabilities; provision of support to families, and the knowledge necessary to identify and report suspected child abuse or neglect information. Training is also provided in methods for maintaining sanitation and hygiene and participation in training provided for the United States Department of Agriculture (USDA) Child and Adult Care Food Program.

V. Impact Analyses

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that

there is consistency with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This NPRM proposes a program option, which will not require grantees to expend a significant amount of funds. Agencies choosing to operate this program option will not incur significant costs exceeding those costs incurred to deliver Head Start services in other program settings, such as in center-based or home-based settings and options.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that the Federal government anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a ''significant economic impact on a substantial number of small entities'' an analysis must be prepared describing the rule's impact on small entities.

Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. This rule will affect small entities. In keeping with the goal of designing programs to meet community and family needs, Head Start agencies have identified family child care as a preferred option for parents who believe their children will benefit from a home-like setting.

Head Start agencies also have found that family child care is a suitable option for parents who are working or in training, or when families need care for more than one child. While we have no measure at this point to estimate the number of grantees that are small entities which will choose the family child care option, we believe the number which will choose it will not be significant at this time, given the newness of the option and diversity of needs across the country. For this reason, the Secretary certifies that this rule will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirements inherent in a proposed or final rule. This NPRM does not contain any information collection or record-keeping requirements.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 205 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the proposed rule.

We have determined that this final rule will not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

Congressional Review of Rulemaking

This rule is not a ''major'' rule as defined in Chapter 8 of 5 U.S.C.

The Family Impact Requirement

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277, Div. A, section 101(h)) requires a family impact assessment affecting family well-being.

Family Impact

Many parents, especially those from low-income families, work during non-traditional hours, and their work schedules often change from week to week. The Head Start family child care option will ensures the availability of quality child care during both traditional and non-traditional work hours. Head Start family child care also provides a network that ensures training to increase the competence of the family child care teacher as well as a system of back-up in the event that he or she is unavailable. Allowing parents to place their Early Head Start or Head Start children as well as school-age children in the care of one provider will decease the number of stops they must make to drop children off prior to going to work. The availability of family child care increases the choices available to parents by ensuring that their children are well cared for, and ensures that parents are not distracted from their work by worrying about the dependability and quality of care being provided to their children. This will increase family financial stability by enabling parents to secure and keep jobs. Many low-income workers have minimal leave and little flexibility in their work schedules and are unable to take time off to compensate for unreliable care or to make numerous phone calls to ensure the safety and well-being of their children. Head Start ensures a level of quality care for children, as well as back-up systems, thereby promoting family stability.

List of Subjects

45 CFR Part 1304

Dental health, Education of disadvantaged, Grant program—social programs, Health care, Mental health programs, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1306

Education of disadvantaged, Grant program—social programs.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: December 14, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: May 9, 2000.

Donna E. Shalala,

Secretary.

For the reasons set forth in the preamble, we propose to amend 45 CFR parts 1304 and 1306 to read as follows:

PART 1304—PROGRAM PERFORMANCE STANDARDS FOR OPERATION OF HEAD START PROGRAMS BY GRANTEE AND DELEGATE AGENCIES

1. The authority citation for part 1304 continues to read as follows :

Authority: 42 U.S.C. 9801 *et seq.*

2. Amend section 1304.52 by redesignating paragraphs (h) through (k) as (i) through (l), adding a new paragraph (h), and adding in the newly redesignated paragraph (l), new paragraph (l)(5) to read as follows:

§ 1304.52 Human resources management.

* * * * *

(h) *Family child care staff.* (1) Family child care teachers must have previous child care experience and, at a minimum, possess either an Associate or Bachelor's degree in child development or early childhood education or a Child Development

Associate (CDA) credential as a Family Day Care Provider. Head Start Family Child Care teachers, as employees of the grantee or delegate agency or as contracted Head Start family child care teachers must meet this requirement within one year of hire or one year of [the effective date of the final rule].

(2) Head Start Family child care teachers must have the knowledge and experience necessary to develop consistent, stable and supportive relationships with very young children and their families, and sufficient knowledge to implement the Head Start Program Performance Standards and other applicable Head Start regulations.

(3) Grantee and delegate agencies operating the family child care program option must ensure alternative arrangements for the care of children enrolled in the Head Start family child care option when the teacher or a family member in the home is ill, or when the teacher is in training or on vacation. Alternative arrangements also must be available when the physical setting is temporarily unsuitable for children, because of interruption of heat or plumbing or other temporary circumstances, such as spraying for pest control or repairs and maintenance that may pose a hazard to children (see § 1304.53(a)(8)).

(4) When grantee and delegate agencies provide substitute or additional staff to assist the family child care teacher, such staff must receive initial and ongoing training and have the knowledge and experience to implement the Head Start family child care program.

(5) At the time of hire, the child development specialists must have, at a minimum an Associate degree in child development or early childhood education.

(6) Child development specialists must have knowledge and experience in areas that include the theories and principles of child growth and development, early childhood education (birth to five), and family support. Child development specialists must have previous child care experience, knowledge and understanding of the Child Development Associate (CDA) Competency Standards for Child Care Providers and knowledge and understanding of the Head Start Program Performance Standards and other Head Start regulations.

* * * * *

(1) * * *

(5) In addition, grantee and delegate agencies operating a family child care program option must provide training for family child care staff which:

(i) Develops knowledge of infant, toddler and preschool age child development;

(ii) Includes ongoing training on the implementation of the agency's curriculum for children from birth to five years (see § 1304.3(a)(5) for the definition of curriculum);

(iii) Includes information and skill development for working with children with disabilities;

(iv) Includes methods in communicating effectively with infants, toddlers and preschoolers, their parents, and other adults;

(v) Develops knowledge of safety issues in child care, childhood health and illnesses, and certification in cardiopulmonary resuscitation (CPR);

(vi) Includes identifying and reporting suspected child abuse or neglect;

(vii) Includes information and methods for maintaining appropriate sanitation and hygiene;

(viii) Incorporates information on the United States Department of Agriculture's (USDA) Child and Adult Care Food Program; and

(ix) Other training necessary to increase the knowledge and skills of the family child care staff, such as the provision of family support.

PART 1306—HEAD START STAFFING REQUIREMENTS AND PROGRAM OPTIONS

3. The authority citation for part 1306 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

4. Amend section 1306.3 by adding new paragraphs (n), (o), and (p) to read as follows:

§ 1306.3 Definitions.

* * * * *

(n) *Family child care* is non-residential care and education provided to children in a private home or other family-like setting, other than the child's own home. Head Start family child care means Head Start, Early Head Start, and child care services provided to a small group of children in a home or family-like setting, by an individual teacher.

(o) *Family child care program option* means Head Start and Early Head Start services provided to children receiving child care primarily in the home of a family child care teacher or other family-like setting, such as an apartment in a public housing complex which has been set aside for the provision of child care services under the auspices of an Early Head Start or Head Start grantee or delegate agency.

(p) *Family child care teacher* means the provider of Early Head Start or Head Start services in his or her place of residence or in another family-like setting, such as an apartment in a public housing complex, set aside specifically for this purpose.

5. Amend section 1306.20 by adding new paragraphs (g), (h), (i), and (j) to read as follows:

§ 1306.20 Program staffing patterns.

* * * * *

(g) Grantee and delegate agencies operating the family child care program option must ensure that in each family child care home, at any time when Early Head Start or Head Start children are enrolled, the group size limits specified in this paragraph apply. At all times, the family child care teacher's own children under the age of 6 must be included in the group count.

(1) The maximum group size is six children and no more than two of the six children may be under the age of three years.

(2) The maximum group size is four children when more than two children are under the age of three years. In such instances no more than two of these four children may be under the age of two years.

(3) When serving children with special needs who require extra care, group sizes are smaller than the maximum allowed.

(h)(1) Grantee and delegate agencies operating the family child care program option must ensure that there is oversight and program support for family child care teachers by a child development specialist and by other Head Start grantee or delegate agency staff with responsibilities related to the provision of comprehensive Head Start and Early Head Start services. Such oversight and support includes mechanisms for communicating with the family child care teacher at all times that Early Head Start or Head Start children are in his or her care.

(2) A child development specialist working full time must be responsible for no more than twelve family child care homes, with part-time child development specialists responsible for a proportionate number (*e.g.,* half-time child development specialists must be responsible for no more than six family child care homes).

(3) At a minimum, the responsibilities of the child development specialist shall include both announced and unannounced visits to each family child care home, with at least one ninety minute visit per week. These visits are to enhance, not supplant the capacity of the family child care teacher to implement the individualized child development curriculum.

(4) During these visits, the child development specialist must conduct health, nutrition, and safety checks of the home; and must observe and assess curriculum implementation and the child development and education services provided to the children. The specialist shares his or her observations with the family child care teacher, provides on-site guidance, mentoring, training and technical assistance to the teacher, and assists the family child care teacher with the development of collegial or mentoring relationships with other child care professionals. This support helps to assure that each family child care teacher implement a program which promotes school readiness and individually age-appropriate experiences.

(i) Grantee and delegate agencies operating the family child care program option must ensure that program management functions are formally assigned to grantee and delegate agency staff.

(j) In order to assure that all program services are available to the children and families enrolled in the family child care program option, grantee and delegate agencies must ensure that family child care teachers are regularly supported by other Head Start and grantee or delegate agency staff with responsibilities related to the provision of comprehensive Head Start and Early Head Start services, including services for children with disabilities. These comprehensive Head Start services are specified in 45 CFR Part 1304—Program Performance Standards for the Operation of Head Start Programs by Grantee and Delegate Agencies, and 45 CFR Part 1308—Head Start Program Performance Standards on Services for Children with Disabilities.

6. Sections 1306.35 and 1306.36 are redesignated as §§ 1306.36 and 1306.37, respectively, and revised, and a new § 1306.35 is added to read as follows:

§ 1306.35 Family child care program option.

(a) *Grantee and delegate agency implementation.* Grantee and delegate agencies implementing the family child care program option must:

(1) *Hours of operation.* Ensure that each family child care home operates year round five or more days per week for more than six hours per day.

(2) *Serving children with disabilities.*

(i) Ensure the availability of family child care homes capable of serving children and parents with disabilities affecting mobility; and

(ii) Ensure that children with disabilities enrolled in family child care are provided services which support their participation in the early intervention, special education, and related services required by there IEP or IFSP, and that the child's teacher has appropriate knowledge, training and support.

(3) *Program space—indoor and outdoor.* Ensure that each family child care home has identified sufficient indoor and outdoor space which is usable and available to the children. This space allows children to be supervised and safely participate in developmentally appropriate activities and routines that foster their cognitive, socio-emotional, and physical development, including both gross and fine motor, as defined in 45 CFR 1304.53(a)(1) and (2) and 1304.53(b).

(4) *Policy Council role.* Ensure that the Policy Council is included in decisions to hire or terminate contracted Head Start family child care teachers (see 45 CFR 1304.50(d)(1)(x) and (xi)).

(b) *Facilities.*—(1) *Safety plan.* Grantees and delegate agencies operating the family child care program option must have a plan in place that ensures the health and safety of children and includes, at a minimum, an annual safety inspection of each family child care home as described in 45 CFR 1304.53(a)(10). These inspections must be supplemented by regular observations of the family child care home that are made by the child development specialist. The plan must describe the policies and procedures in place to ensure that identified concerns are addressed in a timely manner.

(2) *Injury prevention.* Grantee and delegate agencies must ensure that:

(i) Children are kept away from potentially hazardous situations such as heat sources in the family child care home. Children are restricted from hot food preparation areas and appliances such as refrigerators, stoves, ovens, microwave ovens, utensils and trash cans at all times. There are no insects, rodents, or other pests that pose a health hazard, and pest control does not take place while children are present;

(ii) Smoke and carbon monoxide detectors are installed in spaces occupied by children;

(iii) Radon detectors are installed in family child care homes where basements are devoted to the program;

(iv) Children are directly supervised at all times;

(v) Enhanced supervision is provided when children are near a body of water, a heat source, and when they are being transported;

(vi) All water hazards, such as pools and standing water, are enclosed with a fence and safeguarded to ensure that they cannot be accessed;

(vii) There are no firearms or other weapons kept in space occupied or accessible to children;

(viii) Alcohol and other drugs are not accessible to children or consumed when children are present; and

(ix) Domestic animals are properly immunized, free of disease, appropriately restrained, and kept from the children.

(c) *Emergency coverage plans.* Grantee and delegate agencies operating the family child care option must have an ''Emergency Coverage Plan''. This plan is developed by the family child care teacher and the grantee, and describes what is to be done in the event of a health emergency or illness. The family child care teacher must identify a qualified person who would quickly be able to care for the children in the event of an emergency of the teacher or family members.

(d) *Licensing requirements.* Grantees must meet State, Tribal and local licensing requirements for family child care facilities. In cases where licensing requirements are less comprehensive or stringent than the Head Start regulations, grantee and delegate agencies are required to comply with the Head Start regulations. The Tribal, State and local licensing requirements take precedence if they are more stringent than the requirements for the Head Start family child care program option.

§ 1306.36 Additional Head Start program option variations.

In addition to the center-based, home-based, combination program, and family child care program options defined in this part, the Commissioner of the Administration on Children, Youth and Families retains the right to fund alternative program variations to meet the unique needs of communities or to demonstrate or test alternative approaches for providing Head Start services.

§ 1306.37 Compliance waiver.

An exception to one or more of the requirements contained in §§ 1306.32, 1306.33, 1306.34, and 1306.35 will be granted only if the Commissioner of the Administration on Children, Youth and Families determines, on the basis of supporting evidence, that the grantee made a reasonable effort to comply with the requirement, but was unable to do so because of limitations or circumstances of a specific community or communities served by the grantee.

[FR Doc. 00–21934 Filed 8–28–00; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 97–82; FCC 00–274]

Competitive Bidding Procedures

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document the Federal Communications Commission (Commission) seeks comments on a total assets test to determine small business status and propose exceptions to the attribution rule's requirement that certain stock interest be counted on a ''fully diluted'' basis.

DATES: Comments are due on or before October 30, 2000. Reply comments are due on or before November 27, 2000.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. *See* ''Filing Procedures.''

FOR FURTHER INFORMATION CONTACT: Leora Hochstein, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418–1022.

SUPPLEMENTARY INFORMATION: This is a summary of a Fourth Further Notice of Proposed Rule Making (*Fourth FNPRM*) adopted on July 27, 2000, and released on, August 14, 2000. The complete text of this *Fourth FNPRM*, including attachments, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800. It is also available on the Commission's web site at http://www.fcc.gov/wtb/auctions.

Synopsis of the Further Notice of Proposed Rule Making

A. Rules Governing Designated Entities

i. Total Assets Test

1. *Background.* In the first *Part 1 Notice of Proposed Rulemaking* 62 FR 13540 (March 21, 1997) in this proceeding, we proposed to define small businesses, for the purposes of auctions, ''purely in terms of gross revenues.'' In another proceeding, *Second Order on Reconsideration* 62 FR 48787 (September 17, 1997) we observed that ''[a]ssets, being potentially fluid and subject to inconsistent valuation * * * are generally much less ascertainable than gross revenues. * * *'' In the *Part 1 Third Report and Order*, 63 FR 2315 (January 15, 1998) we adopted our proposal to use gross revenues as our general standard for measuring a business' size. We indicated at that time that a gross revenues-based standard provides ''an accurate, equitable, and easily ascertainable measure of business size.'' Furthermore, we observed that while a total assets test had been used in the past to determine eligibility for participation in entrepreneur block auctions, it had not been employed for determining small business eligibility. We also relied on the Small Business Act, which controls how agencies may prescribe size standards for categorizing small businesses. This statute provides no assets test for categorizing business concerns that provide services.

2. *Discussion.* The Commission intends its small business provisions to be available only to bona fide small businesses. While we have concluded in the past to use gross revenues as the measure of business size, based on correspondence from the Small Business Administration, we take this opportunity to revisit the issue of whether to use a total assets test as well. We seek comment on whether the use of a total assets test, in conjunction with the gross revenues measure already employed, would enhance the Commission's determinations of small business status. For example, commenters may address whether a gross revenues standard alone allows participation of legitimate start-up companies that are supported only by assets held by affiliates. In the alternative, commenters should address whether our comprehensive affiliation rules counterbalance the effects of a gross revenues standard when applied to such enterprises. We ask that commenters cite to specific statistical and/or anecdotal evidence when addressing these issues. If supporting use of an assets test, commenters should address appropriate thresholds for small business determinations. For example, commenters may address whether the $500 million total assets test used in determining eligibility for entrepreneurs' block auctions provides a suitable benchmark. *See* Implementation of Section 309(j) of the Communications Act-Competitive Bidding, *Fifth Report and Order* 59 FR 37566 (July 7, 1994). A more complete record on this matter will assist the Commission in meeting its goals for small business participation in future spectrum auctions.

ii. Attribution of Gross Revenues or Total Assets of Investors and Affiliates

3. *Background.* In the *Second Notice*, 63 FR 770 (January 7, 1998) we sought further comment on whether to adopt a ''controlling interest'' standard as our general rule for attributing to an applicant the gross revenues of its investors and their affiliates in determining whether the applicant is eligible for small business preferences. In the *Fifth Report and Order*, we adopt the ''controlling interest'' standard as our general attribution rule for all future auctions. For purposes of calculating equity held in an applicant, the ''controlling interest'' definition provides for full dilution of certain stock interests, such as warrants, stock options, and convertible debentures. Accordingly, under the rule we adopt today, as well as under our existing rules, agreements of this type are generally treated as if the rights thereunder have been fully exercised. In our Competitive Bidding, Fifth Memorandum Opinion and Order (''*Fifth M O & O*''), 59 FR 63210 (December 7, 1994) we established two exceptions to the ''fully diluted'' requirement for the broadband PCS attribution rule. We decided that two types of ownership interests, ''rights of first refusal'' and ''put'' options, would not be considered on a fully diluted basis for purposes of calculating ownership levels.

4. *Discussion.* In this *Fourth FNPRM*, we seek comment on whether to incorporate into our part 1 general competitive bidding rules the two exceptions we adopted for our broadband PCS attribution rule. We also seek comment on a proposed third exception to our general requirement that we treat certain stock interests as ''fully exercised.''

5. Our attribution rules are designed to preserve control of the applicant by eligible entities while allowing investment in the applicant by entities that do not meet the size restrictions in our rules. We recognize that some forms of stock options and convertible debt instruments are common and often beneficial to the management of a company. Convertible debt instruments may also allow designated entities to obtain debt financing at a lower cost than would otherwise be available, thereby preserving working capital for such uses as the further construction of facilities. Because our rules generally require us to treat stock interests on a fully diluted basis, if an applicant grants its lender stock conversion rights in several promissory notes, the lender's equity could exceed the applicable limit

or threshold, thus requiring the applicant to include the lender's gross revenues in determining its eligibility as a designated entity.

6. Our proposed exception to the general attribution rule is a refinement to the ''fully diluted'' requirement that addresses stock conversion rights that are granted on a contingent basis. An applicant may grant conversion rights on a contingent basis, such rights vesting only in the event that the lender first assigns or transfers all interest in one or more other debt instruments to a qualified unaffiliated third party. Thus, the contingent right of conversion in one debt instrument could only be exercised upon divestiture of enough equity associated with the other debt instruments to allow the lender to remain below the applicable equity limit.

7. We tentatively conclude that furtherance of the policy underlying § 1.2110(c)(5)(v) of our designated entities rule does not require us to consider all existing stock conversion rights as having been fully exercised simultaneously in a case where exercise of the various conversion rights are mutually exclusive by their terms. We therefore propose an exception to the ''fully diluted'' requirement in § 1.2110(c)(5)(v) to permit conversion rights or stock options to be considered individually rather than collectively when they are mutually exclusive. Under this interpretation, for the purpose of calculating ownership interests, all stock interests would continue to be calculated on a fully diluted basis, but if a stock interest by its terms is mutually exclusive of one or more other stock interests, the various ownership interests would be treated as having been fully exercised only in the possible combinations in which they can be exercised by their holder.

8. We seek comment on whether we should amend the controlling interest standard in our part 1 general competitive bidding rules to include this exception to our requirement for calculating ownership interests on a fully diluted basis. Under the proposed rule, ownership interests that by their terms are capable of being exercised simultaneously or successively would continue to be treated collectively as if the rights thereunder have been fully exercised. Ownership interests that are mutually exclusive would be considered separately, but each mutually exclusive ownership interest would be considered in combination with all other ownership interests that are capable of being exercised with it simultaneously or successively. Thus, in calculating the equity held in an applicant, we propose to consider the various combinations of stock options or conversion rights that could possibly be exercised by an investor. For each combination, the ownership interests would be considered to have been fully exercised, and each combination would then be reviewed in the context of the specific equity limit or threshold applicable in a given case. We also propose that, for purposes of this rule, we consider one ownership interest to be mutually exclusive of another only if the agreement that conveys the first interest contains explicit language making it clear that the rights conveyed by that agreement cannot be exercised unless all ownership rights associated with the other agreement are either terminated or transferred or assigned to a qualified unaffiliated third party.

9. We further propose to codify in our part 1 general competitive bidding rules the policy under which we have previously adopted two exceptions to our broadband PCS attribution rule for the same reasons identified in the *Fifth M O & O.* Under these exceptions, we would not treat ''rights of first refusal'' and ''put'' options as having been exercised for purposes of calculating ownership levels. We seek comment on this proposal.

B. Procedural Matters And Ordering Clauses

i. Regulatory Flexibility Analysis

10. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals and tentative conclusions set forth in the *Fourth FNPRM* in WT Docket No. 97–82. Written public comments are requested on the IRFA. Comments on the IRFA must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines for comments on the *Fourth FNPRM.* In accordance with the RFA, the Commission will send a copy of this *Fourth FNPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

ii. Paperwork Reduction Act Analysis

11. This *Fourth FNPRM* contains neither a new nor a modified information collection.

C. Filing Procedures

12. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before Ocotber 30, 2000, and reply comments on or before November 27, 2000. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998).

13. Comments filed through the 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. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. 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 directions will be sent in reply.

14. Parties that choose to file by paper must file an original and four copies of each filing. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, The Portals, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition, a courtesy copy should be delivered to Leora Hochstein, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW., Room #4A633, Washington, DC 20554.

15. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. Comments and reply comments will be available for public inspection and duplication during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. Copies also may be obtained from International Transcription Services, Inc., 445 12th Street, SW., Room CY–B400, Washington, DC 20554, (202) 314–3070.

D. Contacts for Further Information

16. For further information concerning the *Fourth FNPRM*, contact Leora Hochstein at (202) 418–1022 (Auctions and Industry Analysis

Division, Wireless Telecommunications Bureau).

E. Ordering Clauses

17. Authority for issuance of this *Fourth FNPRM* is contained in sections 4(i), 309(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 309(j).

18. It is further ordered that the Commission's Consumer Information Bureau, Reference Operations Division, shall send a copy of this *Fourth FNPRM* including the Initial Regulatory Flexibility Analysis to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Regulatory Flexibility Analysis

19. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the rules proposed in this *Fourth FNPRM* in WT Docket No. 97–82. Written public comments are requested on the IRFA. Comments on the IRFA must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines for comments on the *Fourth FNPRM.* The Commission will send a copy of the *Fourth FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

A. Need for, and Objectives of, This Fourth FNPRM

20. This *Fourth FNPRM* is being initiated to secure comment on additional issues relating to the general competitive bidding rules for all auctionable services. Specifically, the *Fourth FNPRM* seeks comment on whether the Commission should use a total assets test, in conjunction with the gross revenues measure already employed, in determining whether auction applicants qualify as small businesses. The Commission seeks to ensure that only bona fide small businesses are eligible for the small business provisions. It, therefore, solicits comment on whether the application of a total assets test would enhance its determinations of small business status. Further, in the *Order on Reconsideration*, *Fifth Report and Order*, (published elsewhere in this issue of the **Federal Register**), the Commission adopts as its general attribution rule a ''controlling interest'' standard, which provides for the full dilution of certain stock interests for purposes of calculating equity held in an applicant. In this *Fourth FNPRM*, the Commission proposes to codify in the part 1 competitive bidding rules the policy under which it previously adopted two exceptions to the ''fully diluted'' requirement of its broadband PCS attribution rule. Under these exceptions, two types of ownership interests, ''rights of first refusal'' and ''put'' options, would not be considered on a fully diluted basis for purposes of calculating ownership levels. The Commission also seeks comment on whether it should adopt a third exception to the ''fully diluted'' requirement of § 1.2110(b)(4)(v) of the Commission's rules. The Commission proposes that, in calculating the equity held in an applicant, the conversion rights or stock options be considered individually rather than collectively when they are mutually exclusive. The Commission believes that these proposals will enhance its assessments of small business eligibility.

B. Legal Basis

21. This action is taken pursuant to sections 4(i), 5(b), 5(c)(1), 303(r), and 309 (j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(b), 155(c)(1), 303(r), and 309(j).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

22. The Commission is required to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The rules proposed in this *Fourth FNPRM* would apply to license applicants seeking small business status in all future auctions. In estimating the number of small entities that may participate in future auctions of wireless services, the Commission anticipates that the makeup of current wireless services licensees is representative of future auction participants. The Commission hereby incorporates into this IRFA section the Supplemental FRFA analysis and descriptions of potentially affected small entities.

D. Description of Reporting, Recordkeeping, and Other Compliance Requirements

23. The *Fourth FNPRM* proposes the adoption of a total assets test to be used in conjunction with the gross revenues measure already employed in determining whether auction applicants qualify as small businesses. The total assets test would require auction applicants seeking small business status to disclose their assets.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

24. 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 (among others): (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule or any part thereof for small entities.

25. The Commission has adopted specific provisions to promote small business participation in spectrum auctions. In order to ensure that only those entities truly meriting small business status qualify for special preferences, such as bidding credits, the Commission must have an accurate and easily applicable method of calculating business size. While it has concluded in the past to use gross revenues as the measure of business size, it now seeks comment on whether to use a total assets test as well. The Commission also seeks comment on whether it should adopt exceptions to the general requirement that certain stock interests are treated as fully diluted in calculating the equity held in an applicant. These proposals are intended to help the Commission realize its goal of widening the opportunities for small businesses in the spectrum auction program.

26. Federal Rules Which Overlap, Duplicate, Or Conflict With These Rules. None.

List of Subjects in 47 CFR Part 1

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–21981 Filed 8–28–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 082100A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination to issue EFPs to conduct experimental fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. A delegation of the City of Gloucester (Gloucester delegation) comprising State Representatives, the Mayor's Office, local industry members, the Gloucester Fisheries Commission, and the Massachusetts Fisheries Recovery Commission, requested the issuance of EFPs to conduct a 3-month pilot study beginning October 1, 2000. This request warrants further consideration. The EFPs would allow commercial vessels to enter into Gloucester Harbor with overages of haddock (*Melanogrammus aeglefinus*) to seek refuge from unsafe weather conditions. These vessels will be allowed to anchor or moor in Gloucester Harbor until the vessel operator determines that it is safe to continue fishing, or until they are within the allowed possession limit (5,000 pounds per day-at-sea (DAS)).

It is anticipated that participation in this program would be dictated by the following factors: the vessel owner's assessment of his or her vessel's ability to weather unsafe conditions (for example, wind or sea state), high catch rates of haddock preceding what is deemed by vessel operators as unsafe weather conditions, and the vessel's proximity to Gloucester Harbor.

Regulations under 50 CFR § 600.745 require publication of this notification to provide interested parties the opportunity to comment on the proposed experimental fisheries.

DATES: Comments on this notification must be received by September 13, 2000.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ≥Comments on the EFP Proposal.≥ Comments may also be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Management Specialist, 978-281-9244.

SUPPLEMENTARY INFORMATION: In a meeting held on July 21, 2000, between representatives of the NMFS and the Gloucester delegation, a safety issue was identified through accounts by fishermen. In the haddock fishery, the landing limit for Georges Bank increases on October 1, a time when the chance of severe weather increases (presumably October through April). Fishermen indicate that vessels may quickly bring on board large quantities of haddock that exceed the landing limits as determined by actual multispecies days-at-sea (DAS) fished to that point. Since regulations do not allow vessels to enter port with catch overages, fishermen commonly wait at sea for the appropriate DAS time to expire to allow the full catch to be landed. While waiting at sea, unsafe weather conditions may develop. There have been a few past reports where fishermen stated that they were forced to discard excess haddock catch at sea in order to seek shelter in Gloucester Harbor from hazardous weather conditions and comply with landing regulations. To avoid discarding haddock, vessels may consider remaining at sea during unsafe weather conditions.

NMFS proposes to conduct a 3-month pilot study, beginning on October 1, 2000, that would allow, as determined by the vessel operator, a vessel fishing for haddock on Georges Bank to anchor or moor (not dock) in Gloucester Harbor, until the vessel operator determines that it is safe to resume fishing activities or land the allowed possession limit of haddock.

Upon his/her own determination that weather conditions are unsafe, the vessel operator will be required to contact the Gloucester Station of the United States Coast Guard (USCG) with his or her intention to move their vessel into Gloucester Harbor, and must then notify the USCG when they have set anchor at a safe location. Further notification is required when the vessel operator decides to return to sea, move to another location in the Harbor, or travel to another port to land haddock upon completion of the trip. While anchored in Gloucester Harbor to wait out hazardous weather conditions, vessels are prohibited from loading on or off fish, supplies or equipment, as well as any crew member. DAS will be counted during the entire trip, including the time that the vessel is anchored in the harbor. When, according to the daily haddock possession limit, the appropriate DAS time expires to allow the full catch of haddock to be landed, fishermen may dock and unload in Gloucester Harbor. Regardless, nothing in this EFP authorizes vessels to land anything over the 5,000-pound per DAS landing limit.

This pilot study may be extended 3 months beyond the initial 3-month term should it prove successful in providing a safe option for vessels concerned about carrying haddock overages, while remaining conservation neutral to the resource (i.e., neither benefitting nor harming the resource). Despite the fact that the notification procedures may be burdensome, these controls are necessary to maintain enforceability and to collect data on the extent of success of the study.

Due to the unpredictable nature of the weather and of other variables involved, it is difficult to assess the numbers of vessels that will need to utilize the EFP to enter into Gloucester Harbor until safe weather conditions resume. This program is not expected to encourage new effort in the haddock fishery, and it will not create incentives to fish under unsafe conditions. It provides a mechanism for vessels to fish safely on Georges Bank, without forfeiting overages of haddock when entering Gloucester Harbor during times of foul weather.

EFPs would be issued to all limited access multispecies permit holders in accordance with the conditions stated therein, and would exempt them from the provision in the Northeast Multispecies Fishery Management Plan that prevents them from entering port (part of the definition of 'land' in § 648.2) with haddock in excess of the possession limit described in § 648.86.

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

Dated: August 24, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–22068 Filed 8–28–00; 8:45 am]

Billing Code: 3510–22 –S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 080900A]

RIN 0648-A028

Fisheries of the Exclusive Economic Zone Off Alaska; Rebuilding Overfished Fisheries

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted for Secretarial review Amendment 15 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (FMP). This amendment is necessary to implement a rebuilding plan to rebuild the overfished stock of St. Matthew blue king crab. This action is intended to ensure that conservation and management measures continue to be based upon the best scientific information available and is intended to advance the Council's ability to achieve, on a continuing basis, the optimum yield from fisheries under its authority.

DATES: Comments on the amendment must be submitted on or before October 30, 2000.

ADDRESSES: Comments may be submitted to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or Internet. Courier or hand delivery of comments may be made to NMFS in the Federal Building, Room 453, Juneau, AK 99801. Copies of Amendment 15 to the FMP, and the Environmental Assessment prepared for the amendment are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501-2252; telephone 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907-586-7228 or gretchen.harrington@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS declared the St. Matthew stock of blue king crab (*Paralithodes platypus*) overfished on September 24, 1999, because the spawning stock biomass was below the minimum stock size threshold defined in Amendment 7 to the FMP (64 FR 11390). Amendment 7 specified objective and measurable criteria for identifying when all of the crab fisheries covered by the FMP are overfished or when overfishing is occurring.

NMFS notified the Council once NMFS determined that the stock was overfished (64 FR 54791, October 8, 1999). The Council then took action to develop a rebuilding plan within 1 year. In June 2000, the Council adopted Amendment 15, the rebuilding plan, to accomplish the purposes outlined in the national standard guidelines to rebuild the overfished stock. Amendment 15 specifies a time period for rebuilding the stock intended to comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The rebuilding plan is estimated to allow St. Matthew blue king crab to rebuild, with a 50 percent probability, within 10 years. The stock will be considered ''rebuilt'' when the stock reaches the maximum sustainable yield stock size level in 2 consecutive years.

The rebuilding plan consists of a framework that references the State of Alaska's harvest strategy, bycatch control measures, and habitat protection measures.

The rebuilding plan would utilize the harvest strategy developed by the Alaska Department of Fish and Game (ADF&G) and adopted by the Alaska Board of Fisheries (Board). Section 8.0 of thr FMP defers to the State of Alaska the authority to develop harvest strategies, with oversight by NMFS and the Council. The ADF&G revised harvest strategy should result in more spawning biomass, because more larger female crabs would be conserved and fewer juveniles and females would die due to incidental catch and discard mortality. This higher spawning biomass would be expected to produce year-classes when environmental conditions are favorable.

The rebuilding plan also references the bycatch reduction measures and habitat protection measures adopted by the Board in March 2000. The Board adopted gear restrictions to reduce bycatch of sub-legal and female blue king crab in the directed fishery. To protect the habitat of egg-bearing females, the Board took action to close State waters around St. Matthew Island, Hall Island, and Pinnacles Island to crab fishing. Protection of habitat and reduction of bycatch would be expected to reduce mortality on juvenile and egg-bearing female crabs, thus allowing a higher percentage of each year-class to contribute to spawning and future landings.

The Council prepared an Environmental Assessment (EA) for Amendment 15 that describes the management background, the purpose and need for action, the management alternatives, and the environmental and the socio-economic impacts of the alternatives. A copy of the EA can be obtained from the Council (see **ADDRESSES**).

The Magnuson-Stevens Act requires that each regional fishery management council submit each FMP or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or FMP amendment, immediately publish a notification in the Federal Register that the amendment is available for public review and comment. This action constitutes such notice for FMP Amendment 15. NMFS will consider the public comments received during the comment period in determining whether to approve this FMP amendment. To be considered, a comment must be received by close of business on the last day of the comment period (see DATES), regardless of the comment's postmark or transmission date.

Dated: August 24, 2000.

Bruce C. Morehead

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

[FR Doc. 00–22063 Filed 8–28–00; 8:45 am]

Billing Code: 3510–22–S

Notices

Federal Register

Vol. 65, No. 168

Tuesday, August 29, 2000

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

AMTRAK REFORM COUNCIL

Notice of Meeting

AGENCY: Amtrak Reform Council.

ACTION: Notice of special public business meeting in Washington, DC.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997 (Reform Act), the Amtrak Reform Council (ARC) gives notice of a special public meeting of the Council. The meeting will begin at 1 p.m. with a presentation from H. Brent Coles, President of U.S. Conference of Mayors and Mayor of Boise, Idaho, on the importance of rail in U.S. cities; followed by a presentation from Florida DOT and Amtrak on plans for improved rail service in Florida. Also on the agenda is a presentation(s) from Rail Labor Organizations who represent Amtrak employees on issues of importance to the Council. The Council will conclude its business with a discussion of the staff working paper that deals with the Amtrak's ownership and operation of the Northeast Corridor (Washington, DC to Boston, MA).

DATES: The Business Meeting will be held on Thursday, September 7, 2000 from 1 p.m. to 6 p.m. This meeting is open to the public.

ADDRESSES: The Business Meeting will take place in the Captain's Room (which is on the floor below the lobby) of the Channel Inn Hotel on 650 Water Street, SW, Washington, DC 20024. Persons in need of special arrangements should contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Deirdre O'Sullivan, Amtrak Reform Council, Room 7105, JM–ARC, 400 Seventh Street, SW, Washington, DC 20590, or by telephone at (202) 366–0591; FAX: 202–493–2061. For information regarding ARC's upcoming events, the agenda for meetings, the ARC's First Annual Report, information about ARC Council Members and staff, and much more, you can also visit the Council's website at www.amtrakreformcouncil.gov.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (Reform Act), as an independent commission, to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms. In addition, the Reform Act provides: that the Council is to monitor cost savings from work rules established under new agreements between Amtrak and its labor unions; that the Council submit an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that, after a specified period, the Council has the authority to determine whether Amtrak can meet certain financial goals specified under the Reform Act and, if it finds that Amtrak cannot, to notify the President and the Congress.

The ARAA prescribes that the Council is to consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and the leadership of the Congress. Members serve a five-year term.

Issued in Washington, DC, August 24, 2000.

Thomas A. Till,

Executive Director.

[FR Doc. 00–22024 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–06–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled a public hearing and its regular business meetings to take place in Washington, D.C. on Monday, Tuesday, and Wednesday, September 11–13, 2000, at the times and location noted below.

DATES: The schedule of events is as follows:

Monday, September 11, 2000

10:30 a.m.–Noon and 1:30–5:00 p.m. Committee of the Whole—Americans with Disabilities Act/Architectural Barriers Act Final Rule (Closed Meeting)

Tuesday, September 12, 2000

9:00 a.m.–Noon and 1:30–4:00 p.m. Committee of the Whole—Americans with Disabilities Act/Architectural Barriers Act Final Rule (Closed Meeting)

4:00 p.m.–5:00 p.m. Planning and Budget Committee

Wednesday, September 13, 2000

9:00 a.m.–10:30 a.m. Technical Programs Committee

10:30 a.m.–Noon Executive Committee

1:30 p.m.–3:30 p.m. Board Meeting

ADDRESSES: The meetings will be held at the Washington Renaissance Hotel, 999 9th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434, ext. 114 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items.

Open Meeting

- Executive Director's Report
- Approval of the Minutes of the July 26, 2000 Board Meeting
- Executive Committee Report
- Planning and Budget Committee Report—Status Report on Fiscal Year 2000 Budget and Report on 2002 Budget
- Technical Programs Committee Report—Report on Fiscal Years 1998, 1999, and 2000 Projects and Fiscal Year 2001 Research and Technical Projects

Closed Meeting

- Committee of the Whole Report on the Americans with Disabilities Act/Architectural Barriers Act Final Rule

All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Persons attending Board meetings are requested to refrain from using perfume,

cologne, and other fragrances for the comfort of other participants.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 00–22069 Filed 8–28–00; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on September 14, 2000, 10:30 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

Agenda

Public Session

1. Election of Chairman.
2. Presentation of papers and comments by the public.
3. Update on Chemical Weapons Convention inspections.

Closed Session

4. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to the address below: Ms. Lee Ann Carpenter, OSIES/EA/BXA MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on March 7, 2000, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information or copies of the minutes call Ms. Lee Ann Carpenter at (202) 482–2583.

Dated: August 23, 2000.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 00–22027 Filed 8–28–00; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council, Subcommittee on Encryption; Notice of Open Meeting.

The President's Export Council Subcommittee on Encryption (PECSENC) will meet on September 13, 2000, at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 3407, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC. The meeting will begin at 9 a.m. The Subcommittee provides advice on matters pertinent to policies regarding commercial encryption products.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Bureau of Export Administration initiatives.
4. Issue briefings.
5. Open discussion.

The meeting is open to the public and a limited number of seats will be available. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the PECSENC. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to PECSENC members, the PECSENC suggests that public presentation materials or comments be forwarded before the meeting to the address below: Ms. Lee Ann Carpenter, OSIES/EA/BXA MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave, NW., Washington, DC 20230.

For more information, contact Ms. Carpenter at (202) 482–2583.

Dated: August 23, 2000.

R. Roger Majak,

Assistant Secretary.

[FR Doc. 00–22026 Filed 8–28–00; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–802]

Uranium From Russia; Corrected Continuation of Suspended Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Correction to Continuation of Suspended Antidumping Duty Investigation: Uranium from Russia.

SUMMARY: On August 22, 2000, the Department of Commerce (''the Department'') published in the **Federal Register** the continuation of the suspended antidumping duty investigation on uranium from Russia.[1] Subsequent to the publication of the final results, we identified an inadvertent error in the ''Determination'' section of the notice. Therefore, we are correcting this inadvertent error.

The error lies in the second sentence of the determination section: ''The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise.'' [2] This sentence should be deleted.

EFFECTIVE DATE: August 22, 2000.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or James Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230: telephone (202) 482–1930 and (202) 482–3330, respectively.

This correction is issued and published in accordance with sections 751(h) and 777(i) of the Act.

[1] *See Continuation of Suspended Antidumping Duty Investigation: Uranium from Russia,* 65 FR 50958 (August 22, 2000).

[2] *Id.*

Dated: August 23, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–22072 Filed 8–28–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904; NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On August 4, 2000, the Gouvernement du Quebec filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final results of the full sunset reviews of countervailing duty orders made by the United States Department of Commerce, International Trade Administration, respecting Pure Magnesium and Alloy Magnesium from Canada. This determination was published in the **Federal Register**, (65 Fed. Reg. 41444) on July 5, 2000. The NAFTA Secretariat has assigned Case Number USA–CDA–00–1904–07 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, NW., Washington, DC 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).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on August 4, 2000, requesting panel review of the final determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is September 5, 2000);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is September 18, 2000); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: August 7, 2000.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 00–21954 Filed 8–28–00; 8:45 am]

BILLING CODE 3510–GT–U

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On August 4, 2000, the Government du Quebec filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North America Free Trade Agreement. Panel review was requested of the final results of the full sunset review made by the United States Department of Commerce, International Trade Administration, respecting Pure Magnesium from Canada. This determination was published in the **Federal Register**. (65 FR 41436) on July 5, 2000. The NAFTA Secretariat has assigned Case Number USA–CDA–00–1904–06 to this request.

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 America 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).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on August 4, 2000, requesting panel review of the final determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is September 5, 2000);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is September 18, 2000); and

(c) The panel review shall be limited to the allegations of error or fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: August 7, 2000.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 00–21953 Filed 8–28–00; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Scope Rulings and Anticircumvention Inquiries.

EFFECTIVE DATE: August 29, 2000.

SUMMARY: The Department of Commerce (the Department) hereby publishes a list of scope rulings completed between April 1, 2000 and June 30, 2000. In conjunction with this list, the Department is also publishing a list of requests for scope determinations pending as of June 30, 2000. We intend to publish future lists within 30 days of the end of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Jonathan Lyons or Robert James, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–0374 or (202) 482–0649.

Background

The Department's regulations provide that, on a quarterly basis, the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months. *See* 19 CFR 351.225(o). Our most recent ''Notice of Scope Rulings'' published on July 7, 2000. *See* 65 FR at 41957.

This notice covers all scope rulings and anticircumvention determinations completed by Import Administration between April 1, 2000 and June 30, 2000, inclusive. It also lists any scope or anticircumvention inquiries pending as of June 30, 2000. The Department intends to publish in October 2000 a list of all completed and pending scope and anticircumvention inquiries for the period July 1, 2000 through September 30, 2000; subsequent lists will follow in the month after the close of each calendar quarter.

Scope Rulings Completed Between April 1, 2000 and June 30, 2000

Japan

A–588–804 Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof; NTN Bearing Corporation of America; ''EM coupling'' and ring plates used in scroll compressors for automotive air conditioners are outside the scope; May 1, 2000.

A–588–804 Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof and Cylindrical Roller Bearings and Parts Thereof; Subaru-Isuzu Automotive, Inc. (SIA); fan bracket assembly, identified as Isuzu part number 8971486750 (prior to October 1, 1999) and 8972317180 (as of October 1, 1999) is outside the scope of either order; May 26, 2000.

People's Republic of China

A–570–504 Petroleum Wax Candles; American Greetings Corporation; tapers with ''Valentine heart,'' ''teddy-bear,'' snowflake, ''Easter flowers,'' acorns-and-leaves, and ''Indian corn'' figurines are all within the scope, taper with snowman-shaped base is within the scope, pillars with snowflake or gold star decorations are within the scope, and taper shaped to resemble Indian corn is within the scope; May 4, 2000.

A–570–504 Petroleum Wax Candles; Endar Corporation; votive candle with silver studs, three models of ''Chinese Lantern'' candles, and red and white ''Candy Cane Floater'' candle are within the scope; May 11, 2000.

A–570–851 Certain Preserved Mushrooms; Wei Mei Food Industry Co., Ltd., Tak Fat Co., Leung Mi International, Tak Yeun Corp., and Genex International Corp.; marinated or acidified mushrooms with an acetic acid content under 0.5 percent are within the scope; June 19, 2000.

Taiwan

A–583–827 Static Random Access Memory Semiconductors from Taiwan; Pacesetter, Inc.; platform B digital integrated circuit and symmetry controllers are not within the scope; June 9, 2000.

Anticircumvention Determinations Completed Between April 1, 2000 and June 30, 2000

None.

Scope Inquiries Terminated Between April 1, 2000 and June 30, 2000

None.

Anticircumvention Inquiries Terminated Between April 1, 2000 and June 30, 2000

None.

Scope Inquiries Pending as of June 30, 2000

Germany

A–428–821 Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled (LNPP); KBA North America, Inc., Web Press Division; various LNPP parts or subcomponents imported for the production of an LNPP system sold to Dayton Newspapers, Inc. were found preliminarily to be outside the scope on December 22, 1997, and January 27, June 17, and August 4, 1998. Final rulings pending.

A–428–821 Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled (LNPP); KBA North America, Inc., Web Press Division; various LNPP parts or subcomponents imported for the production of an LNPP system sold to Fayetteville Publishing Company were found preliminarily to be outside the scope on December 30, 1998, and January 14 and February 1, 1999. Final rulings pending.

A–428–821 Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled (LNPP); KBA North America, Inc., Web Press Division; whether parts or subcomponents for the production of reel tension pasters of an LNPP system and an extension to that system sold to the *Austin American-Statesman* are covered by the scope of the order. Requested June 14, 2000.

India

A–533–808 Certain Stainless Steel Wire Rod; Ishar Bright Steel, Ltd.; whether stainless steel bar produced in the United Arab Emirates from stainless steel wire rod from India is within the scope. Requested December 22, 1998.

Italy

A–475–059 Pressure Sensitive Plastic Tape; CCL Industries, LLC, d.b.a. CST Special Tapes; whether ''surface protection tape'' is covered by the scope of the order. Requested January 28, 2000.

A–475–820, C–475–821 Stainless Steel Wire Rod; Ishar Bright Steel, Ltd.; whether stainless steel bar produced in the United Arab Emirates from stainless steel wire rod imported from Italy is within the scope. Requested December 22, 1998.

Japan

A–588–804 Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof; NTN Corporation of America; whether certain ball rolling elements used in scroll compressors for automotive air conditioners are antifriction bearing parts covered by the order. Requested March 16, 2000.

A–588–807 Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured; International Business Machines; whether two models of belts imported by IBM for use in the IBM 3900 and IBM 4000 Advanced Function Printing Systems are within the scope of the order. Requested January 28, 2000.

A–588–835 Oil Country Tubular Goods; a domestic interested party, whose identity is proprietary information; whether unfinished drill pipe and tool joints, and unfinished drill pipe without tool joints, which are subsequently processed into drill strings in the People's Republic of China are within the scope of the order. Initiated June 16, 2000.

A–588–843 Certain Stainless Steel Wire Rod; Ishar Bright Steel, Ltd.; whether stainless steel bar produced in the United Arab Emirates from stainless steel wire rod imported from Japan is within the scope of the order. Requested December 22, 1998.

People's Republic of China

A–570–504 Petroleum Wax Candles; Endar Corporation; whether a pillar with gold scroll work decoration, a ''green Christmas taper,'' a ''white Christmas taper,'' and a ''bond cake'' candle are within the scope of the order. Requested May 12, 2000.

A–570–803 Heavy Forged Hand Tools; Tianjin Machinery Import/Export Corporation; whether Tianjin's Pulaski Tools are outside the scope of the order. Requested July 23, 1999.

A–570–803 Heavy Forged Hand Tools; SMC Pacific Tools, Inc. and Olympia Industrial Inc.; whether certain pry bars are within the scope. Requested October 27, 1999.

A–570–827 Certain Cased Pencils; Dollar General Corporation; whether two stationery sets with pencils are within the scope. Requested December 22, 1999.

Russian Federation

A–821–802 Antidumping Suspension Agreement on Uranium; USEC, Inc. and its subsidiary, United States Enrichment Corporation; whether enriched uranium located in Kazakhstan at the time of the dissolution of the Soviet Union is within the scope. Requested August 6, 1999.

Spain

A–469–807, C–469–004 Certain Stainless Steel Wire Rod; Ishar Bright Steel, Ltd.; whether stainless steel bar produced in the United Arab Emirates from stainless steel wire rod imported from Spain is within the scope. Requested December 22, 1998.

Taiwan

A–583–828 Certain Stainless Steel Wire Rod; Ishar Bright Steel, Ltd.; whether stainless steel bar produced in the United Arab Emirates from stainless steel wire rod imported from Taiwan is within the scope. Requested December 22, 1998.

Anticircumvention Inquiries Pending as of June 30, 2000

Canada

A–122–823 Cut-to-Length Carbon Steel Plate; Kentucky Electric Steel Company; whether imports of boron-added grader blade and draft key steel, falling within the physical dimensions outlined in the scope of the order, are circumventing the order. Initiated May 28, 1998.[1]

Italy

A–475–818 Certain Pasta; Pastificio Fratelli Pagani S.p.A. (Pagani); whether imports of bulk pasta (*i.e.,* greater than five pounds) by Pagani, which are subsequently repackaged in the United States into packages of five pounds or less, are circumventing the order. Initiated April 27, 2000 (*see* 65 FR at 26179).

Japan

A–588–824 Corrosion-Resistant Carbon Steel Flat Products; USS-Posco Industries; whether imports of boron-added hot-dipped and electrolytic corrosion-resistant carbon steel sheet, falling within the physical dimensions outlined in the scope of the order, are circumventing the order. Initiated October 30, 1998.[2]

Interested parties are invited to comment on the completeness of this list of pending scope inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Enforcement Group III, Import Administration, International Trade Administration, 14th Street and Constitution Avenue NW, Room 1870, Washington, DC 20230.

This notice is published in accordance with section 351.225(o) of the Department's regulations.

Dated: August 22, 2000.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 00–22073 Filed 8–28–00; 8:45 am]

BILLING CODE 3510–DS–P

[1] The Department was preliminarily enjoined from proceeding with this inquiry in *Co-Steel Lasco and Gerdau MRM Steel* v. *United States,* Ct. No. 98–08–02684 (Ct. Int'l Trade); however, on August 11, 2000, the Court of Appeals for the Federal Circuit summarily reversed the injunction and remanded this case to the Court of International Trade with instructions to dismiss the complaint.

[2] The Department was preliminarily enjoined from proceeding with this inquiry in *Nippon Steel, et. al.,* v. *United States,* Ct. No. 98–10–03102 (Ct. Int'l Trade); however, on July 26, 2000, the Court of Appeals for the Federal Circuit issued its decision in Case No. 99–1379, 1386 (Fed. Cir.), remanding this case to the Court of International Trade with instructions for the lower court to dissolve the preliminary injunction and dismiss the complaint.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082100C]

Marine Mammals; File No. 931-1597-00

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

ACTION: Receipt of application for permit.

SUMMARY: Notice is hereby given that SPAWARSYSCEN- San Diego [U.S. Navy], Code D3503, 49620 Beluga Road, San Diego, California 92152-6506, has requested a scientific research Permit No. 931-1597-00.

DATES: Written or telefaxed comments must be received on or before September 28, 2000.

ADDRESSES: (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Jill Lewandowski, 301/713-2289.

SUPPLEMENTARY INFORMATION: The permit application No. 931-1597-00 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 et seq.), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222-226).

The applicant requests authorization to conduct audiometric and sonocular testing on 48 species of stranded and entrapped cetaceans to determine their acoustic sensitivities and vestibular responses. The proposed research will take place in U.S. and International waters over a five year period.

The applicant requests a maximum of 15 takes for each species. Takes include close approach, direct animal handling, acoustic studies, and tissue collection and import. All age, sex and reproductive classes will be sampled except for pregnant and/or lactating individuals. The applicant also requests authorization to administer medical care in coordination with local stranding networks.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713-0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register,** NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents may be reviewed in the following locations:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713-2289);

Regional Administrator, Alaska Region, NMFS, 709 West 9th Street, 4th Floor, Juneau, Alaska 99801, (907/586-7221);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, Massachusetts 01930, (978/281-9138);

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive, St. Petersburg, Florida 33702-2432, (727/570-5312);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Bin C15700, Building 1, Seattle, Washington 98115-0070, (206/526-6150);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Long Beach, California 90802-4213, (562/980-4000); and

Protected Species Coordinator, Pacific Islands Area Office, NMFS, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, Hawaii 96814-4700, (808/973-2937).

Dated: August 24, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–22062 Filed 8–28–00; 8:45 am]

Billing Code: 3510–22 –S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080400E]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of potential rescheduling of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Reef Fishery Stock Assessment Panel if necessary, due to the possibility of hurricane Debby.

DATES: The meeting may be held on Monday, September 11, 2000, through Friday, September 15, 2000.

ADDRESSES: The meeting will be held at the Adam's Mark Hotel, 64 South Water Street, Mobile, AL 36602.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: 813-228-2815.

SUPPLEMENTARY INFORMATION: The initial meeting notice published in the **Federal Register**on August 14, 2000, (65 FR 49542). In the event that the meeting scheduled for Monday, August 28, 2000, starting at 9:00 a.m. through Friday, September l, 2000, concluding at 3:00 p.m. at the NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL is cancelled due to Hurricane Debby, the meeting will be held on Monday, September 11, 2000, through Friday, September 15, 2000, at the Adam's Mark Hotel, 64 South Water Street, Mobile AL 36602. All other information previously published remains the same.

Dated: August 24, 2000.

Bruce C. Morehead

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

FR Dfoc. 00–22066 File 8–28–00; 8:45 am

Billing Code: 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081400B]

Marine Mammals; File No. 753–1599–00

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

ACTION: Receipt of application for permit.

SUMMARY: Notice is hereby given that Jim Darling, Ph.D., P.O. Box 384, Tofino, B.C., Canada, has requested a scientific research Permit No. 753–1599–00.

DATES: Written or telefaxed comments must be received on or before September 28, 2000.

ADDRESSES: The request and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, 709 West 9th Street, 4th Floor, Juneau, Alaska 99801, (907/586–7221);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Bin C15700, Building 1, Seattle, Washington 98115–0070, (206/526–6150);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Long Beach, California 90802–4213, (562/980–4000);

Protected Species Coordinator, Pacific Islands Area Office, NMFS, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, Hawaii 96814–4700, (808/973–2937);

Written comments or requests for a public hearing on this request should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this

particular amendment request would be appropriate.

Comments may also be submitted by facsimile at 301/713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Jill Lewandowski or Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: The permit application No. 753–1599–00 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant requests authorization to conduct research on humpback whales (*Megaptera novaeangliae*) and gray whales (*Eschrichtius robustus*)in the state waters of Alaska, Hawaii, Oregon, Washington and/or California. The overall objective of the proposed research is to study the mating behavior, social organization and behavioral ecology of these species. The applicant requests to conduct this research over a five year period.

The applicant specifically requests authorization for (1) 4,000 total annual takes of humpback whales through photo-identification, close approach, incidental harassment, sound recording, aerial photogrammetry and underwater observation with 400 of these annual takes for biopsy sampling; and (2) 500 total annual takes of gray whales through photo-identification, close approach, incidental harassment, sound recording, aerial photogrammetry and underwater observation with 100 of these annual takes for biopsy sampling. The applicant also requests authorization to import collected tissue into the U.S. and dissect/collect tissues, particularly related to sound production systems, of dead humpback and gray whales.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 23, 2000.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–22067 Filed 8–28–00; 8:45 am]

Billing Code: 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

National Medal of Technology 2001 Award Program

AGENCY: Technology Administration, U.S. Department of Commerce.

ACTION: Announcement of the National Medal of Technology 2001 Award Program.

SUMMARY: The Department of Commerce, Technology Administration (TA), is accepting nominations for its year 2001 National Medal of Technology Award Program.

Established by Congress in 1980, the President of the United States awards the National Medal of Technology annually to our nation's leading innovators. If you know of a candidate who has made an outstanding contribution in technology, send for a nomination packet now.

DATES: The deadline for submission of an application is December 15, 2000.

ADDRESSES: The 2001 Nomination Applications can be obtained from the National Medal of Technology Program Office, Technology Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Room 4226, Washington, D.C. 20230. The packets are also available by visiting the NMT website at NMT@ta.doc.gov or by faxing the office at 202/501–8153.

FOR FURTHER INFORMATION CONTACT: Andrew J. Fowell, Acting Director, 202–482–5572.

SUPPLEMENTARY INFORMATION: The National Medal of Technology is the highest honor bestowed by the President of the United States to America's leading innovators. Enacted by Congress in 1980, the Medal of Technology was first awarded in 1985. The Medal is given annually to individuals, teams, or companies for accomplishments in the innovation, development, commercialization, and management of technology, as evidenced by the establishment of new or significantly improved products, processes, or services.

The primary purpose of the National Medal of Technology is to recognize technological innovators who have made lasting contributions to enhancing America's competitiveness and standard of living. The Medal highlights the national importance of fostering technological innovation based upon solid science, resulting in commercially successful products and services.

The Selection Process

A distinguished, independent committee representing both private and public sectors evaluates the merits of all candidates nominated through an open, competitive solicitation process. The U.S. Department of Commerce's Office of the Under Secretary for Technology is responsible for administrating the National Medal of Technology. Committee recommendations are forwarded to the Secretary of Commerce who then makes recommendations to the President for final decision.

The Awards Presentation

Each year the National Medal of Technology awards are presented by the President in a joint White House ceremony with the National Medal of Science. (The National Medal of Science is administered by the National Science Foundation.) An award's dinner sponsored by the National Science and Technology Medals Foundation and other events are planned around the White House ceremony.

For over a decade, the Medal has celebrated the extraordinary achievements of American trailblazers, fostering a national legacy and inspiring future innovators. Of the 126 Medals of Technology awarded since 1985, 115 have been awarded to individuals or teams. Eleven has been awarded to companies.

Cheryl L. Shavers,

Under Secretary of Commerce for Technology, Technology Administration.

[FR Doc. 00–22008 Filed 8–28–00; 8:45 am]

BILLING CODE 3510–18–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Renewal of a Currently Approved Information Collection; Submission for OMB Review; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

The Corporation for National and Community Service (hereinafter the ''Corporation'') has submitted the following public information collection

request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Mr. Noel McCaman, Director, AmeriCorps Recruitment Office, (202) 606–5000, extension 443. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: Ms. Brenda Aguilar, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, D.C. 20503, (202) 395–6929, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information to those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submissions of responses.

Agency: Corporation for National and Community Service.

Type of Review: Revision of a currently approved collection.

Title: AmeriCorps National Referral Card.

OMB Number: 3045–0004.

Agency Number: None.

Frequency: One response per individual (optional collection).

Affected Public: Individuals and households.

Number of Respondents: 100,000. (50,000 through the Corporation's 1–800 number, and 50,000 through the Corporation's website).

Estimated Time Per Respondent: 3 minutes.

Total Burden Hours: 5,000 hours.

Total Annualized capital/startup costs: None.

Total annual costs (operating/maintenance): $42,900—1–800 number costs and $0.00 for the website).

Description: The AmeriCorps National Referral Card is submitted by potential AmeriCorps members to the Corporation for input into a national recruitment referral database and the information provided is distributed to approved AmeriCorps programs. The programs then contact individuals who have completed the form and ask them to formally apply for AmeriCorps member positions.

The Corporation seeks to revise the current AmeriCorps National Referral Card in order to determine:

(1) Citizenship or if applicant is a lawful permanent resident alien of the United States (a statutory requirement for participation in AmeriCorps);

(2) Knowledge of foreign languages. (The current card asks only about Spanish language skills);

(3) If the individual is interested in serving in a summer program; and

(4) The geographic area(s) in which the individual would prefer to serve.

Dated: August 23, 2000.

Noel V. McCaman,

Director of AmeriCorps Recruitment, Corporation for National and Community Service.

[FR Doc. 00–21983 Filed 8–28–00; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 30, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 23, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: Public Libraries Survey.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Federal Government.

Reporting and Recordkeeping Hour Burden: Responses: 56. Burden Hours: 1,680.

Abstract: The Public Libraries Survey is an annual survey of public libraries in the 50 States, D.C. and the Outlying Areas. Data for local public libraries are aggregated at the State and national levels. Federal, state, and local officials use the data for planning, evaluation, monitoring, budgeting, administration, and policy. Other users include librarians, educators, and researchers. The respondents are the 50 States, D.C. and the Outlying Areas.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese,

Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her internet address Kathy__Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–21971 Filed 8–28–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Dockets No. PP–228 and EA–228]

Applications for Presidential Permit and Electricity Export Authorization Edison Sault Electric Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Applications.

SUMMARY: Edison Sault Electric Company (ESE) has applied for a Presidential permit to construct, connect, operate and maintain a 230,000-volt (230-kV) underground electric transmission facility across the U.S. border with Canada. In addition, ESE has applied for authorization to export electric energy to Canada.

DATES: Comments, protests, or requests to intervene must be submitted on or before September 28, 2000.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Power Import and Export (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael T. Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: The construction, connection, operation, and maintenance of facilities at the international border of the United States for the transmission of electric energy between the United States and a foreign country is prohibited in the absence of a Presidential permit issued pursuant to Executive Order (EO) 10485, as amended by EO 12038. Exports of electricity from the United States to a foreign country are also regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On August 17, 2000, ESE, a transmission and distribution company and wholly-owned subsidiary of Wisconsin Energy Corporation, an investor owned public utility, filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for a Presidential permit. ESE proposes to construct an underground 230-kV transmission line from an existing substation located in Sault Ste. Marie, Michigan, to an existing substation located in Sault Ste. Marie, Ontario, Canada, a distance of approximately 6,000 feet. The facilities within Canada will be owned by Great Lakes Power Inc. (GLP), an investor owned utility in Canada. In a separate application, also filed on August 17, 2000, ESE applied for authorization to export electric energy to Canada using the proposed facilities, pursuant to section 202(e) of the FPA.

In its application, ESE notes that the purpose of the proposed transmission line and export authorization is to transmit electricity between the ESE and the GLP systems and to provide both companies with additional competitive supplies of electric power. ESE also asserts that these facilities will enhance the reliability of both systems.

ESE is proposing to develop this project in two phases. Initially, ESE would construct a 230-kV transmission line under the St. Mary's River connecting its existing Portage Road Substation, located in Sault Ste. Marie, Michigan, with GLP's existing F. H. Clergue substation, located in Sault Ste. Marie, Ontario, Canada. This is a distance of approximately 6,000 feet. In phase one, the 230-kV facilities will be operated at 69-kV have the ability to transmit 50 megawatts (MW) to Canada. At a later date, and after submission of additional electric reliability studies to DOE, ESE proposes to operate the facilities at 230-kV and increase the ability of the facilities to transmit energy to Canada.

Since restructuring of the electric power industry began, resulting in the introduction of different types of competitive entities into the marketplace, DOE has consistently expressed its policy that cross-border trade in electric energy should be subject to the same principles of comparable open access and non-discrimination that apply to transmission in interstate commerce. DOE has stated that policy in export authorizations granted to entities requesting authority to export over international transmission facilities. Specifically, DOE expects transmitting utilities owning border facilities to provide access across the border in accordance with the principles of comparable open access and non-discrimination contained in the FPA and articulated in Federal Energy Regulatory Commission Order No. 888 (Promotion Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public utilities; FERC Stats. & Regs. ¶ 31,036 (1996)), as amended. In furtherance of this policy, on July 27, 1999, (64 FR 40586) DOE initiated a proceeding in which it noticed its intention to condition existing and future Presidential permits, appropriate for third party transmission, on compliance with a requirement to provide non-discriminatory open access transmission service. That proceeding is not yet complete. However, in this docket DOE specifically requests comment on the appropriateness of applying the open access requirement on ESE's proposed facilities.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's rules of practice and procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Additional copies of such petitions to intervene or protests also should be filed directly with: Donald Sawruk, President, Edison Sault Electric Co., 725 East Portage Road, Sault, Michigan, 49783 and Mrs. Cheryl Feik Ryan, Van Ness Feldman, 1050 Thomas Jefferson Street, NW, Washington, DC 20087.

Before a Presidential permit or electricity export authorization may be issued or amended, the DOE must determine that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system. In addition, DOE must consider the environmental impacts of the proposed actions pursuant to the National Environmental Policy Act of 1969. DOE also must obtain the concurrence of the Secretary of State and the Secretary of Defense before taking final action on a Presidential permit application.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above. In addition, the application may be reviewed or

downloaded from the Fossil Energy Home Page at: http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Electricity'' from the options menu, and then ''Pending Proceedings.''

Issued in Washington, DC, on August 22, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Fossil Energy.

[FR Doc. 00–22001 Filed 8–28–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–336–001]

El Paso Natural Gas Company; Notice of Compliance Filing

August 23, 2000.

Take notice that on August 15, 2000, pursuant to subpart C of part 154 of the Federal Energy Regulatory Commission's (Commission) Regulations and in compliance with the Commission's orders issued February 9, 2000 at Docket No. RM98–10–000, *et al.,* May 19, 2000 at Docket No. RM98–10–001, *et al.,* and June 7, 2000 at Docket No. RP00–293–000, El Paso Natural Gas Company (El Paso) tendered for filing and acceptance the following pro forma tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1–A.

First Revised Sheet No. 290A
Original Sheet No. 290B
Original Sheet No. 290C

El Paso states that the pro forma tariff sheets are being filed to submit a segmentation plan in compliance with the Commission's Order Nos. 637 and 637–A and the Order Granting Extension of Time in Part regarding capacity segmentation.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–21966 Filed 8–28–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–583–001]

Kinder Morgan Texas Pipeline, Inc.; Notice of Redesignation of Proceeding

August 23, 2000.

Take notice that on August 15, 2000, Kinder Morgan Texas Pipeline, Inc. (Kinder Morgan Texas), tendered for filing a letter to inform the Commission of a name change related to Natural Gas Act (NGA) section 3 Authority and Presidential Permit issued December 17, 1997, in Docket No. CP96–583–001.[1] Specifically, Kinder Morgan Texas states that its name was changed from MidCon Texas Pipeline Operator, Inc. (MidCon Texas) effective May 1, 2000.

Kinder Morgan Texas states that the name change has no effect on its obligations and responsibilities under the Presidential Permit and section 3 authority as provided by the December 17, 1997 order with respect to the construction and operation of the proposed international border crossing facilities. Accordingly, pursuant to Section 375.302(r) of the Commission's Rules and Regulations, notice is hereby given that this proceeding is being redesignated to reflect the permit holder's new name.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–21965 Filed 8–28–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC00–127–000, et al.]

Indianapolis Power & Light Company, et al. Electric Rate and Corporate Regulation Filings

August 23, 2000.

Take notice that the following filings have been made with the Commission:

[1] MidCon Texas Pipeline Operator, Inc., 81 FERC ¶ 61,326 (1997).

1. Indianapolis Power & Light Company

[Docket No. EC00–127–000]

Take notice that on August 18, 2000, Indianapolis Power & Light Company (IPL), tendered for filing an application under Section 203 of the Federal Power Act for authorization for the sale by IPL of the transmission facilities at its Perry K Steam Plant in Indianapolis, Indiana to Citizens Gas & Coke Utility (Citizens). The Perry K Steam production facility includes two generators that are capable of producing approximately 20 MW.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Northeast Utilities Service Company and Select Energy, Inc. v. ISO New England Inc.

[Docket No. EL00–102–000]

Take notice that on August 21, 2000, Northeast Utilities Service Company and Select Energy tendered for filing pursuant to Sections 206 and 306 of the Federal Power Act a complaint against ISO New England Inc., regarding its mitigation of the monthly Installed Capability markets for the January 2000 through July 2000 period.

Comment date: September 11, 2000, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall also be due on or before September 11, 2000.

3. COSI Puna, Inc.

[Docket No. EG00–198–000]

Take notice that on August 17, 2000, COSI Puna, Inc. (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 29, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

4. Aques Investments Corporation II

[Docket No. EG00–199–000]

Take notice that on August 17, 2000, Aques Investments Corporation II (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment

to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 29, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

5. CD Soda III, Inc.

[Docket No. EG00–200–000]

Take notice that on August 17, 2000, CD Soda III, Inc. (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 29, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

6. COSI Sunnyside, Inc.

[Docket No. EG00–206–000]

Take notice that on August 17, 2000, COSI Sunnyside, Inc. (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 30, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

7. COSI Central Wayne, Inc.

[Docket No. EG00–208–000]

Take notice that on August 17, 2000, COSI Central Wayne, Inc. (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 30, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

8. CD Panther Partners, L.P.

[Docket No. EG00–213–000]

Take notice that on August 17, 2000, CD Panther Partners, L.P. (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 30, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

9. Constellation Operating Services

[Docket No. EG00–214–000]

Take notice that on August 17, 2000, Constellation Operating Services (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 30, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

10. CE Colver Limited Partnership

[Docket No. EG00–216–000]

Take notice that on August 17, 2000, CE Colver Limited Partnership (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 30, 2000 in the above-referenced Docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

11. CE Colver I, Inc.

[Docket No. EG00–217–000]

Take notice that on August 17, 2000, CE Colver I, Inc. (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 30, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

12. COSI A/C Power, Inc.

[Docket No. EG00–219–000]

Take notice that on August 17, 2000, COSI A/C Power, Inc. (the Applicant), with its principal place of business at 111 Market Place, Suite 200, Baltimore, Maryland 21202, tendered for filing with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations that was originally filed on June 30, 2000 in the above-referenced docket.

Comment date: September 13, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application.

13. PPL Maine, LLC

[Docket No. ER99–1940–001]

Take notice that on August 17, 2000, PPL Maine, LLC tendered for filing notification of change in status, pursuant to the Order of the Federal

Energy Regulatory Commission in Northeast Utilities Service Company, 87 FERC ¶ 61,063 (1999).

Copies of this filing have been served upon all persons listed on the official service list complied by the Secretary in this Docket.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. AEE 2 LLC, AES Londonderry LLC, AES Huntington Beach LLC, AES Alamitos LLC, AES Redondo Beach LLC, AES Placerita Inc., AES NY LLC, AES Power Inc., Central Illinois Light Co., Commonwealth Chesapeake Co. LLC, Northern/AES Energy LLC, QST Energy Trading Inc., New Energy Ventures LLC, NEV East LLC, NEV California LLC, NEV Midwest LLC, New Energy Partners, LLC

[Docket Nos. ER99–2284–001, ER00–1147–001, ER98–2184–005, ER98–2185–005, ER98–2186–005, ER00–33–002, ER99–1773–001, ER94–890–021, ER98–2440–001, ER99–415–003, ER98–445–009, ER96–553–018, ER97–4636–010, ER97–4652–010, ER97–4653–010, ER97–4654–010, ER99–1812–006]

Take notice that on August 18, 2000, AES Corporation (AES), on behalf of its affiliates, tendered for filing notification of a change in status to reflect certain departures from the facts the Commission relied upon in granting market-based rate authority. AES informed the Commission of its planned acquisition of IPALCO Enterprises, Inc., the parent of Indianapolis Power & Light Company.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. PPL Montana, LLC; PPL Colstrip I, LLC; PPL Colstrip II, LLC

[Docket No. ER99–3491–001]

Take notice that on August 17, 2000, PPL Montana, LLC, PPL Colstrip I, LLC and PPL Colstrip II, LLC tendered for filing notification of change in status, pursuant to the Order of the Federal Energy Regulatory Commission in Illinova Power Marketing, Inc., 88 FERC ¶ 61,189 (1999).

Copies of this filing have been served upon all persons listed on the official service list complied by the Secretary in this Docket.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. PPL EnergyPlus, LLC

[Docket No. ER99–3606–003]

Take notice that on August 17, 2000, PPL EnergyPlus, LLC, tendered for filing notification of change in status, pursuant to the Order of the Federal Energy Regulatory Commission in PPL EnergyPlus Company, 85 FERC ¶ 61,377 (1998), reh'g pending.

Copies of this filing have been served upon all persons listed on the official service list complied by the Secretary in this Docket.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. PPL Great Works, LLC

[Docket No. ER99–4503–001]

Take notice that on August 17, 2000, PPL Great Works, LLC tendered for filing notification of change in status, pursuant to the Order of the Federal Energy Regulatory Commission in Middletown Power, LLC, 89 FERC ¶ 61,151 (1999).

Copies of this filing have been served upon all persons listed on the official service list complied by the Secretary in this Docket.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. AES Placerita, Inc.

[Docket No. ER00–33–001]

Take notice that on August 18, 2000, AES Placerita, Inc., 20885 Placerita Canyon Road, Newhall, CA 91321 (AESPL), tendered for filing with the Federal Energy Regulatory Commission (Commission) a revised tariff sheet and statement of policy and code of conduct in compliance with the Commission's prior order in this docket.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. PPL Electric Utilities Corporation

[Docket No. ER00–1712–002]

Take notice that on August 17, 2000, PPL Electric Utilities Corporation tendered for filing notification of change in status, pursuant to the Order of the Commission in Pennsylvania Power & Light Company, 80 FERC ¶ 61,053 (1997), and a request for waiver of certain of the filing requirements of the Federal Energy Regulatory Commission.

Copies of this filing have been served upon all persons listed on the official service list complied by the Secretary in this Docket.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. El Dorado Energy, LLC

[Docket No. ER00–2712–001]

Take notice that on August 18, 2000, El Dorado Energy, LLC (El Dorado), tendered for filing two service agreements and a redesignated FERC Electric Tariff, Original Volume No. 1 designated in accordance with Order No. 614 and in compliance with the letter order issued in this docket on August 3, 2000. El Dorado's FERC Electric Tariff supercedes El Dorado's Rate Schedule No. 1.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. The New Power Company

[Docket No. ER00–3102–001]

Take notice that on August 18, 2000, The New Power Company (TNPC), tendered for filing rate schedule designations for its revised FERC Rate Schedule No. 1 and accompanying Code of Conduct in compliance with the Commission's August 3, 2000, Order in the above-referenced docket.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Madison Gas and Electric Company

[Docket No. ER00–3432–000]

Take notice that on August 17, 2000, Madison Gas and Electric Company (MGE), tendered for filing a service agreement under MGE's Market-Based Power Sales Tariff with AES/CILCO.

MGE requests the agreement be effective on the date it was filed with the FERC.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Alliant Energy Corporate Services, Inc.

[Docket No. ER00–3437–000]

Take notice that on August 17, 2000, Alliant Energy Corporate Services, Inc., tendered for filing executed Network Service and Network Operating Agreements, establishing Central Minnesota Municipal Power Agency as a Network Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc., transmission tariff.

Alliant Energy Corporate Services, Inc., requests an effective date of August 1, 2000 and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. New Century Services, Inc.

[Docket No. ER00–3438–000]

Take notice that on August 18, 2000, New Century Services, Inc. (NCS), on behalf of Public Service Company of Colorado (Public Service), tendered for filing the Master Power Purchase and Sale Agreement between Public Service and Sandia Resources Corporation which is an umbrella service agreement under Public Service's Rate Schedule for Market-Based Power Sales (Public Service FERC Electric Tariff, Original Volume No. 6).

NCS requests that this agreement become effective on August 1, 2000.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

25. Commonwealth Edison Company

[Docket No. ER00–3439–000]

Take notice that on August 18, 2000, Commonwealth Edison Company (ComEd), tendered for filing two Firm Transmission Service Agreements (Agreements) supplemented by Network Upgrade Agreements with Wisconsin Electric Power Company (WEP), and one firm Agreement with Alliant Energy Corporate Services, Inc. (Alliant) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of October 1, 2000 for the Agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

26. Maine Electric Power Company

[Docket No. ER00–3440–000]

Take notice that on August 18, 2000, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Short-Term Firm Point-to-Point service entered into with The Legacy Energy Group, LLC. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

27. Central Power and Light Company

[Docket No. ER00–3441–000]

Take notice that on August 18, 2000, Central Power and Light Company (CPL), tendered for filing an Interconnection Agreement between CPL and Corpus Christi Cogeneration LP (Corpus Christi).

CPL requests an effective date for the Interconnection Agreement of sixty (60) days after the date of the filing.

CPL states that a copy of the filing was served on Corpus Christi and the Public Utility Commission of Texas.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

28. Metropolitan Edison Company Pennsylvania Electric Company

[Docket No. ER00–3442–000]

Take notice that on August 18, 2000, Metropolitan Edison Company and Pennsylvania Electric Company (doing business and hereinafter referred to as GPU Energy) tendered for filing a letter agreement between GPU Energy and Conectiv Energy Supply, Inc., (Conectiv). Under the agreement, Conectiv has accepted certain operational and financial responsibilities, including those set forth in the GPU Energy's procedure manuals, in connection with Conectiv becoming a Load Serving Entity for the Pennsylvania Boroughs of Berlin, Girard, Hooversville, Royalton and Smethport.

Copies of the filing were served upon Conectiv, PJM and regulators in the Commonwealth of Pennsylvania.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

29. Maine Electric Power Company

[Docket No. ER00–3443–000]

Take notice that on August 18, 2000, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Umbrella Non-Firm Point-to-Point service entered into with The Legacy Energy Group, LLC. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

30. Enova Energy, Inc.

[Docket No. ER00–3444–000]

Take notice that on August 14, 2000, Sempra Energy Solutions, tendered for filing notice that on August 4, 2000, it adopts, ratifies, and makes its own, in every respect all applicable rate schedules, and supplements to Enova Energy, Inc's FERC Electric Rate Schedule No. 1, filed with the Federal Energy Regulatory Commission.

Comment date: September 4, 2000, in accordance with Standard Paragraph E at the end of this notice.

31. Western Resources, Inc.

[Docket No. ER00–3445–000]

Take notice that on August 18, 2000, Western Resources, Inc. (WR), tendered for filing the First Amendment to the Electric Service Agreement between WR and the City of Toronto, Kansas (City). WR states that the filing extends this Electric Service Agreement until March 14, 2000.

WR requests an effective date of April 1, 2000 for this rate schedule change.

Copies of the filing have been served upon the City and the Kansas Corporation Commission.

Comment date: September 8, 2000, in accordance with Standard Paragraph E at the end of this notice.

32. DePere Energy Marketing, Inc.

[Docket No. ER00–3446–000]

Take notice that on August 17, 2000, DePere Energy Marketing, Inc. (DePere), tendered for filing notice of cancellation of its Rate Schedule FERC No. 1, with a proposed effective date of June 30, 2000. DePere is no longer engaged in the power marketing business, will not conduct power marketing activities in the future, and has no outstanding power sales contracts; accordingly, no purchasers will be affected by this Notice.

Comment date: September 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–22020 Filed 8–28–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Final Power Allocation Procedures of the Post-2004 Resource Pool-Loveland Area Projects

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of final procedures.

SUMMARY: Western Area Power Administration (Western), a Federal power marketing agency of the Department of Energy, announces its Post-2004 Resource Pool Allocation Procedures developed under the requirements of Subpart C—Power Marketing Initiative of the Energy Planning and Management Program (Program) Final Rule, 10 CFR part 905. Subpart C of the Program provides for establishing project-specific resource pools and allocating power from these pools to new preference customers. These procedures, in conjunction with the Loveland Area Projects Final Post-1989 Marketing Plan (Post-1989 Marketing Plan), establish the framework for allocating power from the resource pool to be established for the Loveland Area Projects (LAP).

DATES: The Post-2004 Resource Pool Allocation Procedures become effective September 28, 2000, and will remain in effect until September 30, 2024.

ADDRESSES: Information about the Post-2004 Resource Pool Allocation Procedures, including comments, letters, and other supporting documents made or kept by Western for the purpose of developing the final procedures, is available for public inspection and copying at the Rocky Mountain Customer Service Region office, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, Colorado 80538–8986.

SUPPLEMENTARY INFORMATION: Western published a notice of proposed procedures on March 10, 2000, to implement Subpart C—Power Marketing Initiative of the Program's Final Rule, 10 CFR part 905, published at 60 FR 54151 in the **Federal Register**. The Program, which was developed in part to implement section 114 of the Energy Policy Act of 1992, became effective on November 20, 1995. The goal of the Program is to require planning and efficient electric energy use by Western's long-term firm power customers and to extend Western's firm power resource commitments. One aspect of the Program is to establish project-specific power resource pools when existing resource commitments expire and allocate power from these pools to new preference customers. Existing resource commitments for LAP expire on September 30, 2004. Under the Program, 96 percent of the firm power resources available in 2004 was extended to existing customers. The remaining 4 percent will make up a resource pool from which power allocations to new customers will be made following these final procedures and the Post-1989 Marketing Plan. The final Post-2004 Resource Pool Allocation Procedures for LAP address (1) eligibility criteria; (2) how Western plans to allocate the pool resources to new customers as provided for in the Program; and (3) the terms and conditions under which Western will contractually allocate the power pool.

Western held public information and comment forums on the proposed procedures on March 14, 21, and 23, 2000, to accept oral and written comments on the proposed procedures and call for applications. The formal comment period ended June 8, 2000. Western's response to public comments received about the proposed procedures are included in this notice.

The Post-2004 Resource Pool Allocation Procedures detailed in this **Federal Register** notice explain how Western intends to implement Subpart C of the Power Marketing Initiative of the Program's Final Rule for the LAP.

Response to Public Comments Regarding Post-2004 Resource Pool Allocation Procedures

I. Amount of Pool Resources

Western proposes to allocate up to 4 percent of the LAP long-term firm hydroelectric resource available as of October 1, 2004, as firm power.

Western did not receive comments pertaining to the amount of the pool resources.

II. General Eligibility Criteria

Western proposes to apply general eligibility criteria to applicants seeking an allocation of firm power under the proposed Post-2004 Resource Pool Allocation Procedures.

Comment: The City of Fountain believes that Western's proposed criteria states that an eligible applicant must not be receiving benefits from a current LAP firm power allocation is inconsistent with EPAMP Final Rule, which at 60 FR 54173 states that Western will allocate a fair share of power to eligible to new preference entities who do not have a contract with Western or are not a member of a parent entity that has a contract with Western.

Response: Western acknowledges that the supplemental explanation, published at 60 FR 54173, of the Program's rule contained in 10 CFR part 905 supports the argument that the City of Fountain may be eligible for a firm power allocation. In these final procedures, Western will change the general eligibility criteria to be consistent with the EPAMP Final Rule. Western will evaluate applicant profile data to determine eligibility under the final criteria and procedures.

III. General Allocation Criteria

Western proposes to apply general allocation criteria to applicants seeking an allocation of firm power under the proposed Post-2004 Resource Pool Allocation Procedures.

Comment: Several comments stated that the Native American allocations should be capped at 65 percent of the actual load served in 1998–1999 to be consistent with the criteria used by other Regions. Furthermore, the share of allocations to Native American tribes should be the total Federal power to include the share of the load currently served by a Federal allocation to the current tribal service provider. Other comments stated that the Department of Energy has established a target of at least serving 65 percent of the Native American load with power allocations from the LAP and Salt Lake City Area Integrated Projects (SLCA/IP). Crediting any power received indirectly by the tribes via their current service provider is not satisfactory. If the tribe forms a utility during the term of the firm electric service contract, the tribe would not be able to take advantage of the portion of the allocation held by the service provider. The full 65-percent allocation should be determined without considering the benefit derived from the serving utility.

Response: Western has not established targets for serving Native American load with power allocations from LAP. The Pick-Sloan Missouri Basin Program, Eastern Division's Post-2000 Resource allocation process resulted in approximately 62 percent benefit in the summer season and 55 percent benefit in the winter season to Native American tribes. The SLCA/IP Post-2004 Resource allocation process has used a 65 percent benefit to Native American tribes as an anticipated goal. Applicant profile data will be evaluated to determine the benefit that will go to each applicant. Western will take into account benefits of Federal power resources received by Native American tribes through the existing supplier when determining allocations. Native American tribal allocations from the LAP resource pool will be set forth in

a subsequent **Federal Register** notice and will be available for comment then.

Comment: Before allocating power to new non-tribal customers with utility status, available power resources should be allocated on a priority basis to satisfy at least 65 percent of Native American load.

Response: Reclamation Law provides that public entities be given preference over private entities in marketing power from Federal reclamation projects. Western has always considered Native American tribes to be preference customers. In response to comments received during the Program's public process, Western has changed its policy of requiring that Native American tribes achieve utility status prior to receiving an allocation. An appropriate share of LAP resources will be allocated to applicants based on the final procedures.

Comment: The Iowa Tribe of Kansas and Nebraska is partly in Nebraska, which is outside of the LAP marketing area. The Tribe should be allowed to count all loads that are on the reservation, including the portion in Nebraska.

Response: The firm power allocated under the general allocation criteria will be available only to new eligible applicants in LAP's existing marketing area. Western considers the broader scope of this statement to mean that only load within the LAP marketing area will be considered in determining an allocation. Even though benefits of Western's power would potentially be for all tribal members, no load outside the established marketing area is eligible for consideration.

Comment: Allocations should be limited to use by Native American tribes and their members on reservations. Allocations should not be made to Native Americans living beyond the reservation's boundaries or to tribal land holdings beyond the reservation boundaries. Limiting allocations to tribal organizations on reservation property recognizes the unique nature of these reserved lands and will provide immediate economic benefit to Native Americans where this benefit is needed most. Definition of load should be clarified to state that load area is limited to the actual loads currently on tribal lands. Calculation of load for Native Americans should exclude non-Native American loads served on the Native American lands. The tribes face the issue of whether load of non-Indians on the reservation can be counted. If a tribal utility were formed, the total load served by that utility would be eligible. Allocation of power to tribes should therefore be based on the total reservation load.

Response: The Program, published at 60 FR 54151, states that Western expects to make allocations to Native American tribes for use on the reservation and potentially off the reservation under certain circumstances as determined by Western. Western wants the flexibility to tailor allocations from the LAP Post-2004 resource pool to meet specific tribal circumstances. Applicant profile data submitted by Native American tribes should be based on usage by tribal members and tribal entities on the tribe's reservation. However, the tribes should submit any data or estimates that may potentially be considered during the allocation process. Western will seek clarification when reviewing applications and adjust inconsistent data and estimates before making proposed allocations. The proposed allocations developed from Native American tribe load data and estimates will be published in a subsequent **Federal Register** notice. Western cannot dictate the universe of customers that a Native American tribal utility could serve. If a Native American tribe submits an application as a utility applicant, Western would evaluate the application under utility applicant criteria. As a utility applicant, if non-tribal load were served, then that load would be valid to include for consideration of an allocation. When submitting Native American load data as a non-utility, only load of tribal entities and their members will be considered for an allocation.

Comment: One comment stated that load basis should be consistent for all applicants and based on the actual 1998–99 winter season and 1999 summer season loads of the applicant. In reference to Native American loads, it is assumed that estimate refers only to the inaccuracy that might occur in separating that load from load of the current supplier and does not refer to the inclusion of any future load that may be anticipated. Another comment stated that tribal economic development projects that show a reasonable likelihood of being completed by 2004 should be considered as tribal load.

Response: Allocations made to qualified utility and non-utility applicants will be based on the 1998–99 winter season and 1999 summer season loads. Allocations to Native American tribes will be based on the 1998–99 winter season and 1999 summer season load data if available. Western will accept 1998 summer season and 1998–99 winter season load data, if available, from the Eastern Shoshone and Northern Arapaho on the Wind River Reservation since that data was requested for the SLCA/IP Post-2004 Resource Pool. Western will also accept load estimates developed by the Native American tribes. During the public information forums, Western said that limited projected load estimates would be considered. However, any projected load estimates considered by Western would be limited to load anticipated to exist prior to September 30, 2004. Western will evaluate and adjust inconsistent data and estimates. The proposed allocations developed from Native American tribe load data and estimates will be published in a subsequent **Federal Register** notice.

Comment: Many comments stated that if any of the resource pool remains unallocated or cannot be delivered after the Post-2004 allocation, it should be returned to the existing customers on a pro rata basis. Several other comments stated that firm power not under contract after the closing date for executing firm power contracts should be made available exclusively for the benefit of contracting Native American tribes.

Response: The Program states: ''If power is reserved for new customers but not allocated, or resources are offered but not placed under contract, this power will be offered on a pro rata basis to customers that contributed to the resource pool through application of the extension formula in the Program.'' In these final procedures, Western will change the general allocation criteria to comply with the regulations in 10 CFR part 905, published at 60 FR 54151.

Comment: Several comments stated that the maximum allocation for tribes will be no more than, and could be less than, 5,000 kilowatts (kW). Other comments stated that an exception should be granted to the maximum allocation of 5,000 kW for any Native American tribe that 65 percent of their load exceeds the 5,000 kW limit.

Response: The Post-1989 Marketing Plan criteria established the 5,000 kW limitation referenced in the allocation criteria. The 5,000 kW limit was placed in the Post-1989 Marketing Plan to ensure that the sale of LAP power would benefit a wide class of users, which is consistent with Federal Reclamation Law. The 5,000 kW limitation will not apply to Native American tribe applicants requesting a LAP allocation. Western will change the proposed general allocation criteria to clarify the maximum allocation.

Comment: Western should clarify what economic benefits it may be able to provide for the tribes. Western should allow various options to deliver power benefits to the tribes.

Response: Western will retain the right to provide the economic benefits of its resources directly to tribes if unanticipated obstacles to delivering hydropower to Native American tribes arise. Unanticipated obstacles pertain to the denial of delivery contracts and will not include fiscal issues where costs of accessing the power negate the hydropower benefits. Western does not anticipate obstacles will exist and views alternative methods of delivering benefits a last resort in lieu of delivering Western power and energy. Western does not want to exclude alternatives that may be required to provide the benefits of Federal hydropower to the tribes.

IV. General Contract Principles

Western proposes to apply general contract principles to all applicants receiving an allocation of firm power under the proposed Post-2004 Resource Pool Allocation Procedures.

Comment: Western should adopt a priority policy for any adjustments to the Contract Rate of Delivery (CROD) in response to changes in hydrology and river operations so that allocations to other customers are reduced prior to reduction of Tribal allocations.

Response: Treating all customers alike in adjusting CRODs due to changes in hydrology and river operations is consistent with the Program.

Comment: Assistance provided by Western should be paid for by the entity requesting assistance and should not be provided free of charge by Western.

Response: Western, as a Federal entity, has an obligation to assist all applicants to the greatest extent possible. General assistance, such as negotiating contract extensions with existing customers, was not charged on an individual basis. If Western is requested to provide assistance outside of what Western would consider normal contracting activities to execute firm electric service contracts, compensation for those services may need to be evaluated.

Comment: Certain changes to the standard contract format and General Power Contract Provisions should be made to reflect Native American tribal sovereignty. The use of reserve contracts for tribes in Western's Upper Great Plains Region was a good approach.

Response: All new customers, utility, non-utility, and Native American tribes will have contracts that are substantially identical to the current firm electric service contracts held by Western's present customers. To the extent possible, Western will recognize tribal sovereignty in these contracts.

Responses to Comments on Other Issues

Comment: LAP should create a program of internships for tribal personnel or scholarships to Western's training center for selected high school graduates.

Response: This comment is outside the scope of this process. However, Western has participated in Native American summer internship programs in the past.

Comment: A proposal discussed at the Topeka, Kansas, information meeting was that for Western to serve Native American loads, retail wheeling would be required. Kansas does not have retail wheeling presently and the Kansas Legislature has not supported it in recent sessions.

Response: Western is not imposing retail wheeling on rural electric cooperatives under the Program. Retail wheeling is an option only in those states that have adopted it. Cooperatives in Kansas have been supportive of delivering the benefits of power allocations to tribes, and support a bill crediting approach to accomplish Western's goals in a manner that avoids the need for a separate transmission service agreement.

Comment: Western should extend the comment period for a sufficient period to allow comment on significant changes resulting from the initial comments on the proposed procedures. Western should extend the comment period in order to allow adequate opportunity to examine and comment on the proposed contract terms and conditions.

Response: The public comment period for this part of the allocation process ended June 8, 2000. Comments received will be used to determine the final procedures for determining applicant eligibility and allocation criteria. A similar public process will take place to allow comment on the proposed allocations derived from these procedures. Contractual terms and conditions will be addressed with each applicant that receives an allocation after the allocations are final.

Comment: Federal Agencies have a trust responsibility when working with Native American tribes and are required to respect the government-to-government relationship and improve Federal consultation with tribal governments.

Response: Western supports the Department of Energy's American Indian policy that stresses the need for a government-to-government, trust based relationship. Western intends to continue its practice of consultation with tribal governments so that tribal rights and concerns are considered prior to any actions being taken that affect tribes.

Comment: If a tribe receives an allocation of power under this process and then forms a tribal utility, the tribe should be eligible to receive an additional allocation in 2009 and 2014 as a utility. A tribe receiving a 2004 allocation of power should also be eligible to receive an additional allocation in 2009 and 2014 if the tribe has not formed a utility. Tribes propose that resource allocations during the 2009 and 2014 allocation be first made available to satisfy the unmet load of tribes in LAP.

Response: Two future 1 percent resource pools were identified as part of the Program and allocations from these future resource pools will be dealt with in future public processes.

Comment: Both the Eastern Shoshone and Northern Arapaho tribes should receive their full allocation in fair proportion to the Kansas tribes from the LAP and allow the SLCA/IP to stand on its own.

Response: Western will apply LAP's final Post-2004 procedures and criteria during the evaluation of applicant profile data from each applicant in the LAP marketing area. The method for determining allocations will be published with the proposed allocations in a subsequent **Federal Register** notice. Western's final allocations will be published after considering all comments related to the proposed allocations. Western will consider the benefits of the SLCA/IP power to tribes in determining LAP allocations.

Final Post-2004 Resource Pool Allocation Procedures

I. Amount of Pool Resources

Western will allocate up to 4 percent of the LAP long-term firm hydroelectric resource available as of October 1, 2004, as firm power (firm power). Current hydrologic studies indicate that about 28 megawatts (MW) will be available for the summer season and about 24 MW will be available for the winter season. Firm power means firm capacity and associated energy allocated by Western and subject to the terms and conditions specified in Western's long-term firm power electric service contracts.

II. General Eligibility Criteria

Western will apply the following general eligibility criteria to applicants seeking an allocation of firm power under the proposed Post-2004 Resource Pool Allocation Procedures.

A. Qualified applicants must be preference entities as defined by section 9c of the Reclamation Project Act of

1939, 43 U.S.C. 485h(c), as amended and supplemented.

B. Qualified applicants must be located within the currently established LAP marketing area.

C. Qualified applicants must not have a current firm electric service contract nor be a member of a parent entity that has a firm electric service contract with Western. Eligible Native American applicants are not subject to this requirement for the Post-2004 resource pool.

D. Qualified utility and non-utility applicants must be able to use the firm power directly or be able to sell it directly to retail customers.

E. Qualified applicants that are municipalities, cooperatives, public utility districts, and public power districts, must have utility status by September 30, 2000. Utility status means that the entity has responsibility to meet load growth, has a distribution system, and is ready, willing, and able to purchase Federal power from Western on a wholesale basis.

F. Qualified Native American applicants must be Native American Tribes as defined in the Indian Self Determination Act of 1975, 25 U.S.C. 450b, as amended.

III. General Allocation Criteria

Western will apply the following general allocation criteria to applicants seeking an allocation of firm power under the Post-2004 Resource Pool Allocation Procedures.

A. Allocations of firm power will be made in amounts as determined solely by Western in exercising its discretion under Reclamation Law.

B. An allottee will have the right to purchase such firm power only after executing an electric service contract between Western and the allottee.

C. Firm power allocated under these procedures will be available only to new eligible applicants in LAP's existing marketing area. This marketing area includes parts of Colorado, Kansas, Nebraska, and Wyoming. LAP's marketing area is specifically defined as the portion of Colorado east of the Continental Divide, Mountain Parks Rural Electric Association's service territory in Colorado west of the Continental Divide, the portion of Kansas located in the Missouri River Basin, and the portion of Kansas west of the eastern borders of the counties intersected by the 100th Meridian, the portion of Nebraska west of the 101st Meridian, and Wyoming east of the Continental Divide.

D. Allocations made to Native American Tribes will be based on actual and estimated load developed by the Native American Tribes. Western will evaluate and adjust inconsistent estimates during the allocation process. Western is willing to assist tribes in developing load estimating methods assuring consistent Native American Tribe load estimates across the region.

E. Allocations made to qualified utility and non-utility applicants will be based on 1998–99 winter season and 1999 summer season loads. Western will apply the Post-1989 Marketing Plan criteria to these loads.

F. Firm capacity and energy will be based upon the applicant's seasonal system load factor.

G. Any electric service contract offered by Western to an applicant shall be executed by the applicant within 6 months from the date of a final offer.

H. The initial resource pool will be dissolved subsequent to the closing date for executing firm power contracts. Firm power not under contract will be offered on a pro rata basis to customers that contributed to the resource pool through application of the Program's extension formula.

I. The minimum allocation shall be 100 kW.

J. The maximum allocation for qualified utility and non-utility applicants shall be 5,000 kW. Eligible Native American applicants are not subject to this requirement.

K. Contract rates of delivery shall be subject to adjustment in the future as provided for in the Program and contract.

L. Western retains the right to provide the economic benefits of its resources directly to tribes if unanticipated obstacles to delivering hydropower benefits to Native American Tribes arise.

IV. General Contract Principles

Western will apply the following general contract principles to all applicants receiving an allocation of firm power under the Post-2004 Resource Pool Allocation Procedures.

A. Western, at its discretion and sole determination, reserves the right to adjust the contract rate of delivery on 5 years' notice in response to changes in hydrology and river operations. Any such adjustments shall only take place after a public process.

B. Western shall assist allottees to obtain third-party transmission arrangements to deliver firm power allocated under these procedures; nonetheless, each allottee is ultimately responsible for obtaining its own delivery arrangements.

C. Contracts entered into under the Post-2004 Resource Pool Allocation Procedures shall provide for Western to furnish firm electric service effective from the October 2004 billing period, through the September 2024 billing period.

D. Contracts entered into as a result of these procedures shall incorporate Western's standard provisions for power sales contracts, integrated resource planning, and general power contract provisions.

V. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (Act), requires Federal agencies to perform a regulatory flexibility analysis if a proposed regulation is likely to have a significant economic impact on a substantial number of small entities. Western has determined that (1) this rulemaking relates to services offered by Western, and, therefore, is not a rule within the purview of the Act, and (2) the impacts of an allocation from Western would not cause an adverse economic impact on a substantial number of such entities. The requirements of this Act can be waived if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. By the execution of this **Federal Register** notice, Western's Administrator certifies that no significant economic impact on a substantial number of small entities will occur.

VI. Review Under the Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520, Western has received approval from the Office of Management and Budget (OMB) to collect customer information in this rule, under control number 1910–1200.

VII. Review Under the National Environmental Policy Act

Western has completed an environmental impact statement on the Program, pursuant to the National Environmental Policy Act of 1969 (NEPA). The Record of Decision was published in the **Federal Register** on October 12, 1995 (60 FR 53181). Western's NEPA review assured all environmental effects related to these procedures have been analyzed.

VIII. Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive

Order 12866; accordingly, no clearance of this notice by OMB is required.

Dated: August 8, 2000.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 00–22000 Filed 8–28–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Pacific Northwest-Pacific Southwest Intertie Project—Extension of Firm and Nonfirm Transmission Service Rates—Rate Order No. WAPA–91

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Rate Order.

SUMMARY: This action is to extend the existing Pacific Northwest-Pacific Southwest Intertie Project (AC Intertie) firm point-to-point transmission service rate for the 500-kilovolt (kV) transmission system and the nonfirm point-to-point transmission service rate for the 230/345/500-kV transmission system, established under Rate Order No. WAPA–71, through December 31, 2003. The existing rates expire September 30, 2000. This notice of an extension of rates is issued pursuant to 10 CFR 903.23, whereby Rate Order No. WAPA–71 is extended under Rate Order No. WAPA–91.

FOR FURTHER INFORMATION CONTACT: Mr. Maher Nasir, Rates Team Lead, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 352–2768, or e-mail nasir@wapa.gov.

SUPPLEMENTARY INFORMATION: By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western Area Power Administration (Western); and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). In Delegation Order No. 0204–172, effective November 24, 1999, the Secretary of Energy delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary.

Pursuant with Delegation Order No. 0204–108 and existing Department of Energy procedures for public participation in power and transmission rate adjustments in 10 CFR part 903, Western's firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system were submitted to FERC for confirmation and approval on January 31, 1996. On July 24, 1996, in Docket No. EF96–5191–000, at 76 FERC ¶ 62,061, FERC issued an order confirming, approving, and placing in effect on a final basis the firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system. The rates set forth in Rate Order No. WAPA–71 were approved for the period beginning February 1, 1996, and ending September 30, 2000.

Under Rate Order No. WAPA–71, the three types of transmission service rates approved were (1) a firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system; (2) a firm point-to-point transmission service rate for the AC Intertie 500-kV transmission system; and (3) a nonfirm point-to-point transmission service rate for the AC Intertie 230/345/500-kV transmission system.

Western's firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system was superseded through Rate Order No. WAPA–76 and submitted to FERC for confirmation and approval on February 8, 1999. On June 22, 1999, in Docket No. EF99–5191–000, at 87 FERC ¶ 61,346, FERC issued an order confirming, approving, and placing in effect on a final basis the firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system. Western's rate of $12.00/kilowattyear for firm point-to-point transmission service for the AC Intertie 230/345-kV transmission system, set forth in Rate Order No. WAPA–76 was approved for a 5-year period beginning January 1, 1999, and ending December 31, 2003.

During the firm point-to-point transmission service rate development for the AC Intertie 230/345-kV transmission system (Rate Order No. WAPA–76), Western determined that it will take approximately 10 years for the AC Intertie 500-kV transmission system to be subscribed to a level sufficient to meet its own revenue repayment requirements. The ratesetting Power Repayment Study (PRS) established for the AC Intertie 230/345/500-kV transmission system (Rate Order No. WAPA–76) reflected the phasing-in of AC Intertie 500-kV transmission system revenues starting in fiscal year (FY) 1999 through FY 2008. This ratesetting PRS remains valid. The projected revenue levels through sales of firm and nonfirm point-to-point transmission service and miscellaneous items are sufficient to recover project expenses and capital requirements through FY 2049 for the AC Intertie 230/345/500-kV transmission system. Western, therefore, has decided to extend the existing firm point-to-point transmission service rate of $17.23/kilowattyear for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate of 2.00 mills/kilowatthour for the AC Intertie 230/345/500-kV transmission system through December 31, 2003. This extension will synchronize the expiration dates for all firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system.

In accordance with 10 CFR 903.23(a)(2), Western did not have a consultation and comment period and did not hold public information and comment forums. The notice of proposed extension of the firm point-to-point transmission service rate for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate for the AC Intertie 230/345/500-kV transmission system was published in the **Federal Register** (65 FR 36132) on June 7, 2000.

Following review of Western's proposal within the Department of Energy, I approved Rate Order No. WAPA–91, which extends the existing firm point-to-point transmission service rate of $17.23/kilowattyear for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate of 2.00 mills/kilowatthour for the AC Intertie 230/345/500-kV transmission system on an interim basis through December 31, 2003.

Dated: August 15, 2000.

T.J. Glauthier,

Deputy Secretary.

Order Confirming and Approving an Extension of the Pacific Northwest-Pacific Southwest Intertie Project Firm and Nonfirm Transmission Service Rates

These transmission service rates were established pursuant to Section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)), through which the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation under the Reclamation Act of 1902 (ch.1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)), were transferred to and vested in the Secretary of Energy (Secretary).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993

(58 FR 59716), the Secretary delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of the Western Area Power Administration (Western); and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). In Delegation Order No. 0204–172, effective November 24, 1999, the Secretary delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary. This rate extension is issued pursuant to the Delegation Orders and the Department of Energy (DOE) rate extension procedures at 10 CFR part 903.

Background

Western's firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system were submitted to FERC for confirmation and approval on January 31, 1996. On July 24, 1996, in Docket No. EF96–5191–000, at 76 FERC ¶ 62,061, FERC issued an order confirming, approving, and placing in effect on a final basis the firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system. The rates set forth in Rate Order No. WAPA–71 were approved for the period beginning February 1, 1996, and ending September 30, 2000.

Under Rate Order No. WAPA–71, the three types of transmission service rates approved were (1) a firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system; (2) a firm point-to-point transmission service rate for the AC Intertie 500-kV transmission system; and (3) a nonfirm point-to-point transmission service rate for the AC Intertie 230/345/500-kV transmission system.

Western's firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system was superseded through Rate Order No. WAPA–76 and submitted to FERC for confirmation and approval on February 8, 1999. On June 22, 1999, in Docket No. EF99–5191–000, at 87 FERC ¶ 61,346, FERC issued an order confirming, approving, and placing in effect on a final basis the firm point-to-point transmission service rate for the AC Intertie 230/345-kV transmission system. Western's rate of $12.00/kilowattyear for firm point-to-point transmission service for the AC Intertie 230/345-kV transmission system, set forth in Rate Order No. WAPA–76, was approved for a 5-year period beginning January 1, 1999, and ending December 31, 2003.

Discussion

During the firm point-to-point transmission service rate development for the AC Intertie 230/345-kV transmission system (Rate Order No. WAPA–76), Western determined that it will take approximately 10 years for the AC Intertie 500-kV transmission system to be subscribed to a level sufficient to meet its own revenue repayment requirements. The ratesetting Power Repayment Study (PRS), established for the AC Intertie 230/345/500-kV transmission system (Rate Order No. WAPA–76), reflected the phasing-in of AC Intertie 500-kV transmission system revenues starting in FY 1999 through FY 2008. This ratesetting PRS remains valid. The projected revenue levels through sales of firm and nonfirm point-to-point transmission service and miscellaneous items are sufficient to recover project expenses and capital requirements through FY 2049 for the AC Intertie 230/345/500-kV transmission system.

Western, therefore, has decided to extend the existing firm point-to-point transmission service rate of $17.23/kilowattyear for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate of 2.00 mills/kilowatthour for the AC Intertie 230/345/500-kV transmission system. This extension would synchronize the expiration dates for all firm and nonfirm point-to-point transmission service rates for the AC Intertie 230/345/500-kV transmission system.

In accordance with 10 CFR 903.23(a)(2), Western did not have a consultation and comment period. The notice of proposed extension of the firm point-to-point transmission service rate for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate for the AC Intertie 230/345/500-kV transmission system was published in the **Federal Register** on June 7, 2000.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary, I hereby extend for a period effective October 1, 2000, and ending December 31, 2003, the existing firm point-to-point transmission service rate of $17.23/kilowattyear for the AC Intertie 500-kV transmission system and the nonfirm point-to-point transmission service rate of 2.00 mills/kilowatthour for the AC Intertie 230/345/500-kV transmission system.

Dated: August 15, 2000.

T.J. Glauthier,

Deputy Secretary.

[FR Doc. 00–22074 Filed 8–28–00; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL 6857–8]

Proposed Settlement Agreement, Clean Air Act Petitions for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement providing for rulemaking to amend regulation issued pursuant to Clean Air Act Title IV.

SUMMARY: EPA hereby gives notice of a proposed settlement agreement in the case entitled *Zinc Corporation of America* v. *EPA,* No. 97–1734 (consolidated with 98–1562) (D.C. Cir.). EPA issues this notice in accordance with section 113(g) of the Clean Air Act, as amended (the ''Act''), 42 U.S.C. 7413(g), which requires EPA to give notice and provide an opportunity for public comment on proposed settlement agreements.

The litigation challenges EPA's promulgation of two final rules under Title IV of the Act pertaining to control of acid rain. See 62 FR 55460 (Oct. 24, 1997); 63 FR 51705 (Sept. 28, 1998). Zinc Corporation of America (''Zinc'') filed two separate petitions for review of these EPA rules under section 307(b)(1) of the Act, 42 U.S.C. 7607(b)(1). The litigation concerns, among other things, EPA's creation of an exemption from certain requirements under Title IV for ''industrial utility-units.'' The proposed Settlement Agreement provides that EPA will undertake a rulemaking to eliminate the ''industrial utility-units'' exemption under 40 CFR 72.14. That exemption provides that certain units that are not cogeneration units and that generate only small amounts of electricity for sale could seek an exemption from many acid rain program requirements. In the absence of the exception, the status of such units will be determined by whether they meet the definition of ''utility unit'' or industrial source'' under Title IV.

For a period of thirty (30) days following the date of publication of this notice, EPA will accept written comments relating to the proposed Settlement Agreement from persons who are not named as parties or interveners to this litigation. EPA or the Department of Justice may withhold or withdraw consent to the proposed Settlement Agreement if the comments disclose facts or circumstances that indicate that the agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice makes such a determination following the comment period, EPA will take the actions set forth in the Settlement Agreement.

A copy of the proposed Settlement Agreement is available from Phyllis Cochran, Air and radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 546+5566. Written comments should be sent to Geoffrey L. Wilcox, Esq., at the above address and must be submitted on or before September 28, 2000.

Dated: August 23, 2000.

Anna Wolgast,

General Counsel.

[FR Doc. 00–22051 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6859–6]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Narragansett Bay Commission (NBC) Pretreatment Project XL Draft Final Project Agreement.

SUMMARY: EPA is today requesting comments on a draft Project XL Final Project Agreement (FPA) for the Narragansett Bay Commission (NBC). The FPA is a voluntary agreement developed collaboratively by NBC, stakeholders, the state of Rhode Island, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated sources the opportunity to propose alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits.

NBC operates the wastewater collection and treatment system for the greater Providence area as well as regulates the facilities that discharge to the collection system. Through its Industrial Pretreatment Program, which is required to operate under its Rhode Island Pollution Discharge Elimination System (RIPDES) permits, NBC collects and regulates wastewater discharges from approximately 360,000 people and 8,000 businesses and includes two treatment plants.

In 1994, NBC developed two regulatory/pollution prevention integration programs, NBC Metal finishing 2000 and CLEAN P2 Regulatory Relief. The programs test new regulatory approaches to improve environmental compliance by the local industrial community.

NBC would like to expand the projects currently being tested by offering flexibility with state and federal requirements, in addition to specific NBC regulations, in order to investigate and demonstrate improved environmental procedures and practices. NBC would like the flexibility to reduce self-monitoring requirements and inspections for Significant Industrial Users (SIUs), so staff can focus on problem industries. Specifically, NBC requests a modification to portions of the pretreatment regulations found at 40 Code of Federal Regulations (CFR) Part 403 for up to ten metal finishing companies that have established a history of exemplary environmental performance and compliance (described as Tier 1 facilities) as an incentive to maintain their performance. Eliminating certain inspection and monitoring requirements for these high performing companies will allow NBC to refocus its resources towards increased compliance inspections, pollution prevention audits and technical assistance on lower level performers (Tier 2 facilities).

The primary goal of this XL Project is to demonstrate that through more efficient use of existing resources and manpower, NBC can achieve measurable improvements in the environmental performance levels of Tier II companies while encouraging and assisting Tier I companies to maintain or possibly improve their current level of environmental performance.

Once a facility is selected for Tier 1 status, it may request, as part of Project XL, program modifications in three areas. These include: (1) Reduced frequency of required inspections, (2) reduced frequency of self-monitoring of wastewater effluent, and (3) elimination of categorical self-monitoring for certain constituents not used within a facility. The facility must meet specific criteria for each type of regulatory relief being sought (the exact qualifications necessary to obtain each of the three regulatory benefits being offered as part of this project are described in the FPA). For example, if a facility sought a reduced compliance inspection frequency by NBC, it would have to show, among other things, that they have not had any record keeping, reporting or operational violations in the last three years. If a facility requests a reduced frequency of self-monitoring, it must show, among other things, a pattern of nothing worse than infrequent minor discharge violations.

Generally NBC inspects each of their significant industrial users (SIUs) once every 6 months, while the federal requirement is once every year. As part of this XL Project, NBC is requesting that they be allowed to reduce their compliance inspection frequency of qualified Tier 1 facilities to once every two years. NBC intends to use the resources saved by not inspecting Tier 1 facilities to increase the frequency of compliance inspections at Tier 2 facilities. See the FPA for a more detailed breakdown of NBC's resource reallocation.

Ten Tier 2 facilities will be selected from NBC's metal finishing user base that have shown a poor record of environmental performance but have also expressed an interest to implement recommended pollution prevention projects that may be offered by NBC. NBC will select these facilities in consultation with RIDEM and EPA. At a minimum, facilities showing a pattern of repeat violations or lack of responsiveness to NBC Notices of Violation or Letters of Deficiency will not be considered in this Project.

NBC has proposed as a goal that this XL project will result in several areas of pollution reduction. Over the six years of this project, NBC proposes the goal that the Tier 2 facilities will reduce their process water usage by 25%, total metals (which include the regulated metal finishing pollutants along with arsenic and selenium) loadings in their effluent discharge by 25% and their generation of F006 waste by 25% as well. Progress towards these goals will be evaluated against one year of information collected from the facility by NBC for the year preceding selection as a Tier 2 facility. NBC would then compile annual information and report progress towards the 25% reduction goals in each annual report. NBC also projects as a goal that Tier 2 facilities will improve their compliance rate by 75%.

EPA intends to propose a rule modifying the pretreatment regulations, as described above and further described in the FPA, in a separate future **Federal Register** Notice. The public will have an opportunity to comment on the proposed rule changes at that time.

DATES: The period for submission of comments ends on September 12, 2000.

ADDRESSES: All comments on the proposed Final Project Agreement should be sent to: Chris Rascher, EPA New England, 1 Congress Street (SPP), Boston, MA 02114, or Chad Carbone, U.S. EPA, Room 1027WT (1802), 1200 Pennsylvania Ave., NW, Washington, DC 20460. Comments may also be faxed to Mr. Rascher (617) 918–1810, or Mr. Carbone (202) 260–1812. Comments may also be received via electronic mail sent to: rascher.chris@epa.gov or carbone.chad@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the proposed Final Project Agreement, Test Plan or Fact Sheet, contact: Chris Rascher, EPA New England, 1 Congress Street (SPP), Boston Massachusetts, 02114 or Chad Carbone, Room 1027WT (1802) U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460. The FPA and related documents are also available via the Internet at the following location: http://www.epa.gov/ProjectXL. Questions to EPA regarding the documents can be directed to Chris Rascher at (617) 918–1834 or Chad Carbone at (202) 260–4296. For

information on all other aspects of the XL Program contact Christopher Knopes at the following address: Office of Policy, Economics and Innovation, United States Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Room 1029WT (Mail Code 1802), Washington, DC 20460. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet at http://www.epa.gov/projectxl/inter/page1.htm.

Dated: August 22, 2000.

Elizabeth A. Shaw,

Director, Office of Environmental Policy Innovation.

[FR Doc. 00–22053 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6860–2]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Yolo County Accelerated Anaerobic & Aerobic Composting (Bioreactor) Project XL Draft Final Project Agreement.

SUMMARY: EPA is today requesting comments on a draft Project XL Final Project Agreement (FPA) for Yolo County, Woodland, California.

DATES: The period for submission of comments on the draft FPA ends on September 12, 2000.

ADDRESSES: All comments on the draft Final Project Agreement should be sent to: Ms. Sherri Walker, U.S. EPA, 1200 Pennsylvania Avenue, NW (1802), Washington, DC 20460. Comments may also be faxed to Sherri Walker at (202) 260–3125. Comments will also be received via electronic mail sent to walker.sherri@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the draft Final Project Agreement, contact: Mark Samolis, US EPA, Region 9 (SPE–1), 75 Hawthorne Street, San Francisco, California 94105, or Sherri Walker, US EPA, Mail Code 1802, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460. The FPA and related documents are also available via the Internet at the following location: ''http://www.epa.gov/ProjectXL''. In addition, project documents are located at EPA Region 9, at 75 Hawthorne Street, San Francisco, California 94105. Questions to EPA regarding the documents can be directed to Mark Samolis at (415) 744–2331 or Sherri Walker at (202) 260–4295. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, application information, and descriptions of existing XL projects and proposals, is available via the Internet at ''http://www.epa.gov/ProjectXL''.

SUPPLEMENTARY INFORMATION: The FPA is a voluntary agreement developed by Yolo County, the California Regional Water Quality Control Board, Yolo-Solano Air Quality Management District, Solid Waste Association of North America, Institute for Environmental Management, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the opportunity to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits. If implemented, some of the superior environmental benefits that Yolo County expects to achieve with this project through anaerobic and aerobic composting process include: improved leachate quality; reduction in the potential for uncontrolled releases of leachate to contaminate the groundwater, or gas to contaminate the air during the post-closure phase (should a containment system failure occur); increased gas yield and capture; reduction or elimination of methane generation in the aerobic composting operation; rapid waste biodegradation and stabilization; increased lifespan of the landfill resulting in less need for construction of additional landfills; reduced post-closure costs; and faster reclamation of land for future use.

One of the legal implementing mechanisms for this project will be a site-specific rule. EPA expects to publish a notice in the **Federal Register** proposing and seeking public comment on a site-specific rule for this project shortly.

Dated: August 23, 2000.

Elizabeth A. Shaw,

Director, Office of Environmental Policy Innovation.

[FR Doc. 00–22058 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6859–9]

Intent To Grant an Exclusive Patent License

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: Pursuant to 35 U.S.C. 207 and 37 CFR part 404, EPA hereby gives notice of its intent to grant an exclusive, royalty-bearing revocable license to practice the invention described and claimed in the patent application listed below, all corresponding patents issuing therefrom throughout the world, and all reexamined patents and reissued patents granted in connection with such patent application by Leo A.G. Breton, Bethesda, Maryland. The patent application is:

U.S. Patent Application No. 09/226,920, entitled ''Real-Time On-Road Vehicle Exhaust Gas Modular Flowmeter and Emissions Reporting System,'' filed January 5, 1999.

The invention was announced as being available for licensing in the March 1, 1999 issue of the **Federal Register** (60 FR 20490). The proposed exclusive license will contain appropriate terms, limitations and conditions to be negotiated in accordance with 35 U.S.C. 209 and the U.S. Government patent licensing regulations at 37 CFR part 404.

EPA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days from the date of this Notice, EPA receives, at the address below, written objections to the grant, together with supporting documentation. The documentation from objecting parties having an interest in practicing the above patent application should include an application for exclusive or nonexclusive license with the information set forth in 37 CFR 404.8. The EPA Patent Counsel and other EPA officials will review all written responses and then make recommendations on a final decision to the Director and Deputy Director, Office of Transportation Air Quality, both of whom have been delegated the authority to issue patent licenses under 35 U.S.C. 207.

DATES: Comments to this notice must be received by EPA at the address listed below by October 30, 2000.

FOR FURTHER INFORMATION CONTACT: Alan Ehrlich, Patent Counsel, Office of General Counsel (Mail Code 2377A),

U.S. Environmental Protection Agency, Washington, D.C. 20460, telephone (202) 564–5457.

Dated: August 18, 2000.

Howard F. Corcoran,

Acting Associate General Counsel.

[FR Doc. 00–22050 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6859–7]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of the Project XL Draft Final Project Agreement for the Louisville and Jefferson County Metropolitan Sewer District.

SUMMARY: EPA is requesting comments on a Draft Project XL Final Project Agreement (FPA) for the Louisville and Jefferson County Metropolitan Sewer District's (MSD) Jeffersontown Sewershed/Chenoweth Run Watershed Pretreatment Reinvention Project. The FPA is a voluntary agreement developed collaboratively by MSD, stakeholders, the state of Kentucky, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the flexibility to develop alternative strategies that will replace or modify specific regulatory or procedural requirements on the condition that they produce greater environmental benefits.

In the draft FPA, MSD's proposed project for the Jeffersontown Wastewater Treatment Plant (WWTP) pretreatment program consists of three phases. Phase 1 consists of data collection and development of Pretreatment Program Performance Measures. In order to achieve the project goals, MSD's approach is to develop a strong safety net, namely, Pretreatment Performance Measures, and then use the baseline data to target the resources where the most significant environmental improvements can be achieved. Development and use of the proposed performance measures has required MSD to conduct extensive monitoring and analysis (more than the current program requires) and to make comparisons to environmental criteria. The information gathered for performance measures has already proven to be of great value in understanding the loadings patterns in the system. The data also provides MSD with a technical basis for determining risk potential of various pollutant sources.

Phase 2 consists of pretreatment program redevelopment in the Jeffersontown WWTP Sewershed. In this phase, MSD and Stakeholders have worked closely together to define the criteria for redevelopment of the pretreatment program. The elements of redevelopment include: criteria for pollutants of concern, regulatory revisions, superior environmental performance, and project accountability.

Phase 3 will be program implementation. In this phase, the baseline monitoring data (from Phase 1) and the criteria for redevelopment (from Phase 2) will be used to determine the site specific applications to the Jeffersontown Sewershed/Chenoweth Run Watershed pretreatment program. Once the proposed regulatory revisions are made effective with re-issuance of the Jeffersontown Wastewater Treatment Plant (WWTP) NPDES permit, resources will be reallocated according to a specific Prioritization Strategy.

The first and second phases of the project were completed during the Phase 1 Agreement, which was published for notice and comment in the **Federal Register** on December 14, 1999. This Final Project Agreement will allow implementation of the third phase of this project.

A rulemaking setting forth regulatory flexibility to enable implementation of this project will also be developed in the future and will ensure that the project fully comply with applicable federal requirements under the Clean Water Act. Opportunities for public comment will be provided once the rule has been drafted.

DATES: The period for submission of comments ends on September 12, 2000.

ADDRESSES: All comments on the draft Final Project Agreement should be sent to: Melinda Greene, USEPA REGION 4, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960. Comments may also be faxed to Ms. Greene at (404) 562–9728. Comments will also be received via electronic mail sent to: mallard.melinda@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the draft Final Project Agreement, contact: Melinda Greene, USEPA REGION 4, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960. The document is also available via the Internet at the following location: ''http://www.epa.gov/ProjectXL''. In addition, public files on the Project are located at EPA Region 4 in Atlanta. Questions to EPA regarding the documents can be directed to Melinda Greene at (404) 562–9771, or Chad Carbone at (202) 260–4296. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, application information, and descriptions of existing XL projects and proposals, is available via the Internet at ''http://www.epa.gov/ProjectXL'.

Dated: August 23, 2000.

Elizabeth A. Shaw,

Director, Office of Environmental Policy Innovation.

[FR Doc. 00–22052 Filed 8–28–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

August 23, 2000.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 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 subject to any penalty for failing to comply with a collection of information subject to the paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed 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 estimates; (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.

DATES: Written comments should be submitted on or before September 28, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th

St., SW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0340.

Title: Section 73.51 Determining Operating Power.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 4,867.

Estimated Time Per Response: .25 to 3 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 1,448 hours.

Total Annual Cost: N/A.

Needs and Uses: When it is not possible to use the direct method of power determination due to technical reasons, the indirect method of determining antenna input power may be used on a temporary basis. Section 73.51(d) requires that a notation be made in the station log indicating the dates of commencement and termination of measurement using the indirect method of power determination. Section 73.51(e) requires that AM stations determining the antenna input power by the indirect method must determine the value F (efficiency factor) applicable to each mode of operation and must maintain a record thereof with a notation of its derivation. This recordkeeping requirement is used by FCC staff in field investigations to monitor licensees' compliance with the FCC's technical rules and to ensure that licensee is operating in accordance with its station authorization. The value F (efficiency factor) is used by station personnel in the event that measurement by the indirect method of power is necessary.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–22009 Filed 8–28–00; 8:45 am]

BILLING CODE 6712–01–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 Extension for Three Years, With Revision, of the Following Report

1. *Report title:* The Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates.

Agency form numbers: FR Y–8.

OMB control number: 7100–0126.

Frequency: Quarterly.

Reporters: Bank holding companies (BHC), financial holding companies, foreign banking organizations (FBO).

Annual reporting hours: 169,661 hours.

Estimated average hours per response: 7.2 hours.

Number of respondents: 5,891.

Small businesses are not affected.

General description of report: This information collection is authorized by section 5(c) of the BHC Act (12 U.S.C. 1844 (c)) and section 225.5 (b) of Regulation Y (12 CFR 225.5 (b)) and is given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. 552 (b)(4) and (8)).

Abstract: The current FR Y–8 collects information on the movement of funds between a domestic BHC and its subsidiaries in order to identify broad categories of intercompany transactions and balances that may affect the financial condition of the subsidiary bank. The report also collects information on income recognized by subsidiary banks from other BHC members as well as information on credit extended by subsidiary banks to other BHC members. Domestic top-tier BHC with assets of $300 million or more are required to file the FR Y–8 on a semiannual basis (June and December). Also, interim reporting is currently required within ten calendar days of certain large asset transfers.

Current actions: On June 6, 2000, the Federal Reserve issued a **Federal Register** notice (65 FR 35934) requesting public comment on a proposal to completely revise the FR Y–8. The Federal Reserve proposed to delete the current information on the FR Y–8 and collect fourteen items of information on section 23A covered transactions. The comment period ended on August 7, 2000. The Federal Reserve received comments from eight banking organizations on the proposed revisions to the FR Y–8. Commenters suggested three alternatives for reducing burden: (1) monitor compliance with section 23A of the Federal Reserve Act through the examination process or by adding limited amount of information to the consolidated or parent-only BHC financial statements; (2) exempt or limit the number of respondents by using a size or materiality threshold or only require reporting by institutions with identifiable compliance issues and (3) eliminate the reporting of maximum aggregate amounts outstanding during the quarter. In addition to the suggestions for reducing burden, several commenters also suggested extending the due date for filing from 30 to 60 days and delaying the implementation of the revised report.

In response to public comments, the Federal Reserve will implement the revised FR Y–8 in December 2000. However, the Federal Reserve continues to believe, as proposed, that a separate report collected on an individual insured depository institution basis for all insured depository institutions that are owned by BHCs or FBOs is necessary to monitor compliance with section 23A. The information requested at the end of each reporting period as well as the maximum amount during the period is necessary to monitor compliance. The Federal Reserve believes, as pointed out by three commenters, that insured depository institutions should already, on an ongoing basis, have established internal control systems to monitor their section 23A covered transactions and, as a

result, should be able to provide all the information requested on the revised reporting form.

Discontinuance of the Following Report Under OMB Delegated Authority

Report title: Report of Intercompany Transactions for Foreign Banking Organizations and their U.S. Bank Subsidiaries.

Agency form number: FR Y–8f.

OMB control number: 7100–0127.

Frequency: Semi-annually, and interim reporting required for certain large asset transfers.

Reporters: Bank holding companies as defined by section 2(a) of the Bank Holding Company Act with at least $300 million in total consolidated assets that are organized under the laws of a foreign country and principally engaged in banking outside the United States.

Annual reporting hours: 360 hours.

Estimated average hours per response: 3 hours.

Number of respondents: 58 semiannual respondents; 4 interim respondents.

Small businesses are not affected.

General description of report: This information collection is authorized by section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) and section 225.5(b) of Regulation Y (12 CFR 225.5(b)) and is given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. 552(b)(8)).

Abstract: This report provides the Federal Reserve System with information on intercompany transactions between FBOs and their U.S. bank subsidiaries. It enables the Federal Reserve to monitor and supervise intercompany flows of funds to ensure that U.S. subsidiary banks are not engaging in any unsafe and unsound practices with their foreign owners. This report supplements the Board's global framework for the supervision of the U.S. operations of foreign banks. In addition, it aids in determining whether a foreign banking organization serves as a source of strength to its U.S. subsidiary.

Current Actions: On June 6, 2000, the Federal Reserve issued a **Federal Register** notice (65 FR 35934) requesting public comment on a proposal to completely revise the FR Y–8. The Federal Reserve proposed to delete the current information on the FR Y–8 and collect fourteen items of information on section 23A covered transactions. The Federal Reserve also proposed to add FBOs that directly own U.S. subsidiary banks to the reporting panel of the revised FR Y–8 and to discontinue the FR Y–8f. The comment period ended on August 7, 2000. No comments were received on the discontinuance of the FR Y–8f.

Board of Governors of the Federal Reserve System, August 23, 2000.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 00–21956 Filed 8–28–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 12, 2000.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Robert and Suzanne Wiley, James and Rita Harris, John Harris, all of Kansas City, Missouri; John and Mary Wiley, Marionville, Missouri; Ronald C. Reimer, Mission Hills, Kansas; and Vincent W. Dean, Leawood, Kansas; to acquire voting shares of Marshall County Bankshares, Inc., Beattie, Kansas, and thereby indirectly acquire voting shares of Marshall County Bank of Beattie, Beattie, Kansas.

Board of Governors of the Federal Reserve System, August 23, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–21958 Filed 8–28–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 22, 2000.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. *The Sumitomo Bank, Limited,* Osaka, Japan; to become a bank holding company by acquiring 100 percent of the voting shares of The Sakura Bank, Limited, Tokyo, Japan, and thereby indirectly acquire voting shares of Manufacturers Bank, Los Angeles, California.

In connection with this application, Applicant also has applied to acquire Sakura Business Finance, Inc., New York, New York; Sakura Global Capital, Inc., New York, New York, and Sakura Information Systems (USA), Inc., New York, New York, and thereby engage in leasing personal and real property, pursuant to § 225.28(b)(3) of Regulation Y; acting as advisor, broker and dealer in or with respect to swaps and other derivatives, pursuant to §§ 225.28(b)(6), (7)(v) and (8)(ii) of Regulation Y; servicing activities, pursuant to § 225.28(b)(2)(iii) of Regulation Y; and data processing and transmission activities, pursuant to § 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, August 23, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–21957 Filed 8–28–00; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–00–46]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Office at (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Anne O'Connor, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

National Sexually Transmitted Disease Morbidity Surveillance System—Extension—(0920–0011)—The National Center for HIV, STD, and TB Prevention (NCHSTP). The reports used for this surveillance system provide ongoing surveillance data on national sexually transmitted disease morbidity. The data are used by health care planners at the national, state, and local (including selected metropolitan and territorial health departments) levels to develop and evaluate STD prevention and control programs. In addition, there are many other users of the data including scientists, researchers, educators, and the media. Sexually transmitted disease (STD) data gathered in these reports are used to produce national statistics published in the annual STD Surveillance Report, MMWR articles, and serve as a progress report to meet objectives in Healthy People 2000: Mid-course Review and 1995 Revisions. It is important to note that these reporting forms are in the process of being phased out and replaced by electronic, line-listed STD data collected in the National Electronic Telecommunications System for Surveillance (NETSS). The annual cost to respondents is estimated at $12,627 based on an estimated hourly salary of $15.25 for health department personnel responsible for completing these forms:

Forms	Number of respondents	Number of responses/ respondent	Average burden (in hours)	Total burden (in hours)
CDC 73.688*	36	4	1	144
CDC 73.688**	27	4	1	108
CDC 73.998	36	12	35/60	252
CDC 73.2638	36	3	.....	324
Total	.....	.....	.....	828

*State-level reporting: Respondents for the state-specific CDC 73.688 forms now include 26 state health departments (originally, respondents included 50 states, but 24 states have now discontinued hardcopy reporting and send all STD data as electronic line-listed records through NETSS), seven large city health departments and three outlying areas.

**City-level reporting: The health departments for the 26 states and one of the outlying regions (Puerto Rico) also prepare and submit reports for additional large cities within their jurisdictions.

Dated: August 23, 2000.

Nancy Cheal,

Acting Associate Director for Policy Planning, and Evaluation Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–21990 Filed 8–8–28; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–00–47]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Office at (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

National Survey of STD Services Provided to U.S. College Students

—New—The National Center for HIV, STD, and TB Prevention (NCHSTP) proposes clearance to conduct a survey of a sample of U.S. colleges asking about health services available to students with focus on sexually transmitted disease (STD) testing and management. The sample shall include a broad range of colleges including 2 and 4 year,

public and private, and rural and urban colleges to determine under what conditions, for which STDs, and how colleges educate about STDs, conduct testing and provide partner management.

STDs have a large economic and health impact throughout the United States. Most college students are within the age range with the highest rates for STDs (15–24 year olds). Chlamydia trachomatis is the most frequently reported infectious disease in the United States with prevalence rates of 4% to 18% in 16–24 year old women. Infections with Chlamydia trachomatis can result in pelvic inflammatory disease and infertility. Many STDs increase the risk of HIV transmission and acquisition. Genital infections with herpes simplex virus, human papillomavirus, and Trichomonas vaginalis have been reported at increasing rates over the last 10 years.

This national survey will provide data that will broaden the scientific knowledge related to STD services and management available to students at U.S. colleges. The survey is intended to (a) describe health insurance policies of colleges; (b) describe preventive services such as health education and condom availability at colleges; (c) identify characteristics of student health centers including staffing, type of care, and number of students seen; (d) identify possible obstacles to accessing STD services; (e) describe which STDs are being tested for and what testing criteria are applied; and (f) describe current partner services including partner notification practices and use of partner-delivered therapy.

The CDC estimates that 900 respondents will complete and submit the survey questionnaire on one single occasion. The questionnaire is estimated to take approximately 30 minutes to complete.

Therefore, the total response burden is estimated at 450 hours for an average cost to the respondents of $14,503.*

Respondents	Number of respondents	Number of response per respondent	Average burden per response (in hours)	Total burden (in hours)
ACHA Member of Health Center Contact or Chief Executive Administrator ..	900	1	5	450

Average income combined per hour = $32.23 x 450 hours = $14,503 Health Service Managers—$44,700 yearly average—$21.49 per hour. (US Department of Labor, Bureau of Labor Statistics)
Chief Administrative Officer, Academe—$89, 376 yearly average—$$42.97 per hour. (Wall Street Journal Careernet)

Dated: August 23, 2000.

Nancy Cheal,

Acting Associate Director for Policy Planning, and Evaluation Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–21992 Filed 8–28–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–63–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Evaluation of Public Care Providers' Training, Screening, and Referral Practices for Pregnancy-Related Violence—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP). Two questionnaires have been designed to collect information for the project entitled: ''Evaluation of Public Care Providers' Training, Screening, and Referral Practices for Pregnancy-Related Violence.'' The purpose of the project is to develop and implement an evaluation to provide the Centers for Disease Control and Prevention (CDC) with the capacity to investigate the role of clinical guidelines in detecting and intervening in intimate violence in publicly-funded family planning settings. This evaluation will encompass: (1) The administrative level at which guidelines operate; (2) the contents of guidelines; (3) the format of guidelines; (4) the use of guidelines; and (5) barriers to the adoption of guidelines for programs that do not have any in place. The information gathered will be analyzed in conjunction with existing data from other sources. The information obtained from the evaluation will be used by CDC to develop recommendations for guidelines to address screening and referral practices and provider training. Healthy People 2000 calls for a reduction of physical, sexual and emotional abuse towards women, and for the use of protocols in emergency room settings to identify and treat victims of violence. As the nation's prevention agency, CDC has been charged with finding ways to prevent violence against women. Little is known about how widely guidelines have been instituted in publicly-funded family planning settings. This evaluation will provide the first clear understanding of the barriers to implementing and using appropriate protocols. The estimated annualized burden hours are 285.

Respondents	Number of respondents	Number of responses per respondents	Average burden per response (in hours)
Clinicians	600	1	.25
Clinic Administrators	540	1	.25

Dated: August 23, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–21991 Filed 8–28–00; 8:45 am]

BILLING CODE 4163–18–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–3432–N5]

Medicare Program; Postponement of Open Town Hall Meeting to Discuss Criteria for Making Coverage Decisions from August 31, 2000 to September 13, 2000

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

ACTION: Notice of meeting postponement.

SUMMARY: This notice announces the postponement of the August 31, 2000 town hall meeting to discuss the criteria for making a coverage decision under the Medicare program. This meeting is rescheduled for September 13, 2000.

DATES: September 13, 2000, from 9 a.m. until 12 noon, E.D.T.

ADDRESSES: The meeting will be held at the HCFA headquarters auditorium, 7500 Security Boulevard, Baltimore, Maryland 21244.

FOR FURTHER INFORMATION CONTACT: Patricia Brocato-Simons at 410–786–0261.

SUPPLEMENTARY INFORMATION: On August 17, 2000, we published a notice in the **Federal Register** (65 FR 50171) that announced the town hall meeting for interested parties to discuss criteria we would use to make certain national coverage decisions under the Medicare program. (The August notice provides specific information on the purpose of this meeting. This information remains the same and has not been changed). We wish to allow an additional opportunity to obtain input from the public on the criteria we would use to make Medicare national coverage decisions. Our intent was to hold a town hall meeting promptly to facilitate our efforts to issue a proposed rule. We received, however, comments and requests to delay the town hall meeting to give the public more time to prepare for the meeting. We have rescheduled the open town hall meeting from August 31, 2000 to September 13, 2000.

Authority: Sections 1102 and 1871 of the Act (42 U.S.C. 1302 and 1395hh).

(Catalog of Federal Domestic Assistance Program No. 98.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medicare Insurance Program.)

Dated: August 24, 2000.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 00–22064 Filed 8–28–00; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee, Center for Inherited Disease Research (CIDR) Access Subcommittee.

Date: September 7, 2000.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street NW, Washington, DC 20037–1417.

Contact Person: Rudy O. Pozzatti, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, (301) 402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 21, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21951 Filed 8–28–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee, Center for Inherited Disease Research (CIDR) Access Committee.

Date: September 6–7, 2000.

Open: September 6, 2000, 7 p.m. to 8:30 p.m.

Agenda: To discuss matters of program relevance.

Place: Westin Grand Hotel, 2350 M Street NW, Washington, DC 20037–1417.

Closed: September 6, 2000, 8:30 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street NW, Washington, DC 20037–1417.

Closed: September 7, 2000, 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Grand Hotel, 2350 M Street NW, Washington, DC 20037–1417.

Contact Person: Jerry Roberts, Scientific Review Administrator, Office of Scientific Review, National Institutes of Health, Building 38A, Bethesda, MD 20892, 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 21, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21952 Filed 8–28–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: September 6, 2000.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alan L. Willard, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: August 21, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21949 Filed 8–28–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 23, 2000.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samuel Rawlings, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5160, MSC 7844, Bethesda, MD 20892, (301) 435–1243.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: August 24, 2000.

Time: 11:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ranga V. Srinivas, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 21, 2000.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–21950 Filed 8–28–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of a Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council in September 2000.

The SAMHSA National Advisory Council meeting will be open and will include a follow up to the May 12 SAMHSA National Advisory Council Meeting; a discussion concerning SAMHSA's budget; a report on recently released results from the National Household Survey on Drug Abuse; a panel discussion on SAMHSA's mental health and substance abuse data systems; and a discussion on SAMHSA Centers' Technical Assistance Activities and Funding. Other significant issues to be discussed with the Council will be SAMHSA's Managed Care Initiatives and the Health Insurance Portability and Accountability Act and its impact on substance abuse and mental health programs. In addition, there will be reports by the Council's workgroups on co-occurring addictive and mental disorders, quality care, data, HIV/AIDS, children, communication and parity.

Attendance by the public will be limited to space available. Public comments are welcome. Please communicate with the individual listed as contact below to make arrangements to comment or to request special accommodations for persons with disabilities. Substantive program information, a summary of the meeting, and a roster of Council members may be obtained from the contact whose name and telephone number is listed below.

Committee Name: SAMHSA National Advisory Council.

Date/Time: Thursday, September 14, 2000, 9:00 a.m. to 4:40 p.m. (Open); Friday, September 15, 2000, 9:00 a.m. to 12:30 p.m. (Open).

Place: Bethesda Marriott Hotel, 5151 Pook's Hill Road, Bethesda, Maryland 20814.

Contact: Toian Vaughn, Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 17–89, Rockville, MD 20857, Telephone: (301) 443–4266; FAX: (301) 443–1587 and e-mail: TVaughn@samhsa.gov.

Dated: August 23, 2000.

Toian Vaughn,

Committee Management Officer, SAMHSA.

[FR Doc. 00–22025 Filed 8–28–00; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Applications

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of permit applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Permit No. TE–007216

Applicant: Laura Boykin, Albuquerque, New Mexico

The applicant requests a permit to remove and reduce to possession specimens of *Orcuttia californica, Orcuttia pilosa, Orcuttia viscida, Tuctoria greenei,* and *Tuctoria mucronata* in conjunction with evolutionary research and the collection of voucher specimens throughout each species' range in California for the purpose of enhancing their survival.

Permit No. TE–029414

Applicant: Nathan Moorhatch, Riverside, California

The applicant requests a permit to take (survey by pursuit) the Delhi Sands flower-loving fly (*Raphiomidas terminatus abdominalis*) and the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with presence or absence surveys throughout each species' range for the purpose of enhancing their survival.

Permit No. TE–031471

Applicant: The Nature Conservancy, Portland, Oregon

The applicant requests a permit to take (harass, capture, and harm) the Fender's blue butterfly (*Icaricia icarioides fenderi*) in conjunction with presence or absence surveys and through activities directed at maintaining and restoring habitat throughout the species' range for the purpose of enhancing its survival.

Permit No. TE–029394

Applicant: Maeton Freel, Goleta, California

The applicant requests a permit to take (harass by survey and nest monitoring) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with surveys in the Los Padres National Forest, California, for the purpose of enhancing its survival.

Permit No. TE–802107

Applicant: Patricia Baird, Long Beach, California

The permittee requests a permit amendment to take (collect blood) the least tern (*Sterna antillarum*) throughout its range in Louisiana, Kentucky, and Tennessee in conjunction with genetic research, for the purpose of enhancing its survival.

Permit No. TE–745541

Applicant: SJM Biological Consultants, San Diego, California

The permittee requests a permit amendment to take (toe-clip and PIT-tag) the Pacific pocket mouse (*Perognathus longimembris pacificus*) in conjunction with ecological research, and take (radio-tag) the Stephens' kangaroo rat (*Dipodomys stephensi*) in conjunction with translocation activities and ecological research throughout each species' range, for the purpose of enhancing their survival.

Permit No. TE–796271

Applicant: S.C. Dodd Biological Consulting, San Diego, California

The permittee requests a permit amendment to take (toe-clip and PIT-tag) the Pacific pocket mouse (*Perognathus longimembris pacificus*) in conjunction with ecological research throughout its range, for the purpose of enhancing its survival.

Permit No. TE–807635

Applicant: Thomas Boullion, Cottonwood, California

The permittee requests a permit amendment to take (harass by survey, collect and sacrifice) the San Diego fairy shrimp (*Brachinecta sandiegonensis*) and the Riverside fairy shrimp (*Streptocephalus woottoni*) in conjunction with surveys throughout each species' range in California for the purpose of enhancing its survival.

Permit No. TE–030362

Applicant: Tenera Environmental, LLC., San Luis Obispo, California

The applicant requests a permit to take (harass by survey, capture) the Morro shoulderband snail (*Helminthoglypta walkeriana*) in conjunction with surveys throughout its range in California, for the purpose of enhancing its survival.

Permit No. TE–030384

Applicant: Vince Semonsen, Santa Barbara, 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–795938

Applicant: EIP Associates, Sacramento, California

The permittee requests a permit amendment 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–023496

Applicant: Endangered Species Recovery Program, Fresno, California

The permittee requests a permit amendment to take (capture and radio-tag) the Fresno kangaroo rat (*Dipodomys nitratoides exilis*) throughout its range in conjunction with relocation efforts and population augmentation at Lemoore Naval Air Station, Kings County, California, for the purpose of enhancing its survival.

Permit No. TE–702631

Applicant: Assistant Regional Director—Ecological Services, Region 1, U.S. Fish and Wildlife Service, Portland, Oregon

The permittee requests a permit amendment to take the short-tailed albatross (*Phoebastria albatrus*) throughout its range in conjunction with recovery efforts for the purpose of enhancing its survival.

DATES: Written comments on these permit applications must be received on or before September 28, 2000.

ADDRESSES: Written data or comments should be submitted to the Chief—Endangered Species, Ecological Services, Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181; Fax: (503) 231–6243. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Documents and other information submitted with these applications are

available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 20 days of the date of publication of this notice to the address above; telephone: (503) 231–2063. Please refer to the respective permit number for each application when requesting copies of documents.

Dated: August 21, 2000.

Don Weathers,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 00–21987 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Smith River Rancheria Liquor Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice publishes the Smith River Rancheria Liquor Control Ordinance. The Ordinance regulates the control of, the possession of, and the sale of liquor on the Smith River Rancheria trust lands, and is in conformity with the laws of the State of California, where applicable and necessary. Although the Ordinance was adopted on January 19, 2000, it does not become effective until published in the **Federal Register** because the failure to comply with the Ordinance may result in criminal charges.

DATES: This Ordinance is effective as of August 29, 2000.

FOR FURTHER INFORMATION CONTACT: Kaye Armstrong, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street NW, MS–4631-MIB, Washington, DC 20240; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in Rice v. Rehner, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transaction in Indian country. The Smith River Rancheria Liquor Ordinance, Resolution No. 20–03, was duly adopted by the Smith River Rancheria Tribal Council on January 19, 2000. The Smith River Rancheria, in furtherance of its economic and social goals, has taken positive steps to regulate retail sales of alcohol and use revenues to combat alcohol abuse and its debilitating effects among individuals and family members within the Smith River Rancheria.

This notice is being published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.

I certify that by Resolution No. 20–03, the Smith River Rancheria Liquor Control Ordinance, was duly adopted by the Smith River Rancheria Tribal Council on January 19, 2000.

Dated: August 21, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

The Smith River Rancheria Liquor Control Ordinance, Resolution No.20–03, reads as follows:

Liquor Control Ordinance

Article 1. *Name.* This Ordinance shall be known as the Smith River Rancheria Liquor Control Ordinance.

Article 2. *Authority.* This Ordinance is enacted pursuant to the Act of August 15, 1953, Publ. L. 83–277,67 Stat.588,18U.S.C.1161, and Article IV of the Constitution and Bylaws of the Rancheria.

Article 3. *Purpose.* The Purpose of the Ordinance is to regulate and control the possession and sale of liquor on the Rancheria, and to permit alcohol sales by tribally owned and operated enterprises, and at tribally approved special events, for the purpose of the economic development of the Rancheria. The enactment of a tribal ordinance governing liquor possession and sales on the Rancheria increases the ability of tribal government to control Rancheria liquor distribution and possession, and will provide an important source of revenue for the continued operation and strengthening of the tribal government the economic viability of Tribal enterprises, and the delivery of tribal government services. This Liquor Control Ordinance is in conformity with the laws of the State of California as required by 18 U.S.C. Sec. 1161, and with all applicable Federal laws.

Article 4. *Effective Date.* This Ordinance shall be effective as the date of its publication in the **Federal Register**.

Article 5. *Possession of Alcohol.* The introduction or possession of alcoholic beverages shall be lawful within the exterior boundaries of the Rancheria; provided that such introduction or possession is in conformity with the laws of the State of California.

Article 6. *Sales of Alcohol.*

(A) The sale of alcoholic beverages by business enterprises owned by and subject to the control of the Rancheria shall be lawful within the exterior boundaries of the Rancheria; provided that such sales are in conformity with the laws of the State of California.

(B) The sale of alcoholic beverages by the drink at special events authorized by the Rancheria shall be lawful within the exterior boundaries of the Smith River Rancheria; provided that such sales are in conformity with the laws of the State of California and with prior approval by Resolution of the Council.

Article 7. *Age Limits.* The drinking age within the Rancheria shall be the same as that of the State of California, which is currently 21 years. No person under the age of 21 years shall purchase, possess, or consume any alcoholic beverage. At such time, if any, as California Business and Professional Code Sec. 25658, which sets the drinking age for the State of California, is repealed or amended to raise or lower the drinking age within California, this Article shall automatically become null and void and the Council shall be empowered to amend this Article to match the age limit imposed by state law, such amendment to become effective upon publication in the **Federal Register** by the Secretary of the Interior.

Article 8. *Civil Penalties.* The Rancheria, through the Council and duly authorized personnel, shall have the authority to enforce this Ordinance by confiscating any liquor sold, possessed or introduced in violation hereof. The Council shall be empowered to sell such confiscated liquor for the benefit of the Rancheria, and to develop and approve such regulations as may become necessary for enforcement of this Ordinance.

Article 9. *Prior Inconsistent Enactments.* Any prior tribal laws resolutions or ordinances which are inconsistent with this Ordinance are hereby repealed to the extent they are inconsistent with this Ordinance.

Article 10. *Sovereign Immunity.* Nothing contained in this Ordinance is intended to, nor does in any way, limit, alter, restrict, or waive the sovereign immunity of the Rancheria or any of its agencies from unconsented suit or action of any kind.

Article 11. *Severability.* If any provision of this Ordinance is found by an agency or court of competent jurisdiction to be unenforceable, the remaining provisions shall be unaffected thereby.

Article 12. *Amendment.* This Ordinance may be amended by majority vote of the Council at a duly noticed Council meeting, such amendment to become effective upon publication in the **Federal Register** by the Secretary of the Interior.

[FR Doc. 00–22065 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–067–1990; CA–40204]

Notice of Availability of the Draft Environmental Impact Report/ Environmental Impact Statement on the Proposed Expansion of the Existing Mesquite Gold Mine

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Newmont Gold Company, operator of the Mesquite gold mine

located in Imperial County, California, has proposed to expand mining operations by a plan modification submitted to the Bureau of Land Management (BLM), El Centro Field Office, on November 30, 1998. Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and the California Environmental Quality Act (Public Resources Code, section 21000, *et seq.*), the BLM and the Imperial County Planning and Building Department, as lead agencies, have prepared, through a third-party contractor, a Draft Environmental Impact Report (EIR)/ Environmental Impact Statement (EIS) on the impacts of the Mesquite Mine expansion which would extend the mine life through the year 2006. The Draft EIR/EIS presents a preferred alternative derived from seven alternatives, including the companies proposed action. The preferred alternative is the agencies' attempt to reduce or avoid the potential environmental impacts of the Proposed Action. The Draft EIR/EIS discloses the possible environmental consequences associated with each alternative.

DATES: A Final EIR/EIS will be prepared following a 60 day comment period on the Draft EIR/EIS. This comment period will end on October 30, 2000. The Final EIR/EIS will be published approximately 30 days following the Draft EIR/EIS comment period.

ADDRESSES: Copies of the Draft EIR/EIS will be available from the Imperial County Planning and Building Department, 939 Main Street, El Centro, CA 92243; telephone (760) 482–4236, extension 4310.

Public reading copies will be available for review at the following locations: (1) Bureau of Land Management, California State Office, 2800 Cottage Way, Sacramento, CA; (2) Bureau of Land Management, El Centro Field Office, 1661 South Main Street, El Centro, CA; (3) Imperial County Planning and Building Department, 939 Main Street, El Centro, CA; (4) local libraries in San Diego County, California, and Imperial County, California; and in the town of Yuma, Arizona. Text of the Draft EIR/EIS will be posted at the Bureau of Land Management Web site: // www.ca.blm.gov/elcentro/mesquite/

FOR FURTHER INFORMATION CONTACT: Jurg Heuberger, Imperial County Planning and Building Department, 939 Main Street, El Centro, CA; telephone (760) 482-4236 extension 4310; or Kevin Marty, Bureau of Land Management, 1661 South 4th Street, El Centro, CA; telephone (760) 337–4422.

SUPPLEMENTARY INFORMATION: The Mesquite Mine began operations under an approved plan of operations during 1985. Since this time, plan modifications and expansions have occurred, which are summarized within the approved Mesquite Mine consolidated plan of operations dated October, 1995. On November 30, 1998, Newmont Gold Company, operator of the Mesquite Mine, submitted a plan of operations for an expansion of the mine. The existing mine site encompasses 5,200 acres, of which 3,655 acres have been disturbed by mining activities to date. The total area proposed for disturbance under the expansion is 693 acres, of which 190 acres would be new, unpermitted disturbance.

The expansion would allow the company to continue extracting and processing economical gold deposits, delineated by drilling programs initiated during 1988 and continuing to date. Current ore reserves would be depleted by the end of year 2000, while expansion would increase the mine life a projected seven years into year 2006. The plan modification proposes to process approximately 89 million tons of ore and 242 million tons of waste rock. The Big Chief and Rainbow pit expansions would encompass approximately 350 acres of Federal, State and private (patented) land, of which 76 acres would be new, unpermitted land disturbance. The plan modification also describes alternative methods for storage of waste rock, either in existing mined-out open pits, at new or expanded out-of-pit storage areas, or a combination of both; and construction of ancillary facilities including roads, fencing and drainage diversions.

Dated: August 23, 2000.

Greg Thomsen,

Field Manager.

[FR Doc. 00–21988 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–68086–1020–01]

Notice of Intent To Prepare an EIS Proposed Renewal of Ord Mountain Grazing Lease in Critical Habitat

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: The Bureau of Land Management (BLM) in coordination with the U.S. Fish and Wildlife Service and the California Department of Fish and Game will prepare an Environmental Impact Statement (EIS) to consider alternatives for the proposed renewal of cattle grazing privileges within the Ord Mountain Grazing Allotment, located approximately 20 miles south of Barstow, California. This allotment includes public rangelands in San Bernardino County that have been designated by the U.S. Fish and Wildlife Service as critical habitat for the desert tortoise (*Gopherus agassizii*), a species State and federally listed as threatened.

The lessee, Dave Fisher, has applied to the Bureau of Land Management for renewal of his grazing lease for a period not to exceed ten (10) years under the same terms and conditions as those under which he has been grazing livestock in this area for the reasonably foreseeable past.

A range of alternatives to be analyzed, include the no action alternative (no lease renewal), to renewal under the existing terms as modified to consider new policies and changing conditions, including additional alternatives that address seasonal grazing restrictions, modifications of range improvements and other changes to the existing lease, primarily to address critical desert tortoise habitat issues and areas not meeting proper functioning condition.

Public Participation: A public scoping meeting will be held at the Barstow Field Office of BLM, 2601 Barstow Rd., Barstow, CA, on September 21, 2000 at 7 p.m. Comments presented during this meeting serve to provide additional issues for the EIS. If you would like to get formal comments into the record, please provide them in writing at the meeting or within thirty days of this notice. Issues identified to date include the requirement to consult with the lessee, impacts to desert tortoise and the Ord-Rodman Critical Habitat Unit (CHU), health of native vegetative communities and proper utilization, proliferation of exotic invasive species, the relationship to other land uses; impacts to wilderness qualities, potential for accelerated soil erosion, water quality impacts and effects to riparian and wetland habitat values.

ADDRESSES: Send comments to: BLM, Barstow Field Office, 2601 Barstow Road, Barstow, CA 92311, Attn: Larry Blaine. For further information on this proposal, or to be placed on the mailing list for the EIS contact BLM at the above address or by telephone at (760) 252–6079.

Dated: August 23, 2000.

Harold Johnson,

Acting Field Manager, Barstow Field Office.

[FR Doc. 00–21989 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–046–1210–MD]

Temporary Emergency Off-Road Vehicle Limitations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary emergency off-road vehicle (ORV), also referred to as off-highway vehicle (OHV), travel limitations pursuant to regulations at 43 CFR 8341.2(a) on public lands in the Parunuweap Canyon, Orderville Canyon, and North Fork Virgin River Wilderness Study Areas (WSAs).

SUMMARY: This notice restricts motorized vehicle travel within the Parunuweap Canyon WSA, Orderville Canyon WSA, and North Fork Virgin River WSA in southwestern Utah near Kanab. An emergency travel limitation order is necessary to prevent resource impacts to soils, vegetation, wildlife habitat, and other resources caused by OHV use within the WSAs that threaten impairment to wilderness values. The travel restrictions limit OHV travel within the WSAs to only those travel routes and ways identified during the original wilderness inventory completed in 1980 and shown on the inventory maps located at the BLM Kanab Field Office. Cross-country travel within the WSAs is specifically prohibited by these travel restrictions. Maps showing the travel restrictions will be posted at key access points to the Parunuweap Canyon WSA, Orderville Canyon WSA, and North Fork Virgin River WSA and will also be available at the BLM Kanab Field Office and other BLM offices. This emergency travel limitation order supercedes the existing OHV travel designations for areas within the three WSAs that were put in place on September 25, 1980. The travel limitations apply to all motorized vehicle use with the exception of law enforcement and emergency personnel or administrative uses authorized by the BLM. The authority for this action is 43 CFR 8341.2(a). Violations of these travel limitations are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

DATES: The travel limitation order is effective immediately and will remain in effect until the threats to WSA impairment are eliminated or permanent OHV designations are effected through land use planning as identified in 43 CFR 8341.2(a). BLM will continue regular surveillance and monitoring to assess compliance with these travel restrictions. Should the emergency restrictions not result in prevention of adverse resource impacts, other management options will be implemented for motorized vehicle use in the WSAs such as limitations for seasonal use, restrictions on numbers and/or types of vehicles allowed, utilization of a permitting system, or complete closure of some or all routes to OHV use.

ADDRESSES: Copies or maps are available at the BLM Kanab Field Office, 318 North 100 East, Kanab Utah 84741, or on the Internet at http://www.blm.gov/utah/.

FOR FURTHER INFORMATION CONTACT: Verlin Smith, Field Manager, Bureau of Land Management, Kanab Field Office, 318 North, 100 East, Kanab, Utah 84741. Telephone: (435) 644–4600.

SUPPLEMENTARY INFORMATION: The three WSAs, Parunuweap Canyon (30,899 acres), Orderville Canyon (1,750 acres), and North Fork Virgin River (1,040 acres) were established in 1980 to review for possible wilderness designation. Under the BLM WSA Interim Management Policy (IMP), WSA lands are to be managed so as not to impair the suitability of those lands to be considered for designation as wilderness areas by Congress. An interdisciplinary (ID) team of specialists followed the IMP guidance and recent BLM Utah guidance (An Interim Management Approach to OHV Use on Public Lands in Utah, June 2000), to review the resource condition of the WSAs and possible threats or impacts to resources and wilderness values.

BLM determined that OHV use is increasing and some impacts are occurring in isolated areas of the Parunuweap WSA to riparian vegetation and some OHV use is occurring off existing inventoried routes in the Parunuweap WSA. BLM concluded that OHV travel limitations are necessary to prevent any future resource impacts from impairing wilderness values and allow existing impacts to rehabilitate naturally. If OHV use off existing routes continues to increase at the current rate observed, impairment to the Parunuweap WSA could result. OHV limitations in the Orderville Canyon and North Fork Virgin River WSAs would provide for compliance with BLM management policies outlined in the IMP and BLM Utah guidance and prevent future impacts from impairing wilderness values. Should the OHV travel limitations in any of the WSAs not be complied with and future impacts result that could impair wilderness values, BLM will implement additional management actions which could include additional OHV travel restrictions or closure to OHV use. Nothing in this order in any way alters legal rights which Kane County or the State of Utah may claim to assert as R.S. 2477 highways, and to challenge in Federal court or other appropriate venue, any BLM road closures that they believe are inconsistent with their claims.

Dated: August 22, 2000.

Douglas M. Koza,

Acting BLM State Director, Utah.

[FR Doc. 00–21869 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–929–00–1910–HE–4677–UT940]

Montana: Filing of Amended Protraction Diagram Plats

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plats of the amended protraction diagrams accepted August 14, 2000, of the following described lands are scheduled to be officially filed in the Montana State Office, Billings Montana, thirty (30) days from the date of this publication.

Tps. 18, 19, and 20 N., Rs. 12, 13, and 14 W. The plat, representing the Amended Protraction Diagram 27 Index of unsurveyed Townships 18, 19, and 20 North, Ranges 12, 13, and 14 West, Principal Meridian, Montana, was accepted August 14, 2000.

T. 18 N., R. 12 W. The plat, representing Amended Protraction Diagram 27 of unsurveyed Township 18 North, Range 12 West, Principal Meridian, Montana, was accepted August 14, 2000.

T. 19 N., R. 12 W. The plat, representing Amended Protraction Diagram 27 of unsurveyed Township 19 North, Range 12 West, Principal Meridian, Montana, was accepted August 14, 2000.

T. 20 N., R. 12 W. The plat, representing Amended Protraction Diagram 27 of unsurveyed Township 20 North, Range 12 West, Principal Meridian, Montana, was accepted August 14, 2000.

T. 18 N., R. 13 W. The plat, representing Amended Protraction Diagram 27 of unsurveyed Township 18 North, Range 13 West, Principal Meridian, Montana, was accepted August 14, 2000.

T. 19 N., R. 13 W. The plat, representing Amended Protraction

Diagram 27 of unsurveyed Township 19 North, Range 13 West, Principal Meridian, Montana, was accepted August 14, 2000.

T. 20 N., R. 13 W. The plat, representing Amended Protraction Diagram 27 of unsurveyed Township 20 North, Range 13 West, Principal Meridian, Montana, was accepted August 14, 2000.

T. 20 N., R. 14 W. The plat, representing Amended Protraction Diagram 27 of unsurveyed Township 20 North, Range 14 West, Principal Meridian, Montana, was accepted August 14, 2000.

The amended protraction diagrams were prepared at the request of the U.S. Forest Service to accommodate Revision of Primary Base Quadrangle Maps for the Geometronics Service Center.

A copy of the preceding described plats of the amended protraction diagrams accepted August 14, 2000, will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against these amended protraction diagrams, accepted August 14, 2000, as shown on these plats, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests.

These particular plats of the amended protraction diagrams will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800

Dated: August 17, 2000.

Steven G. Schey,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 00–21832 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–929–00–1910–HE–4677–UT940]

Montana: Filing of Amended Protraction Diagram Plats

AGENCY: Bureau of Land Management, Montana State Office, Interior

ACTION: Notice.

SUMMARY: The plats of the amended protraction diagrams accepted August 15, 2000, of the following described lands are scheduled to be officially filed in the Montana State Office, Billings Montana, thirty (30) days from the date of this publication.

Tps. 17, 19, and 20 N., Rs. 27, 28, and 29 W. The plat, representing the Amended Protraction Diagram 29 Index of unsurveyed Townships 17, 19, and 20 North, Ranges 27, 28, and 29 West, Principal Meridian, Montana, was accepted August 15, 2000.

T. 17 N., R. 28 W. The plat, representing Amended Protraction Diagram 29 of unsurveyed Township 17 North, Range 28 West, Principal Meridian, Montana, was accepted August 15, 2000.

T. 17 N., R. 29 W. The plat, representing Amended Protraction Diagram 29 of unsurveyed Township 17 North, Range 29 West, Principal Meridian, Montana, was accepted August 15, 2000.

T. 19 N., R. 27 W. The plat, representing Amended Protraction Diagram 29 of unsurveyed Township 19 North, Range 27 West, Principal Meridian, Montana, was accepted August 15, 2000.

T. 19 N., R. 28 W. The plat, representing Amended Protraction Diagram 29 of unsurveyed Township 19 North, Range 28 West, Principal Meridian, Montana, was accepted August 15, 2000.

T. 20 N., R. 28 W. The plat, representing Amended Protraction Diagram 29 of unsurveyed Township 20 North, Range 28 West, Principal Meridian, Montana, was accepted August 15, 2000.

T. 20 N., R. 29 W. The plat, representing Amended Protraction Diagram 29 of unsurveyed Township 20 North, Range 29 West, Principal Meridian, Montana, was accepted August 15, 2000.

The amended protraction diagrams were prepared at the request of the U.S. Forest Service to accommodate Revision of Primary Base Quadrangle Maps for the Geometronics Service Center.

A copy of the preceding described plats of the amended protraction diagrams accepted August 15, 2000, will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against these amended protraction diagrams, accepted August 15, 2000, as shown on these plats, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests.

These particular plats of the amended protraction diagrams will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800

Dated: August 17, 2000.

Steven G. Schey,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 00–21833 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Revised Environmental Assessment (EA) U.S. Park Police Aviation Section Hangar and Fuel System Improvements—National Capital Parks-East

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of revised Environmental Assessment.

SUMMARY: U.S. Park Police (USPP), a Federal law enforcement organization within the U.S. Department of the Interior, National Park Service, is considering expanding the hangar, replacing its fuel delivery system, and reducing the paved area of its aviation facility. This notice announces availability for public review of a revised EA for this proposal, the EA having been revised as a result of comments submitted by the public during a 1999 public comment period on the proposal.

NPS now makes this revised EA available to the public for thirty days from the publication date of this notice. Anyone may submit a written comment. Any written comments NPS receives during this review will be considered prior to making a decision and finding on this EA. Commenters are advised that, if requested, the National Park Service is required to supply to any requester, the names and addresses of individuals providing comments. This EA analysis and its public availability are pursuant to the National Environmental Policy Act, and its regulations, and NPS authorities and guidance.

The EA may be obtained by contacting Robert Stratton, USPP—202/205–4356 or Michael Wilderman, National Capital Parks-East—202/690–5165.

SUPPLEMENTARY INFORMATION: The U.S. Park Police (USPP) provides the only law enforcement and rescue helicopter services in Washington, D.C. USPP needs to house an additional helicopter, acquired to ensure full-time emergency services, and upgrade its existing fuel

delivery system so as to enhance the safety of those who work at the aviation facility and those individuals it serves, and to provide additional environmental safeguards. The number of flights is not increasing as a result of this proposal. The level of noise and the air quality will not change, however approximately ¾ of an acre of paved surface will be restored to grass.

As part of its decision-making process, an EA was developed in 1999. This EA contained two alternatives: a no action and a preferred alternative. Because NPS recognizes the value of public review and comment of its proposals, this EA was made available for public review in 1999. Although very few comments were received, as a result of the comments submitted by the public both during and after the commenter period, NPS revised its EA in order to consider the ideas raised by the public. The revised EA which is now available for public review and comment, contains three alternatives: a no action; an action; and a preferred alternative, along with three alternatives considered but rejected because they were unreasonable, unworkable, or not permitted.

For further information, contact the National Capital Parks-East public information officer at (202) 690–5185.

Dated: August 23, 2000.

John Hale,

Superintendent, National Capital Parks-East.

[FR Doc. 00–21968 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places;Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 19, 2000. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by September 13, 2000.

Beth Boland,

Acting Keeper of the National Register.

Arizona

Mohave County

Pipe Spring National Monument Historic District (Boundary Increase), 401 N. Pipe Spring Rd., Fredonia, 00001072

Connecticut

Fairfield County

Stevenson Dam Hydroelectric Plant, CT 34, Stevenson, 00001073

Iowa

Cedar County

Tipton State Bank, 501 Cedar St., Tipton, 00001075

Clarke County

Kyte, John and Mary Jane, Farmstead District, 2875 Mormon Trail Rd., Weldon, 00001074

Dubuque County

Four Mounds Site, Address Restricted, Dubuque, 00001076

Linn County

Dewitt—Harman Archeological Site, (Early Settlement and Ethnic Properties of Linn County, Iowa MPS) Address Restricted, Cedar Rapids, 00001077

Horecky, Henek and Mary, Log Cabin, (Early Settlement and Ethnic Properties of Linn County, Iowa MPS) Address Restricted, Mt. Vernon, 00001078

Janko, Jan F. and Antonie, Farmstead District, (Early Settlement and Ethnic Properties of Linn County, Iowa MPS) 4021 Vista Rd., Ely, 00001079

Minor, Josias L. and Elizabeth A., Farmstead District, (Early Settlement and Ethnic Properties of Linn County, Iowa MPS) 7500 Ely Rd., Ely, 00001080

Moorhead, Joseph and Clara Amanda H., House, (Early Settlement and Ethnic Properties of Linn County, Iowa MPS) 88 Palisades Access Rd., Ely, 00001081

Podhajsky—Jansa Farmstead District, (Early Settlement and Ethnic Properties of Linn County, Iowa MPS) Hoosier Creek Rd., Ely, 00001082

Kentucky

Lincoln County

Miller, Abraham, House, 3475 KY 300, Stanford, 00001083

Maryland

Baltimore Independent city

Howard Park P.S. 218, 4801 Liberty Heights Ave., Baltimore, 00001084

Baltimore Independent city

Montgomery Ward Warehouse and Retail Store, 1000 S.Monroe St., Baltimore, 00001085

Massachusetts

Berkshire County

East Lawn Cemetery and Sherman Burbank Memorial Chapel, 605 Main St., Williamstown, 00001086

Middlesex County

Reed—Wood Place, 20 Meetinghouse Rd., Littleton, 00001071

Missouri

Franklin County

Abkemeyer, John, House, (Washington, Missouri MPS) 607 Jefferson, Washington, 00001088
Bartelmann, Henry, House, (Washington, Missouri MPS) 110 W. 6th St., Washington, 00001089
Beinke, Henry F., House, (Washington, Missouri MPS) 610 Jefferson St., Washington, 00001090
Beins, Henry, House, (Washington, Missouri MPS) 620 Locust St., Washington, 00001091
Brehe Farmstead Historic District, (Washington, Missouri MPS) 6180 Bluff Rd., Washington, 00001092
Broeker, John H., House, (Washington, Missouri MPS) 605 Locust St., Washington, 00001093
Buhr, Henry J., House, (Washington, Missouri MPS) 309 Lafayette St., Washington, 00001087
Busch, John B., Brewery Historic District, (Washington, Missouri MPS) 108–130A Busch Ave., Washington, 00001094
Degen, Henry, House, (Washington, Missouri MPS) 112 W. 4th St., Washington, 00001095
Eitzen, Henry Charles, Building, (Washington, Missouri MPS) 200 Jefferson St., Washington, 00001096
Ernst, Henry and Elizabeth, House, (Washington, Missouri MPS) 901 Stafford St., Washington, 00001097
Glaser, John, Pottery Factory, (Washington, Missouri MPS) 812 W. Front St., Washington, 00001098
Helm, Charles H., House, (Washington, Missouri MPS) 520 E. 5th St., Washington, 00001099
Helm, John and Wilhelmina, House, (Washington, Missouri MPS) 536 E. 5th St., Washington, 00001100
Jones, Stephen M., Building, (Washington, Missouri MPS)

108–110 Jefferson St., Washington, 00001101

Kohmueller, Louis, House, (Washington, Missouri MPS) 1380 S. Lakeshore Dr., Washington, 00001102

Krog, Albert, House, (Washington, Missouri MPS) 1395 W. Main St., Washington, 00001103

Kruse, Casper, House, (Washington, Missouri MPS) 202 Stafford St., Washington, 00001104

Locust Street Historic District, (Washington, Missouri MPS) Roughly bounded by E. Front, E. 5th, Jefferson, and Hooker Sts., Washington, 00001105

May, Dr. H.A., House, (Washington, Missouri MPS) 402 Jefferson St., Washington, 00001106

Mense, Frank, House, (Washington, Missouri MPS) 304 High St., Washington, 00001107

Meyer, John, House, (Washington, Missouri MPS) 800 E. 6th St., Washington, 00001108

Monje, Paul, House, (Washington, Missouri MPS) 1003 W. 5th St., Washington, 00001109

O'Hara, Mark, House, (Washington, Missouri MPS) 1 South Point Pl., Washington, 00001110

Peters, Louis H., House, (Washington, Missouri MPS) 408 E. 6th St., Washington, 00001111

Raaf, Joseph, House, (Washington, Missouri MPS) 602 Jefferson St., Washington, 00001112

Schnier, Fred, Building, (Washington, Missouri MPS) 10–12 W. 2nd St., Washington, 00001113

Stafford—Olive Historic District, (Washington, Missouri MPS) Roughly bounded by Stafford, Olive, W. 5th, and W. 2nd Sts., Washington, 00001114

Tamm, George, Building, (Washington, Missouri MPS) 121 Jefferson St., Washington, 00001115

Tuepker, Jonathan L., House, (Washington, Missouri MPS) 519 Stafford St., Washington, 00001116

Vitt, William T., House, (Washington, Missouri MPS) 2 River Pilot Dr., Washington, 00001117

Wehrmann, Louis, Building, (Washington, Missouri MPS) 212 Jefferson St., Washington, 00001118

[FR Doc. 00–21967 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items from Phillips County, KS in the Possession of the Kansas State Historical Society, Topeka, KS

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items from Phillips County, KS in the possession of the Kansas State Historical Society, Topeka, KS that meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The 19 cultural items include 1 pottery vessel, 3 chipped stone projectile points, 1 bone tool, 1 shell pendant, 1 shell gorget, and 12 disc shell beads.

In 1944, these cultural items were donated to the Kansas Historical Society by Cecil Kingery of Phillipsburg, KS. Donor information indicates that these cultural items were recovered from ''an Indian grave'' exposed by roadwork two miles west and a half-mile south of Phillipsburg, Phillips County, KS.

Recent oral history has identified this gravesite as site 14PH343, with the disturbance of the grave occurring in 1931. Based on ceramic analysis, site 14PH343 has been identified with the Upper Republican Aspect of the Central Plains Tradition, approximately A.D. 1250. Based on temporal position, geographic location, and continuities of material culture, the Upper Republican Aspect period has been identified as ancestral to the Pawnee Nation of Oklahoma.

Based on the above-mentioned information, officials of the Kansas State Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these 19 cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual.

Officials of the Kansas State Historical Society also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these items and the Pawnee Nation of Oklahoma.

This notice has been sent to officials of the Pawnee Nation of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Randall M. Thies, Archeologist, Kansas State Historical Society, 6425 Southwest Sixth Avenue, Topeka, KS 66615-1099, telephone (785) 272-8681, extension 267, before September 28, 2000. Repatriation of these objects to the Pawnee Nation of Oklahoma may begin after that date if no additional claimants come forward.

Dated: August 18, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–21972 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Museum of Indian Arts and Culture/ Laboratory of Anthropology, Museum of New Mexico, Santa Fe, NM

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Museum of Indian Arts and Culture/Laboratory of Anthropology, Museum of New Mexico, Santa Fe, NM that meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

Three cultural items are a fillet-rimmed ceramic bowl, a bone bead, and one lot of bone awls.

While these three cultural items are recorded as excavated from numbered burials at site LA95 (Quavai site), Torrance County, NM, the human

remains are not in the collections of the Museum of Indian Arts and Culture. No information exists to indicate whether the human remains were not recovered, or whether the human remains are or were in the possession of another unknown institution.

Based on material culture, architectural features, and documentary evidence, site LA 95 has been dated to the Pueblo III through the early historic period (A.D. 1100-1680).

One cultural item is one lot of ceramic sherds.

In 1958, this one cultural item was excavated from site LA 97 (Abo site), Torrance County, NM during legally authorized excavations conducted by a Museum of New Mexico employee. While these cultural items are recorded as excavated from a numbered burial, the human remains are not in the collections of the Museum of Indian Arts and Culture. Based on the excavation notes, it is presumed that the human remains were too fragile to be excavated and were not recovered.

Based on material culture and architectural features, site LA 97 has been dated to the Pueblo IV through the early historic period (A.D. 1300-1680). Based on archeological context and regional cultural chronology, these sites have been identified as Ancestral Puebloan. Historical evidence also records these sites as trade centers that enjoyed frequent contact with non-Puebloan tribes.

Based on the above-mentioned information, officials of the Museum of Indian Arts and Culture have determined that, pursuant to 43 CFR 10.2 (d)(2)(ii), these four cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Museum of Indian Arts and Culture also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these items and the Pueblo of Acoma, New Mexico; the Hopi Tribe of Arizona; the Pueblo of Isleta, New Mexico; the Pueblo of Jemez, New Mexico; the Pueblo of Santo Domingo, New Mexico; the Pueblo of Taos, New Mexico; Ysleta Del Sur Pueblo of Texas; the Zuni Tribe of the Zuni Reservation, New Mexico; and a non-Federally recognized Indian group, the Piro-Manso-Tiwa Tribe. This notice has been sent to officials of the Pueblo of Acoma, New Mexico; the Hopi Tribe of Arizona; the Pueblo of Isleta, New Mexico; the Pueblo of Jemez, New Mexico; the Kiowa Indian Tribe of Oklahoma; the Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; the Pueblo of Santo Domingo, New Mexico; the Pueblo of Taos, New Mexico; the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie), Oklahoma; Ysleta Del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these unassociated funerary objects should contact Dr. Duane Anderson, Director, Museum of Indian Arts and Culture, P.O. Box 2087, Santa Fe, NM 87504, telephone (505) 476-1251, before September 28, 2000. Repatriation of these unassociated funerary objects to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: August 11, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–21973 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and an Associated Funerary Object in the Possession of the Museum of Indian Arts and Culture/Laboratory of Anthropology, Museum of New Mexico, Santa Fe, NM

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and an associated funerary object in the possession of the Museum of Indian Arts and Culture/Laboratory of Anthropology, Museum of New Mexico, Santa Fe, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by professional staff in consultation with representatives of the Pueblo of Acoma, New Mexico; the Hopi Tribe of Arizona; the Pueblo of Isleta, New Mexico; the Pueblo of Jemez, New Mexico; the Kiowa Indian Tribe of Oklahoma; the Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; the Pueblo of Santo Domingo, New Mexico; the Pueblo of Taos, New Mexico; the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie), Oklahoma; Ysleta Del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico.

In 1941, human remains representing 14 individuals were recovered from site LA 83 (Pueblo Pardo Ruin or Grey Town), Socorro County, NM during legally authorized excavations conducted as part of a field school program through Washington and Jefferson College. No known individuals were identified. The one associated funerary object is one lot of corn kernels and faunal remains.

Based on burial location and associated funerary objects, these individuals have been identified as Native American. Based on material cultural and architectural features, site LA 83 has been dated to the Pueblo III to Pueblo IV period (A.D. 1300-1630).

During 1935-6, 1939-40, and in 1980, human remains representing a minimum of eight individuals were recovered from site LA 95 (Quarai site), Torrance County, NM during legally authorized excavations conducted as part of stabilization efforts sponsored variously by the Museum of New Mexico, the School of American Research, the University of New Mexico, and the Works Progress Administration. No known individuals were identified. No associated funerary objects are present.

Based on archeological context, these individuals have been identified as Native American. Based on material culture, architectural features, and documentary evidence, site LA 95 has been dated to the Pueblo III through the early historic period (A.D. 1100-1680).

During 1944-1945, human remains representing a minimum of seven individuals were recovered from site LA 97 (Abo site), Torrance County, NM during legally authorized excavations conducted by the Museum of New Mexico. No known individuals were identified. No associated funerary objects are present.

Based on archeological context, these individuals have been identified as Native American. Based on material culture and architectural features, site LA 97 has been dated to the Pueblo IV

through the early historic period (A.D. 1300-1680).

Based on archeological context and regional cultural chronology, these sites have been identified as Ancestral Puebloan. Historical evidence also records these sites as trade centers that enjoyed frequent contact with non-Puebloan tribes.

Based on the above-mentioned information, officials of the Museum of Indian Arts and Culture have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 29 individuals of Native American ancestry. Officials of the Museum of Indian Arts and Culture also have determined that, pursuant to 43 CFR 10.2 (d)(2), the one object listed above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Museum of Indian Arts and Culture have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Pueblo of Acoma, New Mexico; the Hopi Tribe of Arizona; the Pueblo of Isleta, New Mexico; the Pueblo of Jemez, New Mexico; the Pueblo of Santo Domingo, New Mexico; the Pueblo of Taos, New Mexico; Ysleta Del Sur Pueblo of Texas; the Zuni Tribe of the Zuni Reservation, New Mexico; and a non-Federally recognized Indian group, the Piro-Manso-Tiwa Tribe. This notice has been sent to officials of the Pueblo of Acoma, New Mexico; the Hopi Tribe of Arizona; the Pueblo of Isleta, New Mexico; the Pueblo of Jemez, New Mexico; the Kiowa Indian Tribe of Oklahoma; the Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; the Pueblo of Santo Domingo, New Mexico; the Pueblo of Taos, New Mexico; the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie), Oklahoma; Ysleta Del Sur Pueblo of Texas; and the Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary object should contact Dr. Duane Anderson, Director, Museum of Indian Arts and Culture, P.O. Box 2087, Santa Fe, NM 87504, telephone (505) 476-1251, before September 28, 2000. Repatriation of the human remains and associated funerary object to the culturally affiliated tribes may begin after that date if no additional claimants come forward.

Dated: August 10, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–21974 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10(a)(3), of the intent to repatriate cultural items in the possession of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA that meet the definition of ''unassociated funerary object'' under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2(c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The two cultural items are an iron hatchet and an iron adze head.

In 1985, these cultural items were donated to the museum by William H. Claflin, Jr. At an unknown date, these cultural items were collected by General Crooks. Between 1878 and 1893, General Crooks sold these cultural items to William R. Morris. In 1930, Mr. Morris's widow sold the objects to William Claflin, Sr.

Museum records indicate that these cultural items are from a Pawnee grave. Museum documents and consultation with representatives of the Pawnee Nation of Oklahoma indicate that the recovery location was most likely the Elkhorn River in northeastern Nebraska. The style and material of the objects is consistent with objects dating to the 1800's.

Based on the specific cultural attribution in museum records, the probable 19th century date of the burial, and geographic location within the historical territory of the Pawnee Nation of Oklahoma, the objects are considered to be affiliated with the Pawnee Nation of Oklahoma.

Based on the above-mentioned information, officials of the Peabody Museum of Archaeology and Ethnology have determined that, pursuant to 43 CFR 10.2(d)(2)(ii), these two cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Peabody Museum of Archaeology and Ethnology also have determined that, pursuant to 43 CFR 10.2(e), there is a relationship of shared group identity that can be reasonably traced between these items and the Pawnee Nation of Oklahoma. This notice has been sent to officials of the Pawnee Nation of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Barbara Isaac, Repatriation Corrdinator, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 495–2254, before September 28, 2000. Repatriation of these objects to the Pawnee Nation of Oklahoma may begin after that date if no additional claimants come forward.

Dated: August 18, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–21975 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Cherokee and Plymouth Counties, IA in the Possession of the Office of the State Archaeologist, University of Iowa, Iowa City, IA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Office of the State Archaeologist, University of Iowa, Iowa City, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR

10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Office of the State Archaeologist, University of Iowa, professional staff in consultation with representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

Around 1900, human remains representing one individual were removed from an unknown site by an unknown collector and donated to the Davenport Academy of Sciences, now the Putnam Museum of History and Natural Science. In 1986, these human remains were transferred to the Office of the State Archaeologist, University of Iowa. No known individuals were identified. No associated funerary objects are present.

Physical anthropological evidence, especially the shape and measurements of the skull, indicates that this individual is Native American, and is consistent with ancestral Arikara populations of the Bad River I phase of the Post-Contact Coalescent variant. The records of the Putnam Museum of History and Natural Science indicate that these remains may have come from the Dakotas. In the absence of additional evidence, geographical and physical anthropology information has been used to determine the cultural affiliation between these human remains and the Arikara, who today are members of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

In the 1950's, human remains representing one individual were removed from site 13CK21, Cherokee County, IA, by Reynold Ruppe under the auspices of the Northwest Chapter of the Iowa Archaeological Society, and transferred to the Office of the State Archaeologist, University of Iowa, in 1989. In 1993, human remains representing three individuals were removed from this site by the Office of the State Archaeologist during a salvage excavation of a flood-damaged portion of the site. No known individuals were identified. No associated funerary objects are present.

In 1964, human remains representing three individuals were removed from site 13PM172, Plymouth County, IA, during excavations by David Lilly and Roger Banks. These remains were transferred from the Sioux City Public Museum to the Office of the State Archaeologist, University of Iowa, in 1994. No known individuals were identified. The one associated funerary object is a Mill Creek pottery vessel.

Sites 13CK21 and 13PM172 both date to the Mill Creek period, circa A.D. 1000–1200. Mill Creek manifestations have long been grouped within the Initial variant of the Middle Missouri Tradition. Mill Creek settlement organization, subsistence economy, and artifact assemblages are similar to those of other Initial Middle Missouri components in South Dakota. The Mandan and Hidatsa are thought to be the long-term residents of the Middle Missouri region, and some archeologists have suggested the Initial variant of the Middle Missouri tradition is possibly ancestral to the Mandan and Hidatsa tribes. Archeological and ethnohistorical evidence linking later Middle Missouri groups with these tribes, presently members of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, is much stronger than evidence available for the earlier Initial variant groups.

Based on the above-mentioned information, officials of the Office of the State Archaeologist, University of Iowa, have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of eight individuals of Native American ancestry. Officials of the Office of the State Archeologist, University of Iowa, also have determined that, pursuant to 43 CFR 10.2 (d)(2), the one object listed above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Office of the State Archeologist, University of Iowa, have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary object and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. This notice has been sent to officials of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary object should contact Shirley Schermer, Burials Program Director, Office of the State Archaeologist, Eastlawn, University of Iowa, Iowa City, IA 52242, telephone (319) 335–2400, before September 28, 2000. Repatriation of the human remains and associated funerary object to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, may begin after that date if no additional claimants come forward.

Dated: August 16, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships

[FR Doc. 00–21977 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Des Moines County, IA in the Possession of the Office of the State Archaeologist, University of Iowa, and the State Historical Society of Iowa, Iowa City, IA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains in the possession of the Office of the State Archaeologist, University of Iowa, Iowa City, IA, and associated funerary objects in the possession of the State Historical Society of Iowa, Keyes Collection, Iowa City, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains and the associated funerary objects was made by the Office of the State Archaeologist, University of Iowa, professional staff in consultation with representatives of the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, the Otoe-Missouria Tribe of Oklahoma, Sac and Fox Tribe of the Mississippi in Iowa, Sac and Fox Nation of Missouri in Kansas and Nebraska, and the Sac and Fox Nation of Oklahoma.

At an unknown date, human remains representing two individuals were recovered from a burial site at North Hill, Burlington, Des Moines County, IA, by an unknown person. At an unknown date, Charles Buettner, a local collector who lived in Burlington from

1869 to 1920, transferred the human remains to a local high school. The school later donated the remains to the Des Moines County Historical Museum, Burlington, IA, which transferred the remains to the Office of the State Archaeologist in 1994. No known individuals were identified.

The 24 associated funerary objects include an abrader, 2 probable bone shaft straighteners, a clay fife, an iron stirrup fragment, a horse bit, an iron spoon handle, an iron file, an iron rat tail file, 2 silver-plated arm bands, 2 sea urchin quill beads, a Chinese coin, a bronze trade ring, 5 copper-alloy coils, 3 brass coils, and a hook-shaped flat metal fragment. At an unknown date, Charles R. Keyes obtained these funerary objects, which were subsequently donated to the State Historical Society of Iowa, where they are today. The description of the artifacts, their provenience, and matching handwriting on the labels of the human remains and the objects confirm that these are the associated funerary objects from the North Hill site.

The labels accompanying the human remains and funerary objects are the only documentary information available. The labels state that the remains and objects came from a burial located ''on the edge of North Hill Cliffs,'' but have no further information on the origin or cultural affiliation of the remains and objects. The labels further note that, when found, the burials included an iron spear and arrowheads, a ''stone bullet mode,'' a stone pipe, and a bead necklace, none of which are among the objects held by the State Historical Society of Iowa. The Chinese coin was minted during the reign of Emperor Kao Tsung (A.D. 1736-1796), and its presence helps establish the maximum age of the burial. Euroamerican settlement of the Burlington area was underway by the 1830's and proceeded rapidly over the next few decades. It seems unlikely, given the growth of the city, that the burial would have taken place after about the middle of the 19th century.

The nature of the burial assemblage indicates that these remains and objects came from a Native American grave. Throughout the 18th century and the early part of the 19th century, many different native groups either resided periodically in the southeastern part of the state or passed through the area. These groups included the Meskwaki, Sauk, Iowa, and Otoe-Missouria, among others. In the absence of distinctive artifacts of native manufacture, however, definitive cultural identification of the individuals from this burial cannot be made.

Based on the above-mentioned information, officials of the Office of the State Archaeologist, University of Iowa, and the State Historical Society of Iowa have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the Office of the State Archaeologist, University of Iowa, and the State Historical Society of Iowa also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 24 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Office of the State Archaeologist, University of Iowa, and the State Historical Society of Iowa have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, the Otoe-Missouria Tribe of Oklahoma, Sac and Fox Tribe of the Mississippi in Iowa, Sac and Fox Nation of Missouri in Kansas and Nebraska, and the Sac and Fox Nation of Oklahoma. This notice has been sent to officials of the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, the Otoe-Missouria Tribe of Oklahoma, Sac and Fox Tribe of the Mississippi in Iowa, Sac and Fox Nation of Missouri in Kansas and Nebraska, and the Sac and Fox Nation of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Shirley Schermer, Burials Program Director, Office of the State Archaeologist, 700 Clinton Street Building, University of Iowa, Iowa City, IA 52242, telephone (319) 384-0740, or Jerome Thompson, State Historical Society of Iowa, New Historical Building, 600 East Locust, Des Moines, IA 50319-0290, telephone (515) 281-4221, before September 28, 2000. Repatriation of the human remains and associated funerary objects to the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, the Otoe-Missouria Tribe of Oklahoma, Sac and Fox Tribe of the Mississippi in Iowa, Sac and Fox Nation of Missouri in Kansas and Nebraska, and the Sac and Fox Nation of Oklahoma may begin after that date if no additional claimants come forward.

Dated: August 16, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 00–21978 Filed 8–28–00; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Iowa in the Possession of the State Historical Society of Iowa, Iowa City, IA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.2 (d)(1), of the completion of an inventory of human remains and associated funerary objects in the possession of the State Historical Society of Iowa, Keyes Collection, Iowa City, IA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Office of the State Archaeologist of Iowa professional staff in consultation with representatives of the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma

In 1926, human remains representing one individual and the associated funerary objects were excavated from site 13LO2, Blood Run National Historic Landmark, Lyon County, northwestern Iowa, by Charles R. Keyes and now form part of the Charles R. Keyes Archaeological Collection. Sometime around 1929, one of the site's landowners, Martin Johnson, found human remains representing a second individual while plowing his field; human remains from this site representing a third individual are also in the Keyes Collection. No information is available as to who collected the remains of this third individual nor when they were donated to the Keyes Collection. No known individuals were

identified. The 26 associated funerary objects include metal ear ornaments, fragments of ear ornaments, and a bison scapula hoe.

Based on ethnohistorical and biological evidence, historical maps, and similarities in material culture and manner of interment, the site and remains have been identified as belonging to the Oneota and date to the 13th to 17th centuries. The Oneota are believed to be culturally affiliated with the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma based on continuities of material culture and historical documents. Oral history evidence presented by representatives of the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma further indicates affiliation with these present-day tribes.

Based on the above-mentioned information, officials of the State Historical Society of Iowa have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Officials of the State Historical Society of Iowa also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 26 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the State Historical Society of Iowa have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can reasonably be traced between these Native American human remains and associated funerary objects and the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma This notice has been sent to officials of the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Jerome Thompson, State Historical Society of Iowa, New Historical Building, 600 East Locust, Des Moines, IA 50319-0290, telephone (515) 281-4221, before September 28, 2000. Repatriation of these human remains and associated funerary objects to the Omaha Tribe of Nebraska, the Ponca Tribe of Nebraska, the Iowa Tribe of Kansas and Nebraska, the Iowa Tribe of Oklahoma, and the Otoe-Missouria Tribe of Oklahoma may begin after that date if no additional claimants come forward.

Dated: August 9, 2000.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships

[FR Doc. 00–21979 Filed 8–28–00; 8:45 am]

BILLING CODE 4310-70-F

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP(NIJ)–1295]

Meeting of the Working Groups of the National Commission on the Future of DNA Evidence

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of meeting.

SUMMARY: Announcement of a meeting of members of the working groups of the National Commission on the Future of DNA Evidence to discuss an issue in brief regarding suspect/elimination sample DNA databases.

DATES: The meeting will take place on Sunday, September 24, 2000 from 12 p.m. to 5 p.m., ET, and on Monday, September 25, 2000 from 9 a.m. to 5 p.m., ET.

ADDRESSES: The meeting will take place at the Empire Hotel located at 44 West 63rd Street, New York, NY 10023; Phone: (212) 265–7400.

FOR FURTHER INFORMATION CONTACT: Christopher H. Asplen, AUSA, Executive Director. Phone: (202) 616–8123. [This is not a toll-free number]. Anyone requiring special accommodations should contact Mr. Asplen in advance of the meeting.

SUPPLEMENTARY INFORMATION:

Authority: This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, sections 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The National Commission on the Future of DNA Evidence, established pursuant to section 3(2)A of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, will meet to carry out its advisory functions under sections 201–202 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended. This meeting will be open to the public.

The purpose of the National Commission on the Future of DNA Evidence is to provide the Attorney General with recommendations on the use of current and future DNA methods, applications and technologies in the operation of the criminal justice system, from the crime scene to the courtroom. Over the course of its Charter, the Commission will review critical policy issues regarding DNA evidence and provide recommended courses of action to improve its use as a tool of investigation and adjudication in criminal cases.

The Commission will address issues in five specific areas: (1) The use of DNA in postconviction relief cases, (2) legal concerns including *Daubert* challenges and the scope of discovery in DNA cases, (3) criteria for training and technical assistance for criminal justice professionals involved in the identification, collection and preservation of DNA evidence at the crime scene, (4) essential laboratory capabilities in the face of emerging technologies, and (5) the impact of future technological developments in the use of DNA in the criminal justice system. Each topic will be the focus of the in-depth analysis by separate working groups comprised of prominent professionals who will report back to the Commission.

Dated: August 24, 2000.

Doug Horner,

Acting Assistant Director, National Institute of Justice.

[FR Doc. 00–22071 Filed 8–28–00; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

ERISA Section 3(40) Negotiated Rulemaking Advisory Committee; Notice of Renewal

In accordance with the Federal Advisory Committee Act, the Secretary of Labor has renewed the charter for the ERISA Section 3(40) Negotiated Rulemaking Advisory Committee (Committee).

This Committee will advise the Department of Labor (Department) in connection with the Department's development of a final rule on the definition of a collectively bargained plan under section 3(40) of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The Secretary of Labor has adopted this Committee's consensus recommendation to issue proposed rules for a process and criteria that would facilitate determinations by the

Department, employee benefit plans and state insurance regulatory agencies as to whether a particular agreement is a collective bargaining agreement, and whether a particular plan is established or maintained under or pursuant to one or more collective bargaining agreements for purposes of section 3(40) of ERISA. This Committee will review the public comments on the Department's proposed regulations and the information that the commentors submit with their comments. It will advise the Department on the resolution of key issues raised in these comments. The final rule will assist the Department, the States and the public in distinguishing collectively bargained plans from multiple employer welfare arrangements (MEWAs), and will limit abusive insurance practices without interfering with the activities of legitimate multiemployer plans. Renewal of the Committee allows the Department to consult with the affected interests on the best way to craft a process and criteria that enhance the Department's enforcement against sham MEWAs.

The Committee will meet no less than two times over a two year period. It will continue to be composed of 10 members, with the following representation: organized labor, multiemployer plans, entertainment industry plans, Railway Labor Act plans, the Federal government, States, employers and management, insurance companies, insurance brokers, and third-party plan administrators. None of the members shall be deemed to be employees of the United States.

The Committee will continue to function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Interested persons are invited to submit comments regarding the renewal of the ERISA Section 3(40) Negotiated Rulemaking Advisory Committee. Such comments should be addressed to: Patricia Arzuaga, Regulation Attorney, Office of the Solicitor, Plan Benefits Security Division, U.S. Department of Labor, Room N–4611, 200 Constitution Avenue, NW., Washington, DC 20210 (telephone (202) 219–4600; fax (202) 219–7346). This is not a toll-free number.

Signed at Washington, DC this 23rd day of August, 2000.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 00–22023 Filed 8–28–00; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (P.L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, P.L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by September 28, 2000. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the ''Agreed Measures for the Conservation of Antarctic Fauna and Flora'' for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

1. Applicant

Wayne Z. Trivelpiece, P.O. Box 271, La Jolla, CA 92038

[Permit Application No. 2001–011]

Activity for Which Permit is Requested: Take, Enter Antarctic Specially Protected Area, and Import into the U.S. The applicant plans to enter his study site at the Western Shore of Admiralty Bay (ASPA #128) to continue a study of the behavioral ecology and population biology of the Adelie, Gentoo, and chinstrap penguins and the interaction among these species and their principal avian predators: skuas, gulls, sheathbills, and giant petrels. The applicant plans to band 500 each of Adelie and Gentoo penguin chicks, plus adults of all three penguin species, as needed (not greater than 150 adults per species). As part of a continuing study of the penguins' foraging habits, approximately 50 adult penguins per species will be handled to attach radio-transmitters (Txs), satellite tags (PTTs), and time-depth recorders (TDRs). The study also involves stomach pumping a maximum of 40 adult penguins per species, as well as collecting data on egg sizes and adult weights for a maximum of 100 nests per species. The principal avian predators of the penguins will be banded as well. Furthermore, 2 milliliter blood samples may need to be collected from a maximum of 20 breeding adults of each species for contaminant analysis as part of a collaborative effort with the Italian Antarctic Program. All birds will be released on-site after capture and handling.

Location: ASP 128—Western Shore of Admiralty Bay, King George Island.

Dates: October 1, 2000 to April 1, 2001.

2. Applicant

Mahlon C. Kennicutt, II, Geochemical and Environmental Research Group, Texas A&M University, 833 Graham Road, College Station, TX 77845

[Permit Application No. 2001–012]

Activity for Which Permit Is Requested: Take, Enter Antarctic Specially Protected Area, and Import into the U.S. The applicant plans to enter six sites, three of which are Antarctic Specially Protected Areas, to use as potential control areas for a study of the temporal and spatial scales of various types of disturbances in and around McMurdo Station. An initial helicopter reconnaissance mission will help determine which sites meet the sampling requirements. Samples of soil and permafrost measurement could help determines the impact of particulate and/or aerosols from McMurdo Station.

Location: ASPA #116—''New College Valley'', Caughley Beach, Cape Bird, Ross Island; ASPA #121—Cape Royds, Ross Island; and, ASPA #137—Northwest White Island, McMurdo Sound.

Dates: November 11, 2000 to December 31, 2002.

3. Applicant

Brenda Hall, 311 Bryand G.S.C., University of Maine, Orono, Maine 04469

[Permit Application No. 2001–013]

Activity for Which Permit Is Requested: Enter Antarctic Specially Protected Areas. The applicant proposes to enter several Antarctic Specially Protected Areas in the Antarctic Peninsula to examine the glacial geology and raised beaches of the South Shetland Islands in order to gain a better understanding of the climate and glacial history of the area. The work involves examining the stratigraphy of glacial and beach deposits, looking for striations, and collecting ancient organic material for radiocarbon dating. Small (<1 m^2) pits will be dug in the sediments to look at the internal structure of the soil and to collect samples for later grain-size analysis and radiocarbon dating. The pits will be refilled and the surface will be returned to its near natural condition. The applicant also plans to map the different landforms, survey elevations of beaches, and collect a few small (50 mm diameter) cores from shallow ponds to examine the climate record and to obtain a minimum age for deglaciation of the islands. Access to the sites will be by either zodiac or on foot.

Location: ASPA #125—Fildes Peninsula, King George Island; ASPA #126—Byers Peninsula, Livingston Island; ASPA #132—Potter Peninsula, King George Island; ASPA #149—Cape Shirreff, Livingston Island; ASPA #150—Ardley Island, Maxwell Bay, King George Island; and, ASPA #151—Lions Rump, King George Island.

Dates: March 1, 2001–June 15, 2001.

4. Applicant

John T. Lisle, Lockheed Martin, Mail Stop C23, 2400 NASA Road One, Houston, TX 77058

[Permit Application No. 2001–014]

Activity for Which Permit Is Requested: Introduce Non-indigenous Species into Antarctica. The applicant plans to take bacterial cultures (1 ml vials each of Escherichia coli, Enterobacter aerogenes, Pseudomonas aeruginosa, Clostridiudm perfringens, Salmonella typhimurium, Staphylococcus aureus, Acinetobacter calcoaceticus, Pseudomonas stutzeri, and Pseudomonas putida) that are either lyophilized or maintained on solid medium to Antarctica for use as positive and negative controls in microbiological assays to be performed in the Crary Science and Engineering Laboratory facility at McMurdo Station. These bacterial controls will be used in assays to assess the extent of fecal contamination in the waters and sediments off the coast of McMurdo Station. These controls are especially important since all the assays have been designed for use in more temperate waters. Without the controls, the data will be questionable in regard to applicability to Antarctic waters. All of the bacterial cultures will be contained in the lab and upon completion of the assays will be autoclaved and properly disposed.

Location: Crary Science and Engineering Laboratory, McMurdo Station, Ross.

Dates: October 1, 2000 to November 20, 2000.

5. Applicant

Robert A. Blanchette, 495 Borlaug Hall, 1991 Buford Circle, University of Minnesota, St. Paul, MN 55108–6030

[Permit Application No. 2001–015]

Activity for Which Permit Is Requested: Take; Enter Antarctic Specially Protected Areas. The applicant is cooperation with the New Zealand Antarctic Heritage Trust and researchers from the University of Waikato, New Zealand, plan to enter ASPA #154—Cape Evans Historic Site, ASPA #156—Hut and associated artifacts, Backdoor Bay, Cape Royds, and ASPA #157—Discovery Hut, Hut Point, Ross Island, to assess the deterioration taking place in the historic huts of the Ross Sea region. The applicant proposes to collect wood samples from hut foundations and exterior regions and collect samples from the wood test panels set up in 1999. In addition, soil samples will be collected from areas around the huts. The microbial diversity of the area will be determined by additional sampling at the historic hut locations as well as Cape Crozier and a Dry Valley site. Samples will be returned to the U.S. for further analysis.

Location: ASPA #154—Cape Evans Historic Site, ASAP #156—Hut and associated artificates, Backdoor Bay, Cape Royds, and ASPA #157—Discovery Hut, Hut Point, Ross Island.

Dates: December 4, 2000 to December 20, 2000.

6. Applicant

Thomas W. Yelvington, Raytheon Polar Services Company, 61 Inverness Drive East, Suite 300, Englewood, CO 80112

[Permit Application No. 2001–016]

Activity for Which Permit is Requested: Introduce Non-indigenous Species into Antarctica. The applicant plans to take a frozen reagent containing 4% *Vibrio fischeri* and 2% sodium chloride in water to Antarctica for use in a Microtox toxicity analyzer. The organism is used as a reagent in a commercially available toxity analyzer that measures changes in light emission in response to contaminates or naturally occurring toxicity in soil and water samples. Results of the analysis are used to determine the toxic content of the samples and thereby the remediation process required. The reagent will be used solely in the Crary Science and Engineering laboratory. The waste reagent and analyzed samples will be sterilized and disposed of according to their proper waste classification.

Location: Crary Science and Engineering Laboratory, McMurdo Station, Ross Island.

Dates: October 1, 2000 to October 1, 2005.

7. Applicant

Michael D. Riley, Moody Gardens, Inc., 1 Hope Boulevard, Galveston, TX 77554

[Permit Application No. 2001–017]

Activity for Which Permit is Requested: Take and Import into the U.S. The applicant plans to collect 100 eggs each of Adelie, Chinstrap and Gentoo penguins and return them to Moody Gardens (an accredited zoological facility) for incubation, hatching, rearing, and eventual display for educational and scientific research purposes. The egg collection will take place in the general area of King George Island, however, none of the Antarctic Specially Protected Areas will be entered. The applicant will coordinate collection activities with researchers in the area to insure established study sites are not disrupted. Collection of the eggs will be done by hand and only one egg per clutch will be taken. The eggs will be immediately placed in a portable incubator,and a 24 hour watch will ensure proper temperature is maintained. The incubators, with the collection team, will be flown from Antarctica to Punta Arenas, Chile then to the U.S.

Location: King George Island and vicinity, Antarctic Peninsula.

Dates: November 1, 2000 to 31 December 2001.

8. Applicant

Jerry L. Mullins, U.S. Geological Survey, MS 521, Reston, VA 20192

[Permit Application No. 2001–018]

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area. The applicant's GPS survey team plans to enter ASPA #116—

''New College Valley'', Caughley Beach, Cape Bird, ASPA #121 Cape Royds, Ross Island and ASPA #124—Cape Crozier to establish geographical coordinates and elevations for preselected photoidentifiable points to meet national mapping accuracy standards for 1:25,000-scale mapping at these sites. In addition, a series of locations, including these three sites, will be occupied so the team can use a millimeter accuracy geodetic control to detect horizontal and vertical movement of solid rock sites in the McMurdo Dry Valley region of the Transantarctic Mountains over an extended period of time.

Location: ASPA #116—''New College Valley'', Caughley Beach, Cape Bird, ASPA #121 Cape Royds, Ross Island, ASPA #124—Cape Crozier and the McMurdo Sound vicinity.

Dates: October 1, 2000 to February 15, 2005.

9. Applicant

William Swanson, 16000 Elmo Lane, El Paso, TX 79923

[Permit Application No. 2001–019]

Activity for Which Permit is Requested: Take; Import into the U.S. The applicant is a participant in the Teachers Experiencing Antarctica (TEA) program and will be working with the Long Term Ecological Research (LTER) team at Palmer Station, Antarctica. The applicant proposes to salvage dead specimens (penguins, seabirds, and seals, etc.) and materials found in and around Palmer Station on an opportunistic basis. The collected specimens will be used in an educational outreach collection of the Palmer Station LTER for presentations to middle and high school students.

Location: Palmer Station, Anvers Island, and vicinity.

Dates: November 1, 2000 to December 31, 2000.

10. Applicant

Richard M. Jones; 1732 Broadview Drive, Billings, MT 59105

[Permit Application No. 2001–020]

Activity for Which Permit is Requested: Take; Import into the U.S. The applicant is a participant in the Teachers Experiencing Antarctica (TEA) program and will be working with a science group in the McMurdo Station vicinity. The applicant proposes to salvage dead specimens (penguins, seabirds, and seals, etc.) and materials found in and around McMurdo Station on an opportunistic basis. The collected specimens will be used in a display for use in classroom presentations and other educational outreach presentations to teachers and students.

Location: McMurdo Station, Ross Island, and McMurdo Sound vicinity.

Dates: November 20, 2000 to November 18, 2001.

11. Applicant

Thomas W. Yelvington, Raytheon Polar Services Company, 61 Inverness Drive East, Suite 300, Englewood, CO 80112

[Permit Application No. 2001–021]

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area. The applicant proposes to enter ASPA #106—Cape Hallett to conduct a complete visual inspection of the abandoned station and environs based on historical records and reports. Although several cleanup operations have taken place since the station closed, historical records and recent visits by scientific parties indicate a significant amount of debris and potential chemical release into the environment still exits at the site. Areas to know and suspected activities such as petroleum product storage and usage, solid waste, and chemical storage and disposal will be evaluated as to the potential for environmental impact. Areas that exhibit signs of petroleum or chemical contamination, such as free product, staining, odor, or proximity to storage areas will be evaluated and soil samples collected for analysis of likely pollutants. If time and conditions permit, debris may be collected and secured for future removal.

Location: Enter ASPA #106—Cape Hallett, Victoria Land.

Dates: October 1, 2000 to March 31, 2001.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 00–21955 Filed 8–28–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Structure and Function; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Biomolecular Structure and Function—(1134) (Panel A).

Date and Time: October 18–20, 2000, 8:30 A.M. to 6 P.M.

Place: National Science Foundation, 4201 Wilson Blvd., Room 360, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Thomas E. Smith, Program Director, Molecular Biochemistry, Room 655–S, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. Telephone: (703) 292–8443).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Molecular Biochemistry Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–21940 Filed 8–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology: Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Cell Biology—(1136) (Panel B).

Date/Time: October 25–27, 2000 8:30 a.m. to 6 p.m.

Place: National Science Foundation, Room 360, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Eve Barak and Randolph Addison, Program Directors, Cell Biology, National Science Foundation, Room 655, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8442.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Cellular Organization Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–21939 Filed 8–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology: Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Cell Biology—(1136) (Panel A).

Date/Time: October 18–20, 2000 8:30 a.m. to 6 p.m.

Place: National Science Foundation, Room 630, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Randolph Addison and Eve Barak, Program Directors, Cell Biology, National Science Foundation, Room 655, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 292–8442.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial Support.

Agenda: To review and evaluate research proposals submitted to the Signal Transduction & Regulation Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–21943 Filed 8–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel In Chemistry (#1191).

Date/Time: September 14–15, 2000; 8:30 am–5 pm.

Place: Northwestern University, Center for Catalysis and Surface Science, Evanston, IL 60208–3000.

Type of Meeting: Closed.

Contact Person: Dr. Joseph A. Akkara, National Science Foundation, 4201 Wilson Boulevard, Room 1055, Arlington, VA 22230. Telephone (703) 292–4946.

Purpose of Meeting: To provide advice and recommendations concerning a proposal for renewed support of the Institute for Chemistry.

Agenda: Listen to presentations and discuss merits of proposal.

Reason for Closing: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information; and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–21938 Filed 8–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental and Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 920463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Experimental and Integrative Activities (1193).

Date/Time: September 21, 2000; 8:30 am–6:30 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Room 320, Arlington, VA.

Contact Persons: James J. Hickman, Special Advisory to EIA/CISE Director, Room 1160, and Frederica Darema, Senior Science and Technology Advisor: CISE/EIA Room 1155, both at National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 292–8980.

Type of Meeting: Open.

Minutes: Maybe obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to NSF personnel regarding the scope and substance of the field of biological computing.

Agenda: Series of presentations to educate NSF personnel on the state-of-the-art in biological computation and have discussions on future directions in research activity.

Dated: August 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–21941 Filed 8–29–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology and Ethology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Ecological and Evolutionary Physiology (1160).

Date and Time: October 18–20, 2000, 8:30 a.m.–5 p.m.

Place: NSF, Room 330, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-open.

Contact Person: Dr. Kimberlyn Williams, Program Director, Ecological and Evolutionary Physiology, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 20, 2000; 11 a.m. to 12 a.m.—discussion on research trends, opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. Mary Clutter, Assistant Director, Directorate for Biological Sciences.

Closed Session: October 18, 2000, 8:30 a.m. to 5 p.m.; October 19, 2000, 8:30 a.m. to 5 p.m.; October 20, 2000, 8:30 a.m. to 11 a.m. and 12 p.m. to 5 p.m. To review and evaluate the Ecological & Evolutionary Physiology proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 23, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–21942 Filed 8–29–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

Pennsylvania Power Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, Firstenergy Nuclear Operating Company, Beaver Valley Power Station, Unit Nos. 1 and 2; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–66 and NPF–73 issued to FirstEnergy Nuclear Operating Company (the licensee) for operation of the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2), located in Beaver County, Pennsylvania.

This notice supersedes the notice published on November 17, 1999 (64 FR 62710) in its entirety.

The proposed amendment would revise the standard to which the control room ventilation charcoal and Supplementary Leak Collection and Release System (SLCRS) charcoal must be laboratory tested as specified in: BVPS–1 Technical Specification (TS) 4.7.7.1.1.c.2 for the Control Room Emergency Habitability Systems; BVPS–1 TS 4.7.8.1.b.3 for the SLCRS; BVPS–2 TS 4.7.7.1.d for the Control Room Emergency Air Cleanup and Pressurization System; and BVPS–2 TS 4.7.8.1.b.3 for the SLCRS. NRC Generic Letter 99–02, ''Laboratory Testing of Nuclear-Grade Activated Charcoal,'' dated June 3, 1999, requested licensees to revise their TS criteria associated with laboratory testing of ventilation charcoal to a valid test protocol, which included American Society for Testing and Materials (ASTM) D3803–1989. This license amendment request revises the charcoal laboratory standard to follow ASTM D3803–1989 for each BVPS Unit. This license amendment request also: (1) Revises the minimum amount of output in kilowatts needed for the control room emergency ventilation system heaters at each BVPS unit; (2) revises BVPS–1 SLCRS surveillance testing criteria to be consistent with American Nuclear Standards Institute/American Society of Mechanical Engineers N510–1980, the BVPS–1 control room ventilation testing, and BVPS–2 SLCRS/ control room ventilation testing; and (3) makes minor typographical corrections and editorial changes.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to the surveillance requirements for the laboratory testing of ventilation system charcoal are consistent with Generic Letter 99–02. The proposed change will adopt ASTM D3803–1989 [''Standard Test Method for Nuclear-Grade Activated Carbon,''] as the laboratory testing standard for performing the surveillance associated with the Control Room emergency ventilation and the SLCRS charcoal filters at each BVPS Unit. Thus this proposed change will not involve a significant increase in the probability or consequences of a previously evaluated accident since this standard provides the assurance for continuing to comply with the BVPS Unit 1 and Unit 2 licensing basis for ventilation filter testing.

The change in the control room emergency ventilation system heater minimum output at both BVPS Units does not change the system ability to meet its design bases. The change in the BVPS Unit 1 SLCRS testing frequency for adsorber/filter in-place testing and the adsorber laboratory testing does not change the SLCRS system's ability to meet its design bases. The change in the BVPS Unit 1 SLCRS testing frequency for SLCRS air flow distribution testing does not change the SLCRS system's ability to meet its design bases.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed license amendment to the control room emergency ventilation system and SLCRS at both BVPS Units does not change the way the system is operated. The proposed changes only involve changes to the surveillance testing. These testing modifications do not alter these systems' ability to perform their design bases. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated accident since the control room emergency ventilation system and SLCRS will continue to operate in accordance with their design bases.

3. Does the change involve a significant reduction in a margin of safety?

The proposed amendment does not involve revisions to any safety limits or safety system setting that would adversely impact plant safety. The proposed amendment does not affect the ability of system, structures or components important to the mitigation and control of design bases accident conditions within the facility. In addition, the proposed amendment does not affect the ability of safety systems to ensure that the facility can be maintained in a shutdown or refueling condition for extended periods of time.

The proposed license amendment to the control room emergency ventilation system and SLCRS at both BVPS Units does not change the way the system is operated. The proposed changes only involve changes to the surveillance testing. These testing modifications do not alter these systems' ability to perform their design bases.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staffproposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 28, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10

CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 12, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 23rd day of August, 2000.

For the Nuclear Regulatory Commission.

Daniel S. Collins,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–22030 Filed 8–28–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Power Authority of the State of New York; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration, Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–64 issued to the Power Authority of the State of New York (the licensee) for operation of the Indian Point Nuclear Generating Unit No. 3 located in Westchester County, New York.

The proposed amendment would revise Sections 3.1 and 4.3 of the Technical Specifications (TSs) to extend the applicability of the pressure-temperature (P/T) and overpressure protection system (OPS) limit curves from 13.3 effective full-power years (EFPY) to 16.2 EFPY.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed

amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response: The proposed license amendment does not involve a significant increase in the probability or consequences of a previously analyzed accident. This amendment proposes to extend the EFPY limit from 13.3 to 16.2 for the pressure-temperature and overpressure protection system limit curves. This extension in EFPYs is the result of new fluence values calculated using the ENDF/B–VI database. The methodology used to generate the P/T and OPS [overpressure protection system] limit curves was approved by the NRC in Amendment 179 (Reference 1) [to the licensee's submittal] and is not being changed by this amendment.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously analyzed. The P/T and OPS limit curves are being extended through 16.2 EFPYs based on new fluence values calculated using the ENDF/B–VI database. These changes do not affect the way the pressure-temperature or OPS limits provide plant protection and no physical plant alterations are necessary.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: The proposed amendment does not involve a significant reduction in a margin of safety. The P/T and OPS limit curves were developed using methodology approved by the NRC for Amendment 179 (Reference 1). This amendment request seeks to revise only the EFPY limits associated with these curves. The new EFPY limits are based upon revised fluence values obtained using the ENDF/B–VI database.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 28, 2000, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if

proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 27, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 23rd day of August 2000.

For the Nuclear Regulatory Commission.

George F. Wunder,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–22032 Filed 8–28–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–354]

Public Service Electric & Gas Company (PSE&G); Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of PSE&G (the licensee) to withdraw its February 24, 2000, application for proposed amendment to Facility Operating License No. NPF–57 for the Hope Creek Generating Station, located in Salem County, New Jersey.

The proposed amendment would have approved a revision to the Hope Creek Generating Station Updated Final Safety Analysis Report to reflect the use of the Mechanical Vacuum Pumps to evacuate the condenser during plant startup at power levels less than or equal to 5%.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on March 22, 2000 (65 FR15384). However, by letter dated July 31, 2000, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated February 24, 2000, and the licensee's letter dated July 31, 2000, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site

(http://www.nrc.gov).

Dated at Rockville, Maryland, this 14th day of August, 2000.

For the Nuclear Regulatory Commission.

John Harrison,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–22031 Filed 8–28–00; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Science and Technology (S&T) Reinvention Laboratory Personnel Demonstration Project, Department of the Navy, Naval Sea Systems Command Warfare Centers

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice of amendment of a demonstration project plan to establish a new category of positions designated as Senior Scientific Technical Manager (SSTM).

SUMMARY: 5 U.S.C. 4703 authorizes OPM to conduct demonstration projects that experiment with new and different personnel management concepts to determine whether such changes in personnel policy or procedures would result in improved Federal personnel management.

Public Law 103–337, October 5, 1994, permits the Department of Defense (DoD), with the approval of OPM, to carry out personnel demonstration projects generally similar to the China Lake demonstration project at DoD S&T reinvention laboratories. The Warfare Centers commenced implementation of their demonstration project on March 15, 1998.

DATES: The Warfare Centers may implement this amendment to the personnel demonstration project beginning on August 29, 2000.

FOR FURTHER INFORMATION CONTACT:

Warfare Centers: Vicki Warner, NSWC/NUWC Demonstration Project Office, NSWCDD, HR Department, 17320 Dahlgren Road, Dahlgren, VA 22448, phone 540–653–8507.

OPM: Joan Jorgenson, U.S. Office of Personnel Management, 1900 E Street NW, Room 7458, Washington, DC 20415, phone 202–606–1315.

SUPPLEMENTARY INFORMATION:

1. Background

On Wednesday, December 3, 1997, OPM approved and published in the **Federal Register** (Volume 62, Number 232, Part II) the final plan for the S&T Reinvention Laboratory Personnel Demonstration Project at the Naval Sea Systems Command Warfare Centers.

Additionally, on Wednesday, July 21, 1999, OPM approved and published in the **Federal Register** (Volume 64, Number 139, pages 39179–39181) an amendment to the plan.

The demonstration project involves a simplified classification system, performance development and incentive pay systems, a streamlined reduction-in-force system, and a simplified examining and appointment process.

2. Overview

From the initial development of their personnel demonstration project concept plan, the Warfare Centers have had, as a principal objective, the establishment of a flexible classification and compensation system. Consistent with numerous independent studies of laboratory effectiveness over the last several decades, such a system is considered essential to recruiting and retaining a world-class workforce. The project plan published on December 3, 1997, largely meets that objective. However, it falls short of addressing a relatively small, but critical, element of the Warfare Centers' scientific and engineering workforce, *i.e.,* employees with responsibilities substantially exceeding the GS–15 classification criteria and not otherwise appropriately designated as Senior Level (SL) or Scientific and Professional (ST). The Warfare Centers intend to resolve this deficiency by amending the project plan to recognize a new category of positions, Senior Scientific Technical Manager (SSTM).

Office of Personnel Management.

Janice R. Lachance,

Director.

I. Executive Summary

The Department of the Navy (DON) established the Naval Sea Systems Command Warfare Centers personnel demonstration project to be generally similar to the system in use by the permanent demonstration project at the Naval Command, Control, and Ocean Surveillance Center, San Diego, CA and the Naval Air Warfare Center, Weapons Division, China Lake, CA (commonly called ''the China Lake demonstration project''). The Warfare Centers demonstration project and this amendment are designed to promote the overall goal of implementing a human resources management system that facilitates mission execution and organizational excellence; responds to today's dynamic environment by obtaining, developing, utilizing, incentivizing, and retaining high performing employees; and permits adjustment of workforce levels to meet program and organizational needs.

II. Introduction

The purpose of this notice is to add a new category of positions, Senior Scientific Technical Manager (SSTM). Broad band VI of the scientific and engineering career path is redefined as described below, and all references to this broad band in the final plan published in the **Federal Register** on December 3, 1997 are hereby brought into conformance with this new definition. (Note particularly that positions which, prior to project implementation, were classified as ST or SL are hereby removed from this broad band.) Other provisions of the approved plan are unchanged. Pursuant to 5 CFR 470.315, changes are hereby made to the **Federal Register**, Science and Technology Reinvention Laboratory Personnel Demonstration Project at the Naval Sea Systems Command Warfare Centers; Department of the Navy; Notice, Wednesday, December 3, 1997, Volume 62, Number 232, Part II.

III. Personnel System Changes

A. In Section III B 1, amend Figure 2, Career Paths and Broad Bands, to replace ''ST/SL'' with ''SSTM'' as the label for broad band level ND–VI.

B. At the end of Section III B 1 b, Broad Bands and Levels of Responsibility, append the following text:

The Warfare Centers broad banding plan creates a pay band in the Scientific and Engineering occupational family for Senior Scientific Technical Managers. The current definitions of Senior Executive Service (SES), Senior Level (SL), and Scientific and Professional (ST) positions do not fully meet the needs of the Warfare Centers.

The SES designation is appropriate for executive level managerial positions whose classification exceeds grade 15 of the General Schedule. The primary knowledge and abilities of employees occupying SES positions relate to supervisory and managerial responsibilities. Positions classified as ST are designed for bench research scientists and engineers. These positions require a very high level of technical expertise and have little or no supervisory responsibilities. The SL classification is generally used for positions classifiable above grade GS–15 that do not meet the SES or ST criteria, but have minimal supervisory responsibility.

The Warfare Centers currently have positions that warrant classification above grade 15 of the General Schedule because of their technical expertise requirements. These positions, typically division/office/branch heads, have some characteristics of SES and SL or ST classifications. Most of these positions are responsible for supervising other GS–15 positions, including lower level supervisors, non-supervisory engineers and scientists, and in some cases ST positions. The supervisory and managerial requirements exceed those appropriate for SL and ST positions.

Management considers the primary requirement for these positions to be knowledge of and expertise in the specific scientific and technology areas related to the mission of their organizations, rather than the executive leadership qualifications that are characteristic of the SES. Historically, incumbents of these positions have been recognized within the community as scientific and engineering leaders who possess strong managerial and supervisory abilities. Therefore, although some of these employees have scientific credentials that might compare favorably with ST criteria, classification of these positions as STs or SLs is not an option because the managerial and supervisory responsibilities cannot be ignored.

The project plan is hereby modified to redefine pay band VI of the Scientific and Engineering occupational family. While SL and ST positions will continue to be covered by the demonstration project for incentive pay and other purposes, pay band VI will no longer include SL and ST positions, as described in the project plan. The redefined pay band VI will apply to a new category of positions designated as Senior Scientific Technical Managers (SSTM). Positions so designated will include those requiring both scientific/technical expertise and full managerial and supervisory authority. Their scientific/technical expertise and responsibilities warrant classification above the GS–15 level.

Warfare Centers' positions possibly meeting criteria for designation as SSTM will be reviewed on a case-by-case basis. The salary range for SSTM positions is a minimum of 120% of the minimum rate of basic pay for GS–15, with the maximum rate of basic pay established at the rate of basic pay (excluding locality pay) for SES Level 4 (ES–4).

Vacant SSTM positions will be competitively filled to ensure that selectees are preeminent technical leaders in the specialty fields who also possess managerial and supervisory abilities. Panels will be created to assist in filling SSTM positions. Panel members typically will be current or former SES members, ST employees,

and, later, those designated as SSTM. In addition, senior military officers and recognized technical experts from outside the Warfare Centers may also serve, as appropriate. The purpose of the panel is to ensure impartiality, breadth of technical expertise, and a rigorous and demanding review.

The Department of Defense (DoD) will test SSTM positions for a 5-year period. SSTM positions will be subject to limitations imposed by the Office of Personnel Management (OPM) and DoD. SSTM positions will be established only in an S&T reinvention laboratory that employs scientists, engineers, or both. Incumbents of these positions will work primarily in their professional capacity on basic or applied research. Secondarily, they will also perform managerial or supervisory duties.

The number of SSTM positions, and the equivalent in other approved S&T reinvention laboratory personnel demonstration projects within DoD, will not exceed 40. These 40 positions will be allocated by the Assistant Secretary of Defense (Force Management Policy) and administered by the respective Services. The number of positions will be reviewed periodically to determine appropriate position requirements. SSTM (and the equivalent in other S&T reinvention laboratories? demonstration projects) position allocations will be managed separately from SES, ST, and SL allocations. An evaluation of the concept for these positions will be performed during the fifth year of the demonstration project.

Specific details regarding the control and management of all SSTM positions will be included in the Warfare Centers? demonstration project regulations in accordance with guidance developed and provided by DON.

Here ends the text appended at the end of Section III B 1 b, Broad Bands and Levels of Responsibility, of the Warfare Centers? demonstration project plan.

C. After the third paragraph of Section III D 3, Exit from the Demonstration Project, insert the following text:

SSTM employees will convert out of the demonstration project at the GS–15 level. The Warfare Centers will develop procedures to ensure that employees designated as SSTM understand that if they leave the demonstration project and their adjusted pay exceeds the GS–15, step 10 rate, there is no entitlement to retained pay. Their GS-equivalent rate will be the rate for GS–15, step 10. SSTM employees paid below the adjusted GS–15, step 10 rate will be converted to a GS-adjusted rate on the highest applicable rate range for the converted GS grade. (For this purpose, a GS rate range includes a rate range in (1) the GS base schedule, (2) an applicable locality rate schedule, or (3) an applicable special rate schedule.)

D. In Section V A, Waivers to Title 5, United States Code, append the following to the existing waiver of Chapter 53, Section 5363, Pay Retention: For SSTM employees, pay retention provisions are modified so that no rate established under these provisions may exceed the rate of basic pay for GS–15, step 10; *i.e.,* there is no entitlement to a retained rate.

E. In Section V A, Waivers to Title 5, United States Code, substitute the following text for that of the existing waivers for the chapters and sections indicated:

1. Chapter 53, Sections 5301; 5302 (1), (8), and (9); 5303, and 5304: Pay Comparability System. (This waiver applies only to the extent necessary to allow demonstration project employees covered by broad banding, except those designated as SSTM, to be treated as General Schedule employees; to allow SSTM employees to be treated as ST employees; and to allow basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay. This waiver does not apply to Federal Wage System (FWS) employees. Neither does it apply to ST and SL employees, who continue to be covered by these provisions, as appropriate.)

2. Chapter 55, Section 5545(d): Hazardous duty differential. (This waiver applies only to the extent necessary to allow demonstration project employees covered by broad banding to be treated as General Schedule employees. This waiver does not apply to FWS, ST, SL, or SSTM employees.)

3. Chapter 57, Sections 5753, 5754, and 5755: Recruitment and Relocation Bonuses, Retention Allowances, and Supervisory Differentials. (This waiver applies only to the extent necessary to allow demonstration project employees and positions covered by broad banding, except SSTM employees and positions, to be treated as employees and positions under the General Schedule; and to allow SSTM employees and positions to be treated as ST employees and positions. This waiver does not apply to FWS employees. Neither does it apply to ST and SL employees, who continue to be covered by these provisions, as appropriate.)

F. To Section V A, Waivers to Title 5, United States Code, add the following new waivers:

1. Chapter 31, Section 3132: The Senior Executive Service: Definitions and Exclusions.

2. Chapter 33, Section 3324: Appointment to Positions Classified Above GS–15.

G. In Section V B, Waivers to Title 5, Code of Federal Regulations, append the following to the existing waiver of Part 536, Section 536.104: Pay Retention: For SSTM employees, pay retention provisions are modified so that no rate established under these provisions may exceed the rate of basic pay for GS–15, step 10; *i.e.*, there is no entitlement to a retained rate.

H. In Section V B, Waivers to Title 5, Code of Federal Regulations, append the following to the existing waiver of Part 591, subpart B: Cost-of-Living Allowances and Post Differential—Non-Foreign Areas: SSTM employees are to be treated as ST employees for the purposes of these provisions.

I. In Section V B, Waivers to Title 5, Code of Federal Regulations, substitute the following text for that of the existing waivers for the parts and subparts indicated:

1. Part 531, Subpart C: Special Pay Adjustments for Law Enforcement Officers. (This waiver applies only to the extent necessary to allow demonstration project employees covered by broad banding, except SSTM employees, to be treated as General Schedule employees; to allow SSTM employees to be treated as ST employees; and to allow basic rates of pay under the demonstration project to be treated as scheduled annual rates of pay. This waiver does not apply to FWS employees. Neither does it apply to ST and SL employees, who continue to be covered by these provisions, as appropriate.)

2. Part 531, Subpart F: Locality-Based Comparability Adjustments. (This waiver applies only to the extent necessary to allow demonstration project employees covered by broad banding, except SSTM employees, to be treated as General Schedule employees; to allow SSTM employees to be treated as ST employees; and to allow basic rates of pay under the demonstration project to be treated as scheduled annual rates of pay. This waiver does not apply to FWS employees. Neither does it apply to ST and SL employees, who continue to be covered by these provisions, as appropriate.)

3. Part 550, Section 550.902, definition of ''employee'': Hazardous Duty Pay. (This waiver applies only to the extent necessary to treat demonstration project employees covered by broad banding as General Schedule employees. This waiver does not apply to FWS, ST, SL, or SSTM employees.)

4. Part 575, subparts A, B, C, and D: Recruitment Bonuses, Relocation Bonuses, Retention Allowances, and Supervisory Differentials. (This waiver applies only to the extent necessary to allow demonstration project employees and positions covered by broad banding, except SSTM employees and positions, to be treated as employees and positions under the General Schedule; and to allow SSTM employees and positions to be treated as ST employees and positions. This waiver does not apply to FWS employees. Neither does it apply to ST and SL employees, who continue to be covered by these provisions, as appropriate.)

[FR Doc. 00–22004 Filed 8–28–00; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, D.C. 20549–0007.

Extension: Rule 13f–1; SEC File No. 270–22; OMB Control No. 3235–0006

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension and approval of the collection of information described below.

Section 13(f) [1] of the Securities Exchange Act of 1934 [2] (the ''Exchange Act'') empowers the Commission to: (1) adopt rules that create a reporting and disclosure system to collect specific information; and (2) disseminate such information to the public. Rule 13f–1 [3] under the Exchange Act requires institutional investment managers that exercise investment discretion over accounts—having in the aggregate a fair market value of at least $100,000,000 of exchange-traded or NASDAQ-quoted equity securities—to file quarterly reports with the Commission on Form 13F.

The information collection requirements apply to institutional investment managers that meet the $100 million reporting threshold. Section 13(f)(5) of the Exchange Act defines an ''institutional investment manager'' as any person, other than a natural person, investing in or buying and selling securities for its own account, and any person exercising investment discretion with respect to the account of any other person. Rule 13f–1(b) under the Exchange Act defines ''investment discretion'' for purposes of Form 13F reporting.

The reporting system required by section 13(f) of the Exchange Act is intended, among other things, to create in the Commission a central repository of historical and current data about the investment activities of institutional investment managers, and to improve the body of factual data available to regulators and the public.

The Commission staff estimates that 2,108 respondents make approximately 8,949 responses under the rule each year. The staff estimates that on average, Form 13F filers spend 98.8 hours/year to prepare and submit the report. In addition, the staff estimates that 129 respondents file approximately 516 amendments each year. The staff estimates that on average, Form 13F filers spend 4 hours/year to prepare and submit amendments to Form 13F. The total annual burden of the rule's requirements for all respondents therefore is estimated to be 208,786.4 hours ((2,108 filers x 98.8 hours) + (129 filers x 4 hours)).

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. 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 control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549–0004. Comments must be submitted to OMB within 30 days of this notice.

August 22, 2000.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–22018 Filed 8–28–00; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78m(f)

[2] 15 U.S.C. 78a *et seq.*

[3] 17 CFR 240.13f–1.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43191; File No. SR–AMEX–00–45]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Amendments to the FORTUNE Indexes

August 22, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 16, 2000, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the propose rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The proposed rule change has been filed by the Amex as a ''non-controversial'' rule change under Rule 19b–4(f)(6) [3] under the Act. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add Commentary .07 to Amex Rule 915; Amex Rule 902C(k); and Amex Rule 1004A, relating to disclaimers of liability and warranties with respect to the FORTUNE Indexes. The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange intends to list Index Funds Shares based on the FORTUNE 500 Index and the FORTUNE e–50 Index pursuant to Rule 19b–4(e) under the Act. In addition, the Exchange will trade options on the Indexes as well as options on the Index Fund Shares based on the Indexes. The Exchange proposes to add Amex Rules 1004A, 902C(k), and Commentary .07 to Rule 915 (''Rules'') relating to various disclaimers of liability and warranties in connection with the Indexes and trading in Index Fund Shares, index options, and options on the Index Fund Shares based on the Indexes (collectively, ''Products''). The Rules would provide, among other things, that the Indexes are licensed for use by the Exchange in connection with the Products; that the Products have not passed on by FORTUNE for suitability for a particular use; and that the Products are not sponsored, endorsed, sold or promoted by FORTUNE. The Rules also state that FORTUNE does not warrant the accuracy and/or completeness of the Indexes or the data included therein, results to be obtained from use of the Indexes or such data, or fitness for a particular use with respect to the Indexes or such data.

Proposed Amex Rule 1004A is similar to Amex Rules 1004, 1005 and 1006, which provide various disclaimers for Standard & Poor's, Dow Jones, and Nasdaq Indexes in connection with Portfolio Depositary Receipts (*e.g.*, SPDRs®, DIAMONDS®, and Nasdaq-100® Index Tracking Stock). Proposed Amex Rule 902C(k) is similar to various disclaimers in Rule 902C(c) through (j) relating to index options. Commentary .06 to Amex Rule 915 sets forth criteria applicable to options on Exchange-Traded Fund Shares, including Index Fund Shares, and proposed Commentary .07 to Amex Rule 915 establishes an approach similar to that in Amex Rules 1004–1006 and 902C for index disclaimers with respect to options on Index Fund Shares.

2. Statutory Basis

The proposed rule change is consistent with section 6(b)[4] of the Act in general and furthers the objectives of section 6(b)(5)[5] in particular in that is it designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investor and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

the Exchange represents that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder[7] because the proposed rule change has been properly designated from the Amex as effecting a change that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest.[8] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.[9]

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, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Amex–00–45 and should be submitted by September 19, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–21962 Filed 8–28–00; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)

[7] 17 CFR 240.19b–4(f)(6).

[8] As required by Rule 19b–4(f)(6)(iii), the Exchange gave the Commission written notice of its intent to file the proposed rule change, along with a description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

[9] 15 U.S.C. 78s(b)(3)(C).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43194; File No. SR–CBOE–00–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To Amend and Codify Its Equity Options Post Telephone Policy

August 22, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 25, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 CBOE proposes to amend and codify its policy governing the use of member-owned or Exchange-owned telephones on the trading floor with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

respect to communications at equity options trading posts.

The text of the proposed rule change is available at the CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to expand the existing CBOE policy governing the use of telephones at equity option trading posts [3] to make it more consistent with the CBOE's current index option trading post telephone policy by allowing for the receipt of orders over outside telephone lines, from any source, directly at equity trading posts, and to incorporate that policy into the Exchange's rules. However, unlike the current index option post policy, the proposed rule would generally allow for the receipt of orders directly at the post over outside telephone lines only when the order(s) are placed during *outgoing* telephone calls. The Exchange seeks to codify its current equity option post telephone policy (as modified by the changes proposed in this filing), to make clear to member and member organizations the Exchange's position with respect to the use of telephones at equity option posts and to prevent any misunderstandings regarding the policy, which has been subject to considerable change in recent years. The proposed rule would supersede any previous policies concerning the use of telephones at equity option trading posts established in CBOE Regulatory Circulars.

The proposed change to the equity post telephone policy is the latest in a continual expansion of direct telephone access of orders to the equity option trading posts since a telephone policy for equity option posts was first filed with the Commission in 1993, in SR–CBOE–93–24.[4] That initial policy prohibited any orders from being transmitted over the outside telephone lines to the equity option posts, although at that time, and continuing to the present, orders could be transmitted over the intra-floor lines from one point on the Exchange floor to another. In 1996, the Exchange liberalized its telephone policy at equity posts to allow orders of CBOE market-makers to be received over the outside telephone lines directly to the trading posts. This change allowed CBOE market-makers to transmit their orders more efficiently at those times when they may need to be off the floor.

Thus, under the current policy, the only orders for equity options that may be received at the post directly via telephone lines from off-floor locations are off-floor orders of CBOE market-makers.[5] The proposed amendment would expand this policy by permitting the receipt of off-floor orders from any source (*i.e.,* members, broker-dealers, non-broker-dealers, or public customers) over outside telephone lines directly at the equity trading posts during outgoing telephone calls.[6] However, because the Exchange believes that allowing orders from any source to be telephoned from outside the CBOE facility directly into the equity trading posts could be too disruptive to trading at the posts, the proposed amendment would only allow for such orders to be transmitted to the equity posts pursuant to a telephone call initiated at the post (an outgoing call). CBOE market-makers, however, would still be allowed to transmit orders over the telephone lines from off the floor directly to the equity trading posts.

This liberalization of the Exchange's telephone policy at equity posts is consistent with the recommendation of the Equity Floor Procedure Committee. That Committee, which oversees trading at the equity option posts, believes that the liberalization of this policy will help make the Exchange more efficient by reducing the time it takes to transmit an order and effect a trade on the Exchange. This, in turn, will enable the Exchange to be more competitive, especially since speed of execution is increasingly a basis of competition among markets.

The proposed change makes the policy governing telephone orders at equity options posts more consistent with the comment policy at the OEX post since 1998.[7] As it does at the OEX trading post, the Exchange intends to police compliance with the conditions applicable to the use of telephones at the equity trading posts by means of complaints from Exchange members at the post, as well as observations of Floor Officials and Exchange staff. Further, any individual member or associated person receiving orders over outside telephone lines must be properly qualified under Exchange rules, including those in Chapter IX, to accept such orders.

The Equity Floor Procedure Committee will be responsible for implementing this policy in conformity with Exchange Rules and the Act.[8] The Equity Floor Procedure Committee will approve access and the phone technology, and will decide any other issues relating to this policy. Additionally, the CBOE Department of Financial and Sales Practice Compliance will be required to review and approve all applications relating to the policy to ensure that the applicant is intending to transact business which the applicant is authorized to transact.

The Exchange intends to implement these changes within sixty days after they are approved.

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with, and furthers the objectives of, Section 6(b)(5) [9] of the Act in that it is designed to improve communications to and from the Exchange's trading floor in a manner that promotes just and equitable principles of trade, prevents fraudulent and manipulative acts and practices, and maintains fair and orderly markets.

[3] Equity trading posts are all trading posts that are under the jurisdiction of the Equity Floor Procedure Committee (all trading posts except DJX, NDX, OEX and SPX), including Designated Primary Market-Maker crowds.

[4] *See* Securities Exchange Act Release No. 33701 (March 2, 1994).

[5] RG 97–92 is the latest circular reflecting the current equity telephone policy which was approved by the Commission in Securities Exchange Act Release No. 37876, 61 FR 56728 (November 4, 1996), and in Securities Exchange Act Release No. 39331, 62 FR 62650 (November 24, 1997).

[6] In adopting this change, the CBOE wants to provide more immediate access into its trading crowds to its customers. The Exchange believes that this expansion in access is necessary to allow the CBOE to continue to satisfy its customers in an increasingly competitive environment.

[7] The OEX policy is set forth in RG–98–09, which was approved in Securities Exchange Act Release No. 39435, 62 FR 66157 (December 17, 1997).

[8] Responsibility for accepting orders from a wide range of customers will be borne by the member firms. Floor brokers accepting orders in this manner would be required to be qualified pursuant to Exchange Rule 9.1. As is the case with brokers accepting orders of public customers over OEX post telephones, any broker speaking directly with a public customer is required to be Series 7 qualified and registered with the Exchange by a member organization approved to conduct non-member customer business.

[9] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange represents that the proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–00–04 and should be submitted by September 19, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–21960 Filed 8–28–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43197; File No. SR–DTC–00–2]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Approval of a Proposed Rule Change Relating to the Issuance of Preferred Stock

August 23, 2000.

On February 2, 2000, the Depository Trust company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–00–02) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On February 3, 2000, DTC filed an amendment to the proposed rule change. Notice of the proposal was published in the **Federal Register** on April 4, 2000.[2] On April 18, 2000, DTC filed a second amendment to the proposed rule change.[3] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

In March 1999, DTC amended its organization certificate to provide for up to $150 million of preferred stock as thereafter authorized by the Board of Directors.[4] Under the rule change, DTC will issue $75 million of series A preferred stock and will reduce the mandatory deposits to the participants fund by a like amount.[5]

The issuance of the $75 million of series A preferred stock, the corresponding reduction of mandatory participants fund deposits, and the transition to the new arrangements will be governed by the following documents.[6]

(1) *Certificate of Amendment of the Certificate of Incorporation.* The certificate of amendment sets forth the relative rights (including a dividend which will provide an after-tax return comparable to the after-tax return on participant fund deposits), preferences, and limitations of the series A preferred stock.

(2) *Revised DTC Rules.* The revised rules set forth:

(a) the requirement that participants purchase and own shares of series A preferred stock; [7]

(b) the amount of series A preferred stock that participants are required to purchase and own, the manner in which that amount is to be periodically adjusted, the price at which shares of series A preferred stock are to be transferred among participants, the method and timing of payment for shares of series A preferred stock, and certain limitations on the transfer of shares of series A preferred stock; [8]

(c) the right of DTC, acting as agent and attorney-in-fact for its participants, to pledge participants' shares of series A preferred stock to DTC's end-of-day lenders; [9]

(d) the right of DTC, acting as agent and attorney-in-fact for its participants, to sell any participant's shares of series A preferred stock to other participants (which have a corresponding obligation to purchase such shares) and to apply the proceeds to the participant's obligations to DTC; [10]

(e) various new and amended defined terms such as ''preferred stock,'' ''required preferred stock investment,'' ''actual preferred stock investment,'' and ''aggregate required deposit and investment''; [11]

(f) the structure under which DTC, acting as agent and attorney-in-fact for a party that has ceased to be a participant, shall sell all of the shares of series A preferred stock of the former participant to current participants (who shall be required to purchase such shares pro rata to their required preferred stock investments at the time

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 42578, (March 27, 2000), 65 FR 17688.

[3] The April 18, 2000 amendment to the proposed rule filing was technical in nature and did not require republication of the notice.

[4] Securities Exchange Act Release No. 41529 (June 15, 1999), 64 FR 33333.

[5] In connection with this proposed rule change, the Commission advised DTC that it will take no action with respect to DTC broker-dealer participants treating investments in DTC series A preferred stock as allowable assets for purposes of Rule 15c3–1 promulgated under Section 15(c)(3) of the Act. Letter from Michael A. Macchiaroli, Associate Director, Division of Market Regulation, Commission, to Richard B. Nesson, Executive Vice President and General Counsel, DTC, (August 21, 2000).

[6] A copy of DTC's proposed rule change and the attached exhibits, including the Certificate of Amendment of the Organization Certificate, the revised DTC Rules, and the Transition Procedures, are available at the Commission's Public Reference Section or through DTC.

[7] DTC Rule 4, Section 2.

[8] *Id.*

[9] DTC Rule 4, Section 2(f).

[10] DTC Rule 4, Section 2(f).

[11] DTC Rule 1.

of such purchase) and shall add the proceeds thereof to the participants fund deposit of the former participant for disposition in accordance with DTC Rules;[12] and

(g) certain other conforming and minor stylistic changes.

(3) *Transition Procedure.* The transition procedure sets forth the time and manner in which, without any action required on the part of participants (other than the consent deemed to be given to DTC by virtue of their receipt of all necessary information and their continued use of the services and facilities of DTC), the required deposits of existing participants to the participants fund will be reduced in the aggregate amount of $75 million and the $75 million will be used by existing participants to purchases from DTC the series A preferred stock.

II. Discussion

Section 17A(b)(3)(F)[13] of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. For the reasons set forth below, the Commission finds that DTC's proposed rule change is consistent with DTC's obligations under the Act.

The new series A preferred stock will be used in conjunction with and will have the characteristics of required deposits to DTC's participants fund. DTC and its participants' rights and obligations with respect to investments in series A preferred stock will be very similar to their rights and obligations with respect to participants' fund deposits. The rule change enables DTC to increase its capital base and maintain the same level of assets for use in the event of a participation default without imposing any additional financial burden on its participants. Therefore, the Commission finds that the rule change is consistent with DTC's obligation to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–00–02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–22019 Filed 8–28–00; 8:45 am]

BILLING CODE 8010–01–M

[12] DTC Rule 4, Section 2(h); DTC Rule 4, Section 1(h) provides for the return of the participants fund deposit to a party ceasing to be a participant.

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43200; File No. SR–GSCC–00–03]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Choice of Law Rules

August 23, 2000.

On April 27, 2000, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–GSCC–00–03) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on July 7, 2000.[2] On August 21, 2000, GSCC filed an amendment to the proposed rule change.[3] No Comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change adds a new provision to GSCC's rules, section 1 of Rule 38, that specifies that GSCC's rules and the rights and obligations under the rules will be governed by and construed in accordance with the laws of the State of New York.[4] Even though GSCC believes that New York law governs its rules since GSCC's membership agreement states that the agreement and rules are expressly governed by New York law, GSCC believes that the rule change eliminates any doubts as to which law governs its rules.

II. Discussion

Section 17A(b)(3)(F)[5] of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that GSCC's rule change is consistent with GSCC's obligations under the Act because it should help reduce the legal uncertainty associated with GSCC providing depository, clearance, and settlement services to its participants in that these transactions could potentially be governed by numerous states' laws. The choice of New York law assures that GSCC and their respective participants will find harmonious commercial code provisions governing their extensive dealings. In addition, the Commission believes that being governed by New York law offers numerous advantages, including: (i) New York has well-established commercial law principles; (ii) GSCC is established under the New York Business Corporation Law; (iii) GSCC is located in New York; and (iv) the majority of GSCC's members have their principal office in New York.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–00–03) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–22017 Filed 8–28–00; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 42991 (June 29, 2000), 65 FR 42051.

[3] The amendment to the rule filing was nontechnical in nature and did not require republication of the notice.

[4] As a result of the rule change, old section 1 of Rule 38, which deals with captions used in GSCC rules, is now section 2 of Rule 38.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43190; File No. SR–NASD–00–47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to a Reduction in National Quotation Data Service Market Data Fees for Non-Professionals

August 22, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 9, 2000, the National Association of Securities Dealers, Inc. (''NASD or Association'', through its wholly-owned subsidiary, Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to amend NASD Rule 7010(h). Under the proposal, Nasdaq will establish a one-year pilot program, commencing on September 1, 2000 and expiring on August 31, 2001, to reduce from $50 to $10 the monthly fee that non-professional users pay to receive National Quotation Data Service (''NQDS'') from authorized market data vendors. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

NASD Rule 7010. System Services.

(a)–(g) No Change

(h) National Quotation Data Service (NQDS)

(1) Except as provided in subparagraph (2) of this section, [T]*t*he charge to be paid for each interrogation or display device receiving all or any portion of the information disseminated through the NQDS shall be $50.00 per month. The NQDS information that will be provided through this service consists of individual market matter quotations, Nasdaq Level 1 Service and the Last Sale Information Service.

(2) The charge to be paid by a non-professional for each interrogation or display device receiving all or any portion of the NQDS information disseminated through an authorized vendor shall be $10.00 per month.

(3) A ''non-professional'' is a natural person who is neither:

(A) registered or qualified in any capacity with the Commission, the Commodities Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association.

(B) engaged as an ''investment adviser'' as that term is[3] *defined in Section 201(11) of the Investment Advisors Act of 1940 (whether or not registered or qualified under the Act); nor*

(C) employed or a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.

* * * * *

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 NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NQDS delivers market maker quotations, Nasdaq Level 1 service (including calculation and display of the inside market), and last sale information that is dynamically updated on a real-time basis. NQDS data is used not only by firms, associated persons, and other market professionals, but also by non-professionals who receive the service through authorized vendors, including, for example, on-line brokerage firms. Currently, NQDS data is available through authorized vendors at a monthly rate of $50 for professionals and non-professionals alike.

Nasdaq states that it has consistently supported the broadest, most effective dissemination of market information to public investors. Towards that end, Nasdaq is proposing a one-year pilot program to reduce by 80% the fees currently paid by non-professional users for NQDS data. This fee reduction follows, and is commensurate with, several other fee reductions designed to increase the dissemination of market data and to decrease the costs of trading on Nasdaq. For example, the Commission recently approved a 50% reduction in the user's fees for Level 1 market data delivered to non-professional users on a monthly basis.[4] This marked a 75% reduction in such fees over a two-year period.[5] In addition, Nasdaq extended a pilot program that had reduced by 50% the fees for Level 1 market data delivered to non-professional users on a per query basis.[6]

Nasdaq believes that reducing the NQDS market data fee from $50 to $10 per month for non-professional users unequivocally demonstrates its commitment to individual investors and responds to the dramatic increase in the demand for real-time market data by non-professional market participants. In addition, Nasdaq believes that reducing its rates will reduce the costs to NASD member firms of supplying real-time market data to their customers through automated means and is also likely to encourage vendors to offer increased access to NQDS data to their subscribers.

Nasdaq proposes that the one-year pilot program for non-professional use of NQDS begin on September 1, 2000 and that it continue through August 31, 2001. Nasdaq is currently developing the infrastructure necessary to administer the billing and collection activities related to this fee reduction, and it anticipates completing that infrastructure by September 1, 2000.

2. Statutory Basis

The NASD believes the proposed rule change is consistent with sections 15A(b)(5) and 15A(b)(6)[7] of the Act in that the proposal is designed to provide for the equitable allocation of reasonable fees among members and other persons using any facility or system that the Association operates or controls, and it does not unfairly discriminate between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Nasdaq added ''is'' to the text of the proposed rule change. Telephone conversation between Jeffrey S. Davis, Assistant General Counsel, Office of General Counsel, Nasdaq, and Heather Traeger, Attorney, Division of Market Regulation, SEC, on August 17, 2000.

[4] *See* Securities Exchange Act Release No. 42715 (April 24, 2000), 64 FR 25411 (May 1, 2000).

[5] *Id.*

[6] *Id.*

[7] 15 U.S.C. 78o–(b)(5) and 15 U.S.C. 78o–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. 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, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statement with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–00–47 and should be submitted by September 19, 2000.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with sections 15A(b)(5) and 15A(b)(6) of the Act,[8] and the rules and regulations thereunder applicable to a national securities association.[9] Specifically, the proposal should provide for the equitable allocation of reasonable fees among members and other persons using any facility or system that the Association operates or controls. In addition, the Commission believes the proposal does not unfairly discriminate between customers, issuers, brokers or dealers.

The NASD's fee reduction is the latest in a series of reductions designed to lower the cost and concurrently increase the dissemination of real-time market data to individual investors. For the investor to make sound financial decisions, efficient and inexpensive access to this type of market data is vital. Thus, the Commission believes that reducing the NQDS market data fees should enhance investor access, and may encourage increased investor participation in the securities markets.

Pursuant to section 19(b)(2) of the Act,[10] the Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will allow Nasdaq to expeditiously implement the pilot program to reduce NQDS market data fees without any unnecessary delay and should confer a benefit upon those firms that provide real-time data to their customers and subscribers.

It is therefore Ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–00–47), establishing a one-year pilot program from September 1,200 until August 31, 2001, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–21961 Filed 8–29–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43195; File No. SR–NASD–00–31]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc. to Apply Nasdaq's Recently Amended Independent Director and Audit Committee Listing Requirements to Limited Partnerships

August 22, 2000.

I. Introduction

On May 26, 2000, the National Association of Securities Dealers, Inc. (''NASD'') through its wholly owned subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to apply Nasdaq's recently amended independent director and audit committee listing requirements to limited partnerships.

The proposed rule change was published in the **Federal Register** on June 27, 2000.[3] No comments were received on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

A. Independent Director and Audit Committee Listing Requirements

In 1993, Nasdaq established corporate governance standards, including independent director and audit committee requirements, for limited partnerships that were similar to those for other issuers. Last year, the Commission approved amendments to the independent director and audit committee listing requirements for corporations quoted on Nasdaq.[4] Nasdaq believes that although there are few limited partnerships currently quoted on Nasdaq, the new independent director and audit committee requirements should also be applied to limited partnerships in order to provide investors in limited partnerships with the same protections enjoyed by the shareholders of corporations. Therefore, Nasdaq proposes to extend the recent amendments to its independent director and audit committee listing standards for corporations to limited partnerships.

B. Implementation

In order to minimize disruption to existing limited partnership audit committees, to permit current audit committee members to serve out their terms, and to allow adequate time for the recruitment of the requisite members, Nasdaq proposes to provide limited partnerships eighteen months from the date of this approval to meet the audit committee structure and membership requirements. Additionally, Nasdaq proposes that limited partnerships listed on the effective date of the rule be provided with six months following the date of this approval order to adopt a formal written audit committee charter.

Further, Nasdaq proposes that limited partnerships that applied for listing prior to the effective date of the rule be able to qualify for listing under the listing standards in force at the time of their application, and receive the same grace period provided to current limited partnerships. Also, limited partnerships that transfer to Nasdaq from the

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[8] *Id.*

[9] In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[10] *Id.*

[11] *Id.*

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 42970 (June 21, 2000), 65 FR 39642.

[4] *See* Securities Exchange Act Release No. 42231 (December 14, 1999), 64 FR 71523 (December 21, 1999).

American Stock Exchange LLC and the New York Stock Exchange, will be subject to, and afforded, the same grace periods they would have received under their previous market's implementation schedule.[5]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association,[6] and in particular, the requirements of section 15A(b)(6) of the Act.[7] The proposed rule change applies Nasdaq's recently amended independent director and audit committee listing requirements to limited partnerships. As noted above, the Commission approved those requirements on December 14, 1999.[8]

The Commission believes it appropriate for Nasdaq to extend the recent amendments to its independent director and audit committee listing standards to limited partnerships, and that these standards should provide investors in limited partnerships the same protections as the shareholders of other issuers. As the Commission noted in its order with respect to the amendments approved on December 14, 1999, the proposed rule change will protect investors by improving the effectiveness of audit committees of limited partnerships listed on Nasdaq, and should enhance the reliability and credibility of their financial statements by making it more difficult for limited partnerships to inappropriately distort their true financial performance.

Specifically, the Commission notes that directors without financial, familial, or other material personal ties to management will be more likely to objectively evaluate the propriety of management's accounting, internal control, and financial reporting practices. The Commission also believes that the proposal's resulting prohibition against employees serving on the audit committee is appropriate. The Commission further believes that the proposed rule change's application of requirements for the qualifications of audit committee members will enhance the effectiveness of the audit committee and help to ensure that audit committee members are able to adequately fulfill their responsibilities.

IV. Conclusion

For the foregoing reasons, the Commission finds that Nasdaq's proposal to apply its independent director and audit committee listing requirements to limited partnerships is consistent with the requirements of the Act and rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NASD–00–31) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–22016 Filed 8–28–00; 8:45 am]

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[5] Telephone conversation between John Nachmann, Attorney, Office of General Counsel, NASDAQ, and Andrew Shipe, Attorney, Division of Market Regulations, SEC, on August 22, 2000.

[6] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[7] 15 U.S.C. 78o(b)(6).

[8] *See supra* note 4.

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12)

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43193; File No. SR–PCX–00–28]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Minor Rule Plan Citation Authority

August 22, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 16, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The proposed rule change has become effective on filing with the Commission pursuant to Section 19(b)(3)[3] of the Act and subparagraph (f)(3) of Rule 19b–4[4] under the Act because it is concerned solely with the administration of the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4(f)(2).

[3] 15 U.S.C. 78s(b)(3).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Minor Rule Plan (''Plan'') to allow any PCX Regulatory Staff designated by the PCX to have the authority to issue a Floor Citation pursuant to the Plan. The text of the proposed rule change is below. Additions are italicized; deletions are bracketed.

6133 Minor Rule Plan

Rule 10.13.(a)—(f) No Change.

(g) Floor Citations. A Floor Official, [and/or] an Options Order Book Official *or any PCX Regulatory Staff designated by the Exchange* may issue a Floor Citation to any member, member organization or person associated with a member or member organization, when it appears to such Official(s) that a Minor Rule Plan violation specified in subsections (h) or (i) of this Rule has occurred. In issuing a Floor Citation, the Floor Official, [and/or] an Options Order Book Official *or any PCX Regulatory Staff designated by the Exchange* [shall] *must:*

(1) Apprise the person cited of the alleged violation;

(2) Ask the person cited to indicate by signature on the citation acknowledgment of receipt of the citation; provided that the requested signature is for receipt purposes only and a failure or unwillingness to sign is not to be considered as invalidating the issuance of the citation;

(3) Give the top copy of the citation to the person alleged to have committed the violation; and

(4) Give the remaining copies of the citation to the Order Book Official or an appropriate staff person, who will then forward such copies to the Regulation Department for processing.

Except as provided in Rule 10.14 (Summary Sanction Procedure), the circumstances underlying the issuance of each floor citation shall be reviewed by a designated committee for a determination of whether the evidence is sufficient to find a violation of Exchange rules.[5]

(h)–(k)—No Change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[5] This paragraph is being removed pursuant to SR–PCX–99–48.

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

Under PCX's Minor Rule Plan, Rule 10.13, a Floor Official and/or an Options Order Book Official may issue a Floor Citation to any member, member organization or person associated with a member or member organization when it appears that a Minor Rule Plan violation has occurred. The Exchange seeks to amend Rule 10.13 to allow any PCX Regulatory Staff designated by the Exchange to have the ability to issue such floor citations.

Currently under PCX Rule 10.4(a) ''Any standing committee designated by the Board of Governors to review disciplinary proceedings, and Exchange Regulatory Staff designated by the Exchange, has the authority to determine whether there is probable cause for finding that a violation within the disciplinary jurisdiction of the Exchange has occurred and that further proceedings are warranted.'' The Exchange believes that amending the Plan to grant any designated Exchange Regulatory Staff the ability to issue citations is consistent with the Act and the PCX Rules. The Exchange notes that the issuance of a floor citation does not constitute a finding. Rather, similar to other PCX disciplinary rules, a floor citation merely serves to initiate an investigation. Each floor citation issued will continue to be reviewed by Exchange Surveillance Staff for accuracy and validity. The Exchange believes that this will allow the Regulatory Staff the ability to effectively and efficiently monitor trading crowds and floor trading activity. The Exchange notes that this rule amendment in no way changes PCX Rule 10.14, ''Summary Sanction Procedure.''

2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)[6] of the Act, in general, and furthers the objectives of Section 6(b)(5)[7], in particular, in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)[8] of the Act and subparagraph (f)(3) of Rule 19b–4[9] under the Act because it is concerned solely with the administration of the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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 communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552,will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–00–28 and should be submitted by September 19, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 00–21959 Filed 8–28–00; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3).

[9] 17 CFR 240.19b–4(f)(3).

[10] 17 CFR 200.20–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43187; File No. SR–PCX–00–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to a One-Year Extension of the AOR Pilot Program

August 21, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 10, 2000, the Pacific Exchange, Inc. (''PCX'' 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 is proposing to extend its Automated Opening Rotations (''AOR'') pilot program for one year, until September 28, 2001.

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 30, 1999, the Commission approved a one-year pilot program for the evaluation of the Exchange's AOR program.[3] The filing was intended to establish a new procedure to facilitate the execution of options contracts orders at the opening by providing an electronic means of establishing a single price opening. In its order the Commission stated that it expected the Exchange to study the issues related to the Commission's concerns during the pilot period and to report back to the Commission at least sixty days prior to seeking permanent approval of AOR.

The Exchange is requesting a one-year extension of the pilot program so that it will have an opportunity to continue reviewing and evaluating the program in order to properly address the Commission's concerns before seeking permanent approval. The Exchange believes that this program is operating successfully and without any problems, and on that basis, the Exchange believes that a one-year extension of the program is warranted. At this time, the Exchange is not seeking to modify the pilot program.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)[4] of the Act, in general, and furthers the objectives of section 6(b)(5),[5] in particular, in that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[3] *See* Securities Exchange act Release 41970 (September 30, 1999), 64 FR 54713 (October 7, 1999).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder because the proposal: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change as required by Rule 19b–4(f)(6).[8] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–00–26 and should be submitted by September 19, 2000.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19–4(f)(6).

[8] 17 CFR 240.19b–4(4)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–21963 Filed 8–28–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Docket No. 34–43201; File No. SR–Phlx–00–7]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to an Options Specialist Shortfall Fee

August 23, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 24, 2000, 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 adopt a new transaction fee—an options specialist ''shortfall fee''—of $.35 per contract, to be paid by the specialist trading any Top 120 Option if at least 10 percent of the total national monthly contract volume (''total volume'') for such Top 120 Option is not effected on the Phlx in that month.

A Top 120 Option is defined by the proposal as one of the 120 most actively traded equity options in terms of the total number of contracts in that option that were traded nationally for a specified month—based on volume reflected by The Options Clearing Corporation (''OCC'')—and which was listed on the Phlx after January 1, 1997.[3]

At the end of each trading month, the total number of contracts executed on

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Phlx intends to divide by two the total volume amount reported by OCC, which reflects both sides of an executed transaction, thus avoiding one trade being counted twice for purposes of determining overall volume.

the Phlx (''the Phlx volume'') in a particular top 120 Option will be subtracted from the amount that represents 10 percent of the total volume for that option (''10% total volume'') to determine the number of contracts that represent the ''shortfall'' for that Top 120 Option for purposes of calculating this fee.

Specifically, the following calculation would be made:

10% total volume − Phlx volume=shortfall volume.

If the shortfall volume is a number of contracts greater than zero, the shortfall volume will be multiplied by $.35 per contract to determine the options specialist shortfall fee for that month for that Top 120 Option.[4]

In sum, if the Phlx fails to garner 10 percent of the total volume for a particular month for a Top 120 Option, the specialist unit for that Top 120 Option would be required to pay the Exchange the options specialist shortfall fee for each contract that falls below 10 percent up to the amount that would represent 10 percent of the total volume for that option, excluding the amount of that unit's actual Phlx volume.

Recognizing that there may be a transition period necessary to build the requisite volume, the proposed fee will be applied to newly listed options[5] and implemented in stages, such that a specialist unit would become subject to the options specialist shortfall fee using a volume threshold of 10 percent, as described above, in the third full calendar month of trading an option. However, the requisite volume threshold shall be three percent for the first full calendar month and six percent for the second full calendar month of trading.[6]

The total volume for purposes of the 10 percent threshold is based on the current month's volume.[7] However, the determination of whether an equity option is considered a Top 120 Option for purposes of the fee is based on a different time period. The Top 120 Options for August will be based on May's volume. Thereafter, the Exchange will continue the three-month differentiation, so that September's Top 120 Options will be based on June's volume, October's Top 120 Options will be based on July's volume and so forth. The proposed fee will be effective August 1, 2000.

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 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. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Phlx's schedule of dues, fees and charges to impose a fee for any deficiency between what the Phlx actually traded and 10 percent of the total volume for each respective month. The proposed fee is intended to provide the Phlx with the approximate revenue it would have received had a Top 120 Option traded at least 10 percent of the total volume in a given month on the Phlx. The Phlx represents that the options specialist shortfall fee generally parallels the amount that the Exchange would have received if an equity option contract were traded on the Phlx with a specialist/market maker.[8]

Pursuant to Phlx rules, options are allocated to applicant specialists based on certain factors. Eligible specialists submit written applications that include the specialist unit's experience and capitalization, a demonstration of the unit's ability to trade the particular option, and any other reasons why the unit believes it should be assigned or allocated the security.[9] Once an option is allocated to a specialist unit, certain performance reviews may be conducted.[10] A Top 120 Option is unique and may require specific qualifications (as determined by the Allocation, Evaluation and Securities Committee) and strategic efforts. The Phlx states that through its Executive Committee, it recently instructed the Allocation, Evaluation and Securities Committee, pursuant to Phlx Rule 511, to follow certain policies in connection with the allocation and reallocation of securities.[11]

Moreover, the Phlx believes that the options traded by the specialist unit, and the transactions related thereto, may be especially valuable to that specialist unit and the Exchange due to their potential profitability. Therefore, the Exchange believes that the specialist should compete for order flow in the national market, because that specialist unit is the key party responsible for marketing and receiving order flow in that particular option. The Phlx believes that a specialist's willingness to apply to be or continue to be a specialist in a Top 120 option, in light of the shortfall fee, is an important tangible demonstration of commitment to making the efforts required to achieve at least a 10 percent national volume level at the Phlx.

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[4] If the result of the first equation (10% total volume minus Phlx volume) was negative, meaning the Phlx volume exceeded 10% total volume for a Top 120 Option, then there would be no shortfall to which the options specialist shortfall fee would apply. Under the proposal, any excess volume (over the 10% total volume target) could not be carried over to another month, nor could any excess volume in one option be assigned to another option. Also, the proposed fee would not affect the Exchange's fee schedule applicable to volume actually transacted on the Phlx. Therefore, the Phlx fee schedule applicable to volume actually transacted on the Phlx. Therefore, the phlx fee schedule would continue to apply to all equity options transactions not covered by this options specialist shortfall fee.

[5] Any Top 120 option listed on the Phlx after June 2000 will be considered newly listed for the purposes of this proposal. Telephone conversation between Edith Hallahan, Deputy General Counsel, Phlx, and Nancy J. Sanow, Assistant Director, and Ira L. Brandriss, Attorney, Division of Market Regulation (''Division''), the Commission, on August 18, 2000.

[6] For example, if a specialist unit begins trading an option on June 15, the options specialist shortfall fee would first apply in July. Specifically, the unit would be subject to the options specialist shortfall fee of $.35 per contract for the month of July for any shortfall under three percent of the total volume for that option for the month of July. For the month of August, the specialist unit would be subject to the fee for any shortfall under six percent of the total volume for that option for the month of August. Thereafter, the specialist unit would be subject to the options specialist shortfall fee if Phlx did not reach 10 percent of the total volume for that option in a specified month.

[7] For example, for the month of August, the option specialist shortfall fee would apply to 10 percent of total August volume minus the Phlx August volume.

[8] The $.35 is intended to represent the following amounts that may be generated by a trade on the Phlx with a specialist/market maker: a $.19 specialist/market maker transaction fee, $.06 from Options Price Reporting Authority, $.04 options comparison fee, $.04 from floor brokerage fees and $.02 from firm/customer/broker-dealer fees, all of which could have been collected by the Exchange per contract traded by the crowd. Transactions not involving a specialist/market maker would generate less revenue. The above listing of fees commonly charged in a specialist/market maker transaction does not represent the fees generated by every such transaction, but has been utilized by the Phlx on a general basis to calculate what it believes to be an appropriate shortfall fee. Telephone conversation between Edith Hallahan, Deputy General Counsel, the Phlx, and Ira L. Brandriss, Attorney, the Division, the Commission, on August 4, 2000.

[9] *See* Phlx Rules 505 and 506.

[10] *See* Phlx Rules 511 and 515.

[11] Some of the relevant factors considered in the allocation and reallocation of securities include reviewing the specialist unit's marketing plan, capital, staffing, prior performance in Top 120 Options, quality of executions, history of engaging fast market conditions, and available space and equipment.

The Exchange believes that it is necessary to continue to attract order flow to the Exchange in order to remain competitive. The proposed fee should encourage specialists to vigorously compete for order flow, which not only enhances the specialist's role, but also provides additional revenue to the Exchange. Moreover, the Exchange expects that specialists' efforts to maintain at least 10 percent of the total volume should contribute to deeper, more liquid markets and tighter spreads. Thus, competition should be enhanced, and important auction market principles preserved.

2. Statutory Basis

For the above reasons, the Exchange believes that its proposal is consistent with section 6(b) of the Act,[12] in general, and furthers the objectives of sections 6(b)(4) [13] and 6(b)(5) [14] in particular. The Exchange believes that the proposed fee is equitable because the amount charged is generally the same amount that would have been charged had a contract been traded. The fee is intended by the Phlx to promote just and equitable principles of trade and protect investors and the public interest by attracting more order flow to the Exchange, which the Exchange believes should result in increased liquidity and tighter markets.

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 solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee, or other charge applicable to members of the Exchange, has become effective pursuant to section 19(b)(3)(A) [15] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–00–71 and should be submitted by September 19, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–22014 Filed 8–28–00; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. 78f(b).

[13] Section 6(b)(4) requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. 15 U.S.C. 78f(b)(4).

[14] Section 6(b)(5) requires that the rules of an exchange, among other things, promote just and equitable principles of trade and protect investors and the public interest. 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 200.30–3(a)(12).

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 September 28, 2000. 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, S.W., 5th Floor, Washington, D.C. 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: CDC Annual Report Guide.
No: 1253 & 1253A.
Frequency: On Occasion.
Description of Respondents: Certified Development Companies.
Annual Responses: 270.
Annual Burden: 7,560.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 00–21970 Filed 8–28–00; 8:45 am]

BILLING CODE 8025–01–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 September 28, 2000. 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: Federal Agency Appraisal Form.
No: 1993.
Frequency: On Occasion.
Description of Respondents: Small Businesses that need to comment on Agencies Policies and Practices.
Annual Responses: 200.
Annual Burden: 16.6.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 00–22059 Filed 8–28–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3281]

State of New Jersey

As a result of the President's major disaster declaration on August 17, 2000, I find that Morris and Sussex Counties in the State of New Jersey constitute a disaster area due to damages caused by severe storms, flooding, and mudslides beginning on August 12, 2000 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 16, 2000, and for loans for economic injury until the close of business on May 17, 2001 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Essex, Hunterdon, Passaic, Somerset, Union, and Warren Counties in New Jersey; Orange County, New York; and Pike County, Pennsylvania.

The interest rates are:

For Physical Damage: Homeowners with credit available elsewhere—7.375%; Homeowners without credit available elsewhere—3.687%; Businesses with credit available elsewhere—8.000%; Businesses and non-profit organizations without credit available elsewhere—4.000%; Others (including non-profit organizations) with credit available elsewhere—6.750%.

For Economic Injury: Businesses and small agricultural cooperatives without credit available elsewhere—4.000%.

The number assigned to this disaster for physical damage is 328106. For economic injury the numbers are 9I3700 for New Jersey, 9I3800 for New York, and 9I3900 for Pennsylvania.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 21, 2000.

Becky C. Brantley,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 00–21964 Filed 8–28–00; 8:45 am]

BILLING CODE 8025–01–U

SOCIAL SECURITY ADMINISTRATION

Ticket to Work and Work Incentives Advisory Panel Teleconference Meeting

AGENCY: Social Security Administration (SSA)

ACTION: Notice of Teleconference Meeting

DATES: September 11, 2000 1:30 p.m.–3:30 p.m.

ADDRESSES: Social Security Administration, International Trade Center, 500 E St. SW, 8th Floor, Theatre Room, Washington, D.C. 20254.

SUPPLEMENTARY INFORMATION: Type of meeting: The Teleconference is open to the public. The public is invited to participate by coming to the address listed above. Only members of the panel will participate in deliberations by telephone.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces a Teleconference meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101 (f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), Pub. L. 106–170, establishes the Panel to advise the Commissioner of Social Security, the President, and the Congress on issues related to work incentives programs, planning, and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

This is a deliberative teleconference meeting of the Panel. The Panel will meet to discuss the status of the TWWIIA implementation. Public testimony regarding the notice of proposed rulemaking published in the **Federal Register** concerning the implementation of TWWIIA will be heard at this meeting. Interested parties are invited to address the panel for a maximum of three minutes. Speakers must submit full comments in writing and will be recognized in the order in which they register for the meeting until the time allotted for public comment has expired. Any interested citizen is encouraged to submit written comments concerning this topic in advance of or at the meeting for the Panel's consideration.

Agenda: The teleconference will commence Monday, September 11, 2000 at, 1:30 p.m.–3:30 p.m. At this teleconference, the Panel will use this time to discuss the status of TWWIIA implementation. Since seating may be limited, persons interested in attending this meeting should contact the Panel staff by E-mailing Kristen Breland, at ''kristen.breland@ssa.gov'' or calling (410) 966–7225.

A copy of the agenda follows this announcement. A copy of the agenda may also be obtained from the Internet at the web site of SSA's Office of Employment Support Programs at ''http://*www.ssa.gov/work*.'' or by contacting the Panel staff at the mailing address, Email address, telephone and FAX number shown below. Requests for materials in alternate formats, i.e., large print, Braille, computer disc, etc. may be made to the Panel staff at the addresses and numbers shown below.

Records are being kept of all Panel proceedings and will be available for public inspection at the Office of Employment Support Programs' web site at ''*http://www.ssa.gov/work''* or by appointment at the office of the Ticket to Work and Work Incentives Advisory Panel staff, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235. Anyone requiring information regarding the Panel should contact the Panel staff by

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235;
- Telephone at (410) 966–7225;
- FAX at (410) 966–8597; or
- Email to Kristen Breland, at ''kristen.breland@ssa.gov.''

Dated: August 21, 2000.

Susan M. Daniels,

Deputy Commissioner for Disability and Income Security Programs.

Teleconference Meeting: Social Security Administration, 8th Floor Theatre Room, 500 E Street, SW, Washington, DC 20254; Monday, September 11, 2000.

1:30 p.m.—Meeting Convened,
Presiding: Sarah Mitchell, Chair.
1:30–2:30 p.m.—Implementation of TWWIIA Panel response to NPRM.
2:30–3 p.m.—Public Comment.
3–3:30 p.m.—Organizational Issues.
3:30 p.m.—Adjournment.

[FR Doc. 00–22139 Filed 8–28–00; 8:45 am]

BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–204]

WTO Consultations Regarding Telecommunications Trade Barriers in Mexico

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice that on August 17, 2000, the United States requested consultations in the World Trade Organization (''WTO'') with Mexico regarding its commitments and obligations under the General Agreement on Trade in Services (''GATS'') with respect to basic and value-added telecommunications services. Pursuant to Article 4.3 of the WTO Dispute Settlement Understanding (''DSU''), such consultations are to take place within a period of 30 days from the date of receipt of the request, or within a period otherwise mutually agreed between the United States and Mexico. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before September 25, 2000 to be assured of timely consideration by USTR.

ADDRESSES: Submit comments to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C., 20508, Attn: Mexico Telecommunications Dispute. Telephone: (202) 395–3582.

FOR FURTHER INFORMATION CONTACT: Demetrios J. Marantis, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C., (202) 395–3581.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding. If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States

Since the entry into force of the GATS, the Government of Mexico has adopted or maintained anti-competitive and discriminatory regulatory measures, tolerated certain privately-established market access barriers, and failed to take needed regulatory action in Mexico's basic and value-added telecommunications sectors. These acts and failures to act raise serious questions regarding whether Mexico is in compliance with its GATS commitments in these sectors. For example, Mexico has:

(1) Enacted and maintained laws, regulations, rules, and other measures that deny or limit market access, national treatment, and additional commitments for service suppliers seeking to provide basic and value-added telecommunications services into and within Mexico;

(2) Failed to issue and enact regulations, permits, or other measures to ensure implementation of Mexico's market access, national treatment, and additional commitments for service suppliers seeking to provide basic and value-added telecommunications services into and within Mexico;

(3) Failed to enforce regulations and other measures to ensure compliance with Mexico's market access, national treatment, and additional commitments for service suppliers seeking to provide basic and value-added telecommunications services into and within Mexico;

(4) Failed to regulate, control and prevent its major supplier, Telefonos de Mexico (''Telmex''), from engaging in activity that denies or limits Mexico's market access, national treatment, and additional commitments for service suppliers seeking to provide basic and value-added telecommunications services into and within Mexico; and

(5) Failed to administer measures of general application governing basic and value-added telecommunications services in a reasonable, objective, and impartial manner, ensure that decisions and procedures used by Mexico's telecommunications regulator are impartial with respect to all market participants, and ensure access to and use of public telecommunications transport networks and services on reasonable and non-discriminatory terms and conditions for the supply of basic and value-added telecommunications services.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States

Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508. The public file will include a listing of any comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–204, Mexico Telecom Dispute) may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Catherine Field,

Acting Assistant, United States Trade Representative for Monitoring and Enforcement.

[FR Doc. 00–22070 Filed 8–28–00; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

RIN 2105–AC90

Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs; Inflationary Adjustment

AGENCY: Office of the Secretary, DOT.

ACTION: 2000 inflation adjustment of size limits on small businesses participating in the DOT's Disadvantaged Business Enterprise Program.

SUMMARY: Under the statutes governing the Department's Disadvantaged Business Enterprise (DBE) Program, firms are not considered small businesses concerns and are therefore ineligible as DBEs once their average annual receipts over the preceding three fiscal years reach specified dollar limits. These statutes, and the DOT rule implementing them (49 CFR part 26), provide that the Secretary may adjust these specified dollar limits for inflation. Consequently, this notice revises the limits established by section 1101(b)(2)(A) of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, July 22, 1998 as well as the Airport and Airway Safety, Capacity, Noise Improvement and Intermodal Transportation Act of 1992, Public Law 102–581, October 31, 1992, 49 U.S.C. 47113 (formerly section 505(d) of the Airport and Airway Improvement Act of 1982, as amended (AAIA)), Public Law 97–248, Title V, September 3, 1982. The Department has determined that the appropriate cap for all portions of the DBE program (airport, highway and transit) is now $17,420,000.

EFFECTIVE DATE: August 29, 2000.

FOR FURTHER INFORMATION CONTACT: Laura Aguilar, Office of the Assistant General Counsel for Environmental, Civil Rights, and General Law, Department of Transportation, 400 Seventh Street, SW, Room 10102, Washington, D.C. 20590; Telephone: 202–366–0365.

SUPPLEMENTARY INFORMATION: The DBE program is a statutory program intended to provide contracting opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals in the Department's highway, mass transit and airport financial assistance programs. The statutory provision governing the DBE program in the highway and mass transit financial assistance programs is section 1101(b) of TEA–21, Public Law 105–178, July 22, 1998. The statutory provision governing the DBE program as it relates to the airport planning and airport development financial assistance programs is section 505(d) of the AAIA, Public Law 97–248, Title V, September 3, 1982, as amended by section 105(f) of the Airport and Airway Safety and Capacity Expansion Act, Public Law 100–223, December 30, 1987, and section 117(c) of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992, Public Law 102–581, October 31, 1992. This provision is codified at 49 U.S.C. 47113.

The DBE provisions in TEA–21 and AAIA reflect Congress' intention that the DBE program meets the objective of helping small business concerns, owned and controlled by socially and economically disadvantaged individuals, become self-sufficient and able to compete with non-disadvantaged firms. To achieve this, DBE firms are currently ineligible for the program once their average annual gross receipts over the preceding three fiscal years exceed $16,600,000. This specified gross receipts cap is subject to adjustment by the Secretary of Transportation for inflation. See TEA–21 § 1101(b)(2)(A) and 49 U.S.C. 47113(a)(1)(B).

This notice adjusts the DBE gross receipts cap for inflation since enactment of TEA–21 in July 1998. This notice does not address the small business size standards for the DBE program for airport concessions established pursuant to section 511(a)(17) of the AAIA, as amended (49 U.S.C. 47107(e)). The maximum size standards for airport concessionaires under that program are currently set forth in 49 CFR Part 23, Subpart F, Appendix A.

The current gross receipts cap regulates DBE's operating under both TEA–21 and AAIA. The Department last adjusted these DBE size limits for inflation in 1994. Under the 1994 adjustment, the cap was raised for inflation from $16,015,000 to $16,600,000 or 3.63%. In recognition of the overall effects of inflation on the economy within the past few years, the Department wants to insure that DBE's have the maximum opportunity to participate in DOT-assisted contracts of highway, transit and airport recipients by adjusting the small business size limit for inflation. With an inflationary adjustment for the period from TEA–21's enactment through the first quarter of 2000, the Department has determined that the appropriate cap for all portions of the DBE program (airport, highway and transit) is now $17,420,000.

In arriving at the $17,420,000 figure, the DOT used a Department of Commerce price index to make a current inflation adjustment. The Department of Commerce's Bureau of Economic Analysis prepares constant dollar estimates of state and local government purchases of goods and services by deflating current dollar estimates by suitable price indexes. These indexes include purchases of durable and non-durable goods, financial and other services, structures (11 types of new construction, net purchases of existing residential structures, nonresidential structures and maintenance repair services) and compensation of employees. Using these price deflators enables the Department to adjust dollar figures for past years' inflation.

Given the nature of DOT's DBE Program, adjusting the gross receipts cap in the same manner in which inflation adjustments are made to the costs of state and local government purchases of goods and services is simple, accurate and fair. The inflation rate on purchases by state and local governments for the current year is calculated by dividing the price deflator for the first quarter of 2000 (109.56) by 1998's third quarter price deflator (104.40). The third quarter of 1998 is used because that is when TEA–21 was enacted, along with the DBE statutory cap amount of $16,600,000. The result of the calculation is 1.0494, which represents an inflation rate of 4.94% from the third quarter of 1998 through the first quarter of 2000. Multiplying the $16,600,000 figure by 1.0494 equals

$17,420,040, which will be rounded off to the nearest $10,000, or $17,420,000. Using this Department-wide cap should help make the program more understandable and consistent for all participants.

Therefore, until further notice, if a firm's average gross annual receipts over the preceding three years do not exceed $17,420,000, it does not exceed the small business size limit contained in the statutes.

Issued this 22nd day of August 2000, at Washington, DC.

Rodney E. Slater,

Secretary.

[FR Doc. 00–22021 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 194; ATM Data Link Implementation

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 194 meeting to be held September 11–14, 2000, starting at 9 a.m. The meeting will be held at RTCA, 1140 Connecticut Ave., NW, Suite 1020, Washington, DC 20036.

The agenda will include: September 11: (1) Working Group (WG)–2, Flight Operations and ATM Integration, (2) WG–3, Human Factors; September 12: (3) WG–2, Flight Operations and ATM Integration, (4) WG–3, Human Factors, (5) WG–4, Service Provider Interface, (6) WG–1, Data Link Ops Concept & Implementation Plan; September 13: (7) Working Groups 1, 3, and 4 continue; September 14: 9:00 a.m. Plenary Session: (8) Review Agenda; (9) Review/Approve Previous Meeting Summary; (10) Free Flight presentation (11) Working Group Reports; (12) Other Business; (13) Date and Location of Future Meetings; (14) Closing. Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 22, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00–22041 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Amend an Approved Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lovell Field Airport, Chattanooga, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on a request to amend an approved PFC application.

SUMMARY: The FAA proposes to rule and invites public comment on the request to amend the approved application to impose and use the revenue from a PFC at Lovell Field 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 September 28, 2000.

ADDRESSES: Comments on this request may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 3385 Airways Blvd., Suite 302, Memphis, Tennessee 36116–3841.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Hugh Davis, President of the Chattanooga Metropolitan Airport Authority at the following address: 1000 Airport Road, Suite 14, Chattanooga, Tennessee 37421.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Chattanooga Metropolitan Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Cager Swauncy, Program Manager, Memphis Airports District Office, 3385 Airways Blvd., Suite 302, Memphis, Tennessee 38116–3841, (901) 544–3495, ext. 20. The request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to amend the application to impose and use the revenue from a PFC at Lovell Field 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).

On July 27, 2000, the FAA received the request to amend the application to impose and use the revenue from a PFC submitted by Chattanooga Metropolitan Airport Authority within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the amendment, in whole or in part, no later than November 24, 2000.

The following is a brief overview of the request.

PFC Application Amendment No.: 93–01–C–02–CHA.

Proposed increase in the PFC level: From $3.00 to $4.50.

Proposed increase in the total estimated PFC revenue: From $8,568,925 to $9,550,221.

Proposed charge effective date: February 1, 2001.

Proposed charge expiration date: July 1, 2005.

Proposed altered description of approved project(s): Project no. PWE 1.1 (Terminal Improvements) has been increased to pay for the eligible debt service.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Chattanooga Metropolitan Airport Authority.

Issued in Memphis, Tennessee on August 22, 2000.

LaVerne F. Reid,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 00–22042 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7818; Notice 1]

Evenflo Company, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Evenflo Company Inc. of Vandalia, Ohio, has determined that 999,515 child restraint systems fail to comply with S5.1(d) of Federal Motor Vehicle Safety Standard (FMVSS) No. 209, ''Seat Belt Assemblies,'' as referenced in S5.4.1(a) of FMVSS No. 213, ''Child Restraint Systems,'' and has filed an appropriate report pursuant to 49 CFR part 573,

''Defect and Noncompliance Reports.'' Evenflo has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

FMVSS No. 213, S5.4.1(a) ''Performance Requirements,'' requires that:

The webbing of belts provided with a child restraint system and used to attach the system to the vehicle or to restrain the child within the system shall: (a) After being subjected to abrasion as specified in S5.1(d) or S5.3(c) of FMVSS No. 209 (S571.209), have a breaking strength of not less than 75 percent of the strength of the unabraded webbing when tested in accordance with S5.1(b) of FMVSS No. 209.

Evenflo has determined that certain child restraints it manufactured may have tether straps which fail the webbing strength requirements of FMVSS No. 213, S5.4.1(a). The child restraints containing the noncompliance are Ultara (model numbers 234, 235, 236, 237, 238, and 239), Secure Comfort (model number 247), Champion (model number 249), Medallion (model numbers 251, 254 and 259), Horizon (model numbers 420, 421, 425, and 426), Conquest (model numbers 428, and 429) and Tether Kits (model number 628). These child restraints and tether kits were manufactured between January 1, 1998 and May 30, 2000. A total of 959,514 convertible child seats and 40,001 tether kits are in noncompliance with this requirement.

Evenflo supports its application for inconsequential noncompliance with the following:

In March 2000, Evenflo received a PE [Preliminary Evaluation] from NHTSA relating to a potential noncompliance of tether webbing after being subject to abrasion as specified in S5.1(d) of FMVSS No. 209 (referenced in S5.4.1(a) of FMVSS No. 213). According to NHTSA, based upon testing conducted by NHTSA at SGS U.S. Testing, the Elizabeth Mills black tether webbing (vendor style #7635 retained only 67.1 percent of its unabraded strength. Section S5.4.1(a) of FMVSS No. 213 requires webbing used to attach a child restraint to a vehicle to have a breaking strength after abrasion of not less than 75 percent of the unabraded webbing strength.

In April 2000, Evenflo reviewed testing results from ongoing testing at Elizabeth Webbing Mills that showed all 82 test results acceptable on tests conducted from January 28, 1998 to March 13, 2000. The control chart showed the process to be in statistical control.

Evenflo visited SGS U.S. Testing in Fairfield, New Jersey to review the testing process and obtain samples of the potential nonconforming tether webbing material tested. SGS U.S. Testing did not keep the test samples and had not finished its test report. Evenflo then tried to obtain samples from our finished good warehouse close to the date code tested by SGS U.S. testing. Exact matches of the date code could not be found. Samples of a close date code were then tested at the following independent test labs: Indiana Mills (IMMI), Magill, ACW, and Elizabeth Webbing Mills. The test results yielded a variety of results from 56 to 88 percent of unabraded strength. A follow up of the test results revealed differences in test set-ups and test equipment.

Concurrently, Evenflo conducted sled testing of abraded and unabraded tethers at Veridan to determine if [there] was a safety concern with the tethers in use in the field. All test results shared the same basic performance for abraded and unabraded tethers. The testing demonstrated at least a 90 percent margin on tensile strength after abrasion (mean tensile strength after abrasion is 3,101 pounds and the maximum tensile load in sled testing was 1,616 pounds). According to Evenflo, the sled test results clearly demonstrate that there were no potential safety issues associated with abraded or unabraded tethers on the child restraint systems, and that there is more than an adequate margin of safety to protect against failures during reasonably expected usage.

Elizabeth Webbing Mills discovered an error in the manufacture of its test equipment.

An angle specified for 85 degrees on the equipment was actually built to 90 degrees. Testing with the correct angle revealed a significant effect on the webbing Evenflo used but not on the webbing used by Evenflo's competitors.

To verify and understand this effect, Evenflo performed a multi-factor factorial design of experiment. The design of experiment confirmed the effect of Evenflo's webbing material relative to other tether material and the percent unabraded test, but also identified a test set-up within FMVSS 213 and FMVSS 209 that would yield potentially passing results. A question of what was the proper test weight, 1.5 or 2.33 Kg. to use in the testing process was identified.

Evenflo then requested an official interpretation from NHTSA as to the correct test weight to be used. A verification test was conducted to confirm the test set-up identified by the multi-factor factorial design of experiment. On June 19, 2000, the testing did not reveal an acceptable pass rate and as a result Evenflo has stopped manufacture and shipment of child restraint systems using this Elizabeth Webbing Mills style of webbing and is filing this section 573, non-compliance information report.''

Under 49 U.S.C. 30118(d), the Secretary may exempt manufacturers from the Act's notification requirements when the Secretary determines that the noncompliance is inconsequential to motor vehicle safety. Evenflo states that it believes that the noncompliance here should be found to be inconsequential because the products meet the intent of the FMVSS 209 and FMVSS 213 performance requirements. Evenflo also stated that as its testing has established, even in the severely abraded condition, that the Elizabeth Webbing Mills (EWM) webbing tethers pass dynamic sled testing with over a 90 percent strength safety margin. Finally, the EWM webbing tethers are stronger before severe abrasion than the tethers of other major U.S. child restraint manufacturers. Only when the EWM webbing tethers are severely abraded is their strength reduced to that of the competitors' tethers. This accounts for the EWM webbing tethers' noncompliance with the 75 percent strength retention requirement, but clearly has no effect on the safety of the EWM webbing tethers in real world use.

Interested persons are invited to submit written data, views, and arguments on the application of Evenflo described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. It is requested, but not required, that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: September 28, 2000.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 24, 2000.

Noble N. Bowie,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 00–22036 Filed 8–28–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Renewal of Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the OCC is soliciting comment concerning its extension, without change, of an information collection titled, ''Financial Subsidiaries and Operating Subsidiaries—12 CFR 5.''

DATES: You should submit written comments by October 30, 2000.

ADDRESSES: You should direct all written comments to the Communications Division, Attention: 1557–0215, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. In addition, you may send comments by facsimile transmission to (202) 874–5274, or by electronic mail to regs.comments@occ.treas.gov.

FOR FURTHER INFORMATION CONTACT: You can request additional information from Karl Betz, Attorney, (202) 874–5090; or a copy of the collection from Jessie Dunaway or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0206), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. You can inspect and photocopy the comments at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC, between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Financial Subsidiaries and Operating Subsidiaries—12 CFR 5.

OMB Number: 1557–0215.

Form Number: None.

Abstract: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation.

The information requirements in 12 CFR part 5 are located as follows:

12 CFR 5.24(d)(2)(ii)(G)—Conversion: An institution must identify all subsidiaries that will be retained following the conversion and provide information and analysis of the subsidiaries' activities that would be required if the converting bank or savings association were a national bank establishing each subsidiary pursuant to sections 5.34 or 5.39. The OCC will use the information to determine whether to grant the financial institution's request to convert to a national charter.

12 CFR 5.33(e)(3)(i) and (ii)—Business combinations: A national bank must identify any subsidiary to be acquired in a business combination and state the activities of each subsidiary. A national bank proposing to acquire, through a business combination, a subsidiary of a depository institution other than a national bank must provide the same information and analysis of the subsidiary's activities that would be required if the applicant were establishing the subsidiary pursuant to sections 5.34 or 5.39.

The OCC needs this information regarding the subsidiaries to be acquired to determine whether to approve the business combination. The OCC will use this information to confirm that the proposed activity is permissible for operating subsidiaries and to ensure that a bank proposing to conduct activities through a financial subsidiary satisfies relevant statutory criteria.

12 CFR 5.34—Operating subsidiaries: A national bank must file a notice or application to acquire or establish an operating subsidiary, or to commence a new activity in an existing operating subsidiary. The application or notice provides the OCC with needed information regarding the activities and location(s) of the operating subsidiaries. The OCC will review the information to determine whether proposed activities are legally permissible, to ensure that the proposal is consistent with safe and sound banking practices and OCC policy, and that it does not endanger the safety and soundness of the parent national banks.

12 CFR 5.35(f)(1) and (2)—Bank service companies: Under section 5.35(f)(1), a national bank that intends to make an investment in a bank service company, or to perform new activities in an existing bank service company, must submit a notice to and receive prior approval from the OCC.

Under section 5.35(f)(2), a national bank that is ''well capitalized'' and ''well managed'' may invest in a bank service company, or perform a new activity in an existing bank service company, by providing the appropriate OCC district office written notice within 10 days after the investment, if the bank service company engages only in the activities listed in section 5.34(e)(5)(v). The OCC will review after-the-fact notices to confirm the permissibility of the national bank's investment in the bank service company.

12 CFR 5.36(e)—Other equity investments—Non-controlling investments: A national bank may make a non-controlling investment, directly or through its operating subsidiary, in an enterprise that engages in the activities described in section 5.36(e)(2) by filing a written notice. The OCC will use the information provided in the notice to confirm that the national bank is well capitalized and well managed, and that the bank meets the requirements applicable to non-controlling investments.

12 CFR 5.39—Financial subsidiaries: A national must file a notice prior to acquiring a financial subsidiary or engaging in activities authorized pursuant to section 5136A(a)(2)(A)(i) of the Revised Statutes (12 U.S.C. 24a) through a financial subsidiary. A national bank that intends, directly or indirectly, to acquire control of, or hold an interest in, a financial subsidiary, or to commence a new activity in an existing financial subsidiary, must obtain OCC approval through the procedures set forth in sections 5.39(i)(1) and (2). The OCC wil review this information to ensure that a proposed satisfies applicable statutory criteria.

Type of Review: Extension, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 587.

Estimated Total Annual Responses: 587.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 587 burden hours.

COMMENTS

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: August 23, 2000.

Stuart E. Feldstein,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 00–22022 Filed 8–28–00; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2000

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Publication of inflation adjustment factor and reference prices for calendar year 2000 as required by section 45(d)(2)(A) (26 U.S.C. 45(d)(2)(A)).

SUMMARY: The 2000 inflation adjustment factor and reference prices are used in determining the availability of the renewable electricity production credit under section 45(a).

DATES: The 2000 inflation adjustment factor and reference prices apply to calendar year 2000 sales of kilowatt hours of electricity produced in the United States or a possession thereof from qualified energy resources.

Inflation Adjustment Factor

The inflation adjustment factor for calendar year 2000 is 1.1382.

Reference Prices

The reference prices for calendar year 2000 are 4.95¢ per kilowatt hour for facilities producing electricity from wind and 0¢ per kilowatt hour for facilities producing electricity from closed-loop biomass and poultry waste.

Because the 2000 reference prices for electricity produced from wind, closed-loop biomass, and poultry waste energy resources do not exceed 8¢ multiplied by the inflation adjustment factor, the phaseout of the credit provided in section 45(b)(1) does not apply to electricity sold during calendar year 2000.

Credit Amount

As required by section 45(b)(2), the 1.5¢ amount in section 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1¢. Under the calculation required by section 45(b)(2), the renewable electricity production credit for calendar year 2000 under section 45(a) is 1.7¢ per kilowatt hour on the sale of electricity produced from wind, closed-loop biomass, and poultry waste energy resources.

FOR FURTHER INFORMATION CONTACT: David A. Selig, IRS, CC:PSI:5, 1111 Constitution Ave., NW., Washington, DC 20224, (202) 622–3040 (not a toll-free call).

Paul F. Kugler,

Associate Chief Counsel (Passthroughs & Special Industries).

[FR Doc. 00–22076 Filed 8–28–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special-Disabilities Programs, Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Prosthetics and Special-Disabilities Programs (Committee) will be held Monday and Tuesday, September 18–19, 2000, at VA Headquarters, Room 430, 810 Vermont Avenue, NW., Washington, DC. The September 18 session will convene at 8 a.m. and adjourn at 4 p.m. and the September 19 session will convene at 8 a.m. and adjourn at 12 noon. The purpose of the Committee is to advise the Department on its prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also advises the Department on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

On the morning of September 18, the Committee will receive briefings by the National Program Directors of the Special-Disabilities Programs regarding the status of their activities over the last three months. In the afternoon, a briefing concerning functional outcomes for Blind Rehabilitation will be presented. On the morning of September 19, the Committee will receive a briefing by a Department of Defense representative on the referral process of traumatic brain-injured patients to VA and the reimbursement rate impact. The Committee will have the opportunity to ask questions following this briefing.

The meeting is open to the public. For those wishing to attend, contact Kathy Pessagno, Veterans Health Administration (113), phone (202) 273–8512, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, prior to September 15, 2000.

Dated: August 22, 2000.

Marvin Eason,

Committee Management Officer.

[FR Doc. 00–22048 Filed 8–28–00; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Scientific Review and Evaluation Board for Health Services Research and Development Service, Meeting

The Department of Veterans Affairs, Veterans Health Administration, gives notice under Public Law 92–463, that a meeting of the Scientific Review and Evaluation Board for Health Services Research and Development Service will be held at The San Francisco Marriott Fisherman's Wharf, 1200 Columbus Avenue, San Francisco, CA 94133, January 22–24, 2001. On January 22, the meeting will convene from 5:30 p.m. until 9 p.m. and on January 23 through January 24 from 8 a.m. until 5 p.m. The purpose of the meeting is to review research and development applications concerned with the measurement and evaluation of health care services and with testing new methods of health care delivery and management. Applications are reviewed for scientific and technical merit. Recommendations regarding funding are prepared for the Chief Research and Development Officer.

This meeting will be open to the public at the start of the January 22 session for approximately one half-hour to cover administrative matters and to discuss the general status of the program. The closed portion of the meeting involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols and similar documents. During this portion of the meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information

(the premature disclosure of which would be likely to frustrate significantly implementation of proposed agency action regarding such research projects). As provided by the subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Those who plan to attend the open session should contact the Assistant Director, Scientific Review (124F), Health Services Research and Development Service, Department of Veterans Affairs, 1400 I Street, NW., Suite 780, Washington, DC, at least five days before the meeting. For further information, call (202) 408–3665.

Dated: August 22, 2000.

By Direction of the Acting Secretary.

Marvin R. Eason,

Committee Management Officer.

[FR Doc. 00–22049 Filed 8–28–00; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 65, No. 168
Tuesday, August 29, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OK–14–1–7367; FRL–6727–1]

Approval and Promulgation of Implementation Plans; Oklahoma; Revised Format for Materials Being Incorporated by Reference

Correction

In rule document 00–19376 beginning on page 47326 in the issue of Wednesday, August 2, 2000, make the following corrections:

§52.1920 [Corrected]

1. On page 47329, in §52.1920(c), tables 1.4.1. through 1.4.4. should read as follows:

EPA APPROVED OKLAHOMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Oklahoma Air Pollution Control Regulations Regulation 1.4. Air Resources Management Permits Required 1.4.1. General Permit Requirements				
1.4.1(a)	Scope and Purpose	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.1(b)	General Requirements	06/04/1990	07/23/1991, 56 FR 33715	Ref: 52.1960(c)(41)
1.4.1(c)	Necessity to Obtain Permit	06/04/1990	07/23/1991, 56 FR 33715	Ref: 52.1960(c)(41)
1.4.1(d)	Permit fees	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.2. Construction Permit				
1.4.2(a)	Standards Required	06/04/1990	07/23/1991, 56 FR 33715	Ref: 52.1960(c)(41)
1.4.2(b)	Stack Height Limitation	06/11/1989	08/20/1990, 55 FR 33905	Ref: 52.1960(c)(34)
1.4.2(c)	Permit Applications	06/04/1990	07/23/1991, 56 FR 33715	Ref: 52.1960(c)(41)
1.4.2(d)	Action on Applications	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.2(e)	Public Review	06/11/1989	08/20/1990, 55 FR 33905	Ref: 52.1960(c)(34)
1.4.2(f)	Construction Permit Conditions	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.2(g)	Cancellation of Authority to Construct or Modify.	[1] 02/06/1984	07/27/1984, 49 FR 30184	Ref: 52.1960(c)(31)
1.4.2(h)	Relocation Permits	11/14/1990	07/23/1991, 56 FR 33715	Ref: 52.1960(c)(41)
1.4.3. Operating Permit				
1.4.3(a)	Requirements	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.3(b)	Permit Applications	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.3(c)	Operating Permit Conditions	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.4. Major Sources—Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas				
1.4.4(a)	Applicability	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.4(b)	Definitions: Restricted Section 1.4.4.	06/04/1990	07/23/1991, 56 FR 33715	Ref: 52.1960(c)(41)
1.4.4(c)	Source Applicability Determination.	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.4(d)	Review, Applicability, and Exemptions.	06/04/1990	07/23/1991, 56 FR 33715	Ref: 52.1960(c)(41)

EPA APPROVED OKLAHOMA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
1.4.4(e)	Control Technology	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)
1.4.4(f)	Air quality impact evaluation	08/10/1987	11/08/1999, 64 FR 60683	Ref: 52.1960(c)(49)
1.4.4(g)	Source Impacting Class I areas	08/10/1987	11/08/1999, 64 FR 60683	Ref: 52.1960(c)(49)
1.4.4(h)	Innovative Control Technology	[1] 05/19/1983	08/25/1983, 48 FR 38635	Ref: 52.1960(c)(26)

* * * * * * *

2. On page 47332, in §52.1920(c), in Subchapter 37, under the third entry, add Parts 5 and 7 to read as follows:

EPA APPROVED OKLAHOMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * * * * * *				
Part 5. Control of Organic Solvents				
252:100–37–25	Coating of parts and products	05/26/1994	11/03/1999, 64 FR 59629.	
252:100–37–26	Clean up with organic solvents	05/26/1994	11/03/1999, 64 FR 59629.	
Part 7. Control of Specific Processes				
252:100–37–35	Waste gas disposal	05/26/1994	11/03/1999, 64 FR 59629.	
* * * * * * *				

3. On page 47332, in §52.1920(c), in Subchapter 39, Part 5 should read as follows:

EPA APPROVED OKLAHOMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
Part 5. Petroleum Processing and Storage				
252:100–39–30	Petroleum liquid storage in external floating roof tanks.	05/26/1994	11/03/1999; 64 FR 59629.	

[FR Doc. C0–19376 Filed 8–28–00; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Tuesday,

August 29, 2000

Part II

Postal Service

39 CFR Part 111

Domestic Mail Manual to Implement Docket No. R2000–1, Proposed Changes; Proposed Rule

POSTAL SERVICE

39 CFR Part 111

Proposed Changes to the Domestic Mail Manual to Implement Docket No. R2000–1

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: On January 12, 2000, the United States Postal Service, in conformance with sections 3622 and 3623 of the Postal Reorganization Act (39 U.S.C. 101 *et seq.*), filed a request for a recommended decision by the Postal Rate Commission (PRC) on proposed rate, fee, and classification changes. The PRC designated this filing as Docket No. R2000–1. The PRC issued a notice of filing in Order No. 1279 on January 14, 2000.

This proposed rule provides information on the implementing rules for the rate, fee, and classification changes that the Postal Service proposes to adopt if the PRC's recommended decision on R2000–1 is consistent with the Postal Service's request and if the Governors of the Postal Service, acting pursuant to 39 U.S.C. 3625, approve that recommended decision.

DATES: Comments must be received on or before October 2, 2000.

ADDRESSES: Mail or deliver written comments to the Manager, Mail Preparation and Standards, USPS Headquarters, 475 L'Enfant Plaza SW, Room 6800, Washington DC 20260–2405. Fax: 202–268–4336. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at USPS Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor N, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Magazino, 202–268–3854 (for information on Express Mail, First-Class Mail, and Priority Mail); Joel Walker, 202–268–3340 (for information on Periodicals); Lynn Martin, 202–268–6351 (for information on Standard Mail); Paul Lettman, 202–268–6261 (for information on Parcel Post, Media Mail, and Library Mail); Thomas DeVaughan, 202–268–4491, or Lynn Martin, 202–268–6351 (for information on Bound Printed Matter); Thomas DeVaughan, 202–268–4491, or Anne Emmerth, 202–268–2363 (for information on special services); Anne Emmerth, 202–268–2363 (for information on post office boxes); Carrie Bornitz, 202–268–6797 (for information on Signature Confirmation). General contact for all subjects is Lynn Martin, 202–268–6351.

SUPPLEMENTARY INFORMATION: The Postal Service's request in Docket No. R2000–1 includes major classification and rate structure changes and increases in most existing rate and fee categories. The proposed major classification changes and rate structure changes are as follows:

(1) For Priority Mail, a separate price for pieces weighing 1 pound or less would be added.

(2) For First-Class Mail automation flats, the current 3/5-digit presort rate would be replaced with a separate 5-digit rate and a separate 3-digit rate.

(3) For Periodicals, based on an anticipated legislative change, the Regular, Nonprofit, and Classroom subclasses will be merged into a new ''Outside-County'' subclass. The preferred nature of Nonprofit and Classroom publications would be recognized by applying a 5% discount off of the total computation of Outside-County postage, except that the discount would not apply to postage for advertising pounds. Furthermore, the 5% discount would not apply to commingled nonsubscriber, nonrequester, complimentary, and sample copies in excess of the 10% allowance under Domestic Mail Classification Schedule (DMCS) sections 412.34 and 413.42, or to Science-of-Agriculture mail.

(4) For Periodicals, physical restrictions would be added to specify that a mailpiece may not weigh more than 70 pounds or measure more than 108 inches in length and girth combined, and that additional size limitations may apply to pieces mailed at individual rate categories.

(5) For Standard Mail (A), which would be renamed Standard Mail, a new barcoded discount would be available for machinable parcels that are subject to the residual shape surcharge and that are entered as Regular or Nonprofit subclass mail. (Mail entered at carrier route rates would not be eligible.)

(6) For Standard Mail (A), which would be renamed Standard Mail, a separate residual shape surcharge would be added for Enhanced Carrier Route and Nonprofit Enhanced Carrier route pieces. This surcharge would be lower than the residual shape surcharge for Regular and Nonprofit mail.

(7) For Standard Mail (A), which would be renamed Standard Mail, all automation letters would have a weight limit of 3.5 ounces. All other Standard Mail letters would be subject to a maximum weight limit of 3.3 ounces for minimum per-piece rates.

(8) Standard Mail (B) would be renamed Package Services. Package Services would include Parcel Post, Bound Printed Matter, Media Mail (formerly Special Standard Mail), and Library Mail.

(9) For Parcel Post, the minimum 16-ounce weight requirement would be removed. Pieces weighing less than 1 pound would be subject to the full, applicable rate for a piece weighing 2 pounds.

(10) For Parcel Post, a nonmachinable surcharge would be added for intra-BMC/ASF rate mail and a separate nonmachinable surcharge would be added for destination bulk mail center (DBMC) rate mail.

(11) For Bound Printed Matter (BPM), the minimum 16-ounce weight requirement would be removed. Presorted and Carrier Route rate pieces weighing less than 1 pound would be subject to the full, applicable rate for a piece weighing 1 pound and single-piece rate BPM pieces weighing less than 1 pound would be subject to the full, applicable rate for a piece weighing 1.5 pounds.

(12) For all Bound Printed Matter, the separate local zone rate category would be removed. Mail for local zones would be subject to the same rates as mail for zones 1 and 2.

(13) For Bound Printed Matter, three destination entry discounts would be added for mail entered at the destination bulk mail center (DBMC), destination sectional center facility (DSCF), and destination delivery unit (DDU).

(14) Special Standard Mail would be renamed Media Mail.

(15) For Bulk Parcel Return Service, mailers would be required to pay an annual accounting fee.

(16) For Collect on Delivery (COD), the limit for collection would increase from $600 to $1,000.

(17) For Delivery Confirmation, electronic option Delivery Confirmation would be extended to Standard Mail (formerly Standard Mail (A)) pieces that are subject to the residual shape surcharge.

(18) For insurance, bulk insurance service would be extended to Standard Mail (formerly Standard Mail (A)) pieces that are subject to the residual shape surcharge.

(19) For merchandise return service, the per-piece (transaction) fee for pieces returned to the permit holder would be removed, and permit holders would be required to pay an annual accounting fee. Senders (those who use MRS labels to return a parcel to the permit holder) would be permitted to add insurance to a MRS piece at their own discretion and expense. No other special services could be added by the sender.

(20) For meter service, the name of the service ''on-site meter settings'' would be changed to ''on-site meter service.'' The ''additional meters'' fee category would be replaced with a ''meter reset and/or examined'' fee category that would be applicable to each meter reset or examined, including the first meter. Secured postage meters would be exempt from the checking in/out fee.

(21) For post office boxes, the box fee groups would be realigned to better match fees with the costs of providing post office box service. A nonrefundable fee would be added for replacing or duplicating post office box keys. A nonrefundable fee would be added for changing a post office box lock.

(22) For business reply mail, a new ''high-volume'' fee category is added for Qualified Business Reply Mail (QBRM). The high-volume fee category would give permit holders the option of paying a quarterly fee (in addition to the annual accounting fee) and thereby qualify for a lower per piece charge.

(23) For return receipt for merchandise, service would be extended to Standard Mail (formerly Standard Mail (A)) pieces that are subject to the residual shape surcharge. Return receipt for merchandise service also would be extended to unnumbered insured items.

(24) For Shipper Paid Forwarding, an annual accounting fee would be added for mailers who choose to pay forwarding charges through an advance deposit account.

(25) A new classification for Signature Confirmation service has been proposed.

(26) For stamped envelopes, the current three categories of stamped envelopes would be realigned into two categories: household (basic) and special.

Part A of this proposed rule summarizes the proposed revisions to the Domestic Mail Manual (DMM) necessary to implement R2000–1 by class of mail and special service category. Part B summarizes the proposed changes by DMM module and section. The actual proposed changes to the DMM follow at the end of this proposed rule.

Comments are solicited on the implementing DMM standards that appear at the end of this proposed rule. As information, the DMM language in this proposed rule incorporates revisions to the DMM from four previously published **Federal Register** final rules that also will take effect on the date that coincides with implementation of the rates resulting from the R2000–1 rate case. These final rules are:

1. ''Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets'' published on July 28, 2000 (65 FR 46361).

2. ''Line-of-Travel Sequencing for Basic Carrier Route Periodicals'' published on July 28, 2000 (65 FR 46363).

3. ''Preparation Changes for Palletized Standard Mail (A) and Bound Printed Matter and for Standard Mail (A) and Standard Mail (B) Claimed at DBMC Rates'' published on August 8, 2000 (65 FR 48385).

4. ''Domestic Mail Manual Changes for Sacking and Palletizing Periodicals Nonletters and Standard Mail (A) Flats, for Traying First-Class Flats, and for Labeling Pallets'' published on August 16, 2000 (65 FR 50054).

Accordingly, the numbering and the language of the DMM sections in this proposed rule have been synchronized with these final rules and may not match the numbering and language in current DMM Issue 55.

Although proposed rates, rate categories, and rate structures are included in this language, they are outside the scope of this rulemaking process because they are still under review by the Postal Rate Commission. For example, comments on whether destination entry rates for Bound Printed Matter should be offered, or offered at a different rate, would not be appropriate. However, comments suggesting changes to the way the Postal Service implements standards for destination entry Bound Printed Matter would, however, be appropriate.

Similarly, comments on the provisions contained in the four **Federal Register** notices listed above are outside the scope of this rulemaking because they have already been subject to the comment process and published as final rules.

A. Summary of Proposed Changes by Class of Mail

1. Express Mail

a. Express Mail Rate Highlights

Overall, Express Mail rates are proposed to increase by an average of 3.8%. Moderate increases are proposed for all Express Mail rates, except for a $0.30 decrease in the 1/2-pound rates for Custom Designed Service and for Next Day and Second Day Post Office to Post Office Service. The fee for pickup service is proposed to increase from $8.25 to $10.25 per occurrence. The fee for delivery stops (Custom Designed Service only) is proposed to increase from $8.25 to $10.25. The fee for every $100 increment of additional insurance desired above the standard $500 of coverage would increase from $0.95 to $1.00.

b. Express Mail Rate Structure

There are no proposed changes to the rate structure of Express Mail.

c. Express Mail Preparation Changes

There are no proposed changes to mail preparation requirements for Express Mail.

2. Priority Mail

a. Priority Mail Rate Highlights

Overall, Priority Mail rates are proposed to increase by an average of 15%. The fee for pickup service is proposed to increase from $8.25 to $10.25 per occurrence.

b. Priority Mail Rate Structure

(1) One Pound or Less Priority Mail Rate

A unique Priority Mail rate is proposed for pieces weighing 1 pound or less. Currently all Priority Mail pieces weighing 2 pounds or less pay the same rate. The proposed 1-pound Priority Mail rate is $0.35 more than the proposed First-Class Mail rate ($3.10) for a 13-ounce piece. Mail that is placed in a Priority Mail flat-rate envelope will continue to be charged the 2-pound rate even if the actual weight is 1 pound or less.

(2) Keys and Identification Devices

It is proposed that keys and identification devices that weigh more than 13 ounces but not more than 1 pound will be eligible for the new 1-pound Priority Mail rate plus the fee. The fee for keys and identification devices is proposed to increase from $0.30 to $0.35.

c. Priority Mail Preparation Changes

There are no proposed changes to mail preparation requirements for Priority Mail.

3. First-Class Mail

a. First-Class Mail Rate Highlights

Overall, First-Class Mail rates are proposed to increase by an average of 3.6%. It is proposed that the single-piece first-ounce letter rate be increased by only one cent, from $0.33 to $0.34, and that the rate for additional ounces increases by only one cent from $0.22 to $0.23. The Postal Service also is proposing a $0.01 increase in the single-piece card rate from $0.20 to $0.21.

It is proposed that the first-ounce letter rate for Qualified Business Reply Mail (QBRM) increase from $0.30 to $0.31, and that the card rate for QBRM remain the same at $0.18.

The nonstandard surcharge for single-piece rate mail weighing one ounce or less would remain the same at $0.11. The nonstandard surcharge for Presorted rate and Automation rate pieces would remain the same at $0.05.

Small increases are proposed for Automation and Presorted rates. The Postal Service proposes a $0.01 increase in the basic automation flat rate, from $0.30 to $0.31. The combined 3/5-digit rate category for automation flats would be eliminated. It is proposed that new and separate automated rate categories for 3-digit automation flats and for 5-digit automation flats be implemented. The annual presort mailing fee is proposed to increase from $100 to $125.

b. First-Class Mail Rate Structure

It is proposed to split the current automation flats 3/5-digit rate into two separate rates: a 5-digit automation rate and a 3-digit automation rate.

c. First-Class Mail Preparation Changes

(1) Automation Flats (DMM M011, M030, M033, M820, M910)

The Postal Service is proposing to change the standards for preparation of 5-digit packages and 5-digit trays of automation flats under DMM 820 from required levels of sortation to optional levels of sortation. This is supported by the new rate structure that provides separate 5-digit and 3-digit rates for automation flats. All other current mail preparation requirements would remain the same.

It is also proposed to add a new tray-based presort option for automation flats. When using this option, mailers would not need to prepare automation flats in 5-digit, 3-digit, ADC and mixed ADC packages. Instead, mailers would prepare flat trays to 5-digit (optional), 3-digit, ADC, and mixed ADC destinations whenever there were 90 or more pieces to a presort destination. Ninety is the average number of pieces that fills a flat tray up to the bottom of the handholds when at least a single stack of mail is lying flat on the bottom of the tray. When there are 90 or more pieces for a presort destination, mailers would be required to physically fill flat tray(s) for that destination and would be allowed one less-than-full tray or one overflow tray per presort destination. Preparation of 5-digit trays also would be optional under this tray-based preparation option. Rates would be based on the sortation level of the tray to which a piece is sorted. If this proposal is adopted, mailers choosing to prepare their mail using this option would not be eligible to prepare their mail as outlined in new M910 which will also go into effect when the rates resulting from the R2000–1 rate case are implemented. (M910 will permit co-traying of packages from automation rate mailings and packages from Presorted rate mailings that are part of the same mailing job and meet other criteria.)

(2) Tray Containers (DMM M033)

For clarification, it is proposed to add information to M033.1.2 to show that the lids required to be placed on First-Class Mail flat trays must be placed on the tray green side up prior to strapping under M033.1.5b.

4. Periodicals

a. Periodicals Rate Highlights

The average increase for Periodicals in the current proposal is 12.6%. Outside-County Periodicals would have an average increase of 12.7% while Within-County Periodicals would have an average increase of 8.6%. However, as the result of a joint effort by the Postal Service and the Periodicals industry, further cost savings were identified that have the potential to reduce the proposed increases. The proposed rates assume that the Revenue Forgone Reform Act (RFRA) is amended.

It is proposed to combine two of the preferred subclasses (Nonprofit and Classroom) with the Regular subclass to form an Outside-County subclass with one set of rates. Nonprofit and Classroom publications would receive a 5% discount on total Outside-County postage, excluding the postage for advertising pounds. The Within-County subclass would remain a separate subclass with a separate set of rates.

It is proposed that the nonadvertising percentage per-piece discount, the delivery unit (Outside-County and In-county) per-piece discounts, and the SCF per-piece discount will increase. The Outside-County, Science-of-Agriculture, and In-County pound rates will increase along with all per-piece rates for both subclasses (Outside-County and Within County). See DMM R200 for individual proposed rates and discounts.

It is proposed that the fee for original entry would increase from $305 to $350. The re-entry and newsagents fees will decrease from $50 to $40.

b. Periodicals Rate Structure

Regular, Nonprofit, and Classroom publications would use the same rate schedule. Nonprofit and Classroom publications would receive a 5% discount on total Outside-County postage, excluding the postage for advertising pounds. The 5% discount does not apply to commingled nonsubscriber copies in excess of the 10% allowance provided under DMM E215. In-County rates would remain a separate rate schedule.

c. Periodicals Mail Preparation Changes

(1) Bundles on Pallets

The current DMM describes a ''bundle'' as a group of packages secured together as a unit that equates to a sack. The current DMM provides both for preparation of packages on pallets under DMM M045.2.0 and for preparation of bundles on pallets under DMM M045.3.0. The Postal Service is not aware of any mailers that currently opt to prepare bundles on pallets. Accordingly, the Postal Service is proposing to delete the option to prepare bundles on pallets under current DMM M045.3.0. The provisions for preparing packages on pallets would remain in DMM M045.2.0.

(2) Previous Rulemakings

Mailers are reminded that three final rule **Federal Register** notices have previously been published that set forth required and optional preparation requirements for Periodicals that also will be effective on the date that the rates resulting from the R2000–1 rate case are implemented. These are: (1) ''Sack Preparation Changes for Periodicals Nonletter-Size Pieces and Periodicals Prepared on Pallets'' published on July 28, 2000 (65 FR 46361), (2) ''Line-of-Travel Sequencing for Basic Carrier Route Periodicals'' published on July 28, 2000 (65 FR 46363), and (3) ''Domestic Mail Manual Changes for Sacking and Palletizing Periodicals Nonletters and Standard Mail (A) Flats, for Traying First-Class Flats, and for Labeling Pallets'' published August 16, 2000 (65 FR 50054).

5. Standard Mail (Formerly Standard Mail (A))

a. Standard Mail Rate Highlights

The overall average proposed rate increase is 7.7%. Regular rates are proposed to increase by an average of 9.4%. Rates for commercial Enhanced Carrier Route (ECR) mail are proposed to increase by an average of 4.9%. Rates for Nonprofit mail are proposed to increase by an average of 14.8%. Rates for Nonprofit Enhanced Carrier Route are proposed to increase by an average of 5.6%. The proposed rates for Nonprofit and Nonprofit Enhanced Carrier Route are based on anticipated changes to the Revenue Forgone Reform Act (RFRA). However, subsequent to the

filing of the Request (for rate increases), mailer associations and the Postal Service engaged in further discussions concerning nonprofit rates. Responsible committees in Congress have since drafted legislation that would change the RFRA. This legislation would provide that nonprofit rates be set so that the estimated average revenue per piece received by the Postal Service from each subclass of nonprofit Standard Mail would be equal, as nearly as practicable, to 60% of the estimated average revenue per piece to be received from the most closely corresponding commercial subclass of mail. If the Postal Service had followed the mechanism in the legislation introduced in Congress in developing its proposal, the Postal Service would have proposed an average rate increase of 4.8% for Nonprofit and 17.3% for Nonprofit Enhanced Carrier Route.

Increased discounts are proposed for destination entry rate mail (DBMC, DSCF, and DDU). The annual presort mailing fee would increase from $100 to $125.

b. Standard Mail Rate Structure

It is proposed that automation letter mail would be subject to a weight limit of 3.5 ounces (.2188 pound). All other Standard Mail letters and non-letters would be subject to a weight limit of 3.3 ounces (.2063 pound) for the minimum per-piece charge.

A new barcoded discount of $0.03 is proposed for Standard Mail machinable parcels that are subject to the residual shape surcharge and that meet other preparation requirements. This discount would be available only for the Regular and Nonprofit Standard Mail subclasses (it would not be available for pieces mailed at the Enhanced Carrier Route and Nonprofit Enhanced Carrier Route subclasses).

Two different residual shape surcharges are proposed. Enhanced Carrier Route and Nonprofit Enhanced Carrier Route mail would have a residual shape surcharge of $0.15, and Regular and Nonprofit mail would have a residual shape surcharge of $0.18.

It is proposed to allow use of return receipt for merchandise, bulk insurance, and electronic option Delivery Confirmation with Standard Mail parcels that are subject to the residual shape surcharge.

c. Standard Mail Preparation Changes

(1) Name Change and DMM Restructuring

The Postal Service proposes to change the name of this mail class from ''Standard Mail (A)'' to ''Standard Mail.'' Throughout this proposed rule, ''Standard Mail'' is used consistently in the DMM text to indicate the class formerly known as ''Standard Mail (A).'' For brevity, not all sections that had only name changes were reproduced in this final rule. This change will, however, be implemented throughout all of DMM Issue 56, which will transmit the final implementing rules for R2000–1.

DMM sections C600, D600, E600, P600, and R600 would contain standards for only Standard Mail. Matter in these sections that contain standards for Package Services mail would be moved into new sections under C700, D700, E700, P700, and R700, respectively. (Former P700, that contains information on special postage payment systems, would be renumbered as P900.)

Matter pertaining only to Standard Mail in former E611 and E612 has been consolidated and reorganized into new E610. E620 and E630 have been reorganized so that E620 pertains to Presorted rate Standard Mail and E630 pertains to Enhanced Carrier Route Standard Mail.

(2) Sack and Pallet Labels (DMM M031, M032, M045, M600)

Currently, the contents line of sack and pallet labels for irregular parcel and machinable parcel mailings must show ''STD A'' or ''STD B'' as applicable for the class being mailed. Because of the name changes of ''Standard Mail (A)'' to ''Standard Mail'' and of ''Standard Mail (B)'' to ''Package Services,'' the use of ''STD A'' on ''Standard Mail'' sack and pallet labels for irregular parcel and machinable parcel mailings would be changed to ''STD'' (Package Services labels would use ''PSVC'').

(3) Weight Limit for Automation Letters (DMM C810)

The maximum weight for heavy letters that may qualify for automation letter rates would be increased to 3.5 ounces (.2188 pound). Pieces of automation heavy letters weighing over 3 ounces up to 3.5 ounces would be required to meet the additional preparation requirements currently in effect for heavy letters in DMM C810 and C840.

Because it is proposed that automation letters have a weight limit of 3.5 ounces (.2188 pound) and other mail be subject to a maximum of 3.3 ounces (.2063 pound) for the minimum per-piece rates, some mailers could enter a mailing job that consists of an automation letters mailing weighing over 3.3 ounces (.2063 pound) for which the pieces would be subject to the automation minimum per-piece rates and a mailing(s) of Enhanced Carrier Route and/or Presorted rate mail for which the pieces would be subject to the piece/pound rates. Such mailing jobs may continue to be reported on the same postage statement.

(4) Dimensions for Machinable Parcels (DMM C050)

The minimum dimensions for a machinable parcel in DMM C050.4.1a would change to not less than 6 inches long, 3 inches high, ¼ inch thick, and 6 ounces in weight. (A mailpiece exactly ¼ inch thick would be subject to the 3½-inch height minimum under C010.) The current minimum weight is 8 ounces unless certain other conditions are met. Some parcels may be successfully processed on BMC parcel sorters although they do not conform to the machinability standards in DMM C050.4.1. If this is the case, a BMC plant manager may authorize a mailer to enter such parcels as machinable parcels if the parcels are tested on BMC parcel sorters and prove to be machinable. Such an authorization will only apply to mail that is both entered at a post office within the service area of the authorizing BMC area and is for delivery to an address within the service area of that BMC. These changes also would apply to Package Services mail.

(5) Preparation of Bundles

The current DMM describes a ''bundle'' as a group of packages secured together as a unit that equates to a sack. The current DMM provides both for preparation of packages on pallets under DMM M045.2.0 and for preparation of bundles on pallets under DMM M045.3.0. The Postal Service is not aware of any mailers that currently opt to prepare bundles on pallets. Accordingly, the Postal Service is proposing to delete the option to prepare bundles on pallets under current DMM M045.3.0. The provisions for preparing packages on pallets would remain in DMM M045.2.0.

The current DMM also provides for preparation of bedloaded bundles of Presorted and carrier route rate mail under DMM M610.6.0 and M620.6.0, respectively. Such preparation requires Rates and Classification Service Center (RCSC) authorization. The records of the Postal Service currently indicate that there are no mailers authorized to prepare bedloaded bundles in the manner described in the DMM. Because of this, and because bedloaded bundles are generally not cost-efficient for the Postal Service to handle and process, the Postal Service is proposing to delete the options to prepare bedloaded

bundles under DMM M610.6.0 and M620.6.0.

(6) Machinable Parcel Barcoded Discount (DMM C850, E610, E620, P600)

The new machinable parcel barcoded discount of $0.03 would apply to machinable parcels (as defined in DMM C050) for which the residual shape surcharge (RSS) is paid and that bear a correct, readable 5-digit barcode under C850 for the ZIP Code shown in the delivery address and are prepared as machinable parcels under M045 or M610. Machinable parcels prepared in 5-digit sacks or on 5-digit pallets entered at DSCF rates may qualify for the barcoded discount even though such pieces will not be processed using BMC barcode scanning equipment. Otherwise, rates for 5-digit sorted machinable parcels entered at DSCF rates could be higher than for BMC sorted machinable parcels that were entered at DBMC rates and which also qualified for the barcoded discount. Machinable parcels entered at DBMC rates may claim the machinable parcel barcoded discount only if they are not entered at an ASF. An exception is that properly prepared machinable pieces of DBMC rate mail entered at the Phoenix, Arizona, ASF may claim the barcoded discount because that facility uses barcode scanning equipment. The machinable parcel barcoded discount is not available for pieces mailed at the Enhanced Carrier Route or Nonprofit Enhanced Carrier Route subclasses.

If all pieces in a mailing are eligible for the machinable parcel barcoded discount under E610 and E620, then the mailing may be paid with meter stamps, permit imprint, or precanceled stamps under the applicable standards. If fewer than 100 percent of the pieces in the mailing are eligible for the machinable parcel barcoded discount, then payment with precanceled stamps would not be permitted; metered postage would be permissible for use only if exact postage was affixed to each piece in the mailing; and use of permit imprints would be permitted only under a manifest mailing system (P910).

(7) Special Services with Standard Mail (DMM E610, P600)

It is proposed that Standard Mail that is subject to the residual shape surcharge (pieces prepared as parcels or that are not letter-size or flat-size as defined in DMM C050) may receive the following additional special services upon payment of the appropriate fees: bulk insurance, return receipt for merchandise, and electronic option Delivery Confirmation. Other Standard Mail would not be eligible for any special services. Mail prepared with detached address labels under A060 and mail using Bulk Parcel Return Service (BPRS) also would not be eligible for any special services.

Mailpieces for which one or more of these special services are requested would be required to bear a return address under A010 and would be required to bear an ancillary service endorsement that results in return of the mailpiece to the sender if undeliverable as addressed (Address Service Requested, Forwarding Service Requested, or Return Service Requested).

Mailings for which bulk insurance is requested would be required to pay postage and fees through a manifest mailing system (P910).

For electronic option Delivery Confirmation, the following postage payment requirements would apply. If electronic option Delivery Confirmation is requested for all the pieces in the mailing and the mailing consists of pieces of identical weight, then postage may be paid with metered postage or permit imprints under the existing standards in P600.2.0 and P600.3.0 (as restructured in this proposed rule). However, if Delivery Confirmation is not requested for all pieces in the mailing, or if the pieces are not identical weight, then either the exact metered postage must be affixed to each piece or a manifest mailing system must be used for permit imprint mail under P910. Precanceled stamps may not be used for postage payment on pieces with Delivery Confirmation (see current DMM S918.1.5).

It is proposed that, if return receipt for merchandise is requested for all the pieces in the mailing and the mailing consists of pieces of identical weight, then postage must be paid with metered postage or permit imprints under the applicable standards in DMM P600.2.0 and P600.3.0. If return receipt for merchandise is not requested for all of the pieces in the mailing, or if the pieces are not identical weight, then either the exact metered postage must be affixed to each piece, or a manifest mailing system must be used for permit imprint mail under P910. Precanceled stamps would not be permitted for use with return receipt for merchandise.

6. Package Services (formerly Standard Mail (B))—General

a. Name Change and DMM Restructuring

The Postal Service proposes to change the name of this mail class from ''Standard Mail (B)'' to ''Package Services.'' Package Services would include Parcel Post, Bound Printed Matter, Media Mail (formerly Special Standard Mail) and Library Mail.

The standards in current DMM sections C600, D600, E600, P600, and R600 that pertain to Package Services mail would be moved into new sections under DMM C700, D700, E700, P700, and R700. Former P700, which contains information on special postage payment systems would be renumbered as P900.

The standards for Package Services mail contained in current DMM E611 and E613 have been consolidated and reorganized into new E710. Current DMM E630 and E650, which contain eligibility standards for Package Services would be moved into new DMM E700. The four subclasses of Package Services mail would each have their own eligibility sections: DMM E711 for Parcel Post; DMM E712 for Bound Printed Matter; DMM E713 for Media Mail (formerly Special Standard Mail); and DMM E714 for Library Mail. Information pertaining to eligibility of Package Services for destination entry rates would be moved to DMM E750. Current DMM M630 would be moved and reorganized into new DMM M710 for Parcel Post, DMM M720 for Bound Printed Matter, DMM M730 for Media Mail, and DMM M740 for Library Mail.

b. Combining Different Subclasses of Package Services to Qualify for DSCF and DDU Rates

New provisions are added in DMM E753 that allow mailers to combine different subclasses of Package Services machinable and irregular parcels in the same 5-digit sack or on the same 5-digit pallet to qualify for DSCF and DDU rates. For sack preparation, 10 or more parcels of any combination of Package Services subclasses, except for mail at Carrier Route Bound Printed Matter rates, would be allowed to be placed in the same 5-digit sack and entered at destination SCFs or at destination delivery units. For pallet preparation, 5-digit pallets that contain either 50 pieces and 250 pounds or that contain at least 36 inches of Package Services parcels (any combination of subclasses, except mail at Carrier Route Bound Printed Matter rates) may be prepared and entered at destination SCFs or at destination delivery units. Any Parcel Post pieces and any Presorted Bound Printed Matter in such sacks or on such pallets would be eligible for the appropriate DSCF or DDU rate provided all other eligibility requirements for the applicable destination entry rate are met. Media Mail and Library Mail pieces would be subject to their respective single-piece or 5-digit rates

depending upon whether the 500-piece minimum quantity requirement for the 5-digit rates was met for each subclass. See E753 for a full description of the requirements and rate applicability.

7. Parcel Post

a. Parcel Post Rate Highlights

Parcel Post rates are proposed to increase by an average of 1.3%. It is proposed to increase the nonmachinable surcharge for Inter-BMC Parcel Post from $1.65 to $1.79 per parcel. The Parcel Post Origin BMC Presort and BMC Presort discounts would increase from $0.57 to $0.93 per piece and from $0.22 to $0.23 per piece, respectively. The barcoded discount for qualifying Parcel Post machinable parcels would remain at $0.03 per piece. The annual destination entry fee for Parcel Select is proposed to increase from $100 to $125.

b. Parcel Post Rate Structure

It is proposed that pieces weighing less than 16 ounces would be eligible for Parcel Post rates; however, there are no proposed rates for pieces less than 2 pounds. Therefore, if a piece weighs less than 2 pounds, it will be charged the rate that would apply to a 2-pound parcel.

It is proposed to add a $0.40 nonmachinable surcharge for Intra-BMC Parcel Post and to add a $0.45 nonmachinable surcharge to DBMC Parcel Select.

c. Parcel Post Mail Preparation Changes

(1) Rate Markings (DMM M012 and M710)

There are no proposed changes to the marking requirements for Parcel Post and Parcel Select.

(2) Sack and Pallet Labels (DMM M031, M032, M045, M710)

It is proposed to change the abbreviation ''STD'' or ''STD B'' on the contents line of sack and pallet labels for Parcel Post to ''PSVC'' (an abbreviation for Package Services). Labels for 5-digit sacks and pallets prepared to qualify for DSCF and DDU rates are further revised to add the processing category ''PARCELS'' to the contents line to read ''PSVC PARCELS 5D.'' For containers of combined Package Services parcels, line 2 also would read ''PSVC PARCELS 5D.''

(3) Dimensions for Machinable Parcels (DMM C050)

The minimum dimensions for a machinable parcel in DMM C050.4.1a would change to not less than 6 inches long, 3 inches high, ¼ inch thick, and 6 ounces in weight. (A mailpiece exactly ¼ inch thick would be subject to the 3½-inch height minimum under C010.) The current minimum weight is 8 ounces unless certain other conditions are met. Some parcels may be successfully processed on BMC parcel sorters although they do not conform to the machinability standards in DMM C050.4.1. If this is the case, a BMC plant manager may authorize a mailer to enter such parcels as machinable parcels if the parcels are tested on BMC parcel sorters and prove to be machinable. Such an authorization only applies to mail that is both entered at a post office within the authorizing BMC's service area and is for delivery to an address within that BMC's service area. These changes also would apply to Standard mail.

(4) Machinable Parcel Preparation Requirements (DMM M045 and M710)

The rules for sacking and palletizing Parcel Post machinable parcels are clarified to point out that they are optional preparation methods for Parcel Post. In addition, the sacking rules are modified to delete the 1,000 cubic inch option for preparing sacks of machinable parcels. If Parcel Post mailers choose to sack under the machinable parcel preparation standards, sacks for a 5-digit, ASF, or BMC destination would have a minimum volume requirement of 10 pieces or 20 pounds.

(5) Postage Payment (P700)

P700 would be clarified to indicate that precanceled stamps must not be used for payment of any Parcel Post mail, including matter at single-piece rates.

8. Bound Printed Matter

a. Bound Printed Matter Rate Highlights

Bound Printed Matter (BPM) rates are proposed to increase by an average of 18.1%. New destination entry discounts for Presorted rate and Carrier Route rate mailings of Bound Printed Matter are being offered to encourage the deposit of mail at the destination BMC, SCF, or delivery unit. An annual destination entry mailing fee for mail entered at destination entry rates of $125 is proposed. The barcoded discount for qualifying Presorted Bound Printed Matter machinable parcels would remain at $0.03 per piece.

b. Bound Printed Matter Rate Structure

The local zone rate category would be eliminated for Bound Printed Matter. Destination entry rates are proposed for Presorted and Carrier Route Bound Printed Matter entered at destination BMCs, SCFs, and delivery units. To qualify for destination entry rates mailers would need to pay the annual destination entry mailing fee described above and meet the preparation requirements in DMM E752 that are summarized below. There are no destination entry rates for single-piece Bound Printed Matter.

Another major change is that pieces weighing less than 16 ounces would be eligible for Bound Printed Matter rates; however, there are no proposed rates for pieces less than 1.5 pounds (for single piece) and 1 pound (for Presorted and Carrier Route). Therefore, single-piece Bound Printed Matter that weighs less than 1 pound will be charged the 1.5-pound rate and Presorted and Carrier Route Bound Printed Matter that weighs less than 1 pound will be charged the full 1-pound rate, plus the applicable per-piece charge.

c. Bound Printed Matter Mail Preparation Changes

(1) Rate Markings (DMM M012 and M720)

Two changes are proposed to the current marking requirements for Bound Printed Matter. The first would give mailers the option to use the abbreviation ''BPM'' as the basic (subclass) marking that must appear in the postage area on each piece. The second would be to prohibit use of the ''Presorted Standard'' (or ''PRSRT STD'') marking on Presorted and Carrier Route Bound Printed Matter after a 1-year grace period. Because of the renaming of Standard Mail (B) to Package Services, ''Standard'' and ''STD'' would no longer be applicable as a class of mail description for Bound Printed Matter. Mailers would have until January 1, 2002 to discontinue use of the ''Presorted Standard'' (or ''PRSRT STD'') marking.

(2) Sack and Pallet Labels (DMM M031, M032, M045, M700)

It is proposed to change the abbreviation ''STD'' or ''STD B'' on the contents line of sack and pallet labels for Bound Printed Matter to ''PSVC'' (an abbreviation for Package Services).

(3) Address Matching Requirements for Presorted Bound Printed Matter (DMM E712)

The Postal Service is proposing that all 5-digit ZIP Codes included in addresses on pieces claimed at Presorted Bound Printed Matter rates must be verified and corrected within 12 months before the mailing date using a USPS-approved method. The mailer must certify that this standard has been met when the mail is presented to the USPS. This standard applies to each

address individually, not to a specific list or mailing. See E712.3.1.

(4) Dimensions for Machinable Parcels (DMM M050)

The minimum dimensions for a machinable parcel in DMM C050.4.1a would change to not less than 6 inches long, 3 inches high, ¼ inch thick, and 6 ounces in weight. (A mailpiece exactly ¼ inch thick would be subject to the 3½-inch height minimum under C010.) The current minimum weight is 8 ounces unless certain other conditions are met. Some parcels may be successfully processed on BMC parcel sorters although they do not conform to the machinability standards in DMM C050.4.1. If this is the case, a BMC plant manager may authorize a mailer to enter such parcels as machinable parcels if the parcels are tested on BMC parcel sorters and prove to be machinable. Such an authorization only applies to mail that is both entered at a post office within the authorizing BMC's service area and is for delivery to an address within that BMC's service area. These changes also would apply to Standard mail.

(5) Sortation for Sacked Presorted Bound Printed Matter (DMM M722)

It is proposed to require all flats and all irregular parcels that weigh 10 pounds or less to be prepared in packages prior to sacking. Machinable parcels would still be placed directly in sacks without packaging, and irregular parcels weighing more than 10 pounds would be placed into sacks without packaging. The provision for preparing sacks to a particular presort destination based on a 1,000 cubic inch minimum criteria would be deleted.

For flats prepared in sacks, mailers would be required to prepare packages whenever there are at least 10 pieces or 10 pounds of mail, whichever occurs first, for a presort destination (5-digit, 3-digit, ADC), with remaining pieces placed in mixed ADC packages. The maximum weight of any package would be 20 pounds, except that 5-digit packages placed in 5-digit sacks could weigh up to 40 pounds. This will allow packages prepared in other than 5-digit sacks to be processed on small parcel and bundle sorters (SPBSs). Each physical package would be required to contain at least 2 addressed pieces except for mixed ADC packages. These packages would be required to be placed in sacks whenever there were at least 20 pieces or 20 pounds, whichever occurs first, for a sack destination (5-digit, 3-digit, optional SCF, ADC), with remaining packages placed in mixed ADC sacks.

For Presorted irregular parcels, mailers would be required to prepare the mail in packages if the individual pieces weighed 10 pounds or less. Packages would be prepared whenever there were at least 10 pieces or 10 pounds to a presort destination, whichever occurs first. The package destinations would be the same as for flat-size pieces (5-digit, 3-digit, ADC, and mixed ADC). Mixed ADC packages could contain fewer than 10 pieces or 10 pounds of mail. Sortation to ADCs would be made using DMM L004 instead of L603 and mixed ADC sacks would be labeled using DMM L004 instead of L604. The maximum weight of any package would be 20 pounds, except that 5-digit packages placed in 5-digit sacks could weigh up to 40 pounds. Each physical package would be required to contain at least 2 addressed pieces except for mixed ADC packages. These packages would be required to be placed in sacks whenever there were at least 10 pieces or 20 pounds, whichever occurs first, for a sack destination (5-digit, 3-digit, optional SCF, ADC), with remaining packages placed in mixed ADC sacks.

Presorted irregular parcels that weigh over 10 pounds would not be packaged, but would be placed in 5-digit, 3-digit, optional SCF and ADC sacks whenever there were 10 or more pieces or 20 or more pounds, whichever occurs first, for a sack destination. Remaining pieces would be placed in mixed ADC sacks. Sortation to ADCs would be made using DMM L004 instead of L603 and mixed ADC sacks would be labeled using DMM L004 instead of L604. Irregular parcel-size pieces that weigh over 10 pounds would be required to be individually enveloped, placed in a full-length sleeve or wrapper, or be polywrapped.

For machinable parcels, there would be no change in sortation other than eliminating the option to use 1,000 cubic inches as a minimum sacking criteria as described above.

(6) Sortation for Sacked Carrier Route Bound Printed Matter (DMM M020, M723)

For flat-size mail the basic eligibility requirement to qualify for carrier route rates of a minimum of 10 pieces/20 pounds/1,000 cubic inches of mail for the same carrier route would be changed to require a minimum of 10 pieces or 20 pounds of mail prepared in a package or packages for the same carrier route. In addition, the maximum weight of any flat-size package will be 40 pounds. Each physical package would be required to contain a minimum of two addressed pieces. The only exception to a minimum two-piece package is that the last physical package to an individual carrier route destination could contain less than the minimum package size and could consist of a single addressed piece provided that all other packages to that carrier route destination meet the minimum package size and contain at least two addressed pieces, and that the total group of pieces to that carrier route meets the Carrier Route rate eligibility minimum in E712. Packages of flat-sized mail would be sacked for an individual carrier route whenever there were at least 20 pieces or 20 pounds of mail for a carrier route. Remaining carrier route packages would be sacked in 5-digit carrier routes sacks or, at the mailer's option, be sacked to 5-digit scheme carrier routes sacks using L001.

For irregular parcel-size mail the basic eligibility requirement of at least 10 pieces or 20 pounds of mail for the same carrier route would be retained.

For Carrier Route irregular parcels, mailers would be required to prepare the mail in packages if the individual pieces weighed 10 pounds or less. Packages would be prepared whenever there were at least 10 pieces or 20 pounds of mail to an individual carrier route. The maximum weight of any package would be 40 pounds. Each physical package would be required to contain a minimum of two addressed pieces. The only exception to a minimum two-piece package is that the last physical package to an individual carrier route destination could contain less than the minimum package size and could consist of a single addressed piece provided that all other packages to that carrier route destination meet the minimum package size and contain at least two addressed pieces, and that the total group of pieces to that carrier route meets the Carrier Route rate eligibility minimum in E712.

Carrier route packages of irregular parcels would be required to be placed in direct carrier route sacks when there were 10 or more pieces or 20 or more pounds to a carrier route. Carrier route packages that could not be placed in direct carrier route sacks would be placed in 5-digit carrier routes sacks. Preparation of 5-digit scheme carrier routes sacks for irregular parcels would not be permitted.

For irregular parcels weighing over 10 pounds, the mail would not be prepared in packages, but would be placed only in direct carrier route sacks that each contained a minimum of 20 pounds of mail.

Machinable parcels would be permitted to qualify for Carrier Route Bound Printed Matter rates if placed in

direct carrier route sacks that each contained a minimum of 10 pieces or 20 pounds of mail. (Machinable parcels prepared on pallets under M045 would not be eligible for Carrier Route Bound Printed Matter rates.)

The provisions for marking and sortation of residual pieces that do not qualify for the Carrier Route Bound Printed Matter rates would change. Such pieces would no longer be sorted to carrier route and would no longer be permitted to bear the ''Carrier Route Presort'' marking. Such residual pieces would be required to be marked and sorted in accordance with the requirements for Presorted rate mailings and would continue to qualify for the Presorted rates (M723.1.5).

(7) Preparation of Packages on Pallets (DMM M040 and M045)

Flats prepared as packages on pallets would be permitted to be palletized using scheme sort (DMM L001). For flat-size pieces prepared in a copalletized mailing job that contains both a Presorted rate mailing and a Carrier Route rate mailing, it is proposed that separate 5-digit pallets must be prepared for carrier route mail (optional 5-digit scheme carrier routes and required 5-digit carrier routes pallets) and separate 5-digit pallets must be prepared for Presorted rate mail (optional 5-digit scheme and required 5-digit pallets).

For irregular parcels prepared as packages on pallets, mailers would continue to co-palletized Carrier Route and Presorted mail on the same 5-digit pallet. Scheme sortation would not be permitted for packages of irregular parcels on pallets.

For flats and irregular parcels, packages would be required to be made to a required package destination (carrier route, 5-digit, 3-digit, ADC) whenever there were 10 or more pieces or 10 or more pounds for a presort destination. ADC packages would be prepared using DMM L004 instead of L603. The maximum physical package size would be 20 pounds except as follows. For Presorted rate mail, 5-digit packages could weigh up to 40 pounds if placed on a 5-digit scheme (flats only) or 5-digit pallet. For Carrier Route rate mail, flat-size carrier route packages could weigh up to 40 pounds if they were placed on 5-digit scheme carrier routes, or 5-digit carrier routes pallets, and irregular parcel-size carrier route packages could weigh up to 40 pounds if they are placed on a 5-digit pallet. Each physical package would be required to contain at least 2 pieces. If individual pieces weigh more than 10 pounds and therefore could not meet both the 2-piece package minimum and the 20-pound package maximum, they could not be prepared as packages on pallets (except in those instances where 40-pound packages are permitted as described above). Such pieces that weigh over 10 pounds would be required to be prepared either as machinable parcels on pallets (eligible only for Presorted rates) or in sacks under M722 (Presorted rates) and/or M723 (Carrier Route rates). The new 20-pound package weight limit for flats and irregular parcels will allow the packages to be processed on small parcel and bundle sorters (SPBSs).

(8) PAVE Certification and Package Reallocation

This proposal does not include a requirement for the use of standardized documentation or PAVE-certified software for Bound Printed Matter. The Postal Service plans to develop PAVE tests for Bound Printed Matter subsequent to implementation of the R2000–1 rate case. At that time, standardized documentation requirements will be developed and a **Federal Register** proposed rule to require either standardized documentation or use of PAVE-certified software for Presorted and Carrier Route Bound Printed Matter will be published for comment. Because use of optional package reallocation to protect SCF and BMC pallets requires use of PAVE-certified software, use of package reallocation for Bound Printed Matter will not be offered as an option at the time the rates from the R2000–1 rate case are implemented. Use of package reallocation will be offered for Bound Printed Matter once use of PAVE-certified software becomes available.

(9) Bedloaded Bundles (DMM M722, M723)

The provisions for preparing bedloaded bundles in current DMM M630.7.0 would be removed. A ''bundle'' is described as a group of packages secured together as a unit that equates to a sack. The Postal Service does not believe that any mailers are currently preparing true bedloaded ''bundles,'' although some mailers do prepare bedloaded ''packages.'' The Postal Service is proposing preparation rules for Bound Printed Matter that are designed to reduce handling and processing costs. Bedloaded packages or bundles are generally not cost-efficient for the Postal Service to handle and process. Therefore the proposed sortation rules would eliminate preparation of bedloaded bundles, and would allow mailers to prepare bedloaded packages only for mail that is prepared for and entered at the DDU rates. Such bedloaded packages may weigh up to 40 pounds each. See M722 and M723.

(10) Destination Bulk Mail Center (DBMC) Rates (DMM E752)

Destination Bulk Mail Center (DBMC) rates apply to Presorted and Carrier Route Bound Printed Matter mailings that are prepared in any permissible sack or pallet level and that are deposited at a BMC or ASF, are addressed for delivery to one of the 3-digit ZIP Codes served by the BMC or ASF where deposited that are listed in Exhibit E751.5.0, and are placed in a sack or pallet that is labeled to the BMC or ASF where deposited, or labeled to a postal facility within the service area of that BMC or ASF under Exhibit E751.5.0.

Flats or irregular parcels in an ADC sack or in a palletized ADC package would be eligible for the DBMC rates if the ADC facility ZIP Code (as shown in Line 1 of the corresponding sack label or the ADC facility that is the destination of the palletized ADC package as would be shown on an ADC sack label for that facility using DMM L004, Column B) is within the service area of the BMC or ASF at which the sack is deposited.

Flats or irregular parcels in mixed ADC sacks would qualify for the DBMC rates only if all the pieces in the sack are for the service area of the DBMC or DASF as shown in Exhibit E751.5.0. Mailers who opt to claim the DBMC rates for mail in mixed ADC sacks would be required to prepare separate mixed ADC sacks for pieces eligible for and claimed at the DBMC rate and for pieces not claimed at the DBMC rate.

Machinable parcels palletized under M045 or sacked under M722 could be sorted to destination BMCs under L601 or to destination BMCs and ASFs under L601 and L602. Sortation of machinable parcels to ASFs would be optional but would be required for mail with a 3-digit ZIP Code prefix within the ASF service area in Exhibit E751.5.0 to be eligible for DBMC rates. Mailers may opt to sort some or all machinable parcels for ASF service area ZIP Codes to ASFs only when the mail will be deposited at the respective ASFs where the DBMC rates are claimed, under applicable volume standards, using L602. Mailers may also opt to sort machinable parcels only to destination BMCs under L601. If machinable parcels are sorted to only destination BMCs under L601, then only mail for 3-digit ZIP Codes served by a BMC as listed in Exhibit E751.5.0 would be eligible for DBMC rates (mail for 3-digit ZIP Codes served by an ASF in Exhibit E751.5.0 sorted to the BMC

pallet would not eligible for DBMC rates, nor would mail for 3-digit ZIP Codes that do not appear in Exhibit E751.5.0).

Machinable parcels in mixed BMC sacks or on mixed BMC pallets that are sorted to the origin BMC under M045 or M722 would be eligible for the DBMC rates if both of the following conditions are met: 1) the mixed BMC sack or pallet is entered at the origin BMC facility to which it is labeled, and 2) the pieces are for 3-digit ZIP Codes listed as eligible destination ZIP Codes for that BMC in Exhibit 5.1.

(11) Destination Sectional Center Facility (DSCF) rates (DMM E752)

Destination Sectional Center Facility (DSCF) rates would apply to Presorted and Carrier Route Bound Printed Matter mailings that meet all of the following conditions:

(a) Are eligible for and prepared to qualify for Presorted, or Carrier Route rates.

(b) Are deposited at an SCF listed in L005, except that machinable parcels prepared on pallets for the 5-digit ZIP Codes listed in Exhibit E751.6.0 must be entered at the corresponding BMC facility shown in that Exhibit (not at the SCF) unless an exception is requested and granted. An exception to Exhibit 751.6.0 must be requested at least 15 days in advance of the mailing in writing from the area manager of operations support who has jurisdiction over the BMC and SCF. Exceptions, if granted, will be for a limited time.

(c) Are addressed for delivery to one of the 3-digit ZIP Codes served by the SCF where deposited under L005.

(d) Are placed in a sack or on a pallet (subject to the standards for the rate claimed) that is labeled to the DSCF where deposited, or labeled to a postal facility within the service area of that SCF (see L005).

Flats in sacks for the carrier route, 5-digit carrier routes scheme, 5-digit carrier routes, 5-digit, 3-digit, and optional SCF sort levels would be able to claim DSCF rates under the conditions described above. Flats on 5-digit scheme carrier routes, 5-digit carrier routes, 5-digit scheme, 5-digit, 3-digit, SCF, and ASF pallets would be able to claim DSCF rates under the conditions described above.

Irregular parcels in sacks for the carrier route, 5-digit carrier routes, 5-digit, 3-digit, and optional SCF sort levels would be able to claim DSCF rates under the conditions described above. Irregular parcels on 5-digit, 3-digit, SCF, and ASF pallets would be able to claim DSCF rates under the conditions described above.

Machinable parcels in direct carrier route sacks, in 5-digit sacks, or on 5-digit pallets would be able to claim DSCF rates under the conditions described above. Machinable parcels prepared to claim Carrier Route rates would be eligible for DSCF rates only when prepared in direct carrier route sacks (machinable parcels would qualify for Carrier Route rates only when prepared in direct carrier route sacks). Machinable parcels on 5-digit pallets would be able to claim DSCF rates under the conditions described above. Note that machinable parcels for the 5-digit ZIP Codes listed in Exhibit E751.6.0 would be required to be entered at the BMC to claim DSCF rates.

(12) Destination Delivery Unit (DDU) Rates (DMM E752)

Destination Delivery Unit (DDU) rates apply to Presorted and Carrier Route rate Bound Printed Matter mailings that are addressed for delivery within the ZIP Code(s) served by the destination delivery unit and are deposited at the appropriate destination delivery unit facility.

For flat-size mail, DDU rates would be available only for mail prepared to qualify for Carrier Route Bound Printed Matter rates that is prepared in carrier route, optional 5-digit carrier routes scheme, and 5-digit carrier routes sacks; on 5-digit scheme carrier routes scheme and 5-digit carrier routes pallets; or in bedloaded carrier route packages. Flat-size mail must be entered at the facility where the carrier cases flat-size mail as shown in the Drop Ship Product.

For irregular parcels, DDU rates would be available for carrier route packages and 5-digit packages prepared in direct carrier route, 5-digit carrier routes, and 5-digit sacks, or on 5-digit pallets. Irregular parcels prepared as bedloaded carrier route packages or bedloaded 5-digit packages also would be eligible for DDU rates.

For machinable parcels, DDU rates would be available for Carrier Route rate parcels prepared in direct carrier route sacks and for Presorted rate parcels prepared in 5-digit sacks or on 5-digit pallets.

To claim the DDU rates, both irregular and machinable parcels would be required to be entered at the facility that delivers parcels to the addresses appearing on the deposited pieces. Mailers would use the Drop Ship Product to determine the location of the 5-digit delivery facility and whether it can handle pallets. When the Drop Ship Product shows that parcels for a single 5-digit ZIP Code area is delivered out of more than one postal facility, then the facility from which the majority of city carrier routes are delivered would be used as the facility at which the DDU mail must be entered and to determine whether that facility can handle pallets, unless the 5-digit ZIP Code is listed in Exhibit E751.7.0 or Exhibit E751.8.0. For ZIP Codes in E751.7.0 and Exhibit E751.8.0, mailers would use the name of the facility associated with the 5-digit ZIP Code on the respective exhibit as the facility at which DDU mail for that 5-digit ZIP Code mail must be entered.

(13) Destination Entry Mail Preparation—Plant-Verified Drop Shipment (PVDS) (DMM E752)

Pieces would be required to be part of a mailing of at least 300 pieces of Presorted Bound Printed Matter or part of a mailing of at least 300 pieces of Carrier Route Bound Printed Matter to qualify for DBMC, DSCF, and DDU rates. When Presorted Bound Printed Matter or Carrier Route Bound Printed Matter mailings are submitted under PVDS procedures, mailers would be able to use the total of all line items for all destinations on a PVDS register or PVDS postage statement to meet the respective 300-piece minimum volume requirements. This means that a mailer may enter fewer than 300 pieces per Presorted or Carrier Route mailing at an individual destination, provided there is a total of at least 300 Presorted rate pieces and/or 300 Carrier Route rate pieces for all of the entry points for that single mailing job listed on the PVDS register or PVDS postage statement.

(14) Detached Address Label Mailings (DMM A060)

Currently, Bound Printed Matter may be prepared with detached address labels (DALs) only when for delivery in the local zone of the post office of mailing. The local zone rates are removed under this rate proposal. Accordingly, revised preparation requirements for use of DALs with Bound Printed Matter mailings are included in this proposal. Under the proposal, mailers would prepare Bound Printed Matter with DALs under either a pallet preparation option or a sacking preparation option.

When prepared on pallets, mailers would be permitted to enter mail prepared with DALs at any post office where mail is verified provided only 5-digit pallets are prepared and if the following additional requirements and restrictions are met. The 5-digit pallets would be required to meet the minimum volume and other requirements for pallet preparation under M040 and M045, except that for flat-size mail, separate 5-digit pallets for Carrier Route rate and for Presorted rate mail would

not be required. The mail would not be permitted to be prepared on pallets when the Drop Ship Product indicates that the delivery unit that serves the 5-digit pallet destination cannot handle pallets. The destination delivery unit is determined using the Drop Ship Product under the provisions for the DDU rate in E752. (For delivery units that cannot handle pallets mail with DALs would be required to be prepared in sacks.) The trays or cartons of DALs would be required to be prepared under A060.3.0 and placed on the same pallet as the pieces and trays of DALs and the items would be required to be stretch-wrapped together as one unit.

For mail prepared with DALs in sacks, the matter would be required to be prepared in 5-digit sacks and entered at the destination delivery unit. The destination delivery unit would be determined using the Drop Ship Product under the provisions for the DDU rate in DMM E752. The DALs would be required to be packaged under A060.3.0 and presented to the destination delivery unit with the accompanying items to be distributed with the DALs.

(15) Ancillary Service Endorsements

It is proposed that undeliverable-as-addressed (UAA) Bound Printed Matter pieces mailed with no special service (e.g., Delivery Confirmation, insured), and with no ancillary service endorsement, would be disposed of by the USPS as waste at the delivery unit. This would make the handling of undeliverable-as-addressed Bound Printed Matter pieces that are not mailed with a special service or an ancillary service endorsement the same as for Standard Mail. Mailers of Bound Printed Matter who want to have their undeliverable-as-addressed pieces forwarded and returned could continue to choose the appropriate ancillary service endorsement to obtain such service. No other changes to the treatment of undeliverable-as-addressed Package Services mail are proposed.

(16) Postage Payment

DMM P700 would be amended to clarify that precanceled stamps may not be used for payment of Bound Printed Matter.

9. Media Mail (Formerly Special Standard Mail)

a. Media Mail Rate Highlights

Media Mail (formerly Special Standard Mail) rates would increase by an average of 4.9%. The barcoded discount for qualifying Media Mail would remain at $0.03 per piece. Separate rate schedules would be implemented for Media Mail and Library Mail as the shared rate structure would be discontinued. It is proposed to increase the annual presort mailing fee for Media Mail to $125.

b. Media Mail Rate Structure

It is proposed to implement separate rate schedules for Media Mail and Library Mail.

c. Media Mail (Formerly Special Standard Mail) Preparation Changes

(1) Rate Marking (DMM M012 and M730)

Special Standard Mail is being renamed ''Media Mail,'' and the marking that is required to appear on each piece would be changed from ''Special Standard'' to ''Media Mail.'' A phase-in period through January 1, 2002, is proposed in order to give mailers time to adjust to this change and deplete any existing stocks of permit imprints that may bear the '' Special Standard'' marking.

(2) Sack and Pallet Labels (DMM M031, M045, and M730)

The abbreviation ''STD'' or ''STD B'' that currently appears on sack and pallet labels for Package Services mailings would be changed to ''PSVC'' (an abbreviation for Package Services).

(3) Clarification of Preparation Requirements

Current M630.4.0 provides for preparing Media Mail as bedloaded bundles under current M630.7.0. However, current M630.7.0 provides only for preparation of Bound Printed Matter as bedloaded bundles, and the eligibility requirements for the Media Mail rates in current E630.4.0 provide only for preparation in sacks, on pallets, or as outside parcels prepared as prescribed by the postmaster of the mailing office. Accordingly, the provisions for preparing bedloaded bundles of Media Mail have been deleted from proposed new M730 that contains the requirements for presorted Media Mail. Current E630.4.0 (renumbered as E713) provides for preparing 5-digit and BMC bundles of Media Mail on pallets. The terminology in this section would be changed to provide for ''packages'' of Media Mail on pallets. Furthermore, the reference in current M630.4.0 (new M730) that refers to preparing mail according to the machinable parcel preparation rules has been deleted from proposed DMM M730. There are no provisions for such preparation to qualify for presorted Media Mail rates in proposed E713. The option to prepare sacks and qualify for presorted 5-digit or BMC rates based on a minimum of 1,000 cubic inches of mail would be deleted; however, the eight-piece or 20-pound minimum per 5-digit sortation level and the four-piece or 20 pound minimum per BMC sortation level would be retained.

(4) Postage Payment (DMM P700)

DMM P700 would be amended to clarify that precanceled stamps may not be used for payment of Media Mail.

10. Library Mail

a. Library Mail Rate Highlights

Library Mail rates would increase by an average of 4.5%. The barcoded discount for qualifying Library Mail would remain at $0.03 per piece. Separate rate schedules would be implemented for Media Mail and Library Mail as the shared rate structure would be discontinued. It is proposed to increase the annual presort mailing fee for Library Mail to $125.

b. Library Mail Rate Structure

It is proposed to implement separate rate schedules for Library Mail and Media Mail.

c. Library Mail Preparation Changes

(1) Rate Markings (DMM M012 and M740)

The optional use of ''Library Rate'' as a rate marking for Library Mail would be discontinued. Matter mailed at Library Mail rates would be required to use only the marking ''Library Mail.'' A phase-in period through January 1, 2002, is proposed in order to give mailers time to adjust to this change and deplete any existing stocks of permit imprints that may bear the ''Library Rate'' marking.

(2) Sack and Pallet Labels (DMM M031, M045, and M740)

The abbreviation ''STD'' or ''STD B'' that currently appears on sack and pallet labels for Package Services mailings would be changed to ''PSVC'' (an abbreviation for Package Services).

(3) Sack Preparation Minimums (DMM M740)

The option to prepare sacks and qualify for presorted 5-digit or BMC rates based on a minimum of 1,000 cubic inches of mail would be deleted (see M740).

(4) Postage Payment (DMM P700)

DMM P700 would be amended to clarify that precanceled stamps may not be used for payment of Library Mail.

11. Special Services and Other Services

a. Address Changes for Election Boards (DMM A910)

The fee is proposed to increase from $0.17 to $0.24 for each address card. There are no classification changes proposed for this service. See DMM R900.12.3.

b. Address Correction Notifications (DMM F030)

The manual (hard-copy) fee is proposed to increase from $0.50 to $0.60 for each notification. There is no proposed change to the automated (electronic) fee notification (currently $0.20 each). There are no classification changes proposed for this service. See DMM R900.1.0.

c. Bulk Parcel Return Service (DMM S924)

The per-piece charge is proposed to decrease from $1.75 to $1.65 for each piece returned under Bulk Parcel Return Service (BPRS). It is proposed that the annual BPRS permit fee increase from $100 to $125. It is proposed to establish a new annual accounting fee of $375 for BPRS. This fee covers the costs of providing account maintenance services to mailers and is consistent with accounting fees charged for other special services. Current BPRS permit holders would have 30 days from the date of implementation of this classification change to pay their initial annual accounting fee. See DMM R900.3.0.

No special services would be available for pieces returned through BPRS.

d. Business Reply Mail

(1) Business Reply Mail (BRM) (DMM S922)

It is proposed to increase the annual business reply mail (BRM) permit fee from $100 to $125.

The per-piece charge for low-volume BRM (BRM without an annual accounting fee) is proposed to increase from $0.30 to $0.35. This per-piece charge is in addition to single-piece First-Class Mail (or Priority Mail) postage. The per-piece charge for high-volume BRM (BRM with an annual accounting fee) is proposed to increase from $0.08 to $0.10. This per-piece charge is in addition to single-piece First-Class Mail (or Priority Mail) postage. It is proposed to increase the annual accounting fee, required for high-volume BRM, from $300 to $375.

(2) Qualified Business Reply Mail (QBRM) (DMM E150, S922)

The discounted automation rate for qualified business reply mail (QBRM) is proposed to increase from $0.30 to $0.31 as described under the First-Class Mail Summary. The annual accounting fee (required to participate in QBRM) is proposed to increase from $300 to $375.

It also is proposed to split QBRM into two categories with different per-piece charges to mirror the current fee structure of BRM. The first category is the existing classification and will be called ''low-volume'' QBRM. The per-piece charge for low-volume QBRM is proposed to increase from $0.05 to $0.06. This per-piece charge is in addition to the lower QBRM First-Class Mail postage listed in R100.

The proposed new classification, called ''high-volume QBRM,'' recognizes that, for large volume users, some costs are relatively fixed, rather than varying with marginal volume. The high-volume QBRM category includes a lower per-piece charge and requires payment of a new (separate) quarterly fee in addition to the annual accounting fee. It is proposed to charge $0.03 per piece returned under high-volume QBRM service. This per-piece charge is in addition to the lower QBRM First-Class Mail postage listed in R100. It is proposed to charge an $850.00 quarterly fee (in addition to the $375.00 annual accounting fee). Mailers may ''opt in'' to high-volume QBRM by paying the quarterly fee at any time as their volume warrants, thereby paying lower per-piece charges when they expect a larger volume of returned pieces. Quarterly fees would apply to any three consecutive calendar months, beginning with the first calendar day of the first month and ending on the last calendar day of the third month. If the quarterly fee is paid on or before the 15th of the month, then the quarterly fee is counted as if it was paid on the first day of that calendar month, but the lower per-piece charges begin on the day the fee is paid. If the quarterly fee is paid after the 15th of the month, then the lower per-piece charges begin immediately, but the quarterly fee is credited as if it was paid on the first day of the following calendar month and continues through three calendar months. Mailers may not apply for ''retroactive'' refunds of per-piece charges. See DMM R900.4.0

(3) Nonletter-Size Business Reply Mail (DMM S922)

Clarifying language would be added to ensure that the maintenance fee applies to the bulk weight-averaging method only. No changes are proposed to the per-piece charge or to the monthly maintenance fee. The annual business reply mail permit fee is proposed to increase from $100 to $125. The annual accounting fee is proposed to increase from $300 to $375. See DMM R900.4.0.

e. Carrier Sequencing of Address Cards (DMM A920)

The fee is proposed to increase from $0.20 to $0.25 for each card removed due to an incorrect or undeliverable address and for each card added with a new address. There are no classification changes proposed for this service. See DMM R900.2.0.

f. Certificate of Mailing (DMM S914)

For individual pieces, the fee for the original certificate of mailing is proposed to increase from $0.60 to $0.75. While no change is proposed to the firm mailing book fee, the fee for an additional copy of a certificate of mailing is proposed to increase from $0.60 to $0.75.

For bulk quantities, the fee for one certificate of mailing (for the first 1,000 pieces) is proposed to increase from $3.00 to $3.50. There is no proposed change to the fee for a certificate for each additional group of 1,000 pieces. The fee for an additional copy of a bulk certificate of mailing is proposed to increase from $0.60 to $0.75.

There are no classification changes proposed for this service. See DMM R900.6.0.

g. Certified Mail (DMM S912)

The fee is proposed to increase from $1.40 to $2.10 in order to cover newly estimated costs for this service. See DMM R900.7.0.

h. Collect on Delivery (COD) (DMM S921)

Fees are proposed to increase by $.50 for every $100 value level. It is proposed to increase the maximum COD value level from $600 to $1,000. No change is proposed to the fees for registered COD, the notice of nondelivery, or the alteration of COD charges (Form 3849–D). The money order limit is proposed to remain at $700; therefore, if the recipient pays in cash for COD amounts over $700, then the USPS will send two postal money orders to the mailer (and collect two money order fees from the recipient). See DMM R900.8.0.

i. Correction of Mailing Lists (DMM A910)

The charge per correction is proposed to increase from $0.20 to $0.25. In conjunction, the minimum charge per list is proposed to increase from $7.00

to $7.50. There are no classification changes proposed for this service. See DMM R900.12.0.

j. Delivery Confirmation (DMM S918)

The fee for retail option Priority Mail Delivery Confirmation (i.e., purchased by a customer over a retail counter) is proposed to increase from $0.35 to $0.40. The fee for retail option Package Services Delivery Confirmation is proposed to increase from $0.60 to $0.65. No change is proposed to the fees for electronic option Delivery Confirmation for Priority Mail and Package Services.

It is proposed to extend electronic option Delivery Confirmation service to Standard Mail (both Regular and Nonprofit subclasses). Delivery Confirmation service would be limited to Standard Mail parcels that are subject to the residual shape surcharge. No retail option is proposed for Standard Mail. The proposed fee for electronic option Delivery Confirmation for Standard Mail is $0.25 per piece, which mirrors the current fee for Package Services. See DMM R900.9.0.

k. Express Mail Insurance (DMM S500)

Fees for Express Mail insurance are proposed to increase. There are no classification changes proposed for this service. See DMM R900.10.0.

l. Insurance (DMM S913)

Fees for insurance are proposed to increase for all value levels. It is proposed to offer separate bulk discounts for unnumbered and numbered insurance. In addition, it is proposed to extend bulk insurance to Standard Mail (both regular and nonprofit). Bulk insurance would be limited to Standard Mail parcels that are subject to the residual shape surcharge. No regular insurance is proposed for Standard Mail. See DMM R900.11.0.

It is proposed to remove the requirement that insured pieces sent at First-Class Mail and Priority Mail rates be marked ''Standard Mail Enclosed.''

m. Mailing Fees

Presort mailing fees and destination entry mailing fees for all classes of mail are proposed to increase. Specific fees and classification changes are included under the separate summary for each class of mail.

n. Merchandise Return Service (DMM S923)

It is proposed to eliminate the per-piece (transaction) fee for parcels returned to the permit holder via merchandise return service (MRS). It is proposed to establish a new annual accounting fee of $375 for MRS. This fee covers the costs of accounting services provided to mailers and is consistent with accounting fees charged for other special services. Current MRS permit holders would have 30 days from the date of implementation of this classification change to pay their initial annual accounting fee. See DMM R900.13.0.

It is proposed to allow customers (those who use merchandise return service labels to return a parcel to the permit holder) to add insurance to a MRS parcel at their own discretion and expense. No other special services could be added by the sender. Previously, insurance could be added to a parcel only if specified by the permit holder. It is proposed to remove the requirement that MRS parcels sent at First-Class Mail and Priority Mail rates be marked ''Standard Mail Enclosed.''

It is proposed that parcels that do not bear a class or rate marking, regardless of weight, would be treated as Parcel Post and would be charged Parcel Post Inter-BMC/ASF rates.

These same changes are proposed to apply to penalty merchandise return service.

o. Money Orders (DMM S020)

It is proposed to increase the fee for domestic money orders from $0.80 to $0.90 per money order. It is proposed to increase the fee for APO/FPO money orders from $0.30 to $0.35 per money order. It is proposed to increase the inquiry fee from $2.75 to $3.00. There are no classification changes proposed for this service and the maximum amount would remain at $700. See DMM R900.15.0.

p. Parcel Airlift Service (PAL) (DMM S930)

There are no proposed fee or classification changes for this service. See DMM R900.16.0.

q. Permit Imprint Application Fee (DMM P040)

The application fee for permit imprints is proposed to increase from $100 to $125. Other kinds of permit fees (e.g., business reply mail) are covered under separate summary sections. See DMM R900.17.0.

r. Pickup Service (DMM D010)

The pickup service fee is proposed to increase from $8.25 to $10.25 per pickup. There are no classification changes proposed for this service. See DMM R900.18.0.

s. Post Office Boxes, Caller Service, and Reserve Call Numbers (DMM D910 and D920)

The Postal Service is proposing to restructure post office box fee groups and to establish fees in each of the new groups. Compared to equivalent current post office box fees, the proposed fees represent both increases and decreases. It is proposed to charge a nonrefundable $4.00 fee for each key, over two, requested by a customer. In addition, the Postal Service is proposing a $10.00 lock replacement fee.

In an attempt to better align fees with the actual cost of providing post office box service, the Postal Service is proposing to change the classification structure for post office boxes. The current classification (and therefore fees) of post office boxes are based primarily on the type of carrier delivery at a particular postal facility.

The Postal Service has undertaken a major project to align post office box fees with actual costs by 5-digit ZIP Codes. In other words, post office boxes that have similar costs would be grouped together and have the same fee. These ''actual costs'' include estimated rental value of the space used to provide post office boxes.

For this proposal, each 5-digit ZIP Code was assigned to one of six cost-based groups based on the estimated cost per square foot of the postal facilities within that ZIP Code. All facilities with post office boxes in the same 5-digit ZIP Code are in the same cost group and will charge the same fees for post office boxes. Therefore, facilities (stations and branches) within the same geographic area that are in different ZIP Codes may charge different fees for the same size post office box. Movement of ZIP Codes from old fee groups to new groups has been constrained to mitigate ''fee shock'' for customers whose post office box fees would have changed significantly.

There are no proposed changes to free (Group E) box service. Therefore, customers qualifying for free box service would continue to receive free service.

The Postal Service is developing a new data system to track post office box costs by 5-digit ZIP Code. At this time, the Postal Service is still adding data to this system and checking existing data for accuracy. A draft list of 5-digit ZIP Codes and fee group assignments will be made available to the public at a future date; the fee group assignments are not open for comment as part of this proposed rule. If this proposal is adopted, a final list will be published before implementation of new post office box fees.

The Postal Service believes that this post office box reclassification will result in fairer, more equitable post office box fees for all customers because the fees will more accurately reflect the true costs of providing that service.

Current post office box customers would not pay the proposed fees until their current box rental period ends. See DMM R900.19.0.

Under the same reclassification effort, the caller service fee is proposed to increase to $375 for all customers at all postal facilities. Caller service fees would no longer be broken out according to post office fee groups. The annual call number reservation fee is proposed to decrease from $36 per semi-annual period to $30 per semi-annual period. See R900.5.0.

t. Registered Mail (DMM S911)

All registered mail fees are proposed to increase. The incremental fee for registered mail per value level is proposed to increase from $0.55 to $0.75. The handling charge per $1,000 in value, or fraction thereof, for items valued over $25,000 also is proposed to increase from $0.55 to $0.75. There are no classification changes proposed for this service. See DMM R900.20.0.

u. Restricted Delivery (DMM S916)

The restricted delivery fee is proposed to increase from $2.75 to $3.20. There are no classification changes proposed for this service. See DMM R900.21.0.

v. Return Receipt (DMM S915)

The regular return receipt fee is proposed to increase from $1.25 to $1.50. The return receipt for merchandise fee is proposed to increase from $1.40 to $2.35. The fee for a return receipt after mailing is proposed to decrease from $7.00 to $3.50. These changes reflect improved cost estimates and the impact of electronic signature capture. See DMM R900.22.0.

The Postal Service is proposing two classification changes. The first change would allow return receipt for merchandise to be combined with unnumbered insurance. The second change would extend return receipt for merchandise service to Standard Mail (Regular and Nonprofit subclasses); this service would be limited to Standard Mail parcels that are subject to the residual shape surcharge. Enhanced Carrier Route and Nonprofit Enhanced Carrier Route subclasses would not be eligible for return receipt for merchandise.

w. Shipper Paid Forwarding (DMM F010)

The Postal Service is proposing to establish an annual accounting fee of $375 for shipper paid forwarding for customers who choose to pay forwarding charges through a postage due account. This fee is consistent with accounting fees charged for other special services. See DMM R900.24.0.

x. Signature Confirmation (DMM S919)

The Postal Service proposes to establish a new classification and fee schedule for Signature Confirmation. Signature Confirmation will capture and provide access to all Delivery Confirmation data and an image of recipient signatures. Signature Confirmation will be available only at the time of mailing for Priority Mail and all subclasses of Package Services. For Priority Mail Signature Confirmation, the proposed fees are $1.25 for electronic option and $1.75 for retail option. For Package Services Signature Confirmation, the proposed fees are $1.25 for electronic option and $1.75 for retail option. See DMM R900.25.0.

Before the implementation of R2000–1, it is possible that an equivalent service will be implemented as electronic return receipt service with Delivery Confirmation, based on the PRC's recommendation on Docket No. R97–1.

y. Special Handling (DMM S930)

There are no proposed fee or classification changes for this service. See DMM R900.26.0.

z. ZIP Code Sortation of Mailing Lists (DMM A910)

Fees for sorting mailing lists by 5-digit ZIP Code for post offices with multiple ZIP Codes are proposed to increase from $70.00 to $73.00 per 1,000 addresses. There are no classification changes proposed for this service. See DMM R900.12.0.

12. On-Site Meter Service (DMM P030)

It is proposed to change the name of the service from ''on-site meter settings'' to ''on-site meter service.'' It is proposed to replace the ''single meter'' and ''unscheduled appointment'' categories with a new ''meter service'' category. It is proposed to replace the ''additional meters'' category with a ''meter reset and/or examined'' category. These categories are proposed in order to consolidate similar fees and make the service simpler.

New fees have been proposed for these realigned categories. The proposed fee for meter service is $31.00. The proposed fee for getting a meter reset and/or examined is $4.00 per meter. The proposed fee for checking a meter in or out of service is proposed to decrease from $8.00 to $4.00 per meter. See DMM R900.14.0.

The Postal Service proposes that these fees for checking a meter in and out would not apply to ''secured postage'' meters. To qualify as a ''secured postage'' meter, a meter must: (1) Include a USPS-approved postal security device; (2) print information-based indicia; and (3) be remotely set. Because of the enhanced security that these meters provide, they do not require labor intensive activities during installation or withdrawal. Therefore, these meters do not have significant check-in/out costs.

13. Stamps and Stationery (DMM P021)

a. Stamped Cards

The fee for a single stamped card is proposed to increase from $0.01 to $0.02. The fee for double stamped cards is proposed to increase from $0.02 to $0.04, and the fee for a sheet of 40 stamped cards is proposed to increase from $0.40 to $0.80. These fees are in addition to the postage that is pre-printed on the cards and covers the cost of printing and manufacturing stamped cards. See DMM R000.3.0.

b. Stamped Envelopes

The fees for all categories of stamped envelopes are proposed to increase. This fee is paid in addition to the postage pre-printed on the envelopes. The following classification changes are proposed for stamped envelopes:

(1) Merge the printed household 6 ¾ inch and 10 inch categories into a single category called printed household (basic).

(2) Eliminate the banded categories for 6 ¾ inch and 10 inch envelopes.

(3) Expand the hologram category to include all envelopes that have a patched-in stamp and rename that category ''special'' stamped envelopes.

See DMM R000.1.0 and R000.2.0.

B. Summary of Changes to the Domestic Mail Manual

The following are proposed changes organized by DMM module. They are intended as an overview only and should not be viewed by commenters as defining every proposed revision.

Global Name Changes

Throughout the DMM sections included in this document, the following name changes have been made:

1. ''Special Standard Mail'' has been changed to ''Media Mail.''

2. ''Standard Mail (A)'' has been changed to ''Standard Mail.''

3. ''Standard Mail (B)'' has been changed to ''Package Services.'' Package

Services includes all of the Standard Mail (B) subclasses: Parcel Post (including Parcel Select), Bound Printed Matter, Media Mail, and Library Mail.

In addition, the current DMM 600 series, which contains combined rules for Standard Mail (A) and Standard Mail (B), has been split into a 600 series for Standard Mail and a 700 series for Package Services. Within these new series, individual units and sections have been split up and reorganized for clarity. Current DMM P700, which contains standards for special postage payment systems, is renumbered as P900. Throughout the language in the DMM, references to ''Standard Mail'' have been retained as ''Standard Mail'' or changed to ''Package Services'' or ''Standard Mail and Package Services,'' as appropriate.

A Addressing

A010 is amended to change DMM references to reflect new DMM module numbering. A060 1.4 is amended to incorporate new requirements for preparation of Bound Printed Matter mailings with DALs because of the elimination of local zone rates. Also, it is clarified that mailings made with DALs may not contain any special services or an ancillary service endorsement. A new A060.1.7 is added to exclude DALs on special services mail.

C Characteristics and Content

C010 and C020 are revised to reflect new DMM module numbering. C050 is revised to decrease the machinable parcel minimum piece weight from 8 ounces to 6 ounces, to clarify that packaging requirements for soft goods may be found in C010, and to clarify that a destinating BMC manager may authorize the entry of parcels as machinable rather than as irregular if they are tested for machinability and are delivered within the service area of the authorizing facility. C200.5.0 is added to specify size and weight limitations for Periodicals. C600 is revised to delete sections 1.3 and 2.0, which pertain to Package Services and have been moved to new C700. C700 is added to include characteristics and content standards for Package Services (former C600.1.3 and 2.0 are included in this new section). C700.2.0 is amended to provide for the addition of new nonmachinable surcharges for intra-BMC and Parcel Select DBMC parcels. C810.2.3 is added to include instructions for determining the length and height for automation letters. C810.2.4 (former C810.2.3) is amended to provide for the new maximum weight of 3.5 ounces for heavy letters. C850 is amended to add Standard Mail machinable parcels as items eligible for barcoded discounts.

D Deposit, Collection, and Delivery

D600 is revised to remove information pertaining to Package Services, to add information about deposit of mail under plant-verified drop shipment procedures, and to clarify language. D700 is added to include deposit information for Package Services (formerly contained in D600).

D910.1.5 is amended to clarify that post office box customers must pay the correct fee for the box service they receive. D910.1.7 is added to clarify that post office box service is provided in 6-month increments. D910.1.8 (formerly D910.1.7) is amended to add information about the new key duplication fee and the new lock resetting fee. D910.3.1 is amended for clarity. D910.3.7 is amended to clarify that a post office box may not be used when the primary purpose is to have the Postal Service redirect or transfer mail to another address. D910.4.1 is amended to change the basis of post office box fees. D910.4.3 is deleted to remove references to fee groups; subsequent sections are renumbered. Renumbered D910.4.3 is amended to specify the conditions under which post office box fees can change. D910.4.4 is amended to clarify when post office box fees must be paid. D910.4.7 is amended to show that the exception for payment periods is applicable to all offices with fewer than 500 post office boxes, regardless of fee group. D910.5.1 is amended to explain the new system for grouping ZIP Codes into fee groups. D910.5.2 and 5.3 are amended to clarify the conditions under which a customer could qualify for fee (Group E) post office box service. Exhibits D910.5.3a and 5.3b are deleted because of the change to a new fee system. D910.6.1 is amended to clarify how refunds for post office box fees are calculated. D910.7.0 is revised to include the new fee for replacement or duplicate keys and the new fee for replacing post office box locks.

D920.1.4 is amended to move information about reserved caller numbers into new D920.1.5. D920.3.4 amended to clarify that caller service may not be used when the primary purpose is to have the Postal Service redirect or transfer mail to another address. D920.4.0 is amended and Exhibit 4.1 is deleted to remove references to caller service fee groups. D920.4.2 is amended to clarify that reserved number fees are not refundable. D920.4.3 is amended to remove references to deleted sections. D920.4.5 is amended to clarify the payment periods for caller service. D920.4.8 is amended to show that the exception for payment periods is applicable to all offices with fewer than 500 post office boxes. D920.5.1 is amended to clarify how refunds for caller service fees are calculated. D920.5.3 is added to show that the reserve number fee is not refundable.

E Eligibility

Throughout the E module, references to ''Regular'' are changed to ''Outside-County,'' as appropriate.

E010.1.4 is amended to change references from ''C600'' to ''C700.'' E010.1.6 is amended to add clarity to the first sentence. The first sentence of E020.1.4 is added to clarify that Express Mail cannot be sent through the Department of State. E020.2.3 is amended to show that Signature Confirmation is not available for mail sent through the Department of State. E040.4.1 is amended to change references from ''C600'' to ''C700.'' E060 5.3 is amended to reflect the current requirement for a ''Parcel Post'' rate marking for single-piece rate Parcel Post. E060.10.1 is amended to clarify standards for penalty reply mail. E060.11.1 is amended to add QBRM as an option for penalty business reply mail and to clarify when the annual accounting fee is paid. E060.12.1 is amended by adding a reference to S923. A new E060.12.2 is added to clarify how penalty merchandise return service (MRS) parcels are charged postage and fees. A new E060.12.3 is added to require MRS permit holders to pay an annual accounting fee. E060.12.7c is added to indicate where the recommended rate marking should appear on the MRS label. E060.12.8 is amended to clarify standards for permit holders who choose to add insurance to MRS parcels. E060.12.9 is renumbered as E060.12.10 and new E060.12.9 is added to allow senders to add insurance to MRS parcels at their own discretion and expense. E070.4.2 is amended to change the reference from ''E600'' to ''E700.'' E070.6.2 is revised to specify Presorted rate mail must be prepared under Bound printed Matter standards. E120.2.4 is revised to add provisions for a new minimum Priority Mail rate for pieces weighing 1 pound or less, and to add information on rates applicable to keys and identification devices. E130.2.2 is revised to clarify the fee for keys and identification devices. E130.2.3 is relocated to M110.1.0. E140.2.2 and E140.2.3 is revised to add separate 5-digit (optional) and 3-digit (required) rate eligibility requirements for automation flats. E150.2.0 is amended by removing the last sentence. E150.3.2 is amended by adding a

quarterly QBRM fee under E150.3.2d. E211.13.1 is amended by revising 13.1d(3). E211.13.2 is amended for clarity, no fee is charged if reentry is only to change eligibility to preferred rates or the preferred rate discount. E211.14.0 has been revised and renumbered as E220.1.0. E212.2.4 has been revised and renumbered as E220.4.0. E215.2.3 is amended by adding references to Preferred rate discount and clarifying qualification categories. New E215.2.4 is added for Publications of Institutions and Societies. E215.2.7 is amended by replacing the second sentence and deleting the third sentence. A new E220 is created that describes and clarifies basic rate eligibility standards for Periodicals including the new preferred rate discount for Nonprofit and Classroom publications which provides a 5% discount on total Outside-County postage, excluding the postage for advertising pounds. E270 is amended by removing 1.0 and 6.0 and renumbering 2.0 through 9.0 as 1.0 through 7.0 and replacing the word in 1.0 ''RATES'' with the word ''ELIGIBILITY.'' Removing the word ''rates'' and replacing the reference 3.0 and 4.0 as 2.0 and 3.0 amends renumbered E270.1.1. Removing the word ''regular'' amends renumbered E270.1.3. E270.1.4 is removed. Removing the word ''RATES'' with the word ''ELIGIBILITY'' amends renumbered E270.2.0. E270.2.1 and E270.2.2 are amended by replacing the reference ''3.3 through 3.10'' with ''2.3 through 2.10.'' Removing the word ''RATES'' with the word ''ELIGIBILITY'' amends renumbered E270.3.0. Removing the word ''regular'' in the last sentence amends renumbered E270.4.0. E270.5.1 is amended by adding a new first sentence requiring the Preferred rate discount is available only after USPS authorization. E270.5.5, Rate Anomaly, renumbered as E270.4.5 is removed. In renumbered E270.5.0, 5.1 is removed and E270 5.2 and 5.3 are renumbered as 5.1 and 5.2. Renumbered E270.5.1 is amended by adding a new first sentence describing the Preferred rate discount and revising the second sentence applicable to authorization procedures for Nonprofit and Classroom publications. Adding reference to preferred rate and replacing ''Regular Periodicals'' with ''Outside-County'' amends renumbered E270.6.1 and E270.6.2. Renumbered E270.7.4 is amended by replacing ''Regular'' with ''Outside-County,'' and the reference ''9.5'' with ''7.5.'' E611 is amended to provide basic eligibility requirements for only Standard Mail and is renumbered as E610. E610.1.0 is amended to show that Standard Mail no longer includes matter previously referred to as Standard Mail (B) or fourth-class mail, and add the weight limit from former E612.1.0. E610.4.6 is removed because this section is no longer needed since all Package Services mail may now weigh less than 16 ounces. E610.5.0 is amended for clarity and incorporates new maximum limits for minimum per-piece rates. E610.5.4 is added for machinable parcels prepared with barcodes to be eligible for a barcoded discount. E610.5.5 is added for mail that is prepared as a parcel or is not a letter-size or flat-size mailpiece defined in C050 is subject to a residual shape surcharge. E612.4.9 is renumbered as E612.8.0. E612.8.0 is amended for clarity and provides use of detached address labels. E610.5.6 is amended to provide for the residual shape surcharge. Renumbered E610.5.7 is amended to remove the reference to 4.6 and to delete ''bulk'' and to change ''pound rates'' to ''piece/pound rate.'' E612 is removed and its information added to new E610. E620 is amended to remove information pertaining to Enhanced Carrier Route Mail, and to add new 4.0, which contains standards for the barcoded discount. Information in current E630 has been moved to new E700. E630 now contains eligibility for Standard Mail Enhanced Carrier Route mail. E640 is amended to change references replacing ''Standard Mail (A)'' with ''Standard Mail'' and amended current ''E611 and E612'' to a consolidated and reorganized ''E610.'' E650 has been revised by renumbering E651 to E650 and amended current ''E611 and E612'' to a reorganized ''E610.'' E670 is amended to add a reference replacing ''P750,'' which has been moved to ''P950.'' A new E700 is created for Package Services as part of the restructuring to establish separate modules for Standard Mail and Package Services mail. A new description has been added above E710 to match the description in the new E610 section. Existing E611 and E613 are renumbered to be part of the basic standards in E710 and sections of existing E630 are renumbered as new E711, E712, E713, E714, and E715. Existing E613.1.0 is renumbered as E710.1.2 and amended to reflect that minimum weights for subclasses of Package Services mail have been eliminated. E630.1.3 is renumbered as E711.2.2 and amended to add the new Intra-BMC and Parcel Select-DBMC nonmachinable surcharges, and E711.2.3 is revised to clarify that certain parcels mailed at a balloon rate may be subject to a nonmachinable surcharge. E630.2.0 is renumbered as E712 and revised in its entirety. The definition of a full sack is revised in E713 and in all other sections by eliminating the 1,000 cubic inch volume requirement and retaining only the piece and sack weight criteria. E630.5.1 is renumbered as E714 and amended to change the class name from Library Mail to Package Services. E652 is renumbered as E750 for destination entry Package Services mail. E751.4.4 and 4.5 are revised to clarify that an exception to the appointment requirement exists for destination entry shipments containing 100 percent Periodicals or shipments of perishables. E752 is created for new destination entry discounts for Presorted rate and Carrier Route rate mailings of BPM encouraging the deposit of mail at a destinating BMC, SCF, or delivery unit. An annual destination entry fee for mail entered at destination entry rates is proposed. This new section also explains Destination Entry Mail Preparation when mailing under plant-verified drop shipment (PVDS). E753 has been added to provide for the combining of Package Services parcels in 5-digit sacks (E753.2.0) and on 5-digit pallets (E753.3.0) for destination entry at the SCF and DDU levels if also presented with an approved manifest. Sacks containing at least 10 combined pieces or a combined weight of 20 pounds and pallets having at least 50 combined pieces and a combined weight of 250 pounds of mail, or 36 inches of mail, will be allowed. BPM parcels claimed at a Carrier Route rate may not be combined with the other Package Services parcels.

F Forwarding and Related Services

F010.4.5 is amended to add that Standard Mail with insurance is forwarded and returned. F010.4.6 is added to make the standards for undeliverable metered mail in this module consistent with standards elsewhere in the DMM. F010.5.3g is added and the chart in F010.5.3 is amended to prohibit the use of the ''Change Service Requested'' endorsement on Standard Mail with special services. F010.5.4c is added and the chart F010.5.4 is amended to allow BPM with no ancillary service endorsement and no special service to be disposed of by the Postal Service. F010.7.4 is amended to specify that combination parcels are returned at Parcel Post Inter-BMC/ASF rates.

F030.2.5 is amended to give mailers participating in Shipper Paid Forwarding the option of paying forwarding charges through a postage due account. If mailers choose this option, then they must pay the annual

accounting fee. F030.4.2 is amended to include information about forwarding and return of Standard Mail.

L Labeling Lists

L001 is amended to change the introductory paragraph to show that this labeling list may be used with Bound Printed Matter flats. L002 is amended to add ''and per-piece'' to the rate description for Periodicals SCF rates. L004 is amended to show that it may be used with Bound Printed Matter. L601 is amended to show that packages of Bound Printed Matter irregular parcels on pallets may use this list and to show the instructions for labeling mixed BMC containers that were inadvertently omitted from the **Federal Register** published August 8, 2000 (65 FR 48385). L602 is amended to remove the term ''bundles,'' and to provide for use of this list by Bound Printed Matter machinable parcels when DBMC rates are claimed.

M Mail Preparation and Sortation

M011.1.3 is amended to add preparation instructions for less-than-full and overflow flat trays and to revise the preparation instructions for 5-digit/scheme carrier routes sort and 5-digit/scheme sort to provide for use of these levels of sortation with BPM flats. M012.3.1 is amended to eliminate the use of ''Library Rate'' marking effective January 1, 2002 (after which date only ''Library Mail'' may be used as the marking), to change the marking ''Special Standard'' to ''Media Mail'' (''Special Standard'' or ''SPEC STD'' may be used only until January 1, 2002). M012.3.2 is amended to add the marking ''Parcel Select.'' M012.3.3 is amended to eliminate use of the marking ''Presorted Standard'' instead of ''Presorted'' with Presorted BPM effective January 1, 2002 (after which date only ''Presorted'' and ''Bound Printed Matter'' may be used), and to add use of the abbreviation ''BPM'' as an optional marking for ''Bound Printed Matter.'' M013.1.1 is updated to include a carrier route package optional endorsement line information for Carrier Route BPM. M013.2.5 is amended for clarity and to change the labeling list used for ADC sortation of BPM irregular parcels from L603 to L004, to change the labeling list used for mixed ADC sortation from L604 to L004. M020.1.4 is amended to delete references to bundles. Current M020.1.5 and 1.6 are renumbered 1.6 and 1.7 and a new M020.1.5 is added to describe new physical preparation of BPM packages. M020.2.2 is amended to show that First-Class Mail automation flats prepared under the new tray-based preparation rules are not prepared in packages and to show that the exception in renumbered M020.1.7 also applies to First-Class flats in trays. M020.3.0 is amended to show that the requirements for facing slips used to label carrier route packages applies to all classes of mail. M031.4.7 is amended to specify that the words ''CARRIER ROUTES'' must appear on 5-digit pallets of BPM only when the pallet consists entirely of irregular parcels eligible for the carrier route rate and that the words ''CARRIER ROUTES'' must appear after the ''5D'' pallet level description. M031.4.12 is amended to delete the term ''bundle.'' M031.5.0 is amended to add new abbreviations for First-Class Mail and Package Services mail. Exhibit M032.1.3a is amended to reflect changes in the content line and CIN numbers of Package Services sack labels. M033.1.2 is amended to clarify that lids on First-Class flat trays must be placed on the trays green side up. M033 is amended to provide for less-than-full and overflow trays for First-Class Mail automation rate mailings prepared under the new tray-based option.

M041.5.6 is amended to require for flat-size BPM that Presorted rate mail be placed on separate 5-digit pallets (5-digit scheme and 5-digit pallets) than Carrier Route rate mail (5-digit carrier routes or 5-digit scheme carrier routes pallets), and to remove references to palletized bundles. M045.2.0 is revised to clarify requirements and for BPM to revise the package minimums, maximums, and physical packaging requirements. Current M045.3.0, which provides for optional preparation of bundles on pallets for Periodicals and Standard Mail is deleted. M045.4 (as set forth in the final rules published in 65 FR 50054 (August 16, 2000)) is renumbered as M045.3. M045.3 is amended to provide for separate pallet preparation requirements for BPM flats in M045.3.3 and for irregular parcels in M045.3.4, to renumber the remainder of that section, and to revise the class abbreviation on the contents lines for Package Services mail from ''STD'' or ''STD B'' to ''PSVC.'' M045.5 through M045.15 (as set forth in the final rule published in 65 FR 50054 (August 16, 2000)) is renumbered as M045.4 through M045.14. Renumbered M045.6.4 and M045.9.2 will be amended by changing the reference ''M630'' to ''M710 or M720.'' Renumbered 10.0 and 11.0 are amended by changing ''STD'' or ''STD B'' to ''PSVC.'' Renumbered 12.1 is amended to change ''M630'' to M710,'' to change the pallet label contents lines class abbreviation from ''STD B'' to ''PSVC,'' and to add ''PARCELS'' after the class abbreviation. Renumbered 12.2 is amended to change ''M630'' to ''M710,'' to change the pallet label contents lines class abbreviation from ''STD B'' to ''PSVC,'' and to add ''PARCELS'' after the class abbreviation. M045.12.3 is amended to change ''Exhibits E652.7.0 and E652.8.0'' to ''Exhibits E751.7.0 and E751.8.0.'' M045.12.4 is amended to change ''E652.6.0'' to ''E751.6.0.'' M045.13.0 is amended to change ''M630'' to ''M710'' and to change the class abbreviation on the contents line of the pallet label from ''STD B'' to ''PSVC.'' M045.14.0 is amended to change the pallet label contents lines class abbreviation from ''STD B'' to ''PSVC,'' and to add ''PARCELS'' after the class abbreviation. M072.2.4 is amended by changing ''P710, P720, or P730'' to ''P910, P920, or P930,'' and by changing ''E652'' to ''E751.'' M073.2.3 is amended to change ''P710'' to ''P910.''

M110 is added to show the preparation requirements for single-piece First-Class Mail formerly located in E130.2.3. M610.6.0, which provided for preparation of Standard Mail bedloaded bundles, is deleted. M620.1.1a is amended by changing ''E620'' to ''E630.'' M630.1 pertaining to Parcel Post is renumbered in new M710.

M710.1.1 is added to describe general requirements for Parcel Post. Renumbered M710.1.3 (formerly M630.1.2) is revised to show that DSCF and DDU rate mail need not be separated by zone and to change ''P710, P720, or P730'' to ''P910, P920, or P930.'' M710.1.4 is added to contain standard for commingled zones (formerly M630.8.0). M710.1.5 contains the documentation information formerly in M630.1.3 and is amended to clarify the standards and to change ''P710, P720, or P730'' to ''P910, P920, or P930.'' M710.2.1 contains standards, formerly in M630.1.4, that are amended by changing the reference ''1.5'' to ''2.2,'' by changing ''Exhibit E652.6.0'' to ''Exhibit E751.6.0,'' and by changing the reference ''Exhibit E652.6.0 and Exhibit E652.8.0'' to ''Exhibit E751.7.0 and Exhibit E751.8.0.'' M710.2.2 (formerly M630.1.5) contains standards that are amended to replace ''STD B 5D'' on the contents line of DSCF 5-digit sacks with ''PSVC PARCELS 5D.'' M710.4.0 (formerly M630.6.0) is added to contain provisions for preparation of machinable parcels and is amended to show that this preparation is optional for Parcel Post. M720 (formerly M630.2.0 and 3.0) is added to contain standards for BPM. M721 contains the preparation standards for single-piece rate BPM. M722 contains the preparation standards for Presorted

BPM. M722.2.1 contains new packaging requirements for Presorted flats. M722.2.2 contains new sacking requirements for Presorted flats. M722.3.0 contains new line 2 sack labeling requirements that change the abbreviation ''STD'' to ''PSVC.'' M722.3.1 contains new packaging requirements for Presorted BPM irregular parcels that weigh 10 pounds or less. M722.3.2 contains new sack preparation requirements for Presorted BPM irregular parcels weighing 10 pounds or less, including a requirement to use L004 instead of L603 for preparation of ADC sacks and to use L004 instead of L604 for mixed ADC sacks. M722.3.3 contains new line 2 sack labeling requirements for Presorted BPM irregular parcels weighing 10 pounds or less that change the abbreviation ''STD B'' to ''PSVC.'' M722.3.4 contains a provision to allow preparation of bedloaded 5-digit packages of Presorted BPM irregular parcels weighing up to 40 pounds when prepared for and entered at DDU rates. M722.4.0 contains preparation requirements for Presorted BPM irregular parcels weighing over 10 pounds. M722.4.1 prohibits packaging of such pieces and requires that each individual piece must be enclosed in an envelope, full-length sleeve, full-length wrapper, or polywrap before being placed in sacks. M722.4.2 contains sacking requirements for Presorted BPM irregular parcels weighing over 10 pounds including a requirement to use L004 instead of L603 for preparation of ADC sacks and to use L004 instead of L604 for mixed ADC sacks. M722.4.3 contains new line 2 sack labeling requirements for BPM irregular parcels weighing over 10 pounds that change the abbreviation ''STD B'' to ''PSVC.'' M722.4.4 contains a provision to allow preparation of bedloaded 5-digit packages of Presorted BPM irregular parcels weighing up to 40 pounds when prepared for and entered at DDU rates. M722.5.0 contains provisions for preparing Presorted machinable parcels that contains the provisions of former M630.6.0 that are amended to clarify preparation when DBMC rates are claimed and when they are not and to change the line 2 sack labeling class abbreviation from ''STD B'' to ''PSVC.'' M723 is added that contains the provisions for preparing Carrier Route BPM. M723.2.0 contains the preparation requirements for Carrier Route BPM flats. M723.2.1 contains new packaging requirements. M723.2.2 contains new sacking minimums, requires preparation of carrier route sacks, and provides for optional preparation of 5-digit scheme carrier routes sacks for Carrier Route BPM flats. M723.2.3 contains line 2 sack labels that are amended to change the class abbreviation from ''STD B'' to ''PSVC.'' M724.2.4 contains a provision to allow preparation of bedloaded carrier route packages of BPM flats weighing up to 40 pounds when prepared for and entered at DDU rates. M723.3.0 contains preparation requirement for Carrier Route BPM weighing 10 pounds or less. M723.3.1 sets forth new packaging requirements for Carrier Route BPM irregular parcels weighing 10 pounds or less. M723.3.2 contains sack preparation requirements that change the carrier route sack minimum and make it a required level of sack. M723.3.3 contains line 2 sack labels that are amended to change the class abbreviation from ''STD B'' to ''PSVC.'' M723.3.4 contains a provision to allow preparation of bedloaded carrier route packages of BPM irregular parcels weighing up to 40 pounds when prepared for and entered at DDU rates. M723.4.1 requires Carrier Route BPM irregular parcels weighing over 10 pounds to be prepared only in direct carrier route sacks containing a minimum of 20 pounds of mail. M723.5.1 permits machinable parcels to qualify for Carrier Route BPM rates only if prepared in a direct carrier route sack that contains a minimum of 10 addressed pieces or 20 pounds. M730 is added to contain standards for Media Mail (formerly in M630.4.0) and is amended to reflect the subclass name change to ''Media Mail.'' M730.1.0 contains basic standards. M730.2.1 contains sack and package on pallet preparation for 5-digit Media Mail rates from former M630.4.4 amended to change ''bundles'' to ''packages'' and to remove ''/1,000 cubic inches.'' M730.2.2 (formerly M630.4.5) contains sack preparation for BMC Media Mail rates and is amended to remove ''/1,000 cubic inches.'' M730.2.3 contains Line 2 sack label information for Media Mail (formerly in M630.4.6) amended to change ''STD'' and ''STD B'' to ''PSVC.'' M740 is added that contains the standards for Library Mail in former M630.5.0. M740.1.0 contains basic standards for Library Mail in former M630.5.1 through 5.3, amended to discontinue use of the ''Library Rate'' marking beginning January 1, 2002. M740.2.1 contains sack preparation requirements for the 5-digit Library Mail rates from former M630.5.4 amended to remove ''/1,000 cubic inches.'' M740.2.2 contains sack preparation requirements for the BMC Library Mail rates from former M630.5.5 amended to remove ''1,000 cubic inches.'' M740.2.3 contains Line 2 sack label information for Library Mail from former M630.5.6 amended to change ''STD'' and ''STD B'' to ''PSVC.''

M820.1.2 is amended to incorporate the proposed separate rates for 5-digit and 3-digit First-Class automation flats. M820.1.5 is amended to exclude First-Class automation flats prepared under the new tray-based preparation rules from package preparation standards. M820.1.11 is added to prohibit combining FSM 881 and FSM 1,000 mailpieces in the same tray when the new tray-based preparation option for First-Class Mail automation flats is used. M820.2.1 is amended to make preparation of 5-digit packages for First-Class automation flats optional. M820.2.2 is amended to make preparation of 5-digit trays for First-Class automation flats optional. M820.3.0 is added to provide for an optional tray-based preparation for First-Class automation flats. M910.1.2 is amended to change the reference ''M820'' to the more specific reference ''M820.2.1'' so that it is clear the mail must be packaged and must not be prepared under the new option for First-Class Mail automation flats in M820.3.0 for tray-based preparation.

P Postage and Payment Methods

P011.1.1b is amended by renumbering 1.1b through 1.1e as 1.1c through 1.1f and add new 1.1b to include prepayment conditions for merchandise return service. P011.3.3 and 3.4 are added to clarify standards for advance deposit accounts and annual accounting fees. A separate annual accounting fee must be paid for each special service deducted from the same account. P012.2.2 is amended to include in the body elements of the standardized documentation tray levels and tray destinations when choosing the new tray-based preparation option for Automation First-Class flat mailings. P013.1.4 and P013.1.5 is amended to reflect the proper affixing of postage to other than single-piece rate mailings and affixing postage to single-piece rate mailings. P012.2.3 is amended to add a new table to include the proposed rate level and abbreviations for Automation First-Class Mail when opting to prepare tray-based presorts. P013.2.4 is revised to reflect the new proposed one-pound minimum Priority Mail rate. P013.2.6 is amended to reflect keys and identification devices weighing more than 13 ounces but no more than one-pound would be charged the new one-pound rate. Computing and affixing postage on Package Services mail is clarified and the minimum postage rate computation for Presorted and Carrier route Bound Printed Matter is clarified.

P014.2.4I is amended to include when the destination entry mailing fee is eligible for a full (100%) refund. P022.1.2 is amended by removing payment with postage due stamps from the second sentence. P070.5.4 is amended by replacing ''Special Standard Mail'' with ''Media Mail'' and to include the inter-BMC/ASF rates to the rating of unmarked parcels. P600.4.0 and 5.0 are added to clarify eligibility for barcoded discounts and payment methods with special services. Current P700, Special Postage Payment Systems, is redesignated as P900. Current P710, P720, P730, P750, and P760 are redesignated as P910, P920, P930, P950, and P960, respectively. A new P700 is created from P600 for Package Services with the only change in content being the name change from Standard Mail (B) to Package Services.

R Rates and Fees

The entire module is revised to reflect new rates and fees for all classes of mail.

S Special Services

S010.2.1 is amended to show that the sender of a merchandise return service parcel may file a claim for loss if the sender has purchased the insurance.

S911.1.5 is amended to add Signature Confirmation as an additional service that may be combined with registered mail. S912.1.4 is amended to specify the additional services that may be combined with certified mail and S912.1.5 is amended to clarify the standards for a delivery record. S912.2.5a is amended to specify the form number used by customers. S913.1.2 and 1.3 are amended to show that bulk insurance may be added to Standard Mail pieces that are subject to the residual shape surcharge and to remove the required ''Standard Mail Enclosed'' marking. S913.1.5 is amended to add Signature Confirmation as an additional service that may be combined with insurance. S913.1.6 is added to clarify that customers may request a delivery record after mailing. S913.4.0 is amended to change ''parcel'' to ''item.''

S914.1.1 is amended to show that certificate of mailing is evidence that mail has been presented for mailing but does not provide a record of delivery. S914.1.2, 1.3, and 1.4 are rewritten for clarity; there are no changes to these standards for bulk certificate of mailing. S914.1.7 is added to specify the additional services that may be combined with certificate of mailing.

S915.1.1 is amended to show that the return receipt is mailed back to the sender. S915.1.2 is amended to show the classes of mail that are eligible for return receipt service and the prerequisite services. S915.1.7 is added to specify the additional services that may be combined with return receipt. S915.2.2 is amended to clarify how to apply for a delivery record after mailing. S915.2.3 is added to specify the time limit for requesting a delivery record after mailing. S916.1.2 is amended to clarify that restricted delivery cannot be used with Standard Mail. S916.1.7 is added to specify the additional services that may be combined with restricted delivery, including new Signature Confirmation service. S917.1.1 is amended to show that the return receipt is mailed back to the sender. S917.1.2 is amended to show that return receipt for merchandise service is available for Standard Mail pieces that are subject to the residual shape surcharge. S917.1.3 is amended to specify the special services that may be combined with return receipt for merchandise. S917.2.7 is added to clarify how mailers may request a delivery record if return receipt service was not provided. S917.3.0 is amended to remove information about the delivery record.

S918.1.2 is amended to show that electronic option Delivery Confirmation is available for Standard Mail pieces that are subject to the residual shape surcharge. S918.1.3 is amended to show that Delivery Confirmation service is not available for Standard Mail cards, letters, and flats (i.e., pieces that are not subject to the residual shape surcharge). The last sentence of S918.5.0a is deleted to eliminate redundancy.

New unit S919 is added for Signature Confirmation service.

S921.1.1 is amended to show the new $1,000 limit for COD and to clarify that recipients who pay CODs with cash will be charged the applicable money order fee(s). S921.1.4 is amended to specify the additional services that may be combined with COD.

S922.3.4 and 3.5 are added to add a new classification of high-volume qualified business reply mail (QBRM) that includes a quarterly fee and a lower per-piece charge. Renumbered S922.3.6 is revised to clarify that the maintenance fee applies only to nonletter-size weight averaged BRM.

S923.1.1, 1.3, and 2.7 are amended to remove references to the per-piece fee for pieces returned through merchandise return service (MRS). S923.1.11 is amended and 1.12 is removed to show that unmarked MRS pieces will be treated as Parcel Post. S923.2.3 is amended to clarify references to the annual accounting fee. S923.3.0 is amended in its entirety to clarify how postage is paid on returned pieces, to remove references to the per-piece charge, and to add the annual accounting fee for the required advance deposit account. S923.4.1 and 4.2 are amended to show that the sender (the person using the merchandise return service label to return a parcel to the permit holder) may add insurance to a MRS parcel at their own discretion and expense. S923.5.6c is amended to clarify that rate markings are optional on MRS pieces. All of the exhibits in S923 are amended to remove references to the per-piece fee.

S924.1.1 is amended to add a sentence about payment information for Bulk Parcel Return Service (BPRS). S924.1.4 is added to show that no special services can be added to pieces sent through BPRS. S924.3.2, 3.3, and 3.4 are added to clarify the per-piece charges and to describe the new annual accounting fee. S924.3.5 is added to specify that the permit holder is responsible for payment of all applicable fees. Exhibit S924.5.0 is amended to change the class marking to ''Standard Mail.'' S930.1.3 is amended to specify that Signature Confirmation service can be combined with special handling. S930.1.7 is added to clarify that the Parcel Post nonmachinable surcharge is not added to parcels sent special handling. S930.2.3 is amended to specify the additional services that may be combined with parcel airlift service (PAL).

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following revisions of the Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) to read as follows:

A ADDRESSING

A000 Basic Addressing

A010 General Addressing Standards

1.0 ADDRESS CONTENT AND PLACEMENT

* * * * *

[Amend 1.2 by replacing ''Standard Mail (A), Standard Mail (B),'' with ''Standard Mail, Package Services,'' no other changes to text.]

* * * * *

[Amend 1.6 by replacing ''Standard Mail'' with ''Standard Mail, and Package Services''; and by replacing ''E600'' with ''E600, and E700''; no other changes to text.]

* * * * *

4.0 RETURN ADDRESS

* * * * *

[Amend 4.3g by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

* * * * *

A060 Detached Address Labels (DALs)

1.0 USE

[Amend 1.2 and 1.3 by changing ''Standard Mail (A)'' to ''Standard Mail''; no other changes to text.]

[Revise 1.4 to reflect the elimination of the local zone and to add new 5-digit preparation and entry standards to read as follows:]

1.4 Bound Printed Matter

Mailings of unaddressed pieces of Bound Printed Matter may be mailed with DALs when:

a. The mail is prepared on 5-digit pallets meeting the standards in M040 and M045, except that for flat-size mail, separate 5-digit pallets of Carrier Route and Presorted rate mail are not required. The mail may not be prepared on pallets when the Drop Ship Product indicates that the delivery unit that serves the 5-digit pallet destination cannot handle pallets. The destination delivery unit is determined using the Drop Ship Product under the provisions for the DDU rate in E752. (For such delivery units, mail with DALs must be prepared in sacks.) The trays or cartons of DALs must be prepared under 3.0 and placed on the same pallet as the pieces and must be stretch-wrapped together as one unit.

b. The mail is prepared in 5-digit sacks and entered at the destination delivery unit. The destination delivery unit is determined using the Drop Ship Product under the provisions for the DDU rate in E752. DALs must be packaged under 3.0 and presented to the destination delivery unit with the accompanying items to be distributed with the DALs.

* * * * *

[Add a new 1.7 to read as follows:]

1.7 Special Services

Items mailed with DALs may not be combined with any special services.

* * * * *

3.0 MAIL PREPARATION

* * * * *

[Remove 3.7 and 3.8.]

* * * * *

4.0 DISPOSITION OF EXCESS OR UNDELIVERABLE MATERIAL

* * * * *

[Amend 4.2 by adding additional restrictions to undeliverable Bound Printed Matter to read as follows:]

4.2 Undeliverable DAL

A DAL that is undeliverable-as-addressed (UAA) is handled under F010. An UAA Standard Mail or Bound Printed Matter DAL is disposed of as waste. The accompanying item is treated as specified by the mailer under 4.1.

5.0 POSTAGE

* * * * *

[Amend 5.2b by changing ''Standard Mail (A)'' to ''Standard Mail''; no other changes to text.]

[Amend 5.3 by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

C CHARACTERISTICS AND CONTENT

C000 General Information

C010 General Mailability Standards

1.0 MINIMUM AND MAXIMUM DIMENSIONS

* * * * *

[Amend 1.3 by changing ''(see C600)'' to ''(see C700)''.]

* * * * *

C020 Restricted or Nonmailable Articles and Substances

* * * * *

C023 Hazardous Materials

1.0 GENERAL

[Amend 1.1f by replacing ''Standard Mail'' with ''Standard Mail or Package Services''; no other changes to text.]

* * * * *

C050 Mail Processing Categories

1.0 BASIC INFORMATION

[Amend the second sentence of 1.0 to reflect changes in class names to read as follows:]

* * * Unless permitted by standard, any mailing at other than the single-piece Express Mail, Priority Mail, First-Class Mail, or Package Services rates may not contain pieces from more than one processing category.

* * * * *

[Amend Exhibit 2.0 to show new weight limit for machinable parcels.]

* * * * *

4.0 MACHINABLE PARCEL

4.1 Criteria

[Amend 4.1a to decrease the minimum piece weight from 8 ounces to 6 ounces to read as follows:]

A machinable parcel (see Exhibit 2.0) is any piece that is:

a. Not less than 6 inches long, 3 inches high, ¼ inch thick, and 6 ounces in weight. (A mailpiece exactly ¼ inch thick is subject to the 3½-inch height minimum under C010.)

* * * * *

[Remove 4.1c.]

4.2 Soft Goods

[Amend 4.2 to include reference to C010 for packaging standards to read as follows:]

Soft goods wrapped in paper or plastic bags and enveloped printed matter weighing up to 5 pounds are machinable only if all applicable packaging standards in C010 are met.

4.3 Exception

[Amend 4.3 to clarify the exception authority for machinable parcels to read as follows:]

Some parcels may be successfully processed on BMC parcel sorters although they do not conform to the general machinability criteria in 4.1. A destinating BMC plant manager may authorize a mailer to enter such parcels as machinable parcels rather than as irregular parcels if the parcels are tested on BMC parcel sorters and prove to be machinable. In addition, the following requirements must be met: all mailed pieces must be machinable, properly labeled, bear delivery addresses located within the service area of the authorizing BMC, and be entered at a post office within the service area of the authorizing BMC.

* * * * *

C200 Periodicals

* * * * *

2.0 IMPERMISSIBLE MAILPIECE COMPONENTS

* * * * *

2.2 Prohibited Matter

[Amend 2.2c to replace ''Standard Mail'' with ''Standard Mail, or Package Services''; no other changes to text.]

* * * * *

[Amend heading and text of 2.4 by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

* * * * *

[Add new section 5.0 to read as follows:]

5.0 PHYSICAL LIMITATIONS

Periodicals mail may not weigh more than 70 pounds or measure more than 108 inches in length and girth combined. Additional size limitations apply to individual Periodicals rate categories.

* * * * *

C600 Standard Mail

1.0 DIMENSIONS

[Revise the heading of 1.1 to read as follows:]

1.1 Basic Standards

[Amend 1.1 and Exhibit 1.1d by changing ''Standard Mail (A)'' to ''Standard Mail.'']

* * * * *

[Redesignate 1.3 as C700.1.0.]

[Redesignate current 2.0 as C700.2.0.]

[Add new 2.0 to read as follows:]

2.0 RESIDUAL SHAPE SURCHARGE

Mail that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to a residual shape surcharge. There is one surcharge for mail entered at Regular and Nonprofit Presorted rates and a different surcharge for mail entered at Enhanced Carrier Route and Nonprofit Enhanced Carrier Route rates. See E610 and R600.

* * * * *

[Add new C700 as follows:]

C700 Package Services

[Redesignate C600.1.3 as C700.1.0 and amend the heading by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

[Redesignate C600.2.0 as C700.2.0 and amend to extend the nonmachinable surcharge to intra-BMC and Parcel Select-DBMC pieces to read as follows:]

2.0 NONMACHINABLE SURCHARGE

Items described in E711 that are mailed at the inter-BMC/ASF, intra-BMC, or Parcel Select-DBMC Parcel Post rates are subject to a nonmachinable surcharge unless the applicable special handling fee is paid. An oversized parcel as described in 1.0c is not subject to the surcharge.

[Add new 3.0 to read as follows:]

3.0 POSTAL INSPECTION

Package Services mail is not sealed against postal inspection. Package Services mail may be prepared for automated processing but must allow easy examination.

C800 Automation-Compatible Mail

C810 Letters and Cards

* * * * *

2.0 DIMENSIONS

* * * * *

[Redesignate 2.3 as 2.4; amend redesignated 2.4 to provide for new maximum weight limits and by deleting 2.4d through f; and add new 2.3 to read as follows:]

2.3 Determining Height and Length

The length of an automation letter piece is the dimension parallel to the address when the address is read. The height is the dimension perpendicular to the length.

2.4 Maximum Weight

Maximum weight limits are as follows:

a. Upgradable Presorted First-Class Mail and Upgradable Presorted Standard Mail: 2.5 ounces (0.1563 pound).

b. Automation First-Class Mail, automation Periodicals, and automation Standard Mail: 3 ounces (0.1875 pound).

c. Automation First-Class Mail, automation Periodicals, and automation Standard Mail heavy letters: 3.5 ounces (0.2188 pound).

* * * * *

7.0 ADDITIONAL STANDARDS FOR SPECIFIC TYPES OF PIECES

* * * * *

7.5 Heavy Letter Mail

[Amend 7.5 by changing the reference ''2.3'' to ''2.4''; no other changes to text.]

* * * * *

C820 Flats

* * * * *

3.0 DIMENSIONS FOR FSM 1000 PROCESSING

* * * * *

3.4 Maximum Weight

[Amend 3.4 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

C840 Barcoding Standards for Letters and Flats

* * * * *

2.0 BARCODE LOCATION—LETTER-SIZE PIECE

2.1 Barcode Clear Zone

[Amend 2.1 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Amend title of 850 by replacing ''Standard Mail (B)'' with ''Standard Mail and Package Services'' to read as follows:]

C850 Barcoding Standards for Standard Mail and Package Services Machinable Parcels

1.0 GENERAL

[Amend 1.1 by replacing ''Standard Mail (B)'' with ''Standard Mail and Package Services mail,'' and replace ''E630'' with ''E620, E720, E730, or E740''; no other changes to text.]

* * * * *

[Amend 1.4 by replacing ''Standard Mail (B)'' with ''Standard Mail and Package Services mail'' and replace ''E630'' with ''E620, E720, E730, or E740''; no other changes to text.]

* * * * *

D DEPOSIT, COLLECTION, AND DELIVERY

D000 Basic Information

D010 Pickup Service

* * * * *

2.0 POSTAGE AND FEES

* * * * *

[Amend 2.2 by changing ''R600'' to ''R700''.]

* * * * *

D200 Periodicals

D210 Basic Information

* * * * *

2.0 MAIL DEPOSIT

[Amend 2.0 by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail''; no other changes to text.]

* * * * *

D600 Standard Mail

* * * * *

2.0 MAIL DEPOSIT

[Amend 2.0 by removing 2.1 and 2.3; redesignating 2.2 and 2.4 as 2.1 and 2.2, respectively; revising the heading and amending the contents of redesignated 2.1 to remove the term ''bulk rates,'' provide for mail entered under plant-verified drop shipment procedures, and amending the text of redesignated 2.2 for clarity to read as follows:]

2.1 General

Standard Mail must be presented at the post office where the permit or license is held and the presort mailing fee is paid. Mailings must be presented at the locations and times specified by the postmaster. Plant-verified drop shipment (PVDS) mailings must be presented for verification, acceptance, and entry under P750. Plant-loaded

mailings must be presented, verified, accepted, and entered as specified by the plant load agreement and applicable standards. Metered Standard Mail may be deposited at other than the licensing post office only as permitted under D072. Nonprofit Standard Mail must be presented only at post offices where the organization producing the mailing has an approved nonprofit authorization (E670).

2.2 Separation of Mailings

Pieces at different rates (e.g., 3/5 and basic) may be combined in the same mailing as provided in M011. Separate mailings may be reported on the same postage statement if the pieces in the mailings are in the same processing category (C050), are part of the same mailing job, and are presented for verification at the same time.

[Add new D700 to read as follows:]

D700 Package Services

1.0 SERVICE OBJECTIVES

The USPS does not guarantee the delivery of Package Services mail (Parcel Post, Bound Printed Matter, Media Mail, and Library Mail) within a specified time. Package Services mail might receive deferred service. The local post office can provide more information concerning delivery times within its area.

2.0 MAIL DEPOSIT

2.1 Single-Piece Rate Mailings

Single-piece rate Package Services mail must be deposited at a time and place specified by the postmaster or designee at the office of mailing. Metered mail may be deposited at other than the licensing post office only as permitted under D072. Permit imprint mail must be presented at the post office under P040 or P700.

2.2 Presorted, Carrier Route, Destination Entry, and Barcoded Discount Mailings

All presorted, carrier route, destination entry, barcoded discount mailings must be presented for verification and acceptance at the post office where the permit or license is held and, if applicable, where the presort mailing fee or destination entry mailing fee is paid. All such mailings must be deposited at locations and times specified by the postmaster or designee at the office that verifies and accepts the mailing. Plant-verified drop shipment (PVDS) mailings must be presented for verification, acceptance, and entry under P750. Plant-loaded mailings must be presented as specified by the applicable standards and the plant load agreement. Metered mail may be deposited at other than the licensing post office only as permitted under D072.

2.3 Zoned Rates

Pieces paid at zoned rates must be entered at the post office from which the applicable zoned rate postage is computed unless an exception is permitted under E710.

2.4 Drop Shipment Information

Essential information for entering drop shipment Package Services mailings at specific postal facilities can be found in the Drop Ship Product maintained by the National Customer Support Center (NCSC) (see G043). There is a charge for the Drop Ship Product (E750).

D900 Other Delivery Services

D910 Post Office Box Service

1.0 BASIC INFORMATION

* * * * *

1.5 Box Availability

[Amend 1.5 by adding the following sentence at the end of the paragraph:]

* * * Regardless of the box size applied for, customers must pay the correct fee for the service they receive.

[Redesignate current 1.7 as 1.8. Add new 1.7 to read as follows:]

1.7 Service Period

Post office box service is provided in six-month increments.

[Amend redesignated 1.8 to add the new key duplication fee and the lock resetting fee read as follows:]

1.8 Fees

Post office box fees for each six-month period are listed in R900. Each box customer is charged a refundable deposit for post office box keys. Customers also are charged fees for duplicate and replacement post office box keys and for changing locks on post office boxes.

* * * * *

3.0 CONDITIONS OF USE

[Amend 3.1 by clarifying text to read as follows:]

3.1 Receiving Mail

A box customer may receive through the box any mail that is properly addressed to that box number.

* * * * *

[Amend 3.7 by clarifying to read as follows:]

3.7 Forwarding

A post office box may not be used when the primary purpose is to have the USPS forward or transfer mail to another address free of charge.

* * * * *

4.0 BASIS OF FEES AND PAYMENT

[Amend 4.1 to change the basis of post office box fees to read as follows:]

4.1 General

Post office box fees are based on the size of box provided and the fee group to which the box's 5-digit ZIP Code is assigned.

* * * * *

[Remove 4.3. Redesignate 4.4 through 4.11 as 4.3 through 4.10, respectively. Amend redesignated 4.3 to read as follows:]

4.3 Fee Changes

A change in post office box service fees applicable to a given 5-digit ZIP Code can arise from a general fee change. In addition, the Manager, Special Services, may authorize the reassignment of one or more 5-digit ZIP Codes to the next higher or lower fee group if the past history of fee group assignments was in error. The Postal Service also may regroup 5-digit ZIP Codes. No ZIP Code may be moved more than once a calendar year and may be moved only into the next higher or lower fee group. Any change in post office box service fees takes effect on the date of the action that caused the change unless an official announcement specifies another date. The post office box service fee charged is that in effect on the date of payment.

4.4 Payment

[Amend 4.4 to specify when post office box fees must be paid to read as follows:]

All fees for post office box service are for a 6-month period. Except under 4.6, 4.7, and 4.10, fees must be paid in advance for each 6-month period. The fee may be paid for two periods at a time (i.e., up to one year in advance), but not more. The fee that must be paid is the one that is in effect on the day that the fee is paid. Fees may be paid using cash, credit or debit card, or check or money order payable to the postmaster. A mailed payment must be received by the postmaster on or before the due date.

* * * * *

[Amend the heading of 4.7 by removing ''for Group D Offices'' to read as follows:]

4.7 Exception

[Amend the first sentence of 4.8 by removing reference to ''Group D'' to read as follows:]

Postmasters at offices with fewer than 500 post office boxes may set April 1 and October 1 as the beginning of payment periods for box customers in their offices. * * *

* * * * *

[Amend 5.0 by revising 5.1 through 5.3 to show the new fee group assignments:]

5.0 FEE GROUP ASSIGNMENTS

5.1 Regular Fee Groups

Post office boxes are assigned to fee groups listed in R900 based upon estimates of the market-based cost of the space occupied by post office boxes in each 5-digit ZIP Code. Local post offices can provide information about fees for a particular ZIP Code.

5.2 Free Box Service (Group E)

Customers may qualify for a free (Group E) post office box if their physical address or business location meets all of the following criteria:

a. The physical address or business location is within the geographic delivery ZIP Code boundaries administered by a post office.

b. The physical address or business location constitutes a potential carrier delivery point of service.

c. The USPS chooses not to provide carrier delivery to the physical address or business location.

d. The customer does not receive carrier delivery via an out-of-bounds delivery receptacle.

5.3 Additional Standards for Free Box Service

Only one free (Group E) box may be obtained for each potential carrier delivery point of service. Eligibility for Group E boxes does not extend to individual tenants, contractors, employees, or other individuals receiving or eligible to receive single-point delivery such as delivery to a hotel, college, military installation, or transient trailer park. A customer must pay the applicable fee for each additional box requested beyond the initial box obtained at the Group E fee.

[Remove Exhibits 5.3a and 5.3b.]

6.0 FEE REFUND

6.1 Calculation

[Amend 6.1 to clarify fee calculations to read as follows:]

When post office box service is terminated or surrendered by the customer, the unused portion of the fee may be refunded as follows:

a. If service is discontinued any time within the first 3 months of the service period, then one-half of the fee is refunded.

b. If service is discontinued after the beginning of the fourth month of the service period, then none of the fee is refunded.

c. If service is discontinued and the customer has prepaid for the next semi-annual service period, then the entire fee for that period is refunded.

* * * * *

[Amend the heading of 7.0 by adding reference to ''Locks'' to read as follows:]

7.0 KEYS AND LOCKS

7.1 Key Deposit

[Amend 7.1 to clarify that customers must pay the refundable key deposit for all keys:]

Two post office box keys are initially issued to each new box customer. Box customers must pay a refundable key deposit on each of these keys. The refundable key deposit also must be paid on each additional key requested under 6.2. When box service is terminated, the key deposit is refunded to the customer for each key that is returned to the post office where the box was issued.

7.2 Key Fee

[Revise 7.2 to add a reference to the key fee to read as follows:]

A box customer may obtain additional or replacement keys by submitting Form 1094 and paying the refundable key deposit and the key fee in R900. The fee for replacement or duplicate keys is not refundable. Worn or broken keys are replaced without charge when returned to the post office where the box was provided.

* * * * *

[Add new 7.4 to explain the lock replacement fee read as follows:]

7.4 Lock Replacement

The primary box customer (box applicant) may request that the post office box lock be changed. To change the lock, the customer must first pay the applicable lock fee in R900. Lock fees are charged for replacing keyed locks and combination locks and for re-setting combination locks. Lock fees are not refundable. Customers may turn in post office keys for the old lock and get a refund of the key deposit. Two keys are provided with the new lock, with a refundable deposit for each key charged under 7.1. Customers may obtain additional keys for the new lock under 7.2.

* * * * *

D920 Caller Service

1.0 BASIC INFORMATION

* * * * *

1.4 Caller Number Service

[Remove the last two sentences of 1.4.]

[Redesignate current 1.5 through 1.9 as 1.6 through 1.10, respectively. Add new 1.5 to read as follows:]

1.5 Reserving a Caller Number

Customers may reserve a caller number for future use by paying the caller number reserve fee in R900. The postmaster determines the reserved numbers and may restrict the availability of this service.

* * * * *

3.0 CONDITIONS OF USE

[Amend 3.4 by clarifying to read as follows:]

3.4 Forwarding

Caller service may not be used when the primary purpose is to have the USPS forward or transfer mail to another address free of charge.

* * * * *

4.0 BASIS OF FEES AND PAYMENT

4.1 Caller Service Fee

[Amend 4.1 by clarifying text to read as follows:]

Customers must pay the caller service fee listed in R900. The fee must be paid for each caller number or separation used, with the following exceptions:

a. If a caller uses many caller numbers, but receives only a bulk delivery of mail not separated to those numbers either because this mail is sorted to the customer's unique 5-digit ZIP Code or because sortation is made by caller name or other identification, then the caller service fee is charged only for each separation actually made. The reserved number fee is charged for each of the caller numbers to which mail received by the caller is addressed.

b. When a post office box service applicant is provided a single caller service separation because of a shortage in available post offices boxes, then the fee charged is the fee for the largest installed post office box. In this instance, neither the caller service fee nor the reserved number fee is charged.

[Remove Exhibit 4.1, Caller Service Groups.]

4.2 Reserved Number

[Amend 4.2 to clarify that reserved number fees are not refundable to read as follows:]

The reserved call number fee in R900 is charged per calendar year or any part of such a calendar year for each number reserved by a customer. Reserved call number fees are not prorated.

4.3 Fee Changes

[Amend 4.3 by removing references to 4.1b and 4.1 to read as follows:]

A change in caller service fees (including reserved number fees) can arise from a general fee change. Any change in caller service fees takes effect on the date of the action that caused the change unless an official announcement specifies another date. If a caller service fee is increased, no customer must pay at the new rate until the end of the period already paid, and no retroactive adjustment is to be made for a payment received before the date of the change.

* * * * *

4.5 Payment

[Amend 4.5 to clarify the payment periods for caller service to read as follows:]

All fees are for a 6-month period. Fees must be paid in advance for each 6-month period. The fee may be paid for two periods at a time (*i.e.,* up to one year in advance), but not more. The fee that must be paid is the one that is in effect on the day that the fee is paid. Fees may be paid using cash, credit or debit card, or check or money order payable to the postmaster. A mailed payment must be received by the postmaster on or before the due date.

* * * * *

[Amend the heading of 4.8 by removing ''for Group D Offices'' to read as follows:]

4.8 Exception

[Amend the first sentence of 4.8 by removing reference to Group D offices to read as follows:]

Postmasters at offices with fewer than 500 post office boxes may set April 1 and October 1 as the beginning of payment periods for caller service customers in their offices. * * *

* * * * *

5.0 FEE REFUND

5.1 Discontinued Number

[Amend 5.1 to clarify when refunds can be made to read as follows:]

When caller service is terminated or surrendered by the customer, the unused portion of the fee may be refunded as follows:

a. If service is discontinued any time within the first 3 months of the service period, then one-half of the fee is refunded.

b. If service is discontinued after the beginning of the fourth month of the service period, then none of the fee is refunded.

c. If service is discontinued and the customer has prepaid for the next semi-annual service period, then the entire fee for that period is refunded.

* * * * *

[Add new 5.3 to show that the reserved number fee is not refundable to read as follows:]

5.3 Reserved Number Fee

The reserved number fee is not refundable.

* * * * *

E. Eligibility

E000 Special Eligibility Standards

E010 Overseas Military Mail

1.0 BASIC STANDARDS

* * * * *

1.4 Preparation

[Amend 1.4 by changing ''C600'' to ''C700'' and by changing ''Standard Mail (B)'' to ''Package Services'' to read as follows:]

Items sent by air or surface mail are subject to the size and weight standards in C100 or C700 unless limited further by this standard. Mail must be addressed under A010. Postage at the applicable Priority Mail or Package Services rates is charged for parcels sent by air or surface transportation.

* * * * *

1.6 Restriction

[Amend the first sentence of 1.6 for added clarity and to refer to the new class and subclass names ''Package Services'' and ''Media Mail,'' respectively, to read as follows:]

Regardless of the postage payment method, the following types of mail weighing 16 ounces or more must be presented at a post office retail counter: all single-piece rate Priority Mail and all single-piece rate Package Services mail (Parcel Post, Bound Printed Matter, Media Mail, Library Mail).* * *

* * * * *

3.0 MILITARY ORDINARY MAIL (MOM)

[Amend 3.0b by changing reference to ''Standard Mail (A), or Standard Mail (B)'' to ''Standard Mail, or Package Services mail''; no other changes to text.]

E020 Department of State Mail

1.0 AVAILABILITY

* * * * *

[Add new 1.4 to show that Express Mail is not eligible to be mailed through Department of State Mail:]

1.4 Express Mail

Express Mail may not be sent through the Department of State.

2.0 CONDITIONS FOR AUTHORIZED MAIL

* * * * *

2.3 Special Services

[Amend 2.3 by removing references to Express Mail, which has been moved to new 1.4, and by adding Signature Confirmation:]

The following special services are not available for mail transmitted through the Department of State: certified, COD, Delivery Confirmation, insured, registered, return receipt for merchandise, Signature Confirmation, and special handling. If one of those services is requested on this mail, it is returned to the sender endorsed ''Service Not Available.''

* * * * *

E040 Free Matter for the Blind and Other Handicapped Persons

* * * * *

4.0 PREPARATION

4.1 Basic Standards

[Amend 4.1b by changing ''C600'' to ''C700.'']

* * * * *

E060 Official Mail (Penalty)

* * * * *

5.0 SERVICES, CLASSES, RATES, PREPARATION, AND DETENTION

* * * * *

5.3 Basic Preparation

[Amend 5.3d to require the Parcel Post marking to read as follows:]

Penalty mail must:

* * * * *

d. For all methods of payment, be endorsed for class or rate except for single-piece rate First-Class Mail not exceeding 13 ounces.

* * * * *

7.0 PENALTY METER

* * * * *

[Amend 7.7 by changing title and references from ''On-Site Setting'' to ''Meter Service'' to read as follows:]

7.7 Meter Service

An agency wanting on-site meter service must pay the required fee in cash or with a check when the meter is set.

* * * * *

10.0 GENERAL STANDARDS FOR PENALTY REPLY MAIL

[Amend 10.1 by deleting the last phrase in the last sentence to read as follows:]

10.1 Restriction to Approved Formats

An agency may distribute penalty envelopes, cards, cartons, or labels to any person, concern, or organization. To distribute penalty reply mail, agencies must use the penalty business reply mail format; the penalty metered reply format; penalty mail adhesive stamps or penalty mail stamped stationery; or the penalty merchandise return service label.

* * * * *

11.0 PENALTY BUSINESS REPLY MAIL (BRM)

11.1 General

[Amend 11.1 to add QBRM as an option for penalty mailers and to clarify payment of the annual accounting fee to read as follows:]

An agency may participate in business reply mail service (including Qualified Business Reply Mail). Standards for business reply mail are in S922. Agencies can choose to pay postage and per piece charges for low-volume BRM with cash upon delivery or through an advance deposit account. If an agency chooses to pay through an advance deposit account, they must pay an annual accounting fee, which is billed through their OMAS account. The postage, fees, and per piece charges are the same as those for private-sector customers (R900).

* * * * *

12.0 PENALTY MERCHANDISE RETURN SERVICE

12.1 Description

[Amend 12.1 by replacing ''Standard Mail (B)'' with ''Package Services mail'' and replacing ''Special Standard Mail'' with ''Media Mail'' and adding a reference to S923 to read as follows:]

Merchandise return service allows an authorized permit holder to pay the postage and special service fees on single-piece rate First-Class Mail, Priority Mail, and Package Services (Parcel Post, Bound Printed Matter, and Media Mail) that is returned by the permit holder's customers via a special label produced by the permit holder as specified by S923.

[Redesignate current 12.2 through 12.12 as 12.4 through 12.14, respectively, add new 12.2 to show rate and fee application, and add new 12.3 to show the required accounting fee to read as follows:]

12.2 Postage and Special Service Fees

The standards for payment of postage and fees are:

a. The permit holder guarantees payment of the proper postage and special service fees on all returned merchandise return service articles distributed under the permit holder's permit number. Postage is collected for each article from an OMAS postage due account.

b. Returned parcels are charged single-piece rate postage and special service fees based on the class or subclass marking on the label. If a piece is unmarked, it is charged Parcel Post rates. If the postage for the returned piece is zoned and there is no way to determine where it was sent from (i.e., no postmark or return address), then postage is calculated at zone 4 (for Priority Mail) and zone 4 inter-BMC rates (for Parcel Post).

c. There is no per-piece charge per parcel returned.

12.3 Annual Accounting Fee

All MRS permit holders are required to pay the annual accounting fee in R900. This is assessed automatically through OMAS.

* * * * *

12.7 Label Format

[Amend redesignated 12.7 by changing exhibit numbers from ''Exhibit 12.5a'' to ''Exhibit 12.7a'' and ''Exhibit 12.5b'' to ''Exhibit 12.7b'' and to add new item c to indicate the location of the optional rate marking.]

* * * * *

c. Permit holders are encouraged, but are not required, to put the rate marking in the space to the right and above the ''Merchandise Return Label'' legend. The marking must be at least 3/16 inch high and be printed or rubber-stamped. Only the permit holder may apply this marking.

[Revise heading and amend content of redesignated 12.8 by clarifying to read as follows:]

12.8 Insured Mail Indicated by Permit Holder

The permit holder may obtain insured mail service with MRS. Indemnity under penalty mail merchandise return is limited to $100. Items requiring insurance greater than $100 may not be mailed under penalty merchandise return service. Only Package Services matter (i.e., matter not required to be mailed at First-Class Mail rates under E110) may be insured. Insured mail may be combined with Delivery Confirmation and special handling, or both. To request insured mail service, the permit holder must preprint or rubber-stamp ''Insurance Desired by Permit Holder for $ (value)'' to the left of and above the ''Merchandise Return Label'' legend and below the ''Total Postage and Fees Due'' statement on the merchandise return label. The value part of the endorsement, showing the dollar amount of insurance for the article, may be handwritten by the permit holder. If insurance is paid for by the MRS permit holder, then only the MRS permit holder may file a claim (S010).

[Redesignate 12.9 through 12.14 as 12.10 through 12.15, respectively. Add new 12.9 to show that MRS senders may add insurance at their discretion to read as follows:]

12.9 Insured Mail Added by Sender

If the permit holder has not indicated insured mail service on the MRS label, then the sender has the option of adding insurance at their own cost. There is no limit on the indemnity coverage paid for by the sender. If insurance is paid by the sender, then only the sender may file a claim (S010).

[Amend redesignated 12.10, Registered Mail, by changing ''Exhibit 12.5b'' to ''Exhibit 12.7b''; no other changes to text.]

[Amend redesignated 12.11, Special Handling, by changing ''Exhibit 12.5a'' to ''Exhibit 12.7a'' and by replacing ''Standard Mail'' with ''Package Services''; no other changes to text.]

[Remove redesignated 12.12 and 12.13. Redesignate 12.14 and 12.15 as 12.12 and 12.13, respectively.]

* * * * *

15.0 CONTRACTORS

* * * * *

15.2 Preparation

[Amend 15.2a to add the term ''Package Services'' to read as follows:]

Preparation standards for a contractor's penalty mailings include:

a. First-Class Mail, Standard Mail, and Package Services penalty mailings must be prepared with penalty permit imprints or penalty meters. Single-piece rate mailings may also be prepared with penalty mail stamps.

* * * * *

E070 Mixed Classes

* * * * *

2.0 ATTACHMENTS OF DIFFERENT CLASSES

[Amend the heading and contents of 2.1 to change ''Standard Mail (A)'' to ''Standard Mail'' and ''Standard Mail'' to ''Standard Mail, or Package Services'' to read as follows:]

2.1 First-Class Mail or Standard Mail

Letters or other pieces of First-Class Mail or Standard Mail may be placed in an envelope and attached to the address side of a Periodicals, Standard Mail, or

Package Services piece. Combination envelopes or containers with separate parts for the two classes of mail may be used.

2.2 Rate Qualification

[Amend the introductory sentence of 2.2 by adding ''Package Services'' to read as follows:]

If a Periodicals, Standard Mail, or Package Services host piece qualifies for:

[Amend 2.2a through 2.2d by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Amend 3.2b by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Amend 3.3a through 3.3d by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Amend title of 4.0 by replacing ''Standard Mail'' with ''Standard Mail and Package Services'' to read as follows:]

4.0 ENCLOSURE IN STANDARD MAIL AND PACKAGE SERVICES PARCEL

[Amend 4.1 by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail''; no other changes to text.]

[Amend 4.2 by replacing ''Standard Mail (A)'' with ''Standard Mail''; by replacing ''Standard Mail (B) with ''Package Services mail''; and by replacing ''E600'' with ''E700''; no other changes to text.]

5.0 INCIDENTAL FIRST-CLASS MAIL ATTACHMENT OR ENCLOSURE

[Amend 5.0 by replacing ''Standard Mail (A)'' with ''Standard Mail'' and by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

[Amend the heading of 6.0 by replacing ''Special Standard Mail'' with ''Media Mail'' to read as follows:]

6.0 COMBINED MAILING OF MEDIA MAIL AND BOUND PRINTED MATTER

[Amend 6.1 by replacing ''Special Standard Mail'' with ''Media Mail''; no other changes to text.]

[Revise 6.2 to specify Presorted rate mail must be prepared under Bound Printed Matter standards to read as follows:]

6.2 Presorted Rates

Presorted rates may be claimed, subject to the applicable preparation standards for Bound Printed Matter (M700).

* * * * *

E100 First-Class Mail

E110 Basic Standards

* * * * *

[Amend 1.2 by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail'' and by replacing ''Special Standard Mail'' with ''Media Mail''; no other changes to text.]

* * * * *

E120 Priority Mail

* * * * *

2.0 RATES

2.4 Keys and Identification Devices

[Amend 2.4 by adding reference to the 1-pound rate to read as follows:]

Keys and identification devices (identification cards or uncovered identification tags) that weigh more than 13 ounces but not more than 2 pounds are returned at the applicable 1- or 2-pound Priority Mail rate plus the fee as shown in R100 if they bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return the piece to that address and a statement guaranteeing payment of postage due on delivery.

* * * * *

E130 Nonautomation Rates

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2.0 SINGLE-PIECE RATE

* * * * *

2.2 Keys and Identification Devices

[Amend the first sentence of 2.2 by replacing ''$0.30'' with a reference to R100 to read as follows:]

Keys and identification devices (identification cards or uncovered identification tags) that weigh 13 ounces or less are mailed at the applicable single-piece letter rate plus the fee as shown in R100 and, if applicable, the nonstandard surcharge.

[Redesignate current E130.2.3 as M110.1.0. Add new 2.3 to read as follows:]

2.3 Preparation

Single-piece rate mail must be prepared under M110.

* * * * *

E140 Automation Rates

* * * * *

2.0 RATE APPLICATION

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[Revise heading of 2.2 to read as follows:]

2.2 Flats-Package-Based Preparation

[Amend 2.2 by revising the introductory text, 2.2a, and 2.2b to read as follows:]

First-Class Mail automation rates apply to each piece that is sorted under M820.2.0 or under M910.2.0 into the corresponding qualifying groups:

a. Pieces in 5-digit packages of 10 or more pieces qualify for the 5-digit automation rate. (Preparation to qualify for that rate is optional and need not be done for all 5-digit destinations.)

b. Pieces in 3-digit packages of 10 or more pieces qualify for the 3-digit automation rate.

c. Pieces in ADC or mixed ADC packages qualify for the basic automation rate.

[Add new 2.3 to read as follows:]

2.3 Flats—Optional Tray-Based Preparation

First-Class Mail automation rates apply to each piece that is sorted under M820.3.0 into the corresponding qualifying groups:

a. Groups of 90 or more pieces in 5-digit trays qualify for the 5-digit automation rate.

b. Groups of 90 or more pieces in 3-digit trays qualify for the 3-digit automation rates.

c. Groups of fewer than 90 pieces in origin 3-digit trays qualify for the basic automation rate.

d. Groups of 90 or more pieces in ADC trays and all pieces in mixed ADC trays qualify for the basic automation rate.

* * * * *

E150 Qualified Business Reply Mail

* * * * *

2.0 AUTHORIZATION

[Amend 2.0 by removing the last sentence.]

3.0 RATES AND FEES

* * * * *

3.2 Fees

[Revise 3.2 to add the QBRM quarterly fee to read as follows:]

Mailers participating in QBRM must pay an annual permit fee, an annual accounting fee, a per piece charge for each returned piece and, at the mailer's option, a quarterly fee. See R900.4.0.

E200 Periodicals

E210 Basic Standards

E211 All Periodicals

* * * * *

6.0 ELIGIBLE FORMATS

[Amend 6.1 by replacing ''First-Class Mail or Standard Mail'' with ''First-Class Mail, Standard Mail, or Package Services''; no other changes to text.]

* * * * *

9.0 BACK NUMBERS AND REPRINTS

[Amend 9.0 by replacing ''First-Class Mail or Standard Mail'' with ''First-Class Mail, Standard Mail, or Package Services''; no other changes to text.]

* * * * *

13.0 FEES

13.1 Fee Required

[Amend 13.1 by revising 13.1d(3) to read as follows:]

The required fee must accompany an application for:

* * * * *

d. Reentry (unless excepted in 13.2 or 13.3) to request a:

* * * * *

(3) Change eligibility from preferred rates or the preferred rate discount to regular Outside-County rates.

* * * * *

13.2 No Fee

[Amend 13.2 for clarity to read as follows:]

No fee is charged if reentry is only to change eligibility to preferred rates or the preferred rate discount.

* * * * *

[Remove 14.0.]

E212 Qualification Categories

* * * * *

2.0 PUBLICATIONS OF INSTITUTIONS AND SOCIETIES

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[Remove 2.4.]

* * * * *

4.0 REQUESTER PUBLICATIONS

[Amend 4.1 by replacing ''Regular'' with ''Outside-County''; no other changes to text.]

* * * * *

6.0 NEWS AGENT REGISTRY

* * * * *

[Amend 6.4 by replacing ''Regular'' with ''Outside-County''; no other changes to text.]

[Amend 6.5 by replacing ''Standard Mail'' with ''Standard Mail or Package Services''; no other changes to text.]

E213 Periodicals Mailing Privileges

* * * * *

2.0 MAILING WHILE APPLICATION PENDING

[Amend 2.1 by replacing ''First-Class Mail or Standard Mail'' with ''First-Class Mail, Standard Mail or Package Services''; no other changes to text.]

[Amend 2.2 by replacing ''Standard Mail'' with ''Standard Mail or Package Services''; no other changes to text.]

* * * * *

E214 Reentry

* * * * *

3.0 APPLICATION FOR REENTRY

* * * * *

[Amend 3.9a and 3.9c by replacing ''Standard Mail'' with ''Standard Mail or Package Services''; no other changes to text.]

[Amend 3.10 by replacing ''Standard Mail'' with ''Standard Mail or Package Services''; no other changes to text.]

* * * * *

E215 Copies Not Paid or Requested by Addressee

* * * * *

2.0 NONSUBSCRIBER AND NONREQUESTER COPIES

[Amend 2.1 and 2.2 by replacing ''Regular'' with ''Outside-County''; no other changes to text.]

[Amend heading of 2.3 by adding ''and the Preferred Rate Discount'' to read as follows:]

2.3 Preferred Rates and the Preferred Rate Discount

[Amend 2.3 by adding references to Preferred rate discount and clarifying qualification categories to read as follows:]

For Nonprofit, Classroom, In-County and Science-of-Agriculture publications, nonsubscriber copies, up to 10% of the total number of copies mailed to subscribers during the calendar year, may be mailed at the applicable Preferred rates or Preferred rate discount, provided the nonsubscriber copies would qualify as Preferred rate or Preferred rate discount publications if mailed to subscribers and if the copies are presorted under applicable standards. Nonsubscriber copies mailed over the 10% limit are not eligible for Preferred rates or the Preferred rate discount. To qualify for Outside-County rates, the nonsubscriber copies over the 10% allowance must be part of a presorted commingled mailing (one that includes subscriber copies). Subject to E220.4.0, nonsubscriber copies may be mailed at In-County rates up to a 10% limit of the total number of subscriber copies of the publication mailed at In-County rates during the calendar year. Once the 10% calendar year limit is exceeded on the number of nonsubscriber copies that may be mailed at Preferred rates or the Preferred rate discount, nonsubscriber copies may not then be mailed at In-County rates even if the 10% limit separately applied to those rates (under E220.4.0) is not exceeded.

[Redesignate 2.4 through 2.7 as 2.5 through 2.8, respectively; add new section 2.4 to read as follows:]

2.4 Publications of Institutions and Societies

For publications of institutions and societies that are not authorized to contain general advertising under E212.2.3, all circulated copies are considered subscriber copies and the total number of such copies is the total paid circulation.

[Amend redesignated 2.5 and 2.6 by replacing ''Regular'' with ''Outside-County''; no other changes to text.]

[Amend the heading of redesignated 2.7 by adding ''noncommingled'' to read as follows:]

2.7 Excess Noncommingled Mailing

[Amend redesignated 2.7 by replacing the second sentence and deleting the third sentence to read as follows:]

A mailing is not eligible for Periodicals rates if it consists entirely of nonsubscriber or nonrequester copies over the 10% limit of the total number of copies mailed to subscribers or requesters during the calendar year. These copies are subject to the appropriate Express Mail, First-Class Mail, Standard Mail, or Package Services rate.

[Amend redesignated 2.8 by replacing ''Express Mail, First-Class Mail, or Standard Mail'' with ''Express Mail, First-Class Mail, Standard Mail, or Package Services''; no other changes to text.]

* * * * *

[Add new DMM section E220.]

E220 Basic Rate Eligibility

1.0 OUTSIDE-COUNTY RATES

1.1 Basic Eligibility

Outside-County rates apply to all copies of an authorized Periodicals publication mailed by a publisher or news agent that are not eligible for In-County rates, except nonrequester and nonsubscriber copies under E215 for excess noncommingled mailings, unless the publication is authorized under E212.2.0 and is not authorized to contain general advertising. Nonrequester and nonsubscriber copies in excess of the 10% allowance under

E215 are subject to Outside-County rates when commingled with requester or subscriber copies as appropriate. Publications authorized for Science-of-Agriculture rates under 3.0 are subject to separate Delivery Unit, SCF, and Outside-County Zones 1 & 2 rates. Nonprofit and Classroom publications are subject to the Preferred rate discount under 2.0. Outside-County rates consist of a per-piece charge, a zoned charge for the weight of the advertising portion of the publication, and a charge for the weight of the nonadvertising portion. Each piece rate requires specific preparation.

2.0 OUTSIDE-COUNTY PREFERRED RATE DISCOUNT

Periodicals publications qualifying as Nonprofit or Classroom Periodicals under E270 receive a 5% discount off the total Outside-County postage, excluding the postage for advertising pounds. Requester publications are not eligible for the Preferred rate discount. Nonsubscriber copies claiming the Preferred rate discount are subject to the standards in E215.

3.0 OUTSIDE-COUNTY SCIENCE-OF-AGRICULTURE RATES

3.1 Authorization

To be mailed at the Science-of-Agriculture Periodicals rates, a publication must be granted Periodicals entry in other than the requester category and granted a Science-of-Agriculture rate authorization.

3.2 Eligibility

Science-of-Agriculture rates apply to Outside-County copies of authorized Periodicals publications mailed by publishers or news agents when the total copies provided during any 12-month period to subscribers residing in rural areas are at least 70% of the total number of copies distributed by any means for any purpose.

3.3 Other Rates

All Outside-County rates and discounts apply except for separate rates for Delivery Unit, DSCF, and zones 1 & 2. Each piece must meet the standards for rates or discounts claimed. Nonsubscriber copies are subject to E215. Subject to E250, the DDU or DSCF piece rate applies to each piece claimed in the pound rate portion at the corresponding rate.

3.4 Nonadvertising Discount

The nonadvertising discount applies to Outside-County piece rate postage.

3.5 Application Procedures

The Science-of-Agriculture rate is available only after USPS authorization. An application or written request for Science-of-Agriculture rates must be filed at the publication's original entry post office. Application may be made by submitting a written request when applying for Periodicals mailing privileges (on Form 3501), by completing the relevant part of an application for Periodicals mailing privileges (on Form 3502), or by filing for reentry (on Form 3510) after Periodicals mailing privileges are authorized. The applicant must submit evidence to show eligibility under the corresponding standards in E220.

4.0 IN-COUNTY RATES

4.1 Subscriber Copies

In-County rates apply to subscriber copies of any issue of a Periodicals publication (except a requester publication) when they are entered within the county in which the post office of original entry is located for delivery to addresses within that county, if one of the following is met:

a. The total paid circulation of such issue is less than 10,000 copies.

b. The number of paid copies of such issue distributed within the county of publication is more than 50% of the total paid circulation of such issue.

4.2 Exceptional Conditions

The standard in 4.1 also is applied under these exceptional conditions:

a. If an entry office postmaster directs the publisher to deposit copies of the publication at a postal facility serving that office, those copies are considered as mailed at the entry office for purposes of In-County rates.

b. A copy addressed to a destination within the county of publication is eligible for In-County rates when the entry post office serving that address is outside the county.

c. Each Periodicals publication (except a requester publication or commingled nonsubscriber copies above the 10% allowance) having original entry at an incorporated city situated entirely within a county or contiguous to one or more counties in the same state, but politically independent of such county or counties, is considered within a part of the county with which it is principally contiguous. Copies mailed into that county are charged postage at the In-County rates. Where more than one county is involved, the publisher selects the principal county and notifies the postmaster.

4.3 Nonsubscriber Copies

During a calendar year, the total number of nonsubscriber copies mailed at In-County rates may not exceed 10% of the number of subscriber copies mailed at In-County rates. The number of nonsubscriber copies mailed at In-County rates must be included in the determination of the overall 10% allowance under E215. Effectively, the allowance for nonsubscriber copies mailable at the In-County rates is the 10% allowed under this standard or the overall 10% limit under E215, whichever occurs first.

4.4 Other Rates

Each piece also must meet the standards for the rates and discounts claimed. Subject to E250, the Delivery Unit piece rate applies to each piece claimed in the pound rate portion at the Delivery Unit rate.

5.0 DISCOUNTS

Postage for Periodicals is reduced by all applicable discounts. The nonadvertising discount applies to the Outside-County piece rate charges and is computed under P013. Presort and automation discounts are available under E230 and E240, respectively. Destination entry discounts are available under E250 for copies entered at specific USPS facilities.

6.0 COPIES MAILED BY PUBLIC

The applicable single-piece First-Class Mail, Priority Mail, or Package Services rate is charged on copies of publications mailed by the general public (i.e., other than publishers or registered news agents) and on copies returned to publishers or news agents.

* * * * *

E250 Destination Entry

* * * * *

2.0 DDU RATE

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[Amend 2.4 by replacing ''Standard Mail'' with ''Standard Mail or Package Services''; no other changes to text.]

* * * * *

E270 Preferred Periodicals

[Remove 1.0 and 6.0 and redesignate 2.0, 3.0, 4.0, 5.0, 7.0, 8.0, and 9.0 as 1.0 through 7.0, respectively.]

[Amend the heading in redesignated 1.0 by replacing the word ''RATES'' with the word ''ELIGIBILITY'' to read as follows:]

1.0 NONPROFIT ELIGIBILITY—BASIC INFORMATION

1.1 Authorization

[Amend redesignated 1.1 by removing the word ''rates'' and replacing the reference ''3.0 or 4.0'' with ''2.0 or 3.0'' to read as follows:]

To be mailed as a Nonprofit Periodical, a publication must be granted Periodicals entry in other than the requester category and a Nonprofit authorization for which eligibility was established under 2.0 or 3.0.

* * * * *

[Amend redesignated 1.3 by removing the word ''regular'' in the last sentence.]

[Remove all of 1.4.]

* * * * *

[Amend the heading in redesignated 2.0 by replacing the word ''RATES'' with the word ''ELIGIBILITY'' to read as follows:]

2.0 NONPROFIT ELIGIBILITY—QUALIFIED ORGANIZATIONS

2.1 Types of Organizations

[Replace the reference ''3.3 through 3.10'' with ''2.3 through 2.10.'']

2.2 Primary Purpose

[Replace the reference ''3.3 through 3.10'' with ''2.3 through 2.10.'']

* * * * *

[Amend the heading in redesignated 3.0 by replacing the word ''RATES'' with the word ''ELIGIBILITY'' to read as follows:]

3.0 NONPROFIT ELIGIBILITY—OTHER QUALIFIED ORGANIZATIONS

3.1

Basic Eligibility

3.1 Basic Eligibility

[Replace the reference ''4.2'' with ''3.2.'']

3.2 Eligibility Limitation

[Replace the reference ''4.1c or 4.1d'' with ''3.1c or 3.1d.'']

[Amend the heading in redesignated 4.0 by replacing the word ''RATES'' with the word ''ELIGIBILITY'' to read as follows:]

4.0 CLASSROOM ELIGIBILITY

* * * * *

[Amend redesignated 4.4 by removing the word ''regular'' in the last sentence.]

[Remove 4.5.]

* * * * *

5.0 APPLICATION

[In redesignated 5.0, remove 5.1 and redesignate 5.2 and 5.3 as 5.1 and 5.2.]

5.1 Procedures

[Amend redesignated 5.1 by adding a new first sentence and revising the second sentence (former first sentence) to read as follows:]

The Preferred rate discount is available only after USPS authorization. An application or written request for authorization as a Nonprofit or Classroom publication must be filed at the publication's original entry post office. Application may be made by submitting a written request when applying for Periodicals mailing privileges (on Form 3501), by completing the relevant part of an application for Periodicals mailing privileges (on Form 3502), or by filing for reentry (on Form 3510) after Periodicals mailing privileges are authorized.* * *

* * * * *

6.0 MAILING WHILE APPLICATION PENDING

[Amend redesignated 6.1 by adding reference to preferred rate and replacing ''Regular Periodicals'' with ''Outside-County'' and ''Standard Mail'' with ''Standard Mail, or Package Services'' to read as follows:]

6.1 Mailing Before Approval

A publisher or news agent may not mail at a Periodicals Preferred rate or Preferred rate discount before the RCSC manager approves the application for such privilege. Until approval is given, postage must be paid at the Outside-County rates (if the publication is authorized), or at the applicable First-Class Mail, Standard Mail, or Package Services rates (if the publication or news agent is in a pending status for Periodicals mailing privileges).

[Amend redesignated 6.2 by replacing ''Standard Mail'' with ''Standard Mail or Package Services''; and replacing ''regular'' with ''Outside-County''; no other changes to text.]

7.0 DECISION ON APPLICATION

* * * * *

[Amend redesignated 7.4 (formerly 9.4) by replacing ''Standard Mail'' with ''Standard Mail or Package Services''; replacing ''Regular'' with ''Outside-County''; and the reference ''9.5'' with ''7.5''; no other changes to text.]

7.5 No Refund

[Amend 7.5c (formerly 9.5c) by removing the word ''Regular''; no other changes to text.]

* * * * *

E600 Standard Mail

E610 Basic Standards

[Matter pertaining only to Standard Mail (formerly Standard Mail (A)) in current E611 and E612 has been consolidated and reorganized into new E610. Unless otherwise indicated by the amend/revise instructions below, there are no changes to the content of these sections]

[Remove the heading ''E611, All Standard Mail.'']

1.0 BASIC INFORMATION

[Redesignate E611.1.1 as E610.1.1, amend the heading and contents to show that Standard Mail no longer includes matter previously referred to as Standard Mail (B) or fourth-class mail, and add the weight limit from former E612.1.0 to read as follows:]

1.1 Definition and Weight

Standard Mail consists of mailable matter that is neither mailed or required to be mailed as First-Class Mail nor entered as Periodicals (unless permitted or required by standard) and that weighs less than 16 ounces. Standard Mail includes matter formerly classified as Standard Mail (A) and third-class mail.

[Redesignate E611.1.2 as E610.1.2, no other changes to text:]

* * * * *

[Redesignate E612.2.0 as E610.2.0; amend redesignated 2.1 and 2.2 by changing ''Standard Mail (A)'' to ''Standard Mail''; no other changes to text.]

[Redesignate E611.1.3 as E610.3.0, amend redesignated 3.0j by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

[Redesignate the heading of E612.3.0 as E610.4.0 to read as follows:]

4.0 ENCLOSURES AND ATTACHMENTS

[Redesignate E611.1.4 as E610.4.1; no other changes in text.]

[Redesignate E611.1.5 as E610.4.2, replace ''Standard Mail (A)'' with ''Standard Mail,'' and ''Standard Mail (B) with ''Package Services mail''; no other changes to text.]

[Redesignate E612.3.1 as E610.4.3 and amend by changing ''Standard Mail (A)'' to ''Standard Mail''; no other changes to text.]

[Redesignate E612.3.2 as E610.4.4 and amend by changing ''Standard Mail (A)'' to ''Standard Mail''; no other changes to text.]

[Redesignate E612.3.3 as E610.4.5 and amend to change ''Standard Mail (A)'' to ''Standard Mail''; no other changes to text.

[Redesignate E612.4.0 as E610.5.0 to read as follows:]

5.0 RATES

[Redesignate E612.4.1 through 4.3 as E610.5.1 through 5.3, amend for clarity, amend to incorporate new maximum limits for minimum per-piece rates, and revise references to DMM section numbers, to read as follows:]

5.1 General Information

All Standard Mail rates are presorted rates (including all nonprofit rates). These rates apply to mailings meeting the basic standards in E610 and the corresponding standards for Presorted, Enhanced Carrier Route, or automation, under E620, E630, or E640. Destination entry discounted rates are available under E650, and barcoded discounts are available for machinable parcels in E620, as appropriate for the rate claimed. A residual shape surcharge is also charged for pieces that are prepared as a parcel or that are not letter-size or flat-size. Nonprofit rates may be used only by organizations authorized by the USPS under E670. Not all processing categories qualify for every rate. Pieces are subject to either a single minimum per-piece rate or a combined piece/pound rate depending on the weight of the individual pieces in the mailing under 5.2 or 5.3.

5.2 Minimum Per-Piece Rates

The minimum per-piece rates (*i.e.,* the minimum postage that must be paid for each piece) apply as follows.

a. Basic Requirement. Except for pieces eligible for and mailed at automation letter rates, pieces mailed at Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route rates are subject to minimum per-piece rates when they weigh no more than 3.3 ounces (.2063 pound). Pieces eligible for and mailed at Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route automation letter rates are subject to minimum per-piece rates when they weigh no more than 3.5 ounces (.2188 pound).

b. Letters and Nonletters. In applying the minimum per-piece rates, mail is categorized as either letters or nonletters, based on whether the mail meets the letter-size standard in C050, without regard to placement of the address on the mailpiece. There are two exceptions to this rule: (1) mailers that have pieces that meet both the definition of a letter in C050 and the definition of an automation flat in C820, may choose to prepare and enter mail at an automation flat (nonletter) rate; (2) address placement is used to determine the length when applying the size standards and aspect ratio requirements to qualify for automation letter rates under C810. For this purpose, the length is considered to be the dimension parallel to the address.

c. Individual Rates. There are separate minimum per-piece rates for each subclass (Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route) and within each subclass for the type of mailing and the level of presort within each mailing under E620, E630, and E640. Discounted per-piece rates also may be claimed for destination entry mailings (destination bulk mail center (DBMC), destination sectional center facility (DSCF), and destination delivery unit (DDU)) under E650. DDU rates are available only for mail entered at Enhanced Carrier Route or Nonprofit Enhanced Carrier Route rates. See R600 for individual per-piece rates.

5.3 Piece/Pound Rates

Except for pieces eligible for and mailed at automation letter rates, pieces that exceed 3.3 ounces (.2063 pound) are subject to a two-part piece/pound rate that includes a fixed charge per piece and a variable pound charge based on weight. There are separate per-piece rates for each subclass (Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route) and within each subclass for the type of mailing and the level of presort within each mailing under E620, E630, and E640. There are separate per-pound rates for each subclass (Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route) under E620, E630, and E640. Discounted per-pound rates also may be claimed for destination entry mailings (destination bulk mail center (DBMC), destination sectional center facility (DSCF), and destination delivery unit (DDU)) under E650.

[Add new 5.4 and 5.5 to read as follows:]

5.4 Machinable Parcel Barcoded Discount

Machinable parcels (C050) mailed at Regular or Nonprofit rates that are prepared with barcodes under C850 and meet the eligibility requirements in E620 may qualify for a barcoded discount. Pieces eligible for a barcoded discount are also subject to a residual shape surcharge under 5.5. Pieces mailed at Enhanced Carrier Route or Nonprofit Enhanced Carrier route rates are not eligible for a barcoded discount.

5.5 Residual Shape Surcharge

Mail that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to a residual shape surcharge. There is one surcharge for mail entered at Regular or Nonprofit rates and a different surcharge for mail entered at Enhanced Carrier Route or Nonprofit Enhanced Carrier Route rates.

[Redesignate E612.4.4 as 5.6 and amend to provide for the residual shape surcharge to read as follows:]

5.6 Net Postage

The net postage rate that must be paid is either the applicable minimum per-piece rate or the piece/pound rate, as reduced by any discounts for which the piece is eligible, and/or as increased by any surcharge to which the piece is subject. The net postage rate is commonly designated by the name of the primary rate category or discount (e.g., Enhanced Carrier Route rate, automation letter rate, automation flat rate, Presorted rate).

[Redesignate E612.4.5 as 5.7 and amend to remove the reference to 4.6, to delete ''bulk,'' and to change ''pound rates'' to ''piece/pound rate,'' to read as follows:]

5.7 Minimum Rate

Postage is computed at the applicable rates on the entire mailing to be mailed at one time. The total postage paid on any mailing may not be lower than the amount determined by multiplying the proper minimum per-piece rate (less applicable discounts) by the total number of pieces. If the total postage computed at piece/pound rates, after any adjustment for presort level, is less than the minimum per-piece postage charge, then postage must be computed at the minimum per-piece rate.

[Remove E612.4.6. This section is no longer needed because all Package Services mail may now weigh less than 16 ounces.]

[Add new heading 6.0 to read as follows:]

6.0 FEES

[Redesignate E612.4.7 as E610.6.1 and amend to change ''Standard Mail (A)'' to ''Standard Mail''; no other changes in text.]

[Redesignate E611.1.6 as 6.2; and amend by adding ''(R900)'' at the end of the sentence; no other changes in text.]

[Remove current E611.1.7 and 1.8.]

[Redesignate E612.4.8 as E610.7.0 and amend to change ''Standard Mail (A)'' to ''Standard Mail''; no other changes to text.]

[Redesignate E612.4.9 as E610.8.0, amend to change ''Standard Mail (A)'' to ''Standard Mail,'' amend redesignated 8.0c for clarity, amend redesignated 8.0e to provide for use of detached address labels as previously provided in E611.1.7, amend redesignated 8.0g to

incorporate former E611.1.8, redesignate 8.0j as 8.0k, and add new 8.0j to read as follows:]

8.0 PREPARATION

Each Standard Mail mailing is subject to these general standards:

a. All pieces in a mailing must be of the same processing category, except that irregular and machinable parcels may be commingled in 5-digit sacks or on 5-digit pallets.

b. Each mailing must contain at least 200 pieces or 50 pounds of pieces. See E620 for volume requirement eligibility unique to Presorted Standard rate mailings. Other volume standards also can apply, based on the rate claimed.

c. For letter-size and flat-size mail, all pieces in an automation mailing must be eligible for an automation rate. Separate automation and Presorted rate mailings of flats may be co-sacked under M910. Separate automation, Presorted, and Enhanced Carrier Route mailings of flats may be co-containerized under M920, M930 or M940.

d. All pieces in a mailing must be sorted together and marked under the standards for the rate claimed.

e. Each piece must bear the addressee's name and delivery address, including the correct ZIP Code or Zip+4 code, unless an alternative address format is used subject to A040. Detached address labels may be used subject to A060. Pieces in automation rate mailings, upgradable nonautomation rate pieces, or pieces prepared with detached address labels are subject to additional standards.

f. Postage must be paid under P600 with precanceled stamps, postage meter, or permit imprint.

g. A postage statement, completed and signed by the mailer, using the correct USPS form or an approved facsimile, must be submitted with each mailing. In addition mailings must be documented under P012 and the standards for the rate claimed.

h. Each piece must meet the standards for any other rate or discount claimed.

i. Any POSTNET barcode on a mailpiece must be correct for the delivery address and must meet the standards in C840 and A950.

j. Any postal routing code barcode on a machinable parcel must be correct for the delivery address and must meet the standards in C850.

k. Mailings must be deposited at a business mail entry unit of the post office where the postage permit or license is held and the annual bulk fee paid, unless deposit elsewhere is permitted by standard.

[Redesignate E612.4.10 as E610.9.0 and revise to permit use of certain special services for matter subject to the residual shape surcharge and to specify the conditions for such use to read as follows:]

9.0 SPECIAL SERVICES

9.1 Eligible Matter

Standard Mail that is subject to the residual shape surcharge (pieces prepared as parcels or that are not letter-size or flat-size as defined in C050) may receive the following additional special services subject to the standards for the special service and upon payment of the appropriate special service fees: bulk insurance (S913), return receipt for merchandise (S917), and electronic option Delivery Confirmation (S918). No other special services may be used with Standard Mail. Standard Mail that is letter-size or flat-size (C050) and is prepared as letter-size or flat-size mail is not eligible for any special services. Machinable parcels using Bulk Parcel Return service are not eligible for any special services. Matter mailed using detached address labels under A060 is not eligible for any special services.

9.2 Additional Preparation Requirements

Mailpieces prepared using special services must bear a return address under A010 and must bear an ancillary service endorsement (F010) that results in return of the mailpiece to the sender if undeliverable as addressed (Address Service Requested, Forwarding Service Requested, or Return Service Requested).

[Revise the heading of E620 to read as follows:]

E620 Presorted Rates

[Revise the heading of 1.0 to read as follows:]

1.0 BASIC STANDARDS

[Revise the heading of 1.1 to read as follows:]

1.1 General

[Amend 1.1 by replacing in the first sentence of 1.1 and in 1.1b ''Standard Mail (A)'' with ''Standard Mail,'' and by replacing in 1.1a ''E611 and E612'' with ''E610''; no other changes to text.]

* * * * *

[Amend 1.3 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes in text.]

* * * * *

[Redesignate 1.5 as 2.0 and amend the heading by removing the word ''Presorted''; no other changes to text.]

[Redesignate 1.6 as 3.0; no other changes to text.]

[Add 4.0 to read as follows:]

4.0 BARCODED DISCOUNT

The barcoded discount applies to machinable parcels (C050) that are subject to the residual shape surcharge in 3.0 when the parcels bear a correct, readable barcode under C850 for the ZIP Code shown in the delivery address; are prepared as machinable parcels under M045 or M610; are, if entered at the DSCF rates, not prepared in ASF, BMC, or mixed BMC sacks or pallets; and, if claiming the DBMC rates, are not entered at an ASF. An exception is that properly prepared machinable pieces of DBMC rate mail entered at the Phoenix, AZ, ASF may claim the barcoded discount because that facility uses barcode scanning equipment. See P600 for postage payment standards.

[Redesignate current E630.1.0 through E630.7.0 as E711 through E715, as directed later in this document.]

[Add new E630 to read as follows:]

E630 Enhanced Carrier Route Rates

1.0 BASIC STANDARDS

[Redesignate E620.2.1 as E630.1.1 and amend 1.1a by changing ''E611 and E612'' to ''E610''; no other changes in text.]

[Redesignate E610.2.2 through 2.7 as E630.1.2 through 1.7, respectively.]

[Add new heading 2.0 to read as follows:]

2.0 RATES

[Redesignate E620.2.8 through E620.2.10 as E630.2.1 through E630.2.3, respectively and amend redesignated 2.3 by changing ''2.6 and 2.7'' to ''1.6 and 1.7''; no other changes to text.]

* * * * *

[Amend the heading of E640 by removing ''Standard Mail (A)'' to read as follows:]

E640 Automation Rates

1.0 REGULAR AND NONPROFIT RATES

1.1 All Pieces

[Amend the introductory sentence by replacing ''Standard Mail (A)'' with ''Standard Mail''; amend 1.1a by replacing ''E611 and E612'' with ''E610,'' no other changes to text.]

* * * * *

2.0 ENHANCED CARRIER ROUTE RATES

2.1 All Pieces

[Amend 2.1a by replacing ''E611 and E612'' with ''E610,'' no other changes to text.]

* * * * *

E650 Destination Entry

[Remove the heading ''E651 Regular, Nonprofit, and Enhanced Carrier Route Standard Mail.']

1.0 BASIC STANDARDS

[Amend 1.1 by replacing ''E611 and E612'' with ''E610''; no other changes to text.]

* * * * *

[Amend 1.4 by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

[Amend 1.5 by replacing ''P750'' with ''P950.'']

* * * * *

2.0 VERIFICATION

* * * * *

[Amend 2.2 by replacing ''P750'' with ''P950.'']

* * * * *

3.0 DEPOSIT

* * * * *

[Amend 3.3d by changing ''Standard Mail (A)'' to ''Standard Mail'' and by changing ''Standard Mail (B)'' to ''Package Services mail.'']

* * * * *

[Amend 3.10 by changing ''Standard Mail (A)'' to ''Standard Mail.'']

* * * * *

7.0 DDU DISCOUNT

[Amend 7.1 by changing ''Standard Mail (A)'' to ''Standard Mail.'']

* * * * *

[Redesignate E652 as E751. Amend E751 as specified later in this document.]

E670 Nonprofit Standard Mail

1.0 BASIC STANDARDS

* * * * *

[Amend 1.2 by replacing ''P750'' with ''P950.'']

[Amend 1.3 by replacing ''E611 and E612'' with ''E610.'']

* * * * *

3.0 QUALIFIED POLITICAL COMMITTEES AND STATE OR LOCAL VOTING REGISTRATION OFFICIALS

* * * * *

[Amend 3.3 by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

* * * * *

5.0 ELIGIBLE AND INELIGIBLE MATTER

* * * * *

[Amend 5.4d(2) by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

* * * * *

[Amend 5.6a by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

* * * * *

[Amend 5.12 by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

* * * * *

9.0 MAILING WHILE APPLICATION PENDING

* * * * *

[Amend 9.2 by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

* * * * *

[Add new E700 as follows:]

E700 Package Services Mail

[Matter pertaining to only Package Services (formerly Standard Mail (B)) in current E611 and E613 has been consolidated, reorganized, and added as new E710. Unless otherwise indicated by the amend/revise instructions below, there are no changes to the content of these sections. They are reproduced here to assist in understanding the new organization.]

E710 Basic Standards

1.0 BASIC INFORMATION

[Redesignate E611.1.1 as E710.1.1 and amend by replacing ''Standard Mail'' with ''Package Services mail'' and including Package Services subclasses to read as follows:]

1.1 Definition

Package Services mail consists of mailable matter that is neither mailed or required to be mailed as First-Class Mail nor entered as Periodicals (unless permitted or required by standard). Package Services mail includes matter formerly classified as Standard Mail (B). There are four subclasses of Package Services mail: Parcel Post, Bound Printed Matter, Media Mail (formerly Special Standard), and Library Mail. Information on specific eligibility requirements to qualify for rates under each of the four subclasses is found in E711, E712, E713, E714, and E715.

[Redesignate E613.1.0 as E710.1.2 and amend by eliminating the minimum weight of 1 pound and replacing ''Special Standard Mail'' with ''Media Mail'' to read as follows:]

1.2 Weight

There is no minimum weight for Package Services. A single piece of Parcel Post, Media Mail, and Library Mail can weigh no more than 70 pounds. A single piece of Bound Printed Matter can weigh no more than 15 pounds.

[Redesignate existing E611.1.2 as E710.1.3 and amend by changing the class name from ''Standard Mail'' to ''Package Services'' to read as follows:]

1.3 Postal Inspection

Package Services mail is not sealed against postal inspection except that electronic documents retained by the Postal Service are sealed against postal inspection. Regardless of physical closure, the mailing of articles at Package Services rates constitutes consent by the mailer to postal inspection of the contents.

[Redesignate existing E611.1.3 as E710.1.4 and amend by changing ''Standard Mail (A) to ''Standard Mail'' in 1.4j; no other changes.]

[Redesignate existing E611.1.4 as E710.1.5 and amend by replacing ''Standard Mail'' with ''Package Services''; no other changes.]

[Redesignate existing E611.1.5 as E710.1.6 and remove references to ''Standard Mail (A)'' and ''Standard Mail'' to read as follows:]

1.6 Incidental First-Class Attachments and Enclosures

Incidental First-Class matter may be enclosed in or attached to any Package Services piece without payment of First-Class postage. An incidental First-Class attachment or enclosure must be matter that, if mailed separately, would require First-Class postage, is closely associated with but secondary to the host piece, and is prepared so as not to interfere with postal processing. An incidental First-Class attachment or enclosure may be a bill for the product or publication, a statement of account for past products or publications, or a personal message or greeting included with a product, publication, or parcel. Postage at the Package Services rate for the host piece is based on the combined weight of the host piece and the incidental First-Class attachment or enclosure.

[Redesignate E613.2.0 as E710.2.0.]

2.0 ZONED RATES

[Redesignate existing E613.2.1 as E710.2.1 and amend by replacing ''Standard Mail'' with ''Package Services''; no other changes.]

[Redesignate existing E613.2.2 as E710.2.2, amend by changing ''Standard Mail'' to ''Package Services'' in the first sentence, and amend 2.2c by inserting ''Parcel Post Intra-BMC'' to read as follows:]

2.2 Redirected Mailings

A mailer who presents large mailings of zoned Package Services mail may be permitted or directed to deposit such mailings at another postal facility when processing or logistics make such an

alternative desirable for the USPS, subject to these conditions:

a. Zoned postage need not be recomputed if both the original post office of mailing and the alternative facility use the same zone chart for computing zoned postage, based on the 3-digit prefix of their ZIP Codes.

b. Postage must be recomputed on pieces in mailings redirected to a postal facility that uses a different zone chart for computing zoned postage.

c. Postage for pieces claimed at the Parcel Post Intra-BMC local zone rates must be recomputed at the applicable zone rate for the alternative postal facility. Postage also may be recomputed for other pieces that are ineligible for the Parcel Post Intra-BMC local zone rates but could become eligible at the postal facility to which the mailing is redirected.

[Redesignate existing E613.2.3 as E710.2.3 and amend by changing ''Standard Mail'' to ''Package Services''; no other changes.]

[Redesignate E613.3.0 as E710.3.0 and revise to read as follows:]

3.0 ADDRESSING

3.1 Delivery and Return Address

All Package Services mail must bear a delivery address. Except for single-piece rate Parcel Post, the delivery address on each piece must include the correct ZIP Code or ZIP+4 code. Alternative address formats or detached address labels may be used, subject to A040 or A060. All Package Services mail must bear the sender's return address.

[Redesignate E611.1.6 as E710.3.2 and amend title by adding ''Fees'' to read as follows:]

3.2 Address Correction Fees

The fee for manual or automated address correction service is charged per notice issued (R700).

[Redesignate E611.1.8 as E710.4.0 and amend for clarity to read as follows:]

4.0 DOCUMENTATION

Each mailing must be accompanied by a correct, completed USPS postage statement form, or approved facsimile, signed by the mailer. A postage statement is not required for a Package Services mailing when the correct postage at the single-piece rate is affixed to each piece. Additional supporting documentation may be required by the standards for the rate claimed or postage payment method used.

E700 Package Services Mail

E710 Basic Standards

[Add new E711 to read as follows:]

E711 Parcel Post

[Redesignate E630.1.0 as E711.1.0 and revise to read as follows:]

1.0 DEFINITION

Parcel Post is Package Services mail that is not mailed as Bound Printed Matter, Media Mail, or Library Mail. Any Package Services matter may be mailed at Parcel Post rates, subject to the basic standards in E710.

[Add new E711.2.0 to read as follows:]

2.0 BASIC STANDARDS

[Redesignate E630.1.2 as E711.2.1 and change ''Standard Mail (A)'' to ''Standard Mail'' and change reference ''E611'' to ''E710'' to read as follows:]

2.1 Enclosures

Parcel Post may contain any printed matter mailable as Standard Mail, in addition to the enclosures and additions listed in E710.

[Redesignate E630.1.3 as E711.2.2 and amend to add the Intra-BMC and Parcel Select-DBMC nonmachinable surcharges to read as follows:]

2.2 Rate Eligibility

There are five Parcel Post rate categories: Intra-BMC, Inter-BMC, destination bulk mail center (DBMC), destination sectional center facility (DSCF), and destination delivery unit (DDU). Intra-BMC, Inter-BMC, and DBMC Parcel Post rates are calculated based on the zone to which the parcel is addressed and the weight of the parcel. DSCF and DDU rates are calculated based on the weight of the parcel. Generally, Intra-BMC rates apply to parcels mailed and delivered within the same BMC service area and Inter-BMC rates apply to parcels mailed in one BMC service area and delivered in a different BMC service area. Specific standards for Inter-BMC and Intra-BMC rates and applicable discounts are described below. Generally, to qualify for the Parcel Select-DBMC, -DSCF, or -DDU rates, mailers must enter their parcels at the destination BMC, SCF, or delivery unit postal facility that will process or deliver the parcels. (See E750 for destination entry requirements.) Inter-BMC, Intra-BMC, and Parcel Select-DBMC Parcel Post is subject to a nonmachinable surcharge if the criteria specified in C050.4.1 for machinable parcels are not met. Additional requirements for Parcel Post rates and discounts are as follows:

a. Intra-BMC rates apply to all Parcel Post that originates and destinates in the service area of the same BMC or ASF. Intra-BMC rates also apply to Parcel Post that originates and destinates in the same state for Alaska and Hawaii and in the same territory for Puerto Rico. See Exhibit 2.2. Intra-BMC rates for nonmachinable Parcel Post include the nonmachinable surcharge that applies to parcels that weigh more than 35 pounds or otherwise do not meet the criteria contained in C050.4.1.

b. Inter-BMC rates for machinable parcels apply to all Parcel Post mail that weighs 35 pounds or less; is machinable; originates in the service area of a BMC/ASF or in Alaska, Hawaii, or Puerto Rico and destinates outside that area; and is not eligible for destination entry rates.

c. Inter-BMC rates for nonmachinable Parcel Post include the nonmachinable surcharge and apply to all inter-BMC/ASF Parcel Post mail that weighs more than 35 pounds or otherwise is nonmachinable as defined in C050; originates in the service area of a BMC/ASF or in Alaska, Hawaii, or Puerto Rico and destinates outside that area; and is not eligible for destination entry rates.

d. Parcel Post for which OBMC Presort, BMC Presort, and barcoded discounts are claimed and Parcel Post that is mailed at a destination entry rate (Parcel Select-DBMC, -DSCF, -DDU (E750)) must be part of a mailing of 50 or more Parcel Post rate pieces. Eligibility for one of those rates or discounts does not require a separate 50 qualifying pieces per rate or per discount. Eligibility for more than one of those rates or discounts in the same Parcel Post mailing is possible, provided there are a total of at least 50 pieces of mail qualifying for any or all Parcel Post rates in the mailing and all other preparation and eligibility requirements for the rates or discounts are met.

e. The BMC Presort per piece discount applies to pieces of inter-BMC Parcel Post sorted to BMC destinations under L601 for machinable pieces and sorted to BMC and ASF destinations for nonmachinable pieces under L605. To qualify, machinable pieces must be placed in pallet boxes on pallets, and nonmachinable pieces must be placed directly on pallets under M041 and M045. The mail must be entered at a postal facility that is not a BMC and must be part of a mailing containing 50 or more Parcel Post rate pieces.

f. The origin bulk mail center (OBMC) Presort per piece discount applies to pieces of Inter-BMC Parcel Post sorted to BMC destinations under L601 for machinable pieces and sorted to BMC and ASF destinations for nonmachinable pieces under L605. To qualify, machinable pieces must be placed in pallet boxes on pallets, and nonmachinable pieces must be placed

directly on pallets under M041 and M045. The mail must be entered at a BMC listed in L601 and must be part of a mailing containing 50 or more Parcel Post rate pieces.

g. The barcoded discount applies to Parcel Post machinable parcels (C050.4.1) that bear a correct, readable barcode under C850 for the ZIP Code of the delivery address; are part of a mailing of 50 or more Parcel Post rate pieces; are not mailed at the DSCF or DDU rates; and, if claiming the DBMC rates, are not entered at an ASF. An exception is that properly prepared machinable pieces of DBMC rate mail entered at the Phoenix, AZ, ASF may claim the barcoded discount because that facility uses barcode scanning equipment.

h. The oversized rate applies to pieces that measure over 108 inches but that are not more than 130 inches in combined length and girth; they are mailable at the applicable oversized Parcel Post rate.

i. The balloon rate applies to pieces that measure over 84 inches but that are not more than 108 inches in combined length and girth and also weigh less than 15 pounds; they are subject to the rate equal to that of a 15-pound parcel for the zone to which the parcel is addressed.

Exhibit 2.2 BMC/ASF Service Areas

Service area	ZIP code areas served
BMC	
New Jersey	005, 068–079, 085–098, 100–119, 124–127, 340
Springfield	010–067, 120–123, 128, 129
Philadelphia	080–084, 137–139, 169–199
Pittsburgh	150–168, 260–266, 439–447
Washington	200–212, 214–239, 244, 254, 267, 268
Greensboro	240–243, 245–249, 270–297, 376
Cincinnati	250–253, 255–259, 400–418, 421, 422, 425–427, 430–433, 437, 438, 448–462, 469–474
Atlanta	298, 300–312, 317–319, 350–352, 354–368, 373, 374, 377–379, 399
Jacksonville	299, 313–316, 320–339, 341, 342, 344, 346, 347, 349
Memphis	369–372, 375, 380–397, 700, 701, 703–705, 707, 708, 713, 714, 716, 717, 719–729
St. Louis	420, 423, 424, 475–479, 614–620, 622–631, 633–639
Detroit	434–436, 465–468, 480–497
Chicago	463, 464, 530–532, 534, 535, 537–539, 600–611, 613
Minneapolis/St. Paul	498, 499, 540–551, 553–564, 566
Des Moines	500–516, 520–528, 612, 680, 681, 683–689
Kansas City	640, 641, 644–658, 660–662, 664–679, 739
Denver	690–693, 800–816, 820, 822–831
Dallas	706, 710–712, 718, 733, 747, 750–799, 885
Seattle	835, 838, 970–978, 980–986, 988–994
Los Angeles	889–891, 900–908, 910–928, 930–935
San Francisco	894, 895, 897, 936–966
ASF	
Buffalo	130–136, 140–149
Fargo	565, 567, 580–588
Sioux Falls	570–577
Billings	590–599, 821
Oklahoma City	730, 731, 734–738, 740, 741, 743–746, 748, 749
Salt Lake City	832–834, 836, 837, 840–847, 893, 898, 979
Phoenix	850, 852, 853, 855–857, 859, 860, 863, 864
Albuquerque	865, 870–875, 877–884
Other	
Puerto Rico	006–009
Hawaii	967–969
Alaska	995–999

[Redesignate existing E630.1.4 as E711.2.3 and amend to reflect extension of the nonmachinable surcharge to Intra-BMC and Parcel Select-DBMC mailings and the new minimum length and weight machinability requirements to read as follows:]

2.3 Nonmachinable Surcharge

The nonmachinable surcharge applies when items are mailed at the Inter-BMC, Intra-BMC, and Parcel Select-DBMC Parcel Post rates and no special handling fee is paid. (See C050.4.1 for machinability criteria.) The nonmachinable surcharge does not apply to items mailed at the oversized rates; however, it may apply to certain parcels subject to the balloon rate. The nonmachinable surcharge applies to such parcels as the following:

a. Parcels larger than 34 inches long, 17 inches wide, or 17 inches high.

b. Parcels weighing more than 35 pounds. For books, business forms, or other printed matter the maximum weight is 25 pounds.

c. Parcels less than 6 inches long, 3 inches high, and ¼ inch thick.

d. Parcels weighing less than 6 ounces.

e. Parcels containing more than 24 ounces of liquid in glass containers or 1 gallon or more of liquid in metal or plastic containers.

f. Parcels that are insecurely wrapped or metal-banded.

g. Cans, rolls, or tubes, or wooden or metal boxes.

h. Shrubs or trees.

i. Perishables, such as eggs.

j. High-density parcels weighing more than 15 pounds and exerting more than 60 pounds per-square-foot pressure on their smallest side.

k. Film cases weighing more than 5 pounds or with strap-type closures, except any film case the USPS authorizes to be entered as a machinable parcel under C050.4.0 and to be identified by the words ''Machinable in United States Postal Service Equipment'' permanently attached as a nontransferable decal in the lower right corner of the case.

[Redesignate E630.1.5 as E711.2.4 and change the reference in the last sentence to R700; no other changes to text.]

* * * * *

[Redesignate E630.2.0 as E712 and revise in its entirety as follows:]

E712 Bound Printed Matter

1.0 BASIC STANDARDS

1.1 Description

Bound Printed Matter (BPM) is Package Services mail. BPM must:

a. Meet the basic standards for Package Services mail in E710.

b. Weigh no more than 15 pounds.

c. Consist of advertising, promotional, directory, or editorial material (or any combination of such material).

d. Be securely bound by permanent fastenings such as staples, spiral binding, glue, or stitching. Loose-leaf binders and similar fastenings are not considered permanent.

e. Consist of sheets of which at least 90% are imprinted by any process other than handwriting or typewriting with words, letters, characters, figures, or images (or any combination of them).

f. Not have the nature of personal correspondence.

g. Not be stationery, such as pads of blank printed forms.

1.2 Enclosures

In addition to the basic standards in E710, BPM may have the following additions and enclosures:

a. Any printed matter mailable as Standard Mail.

b. A merchandise sample attached to a bound page or to a permissible loose enclosure, if the sample represents only an incidental portion of the BPM piece and if the sample is not provided exclusively or primarily as a premium or an inducement promoting the sale of the BPM piece. The sample may be identified as a ''free gift'' when it is clear that the sample is offered to the addressee to market the gift product; such marketing may also promote the sale of the BPM.

1.3 Nonidentical-Weight Pieces

Mailings may contain nonidentical-weight pieces only if the correct postage is affixed to each piece or if the RCSC serving the post office of mailing has authorized payment of postage by permit imprint under P910 or P930.

1.4 POSTNET Barcodes on Flats

Addresses on BPM flats (C050.3) may include an accurate ZIP+4 or delivery point barcode that meets the standards in C840. There are no automation discounts for BPM flats. Pieces within a package must be either 100 percent barcoded or nonbarcoded.

2.0 RATES

BPM rates are based on the weight of a single addressed piece or 1 pound, whichever is higher, and the zone (where applicable) to which the piece is addressed. Rate categories are as follows:

a. Single-Piece Rate. The single-piece rate applies to BPM not mailed at the Presorted rate or Carrier Route rate.

b. Presorted Rate. The Presorted rate applies to BPM prepared in a mailing of at least 300 pieces, prepared and presorted as specified in M045 and M720.

c. Carrier Route Rate. The carrier route rate applies to BPM prepared in a mailing of at least 300 pieces presorted to carrier routes, prepared and presorted as specified in M045 and M723. For flat-size pieces there must be at least 10 pieces or 10 pounds of pieces for an individual carrier route to qualify for the rate. For irregular parcels there must be at least 10 pieces or 20 pounds of pieces for an individual carrier route to qualify for the rate. Machinable parcels are eligible for the carrier route rate only when prepared in direct carrier route sacks under M723 that each contain at least 10 pieces or 20 pounds of pieces. Machinable parcels prepared on pallets under M045 are not eligible for Carrier Route Bound Printed Matter rates.

d. Barcoded Discount. The barcoded discount applies to machinable BPM parcels (C050.4.1) that bear a correct, readable barcode under C850 for the ZIP Code of the delivery address. The barcoded discount is available for a minimum of 50 pieces mailed at single piece rates. It is also available for matter mailed at Presorted rates prepared under the machinable parcel preparation standards in M045 and M720. The barcoded discount is not available for pieces mailed at any carrier route rates, at Presorted DDU, or DSCF rates, or for DBMC rate mailings entered at an ASF other than Phoenix, AZ, ASF.

3.0 ADDITIONAL STANDARDS FOR PRESORTED RATES

3.1 ZIP Code Accuracy

All 5-digit ZIP Codes included in addresses on pieces claimed at Presorted rates must be verified and corrected within 12 months before the mailing date using a USPS-approved method. The mailer must certify that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

3.2 Preparation

Pieces claiming the Presorted rates must be prepared under the applicable standards in M722.

4.0 ADDITIONAL STANDARDS FOR CARRIER ROUTE RATES

4.1 Carrier Route Information

Except for mailings prepared with a simplified address format under A040, carrier route codes must be applied to mailings using CASS-certified software and the current USPS Carrier Route Information System (CRIS) scheme, or another AIS product containing carrier route information, subject to A930 and A950. The carrier route information must be updated within 90 days before the mailing date.

4.2 Preparation

Pieces claiming the carrier route rates must be prepared under the applicable standards in M723.

4.3 Minimum Per Carrier Route

To qualify for carrier route rates, there must be at least 10 addressed pieces or 20 pounds to a single carrier route, rural route, highway contract route, post office box section, or general delivery unit. When package preparation is required, each package prepared must consist of at least two addressed pieces with the exception for the last piece to a carrier route destination (M020).

5.0 ADDITIONAL STANDARDS FOR DESTINATION ENTRY RATES

Eligibility standards for Presorted and Carrier Route Destination Delivery Unit (DDU) rates, Destination Sectional Center Facility (DSCF) rates, and Destination Bulk Mail Center (DBMC) rates are in E752. DDU rates are not available for Presorted flats.

6.0 ADDITIONAL STANDARDS FOR BEDLOADED MAILINGS

Bedloaded packages are permitted only when prepared for and entered at DDU rates. If prepared, bedloaded packages of BPM are required to be prepared under the sortation standards for flats or irregular parcels, as applicable, and are not eligible for barcoded discounts (2.0).

* * * * *

[Add new E713 as follows:]

E713 Media Mail

[Redesignate E630.3.1 as E713.1.0 and change the heading, class, subclass names, section order, and references to read as follows:]

1.0 RATE ELIGIBILITY

Media Mail is Package Services matter that meets the standards in E700 and

those below. Media Mail rates are based on the weight of the piece without regard to zone. The rate categories are as follows:

a. Single-Piece Rate. The single-piece rate applies to Media Mail not mailed at a 5-digit or BMC presort rate.

b. BMC Presort Rate. The BMC rate (Level B) applies to presorted Media Mail mailings of at least 500 pieces and meeting the other requirements of 4.0 and that are prepared and presorted to destination bulk mail centers as specified in M730 or M041 and M045.

c. 5-Digit Presort Rate. The 5-digit rate (Level A) applies to presorted Media Mail mailings of at least 500 pieces that meet the other requirements of 4.0 and that are prepared and presorted to 5-digit destination ZIP Codes as specified in M730 or M041 and M045.

d. Barcoded Discount. The barcoded discount applies to Media Mail machinable parcels (C050.4.0) that are included in a mailing of at least 50 pieces of Media Mail. The pieces must be entered either at single-piece rates or BMC presort rates and bear a correct, readable barcode for the ZIP Code shown in the delivery address as required by C850. The discount does not apply to pieces mailed at Media Mail 5-digit presort rates.

[Add new E713.2.0 to read as follows:]

2.0 QUALIFICATION

[Redesignate E630.3.2 as E713.2.1 and change the subclass name to Media Mail; no other changes to text.]

[Redesignate E630.3.3 as E713.2.2, change the class name to ''Standard Mail'' from ''Standard Mail (A)'' and subclass name to Media Mail; no other changes to text.]

[Redesignate E630.3.4 as E713.2.3 and change the subclass name and cross references to read as follows:]

2.3 Enclosures in Books

Enclosures in books mailed at Media Mail rates are subject to these additional standards:

a. Either one envelope or one addressed postcard may be bound into the pages of a book. If also serving as an order form, the envelope or card may be in addition to the order form permitted by 2.3b.

b. One order form may be bound into the pages of a book. If also serving as an envelope or postcard, the order form may be in addition to the envelope or card permitted by 2.3a.

c. Announcements of books may appear as book pages. These announcements must be incidental and exclusively devoted to books, without extraneous advertising of book-related or other materials or services. Announcements may fully describe the conditions and methods of ordering books and may contain ordering instructions for use with a separate order form. Up to three of these announcements may contain as part of their format a single order form, which may also serve as a postcard. The order forms permitted with these announcements are in addition to, and not in place of, order forms that may be enclosed under 2.3a or 2.3b.

[Redesignate E630.4.0 as E713.3.0 and change the subclass name to read as follows:]

3.0 PRESORTED MEDIA MAIL

[Redesignate E630.4.1 as E713.3.1 and change the subclass name and change the cross reference to M730 from M630; no other changes to text.]

[Redesignate E630.4.2 as E713.3.2 and change the subclass name; no other changes to text.]

[Redesignate E630.4.3 as E713.3.3 and change the subclass name; no other changes to text.]

[Redesignate E630.4.4 as E713.3.4 and eliminate 1,000 cubic inches as a minimum quantity to read as follows:]

3.4 Definitions

For this standard:

a. Full sack means a sack containing at least eight pieces or a quantity of pieces weighing from 20 to 70 pounds.

b. Substantially full sack means either at least four pieces or a quantity of pieces weighing from 20 to 70 pounds.

[Redesignate E630.4.5 as E713.3.5, change the subclass name, change ''bundles'' to ''packages, and remove ''1,000 cubic inches,'''' to read as follows:]

3.5 5-Digit Rate

To qualify for the Media Mail 5-digit presort rate, a piece must be in a mailing of at least 500 Media Mail pieces receiving identical service and prepared and sorted either under M730 to full 5-digit sacks or under M045 to 5-digit pallets. These conditions also apply:

a. Mailings of at least 500 nonmachinable outside parcels may qualify for the Media Mail 5-digit presort rate if prepared to preserve sortation by 5-digit ZIP Code as prescribed by the postmaster of the mailing office. The postmaster may require a 24-hour notice before the mailing is presented.

b. Mailings prepared as palletized packages must consist of 5-digit packages, each containing at least eight pieces or weighing 20 pounds, whichever occurs first. No package may exceed 40 pounds. If there are more than 20 pounds of mail to a 5-digit destination, the mailer must prepare the minimum number of packages that weigh from 20 to 40 pounds each.

[Redesignate E630.4.6 as E713.3.6, change the subclass name, change ''bundles'' to ''packages,'' and remove ''1,000 cubic inches'' to read as follows:]

3.6 BMC Rate

To qualify for the Media Mail BMC presort rate, a piece must be in a mailing of at least 500 pieces of Media Mail receiving identical service and prepared and sorted either under M730 to full or substantially full BMC sacks or to BMC pallets under M045. These conditions also apply:

a. Mailings of at least 500 nonmachinable outside parcels may qualify for the Media Mail BMC presort rate if prepared to preserve sortation by BMC as prescribed by the mailing office postmaster. The postmaster may require a 24-hour notice before the mailing is presented.

b. Mailings prepared as palletized packages must consist of BMC packages, each containing at least eight pieces or weighing 20 pounds. No package may exceed 40 pounds. If there are more than 20 pounds of mail to a BMC destination, the mailer must prepare the minimum number of packages that weigh from 20 to 40 pounds each.

[Add new E714 as follows:]

E714 Library Mail

[Redesignate E630.5.1 as E714.1.0 and amend by changing the class name to read as follows:]

1.0 RATE ELIGIBILITY

Library Mail is Package Services matter meeting the standards in E710 and those below. Library Mail rates are based on the weight of the piece without regard to zone. The rate categories and barcoded discount are as follows:

a. Single-Piece Rate. The single-piece rate applies to Library Mail not mailed at a 5-digit or BMC rate.

b. 5-Digit Presort Rate. The 5-digit rate (Level A) applies to a presorted mailing of at least 500 pieces of Library Mail that meet the other requirements of 3.0 and are prepared and presorted to 5-digit destination ZIP Codes as specified in M700 or M041 and M045.

c. BMC Presort Rate. The BMC rate (Level B) applies to a presorted mailing of at least 500 pieces of Library Mail that meet the other requirements of 3.0 and are prepared and presorted to destination bulk mail centers as specified in M700 or M041 and M045.

d. Barcoded Discount. The barcoded discount applies to machinable parcels (C050) that are part of a mailing of at

least 50 pieces of Library Mail, mailed at single-piece rates or BMC presort rates, and bear a correct, readable barcode for the ZIP Code shown in the delivery address in accordance with C850. The discount does not apply to pieces mailed at the Library Mail 5-digit presort rates.

[Add new E714.2.0 that follows:]

2.0 QUALIFICATION

[Redesignate E630.5.2 as E714.2.1 and amend the heading and references to read as follows:]

2.1 Sender, Recipient, and Contents

Each piece must show in the address or return address the name of a school, college, university, public library, museum, or herbarium or the name of a nonprofit religious, educational, scientific, philanthropic (charitable), agricultural, labor, veterans, or fraternal organization or association. For Library Mail standards, these nonprofit organizations are defined in E670. Only the articles described in 2.2 and 2.3 may be mailed at the Library Mail rate.

[Redesignate E630.5.3 as E714.2.2 and revise the heading to read as follows; no change to text:]

2.2 Qualified Mailings Between Entities

[Redesignate E630.5.4 as E714.2.3 and revise the heading to read as follows; no change to text.]

2.3 Qualified Mailings ''To'' or ''From''

[Redesignate E630.5.5 as E714.2.4 and change the cross reference from E611 to E710; no other changes to text.]

[Redesignate E630.5.6 as E714.2.5 and change the cross reference from E611 to E710; no other changes to text.]

[Redesignate E630.6.0 as E714.3.0 and change the cross reference from M630 to M740; no other changes to text.:]

* * * * *

[Redesignate E630.7.0 as E715.]

E715 Bulk Parcel Post

[Reserved]

* * * * *

[Add new E750 as follows:]

E750 Destination Entry

[Add new heading E751 to read as follows:]

E751 Parcel Post

[Redesignate E652.1.0 as E751.1.0.]

1.1 Definitions

[Amend 1.1 to change cross reference M630 to M710; no other changes to text.]

* * * * *

1.3 DBMC Rates

[Amend 1.3 to replace M630 with M710; no other changes to text.]

1.4 DSCF and DDU Rates

[Amend 1.4a and b to replace M630 with M710; no other changes to text.]

1.5 Postage Payment

[Amend 1.5 to change class name from ''Standard Mail (B)'' to ''Package Services'' and change P750 to P950 as cross reference for plant-verified drop shipments; no other changes to text.]

* * * * *

[Redesignate E652.2.0 as E751.2.0.]

2.0 PREPARATION

* * * * *

2.2 Containers

[Amend 2.2a and b to replace the two references to M630 with M710 and M722, respectively; amend 2.2c to replace M630 with M710; no other changes to text.]

[Redesignate E652.3.0 as E751.3.0; no change to text.]

[Redesignate E652.4.0—4.13 as E751.4.0–4.13 and amend to read as follows:]

* * * * *

4.2 Mail Separation and Presentation

[Amend 4.2 to change the reference P750 to P950; in 4.2a and b change references from M630 to M710; and in 4.2b change the references from P710, P720, and P730 to P910, P920, and P930, respectively; no other changes to text.]

* * * * *

4.4 Appointments

[Amend 4.4a to clarify that an exception exists for shipments containing 100 percent Periodicals and shipments of perishables, and amend 4.4d by changing ''Standard Mail (B)'' to ''Package Services mail'' to read as follows:]

Appointments must be made for destination entry rate mail as follows:

a. Except for local mailers, shipments containing 100 percent Periodicals mail and mailings of perishable commodities (C022) under 4.5, appointments for deposit of destination entry rate mail at BMCs, ASFs, and SCFs must be scheduled through the appropriate appointment control center at least a day in advance.

* * * * *

d. When Periodicals are transported together with Standard Mail or Package Services mail as a mixed load (E250), an appointment must be obtained for deposit at a destination entry facility.

4.5 Exceptions to Scheduling Standard

[Restructure and amend 4.5 to clarify that scheduling exceptions are also made for shipments containing 100 percent of Periodicals and shipments of perishables to read as follows:]

* * * * *

b. Exceptions to the scheduling standard are made for shipments of products recognized by the Postal Service as perishables under C020. While an appointment is not required for shipments of perishables, the destination facility must be notified at least 24 hours in advance of deposit to facilitate timely handling of the load.

c. No appointment is required for shipments containing 100 percent Periodicals mail, nor is notification to the destination facility of their arrival required. An advance notice of 24 hours is recommended to facilitate the development of facility unloading schedules.

* * * * *

[Redesignate E652.5.0 as E751.5.0; no changes to text.]

[Redesignate E652.6.0 and Exhibit E652.6.0 as E751.6.0 and Exhibit E751.6.0; no changes to text.]

[Redesignate E652.7.0 and Exhibit E652.7.0 as E751.7.0 and Exhibit E751.7.0 and change the class name to Package Services; no other changes to text.]

[Redesignate E652.8.0 and Exhibit E652.8.0 as E751.8.0 and Exhibit E751.8.0; no other changes to text.]

[Add new E752 to read as follows:]

E752 Bound Printed Matter

1.0 BASIC STANDARDS

1.1 General

Destination entry discounts apply to Presorted and Carrier Route Bound Printed Matter (BPM) that is deposited at a destination bulk mail center (DBMC), destination sectional center facility (DSCF), or destination delivery unit (DDU) as specified below. Eligibility for a destination entry rate is determined by the sort level, processing category of the mail and the type of container the mail is in (*i.e.,* sacked or palletized). Each piece can claim only one destination entry rate; an individual pallet may contain pieces claimed at different destination entry rates. There are no destination entry rates for single-piece BPM.

1.2 Volume

Each destination entry rate mailing must contain at least 300 pieces of Presorted BPM or 300 pieces of Carrier Route BPM. Each group of destination

entry rate pieces prepared for deposit at different destination post offices must be presented as separate mailings meeting separate minimum volume requirements. Separate Presorted and Carrier Route BPM mailings may be co-palletized under M041 and M045. Pieces deposited at the same postal facility, but claimed at different destination entry rates, may be included in a single mailing and reported on the same postage statement (subject to one minimum volume requirement), if the destination entry post office is the proper facility for claiming each of the destination entry discounts. Alternatively, when Presorted Bound Printed Matter or Carrier Route Bound Printed Matter mailings are submitted under PVDS procedures, mailers may use the total of all line items for all destinations on a PVDS register or PVDS postage statement to meet the respective 300-piece minimum volume requirements for Presorted and Carrier Route mailings. This means a mailer may enter fewer than 300 pieces per Presorted or Carrier Route mailing at an individual destination, provided there is a total of at least 300 Presorted rate pieces and/or 300 Carrier Route rate pieces for all of the entry points for that single mailing job listed on the PVDS register or PVDS postage statement.

1.3 Postage

Postage payment for destination entry mailings is subject to the same standards that apply generally to BPM. Postage and fees are paid to the post office that verifies the mailings. The destination entry mailing fee must be paid for the current 12-month period at each postal facility where the mailing(s) are verified.

1.4 Documentation

Each mailing must be accompanied by the appropriate Form 3605 and Form 8125. No additional documentation is required for destination entry rates.

1.5 Plant Loads

Plant load mailings, including expedited plant load shipments, are not eligible for destination entry discounts.

2.0 DESTINATION BULK MAIL CENTER (DBMC) RATES

2.1 General Eligibility

Pieces in a mailing meeting the standards in 1.0, 2.0 and 5.0 through 7.0 are eligible for the DBMC rate when they meet all of the following conditions:

a. are eligible for and prepared to qualify for Presorted, or Carrier Route rates, subject to the corresponding standards for those rates.

b. are deposited at a BMC or ASF.

c. are addressed for delivery to one of the 3-digit ZIP Codes served by the BMC or ASF where deposited that are listed in Exhibit E751.5.0.

d. are placed in a sack or pallet (subject to the standards for the rate claimed) that is labeled to the BMC or ASF where deposited, or labeled to a postal facility within that BMC's or ASF's service area (see Exhibit E751.5.0).

2.2 Presorted Flats

Presorted flats in sacks or on pallets at all sort levels may claim DBMC rates. Separate mixed ADC sacks must be prepared for flats eligible for and claimed at the DBMC rate and for flats not claimed at the DBMC rate. All pieces in an ADC sack or in a palletized ADC package are eligible for the DBMC discount if the ADC facility ZIP Code (as shown in Line 1 of the corresponding sack label or the ADC facility that is the destination of the palletized ADC package as would be shown on an ADC sack label for that facility using DMM L004, Column B) is within the service area of the BMC or ASF at which the sack is deposited. Mail must entered at the appropriate facility under 2.1.

2.3 Presorted Machinable Parcels

Presorted machinable parcels in sacks or on pallets at all sort levels may claim DBMC rates. Machinable parcels palletized under M045 or sacked under M722 may be sorted to destination BMCs under L601 or to destination BMCs and ASFs under L601 and L602. Sortation of machinable parcels to ASFs is optional but is required for the ASF mail to be eligible for DBMC rates. Mailers may opt to sort some or all machinable parcels for ASF service area ZIP Codes to ASFs only when the mail will be deposited at the respective ASFs where the DBMC rate are claimed, under applicable volume standards, using L602. Mailers may also opt to sort machinable parcels only to destination BMCs under L601. When machinable parcels are sorted under L601, only mail for 3-digit ZIP Codes served by a BMC as listed in Exhibit E751.5.0 are eligible for DBMC rates (i.e., mail for 3-digit ZIP Codes served by an ASF in Exhibit E751.5.0 are not eligible for DBMC rates, nor are 3-digit ZIP Codes that do not appear on Exhibit E751.5.0). Machinable parcels prepared in mixed BMC sacks or on mixed BMC pallets that are sorted to the origin BMC under M045 or M722 are eligible for the DBMC rates if both of the following conditions are met: 1) the mixed BMC sack or pallet is entered at the origin BMC facility to which it is labeled, and 2) the pieces are for 3-digit ZIP Codes listed as eligible destination ZIP Codes for that BMC in Exhibit E751.5.0.

2.4 Presorted Irregular Parcels

Presorted irregular parcels in sacks or on pallets at all sort levels may claim DBMC rates. All pieces in an ADC sack or in a palletized ADC package are eligible for the DBMC discount if the ADC facility ZIP Code (as shown in Line 1 of the corresponding sack label or the ADC facility that is the destination of the palletized ADC package as would be shown on an ADC sack label for that facility using DMM L004, Column B) is within the service area of the BMC at which the sack is deposited under E751.5.6. Separate mixed ADC sacks must be prepared for pieces eligible for and claimed at the DBMC rate and for parcels not claimed at the DBMC rate. Mail must entered at the appropriate facility under 2.1.

2.5 Carrier Route Flats

Carrier route flats in sacks or on pallets at all sort levels may claim DBMC rates. Mail must entered at the appropriate facility under 2.1.

2.6 Carrier Route Machinable Parcels

Carrier route machinable parcels in individual carrier route sacks may claim DBMC rates. Mail must entered at the appropriate facility under 2.1.

2.7 Carrier Route Irregular Parcels

Carrier Route irregular parcels in sacks at both sort levels or on pallets at all sort levels may claim DBMC rates. Mail must entered at the appropriate facility under 2.1.

3.0 DESTINATION SECTIONAL CENTER FACILITY (DSCF) RATES

3.1 General

Pieces in a mailing meeting the standards in 1.0, 3.0 and 5.0 through 7.0 are eligible for the DSCF rate when they meet all of the following conditions:

a. are eligible for and prepared to qualify for Presorted, or Carrier Route rates, subject to the corresponding standards for those rates.

b. are deposited at an SCF listed in L005, except that machinable parcels prepared on pallets for the 5-digit ZIP Codes listed in Exhibit E751.6.0 must be entered at the corresponding BMC facility shown in that Exhibit (not at the SCF) unless an exception is requested and granted. An exception to Exhibit E751.6.0 must be requested at least 15 days in advance of the mailing in writing from the Area Manager, Operations Support, who has jurisdiction over the BMC and SCF.

Exceptions, if granted, will be for a limited time.

c. are addressed for delivery to one of the 3-digit ZIP Codes served by the SCF where deposited under L005, and

d. are placed in a sack or pallet (subject to the standards for the rate claimed) that is labeled to the DSCF where deposited, or labeled to a postal facility within that SCF's service area (see L005).

3.2 Presorted Flats

Presorted flats in sacks for the 5-digit, 3-digit, and optional SCF sort levels or on pallets at the optional 5-digit scheme, 5-digit, optional 3-digit, SCF and ASF sort levels may claim DSCF rates. Mail must entered at the appropriate facility under 3.1.

3.3 Presorted Machinable Parcels

Presorted machinable parcels in sacks or on pallets at the 5-digit sort level may claim DSCF rates. For palletized mail, see 3.1b. Mail must entered at the appropriate facility under 3.1. Pallets must not be prepared if the 5-digit facility is unable to handle pallets. Refer to the Drop Ship Product maintained by the National Customer Support Center (NCSC) (see G043) to determine which 5-digit delivery facilities can handle pallets.

3.4 Presorted Irregular Parcels

Presorted irregular parcels in sacks at the 5-digit, 3-digit, and optional SCF sort levels, or on pallets at the 5-digit, optional 3-digit, SCF, and ASF sort levels may claim DSCF rates under 3.1.

3.5 Carrier Route Flats

Carrier route flats in sacks at all sort levels or on pallets at optional 5-digit scheme carrier routes, 5-digit carrier routes, optional 3-digit, SCF, and ASF sort levels may claim DSCF rates under 3.1.

3.6 Carrier Route Machinable Parcels

Carrier route machinable parcels in individual carrier route sacks may claim DSCF rates. Mail must entered at the appropriate facility under 3.1.

3.7 Carrier Route Irregular Parcels

Carrier Route irregular parcels in sacks at both sort levels or on pallets at the 5-digit, optional 3-digit, SCF and ASF sort levels may claim DSCF rates. Mail must entered at the appropriate facility under 3.1.

4.0 DESTINATION DELIVERY UNIT (DDU) RATES

4.1 General

Pieces in a mailing meeting the standards in 1.0, and 4.0 through 7.0 are eligible for the DDU rate when they meet all of the following conditions:

a. are eligible for and prepared to qualify for Presorted, or Carrier Route rates, subject to the corresponding standards for those rates.

b. Be addressed for delivery within the ZIP Code(s) served by the destination delivery unit.

c. Be deposited:

1. For flats, at the DDU designated by the USPS district drop shipment coordinator where the carrier cases the mail.

2. For irregular parcels and machinable parcels, refer to the Drop Ship Product for the 5-digit destination. When the Drop Ship Product shows that mail for a single 5-digit ZIP Code area is delivered out of more than one postal facility, use the facility from which the majority of city carrier routes are delivered as the facility at which the DDU parcels must be entered and to determine whether that facility can handle pallets, unless the 5-digit ZIP Code is listed in Exhibit E751.7.0 or Exhibit E751.8.0. For ZIP Codes in Exhibit E751.7.0 and Exhibit E751.8.0 use the name of the facility associated with the 5-digit ZIP Code on the respective exhibit as the facility at which DDU mail must be entered for that 5-digit ZIP Code. This facility name should be used along with the Drop Ship Product to determine if that facility can handle pallets. If a DDU facility cannot handle pallets, and a mailer transports mail to the DDU facility on pallets, the driver will have to unload the pallets into a container specified by the delivery unit.

4.2 Presorted Flats

Presorted flats are not eligible for DDU rates.

4.3 Presorted Machinable Parcels

Presorted machinable parcels in 5-digit sacks or on 5-digit pallets may claim DDU rates under 4.1.

4.4 Presorted Irregular Parcels

Presorted irregular parcels in 5-digit sacks, on 5-digit pallets, or prepared as bedloaded 5-digit packages, may claim DDU rates when entered at the appropriate facility under 4.1.

4.5 Carrier Route Flats

Carrier Route flats in sacks, on optional 5-digit carrier routes scheme and 5-digit carrier routes pallets, or prepared as bedloaded carrier route packages, may claim DDU rates under 4.1.

4.6 Carrier Route Machinable Parcels

Carrier route machinable parcels sorted to carrier route sacks may claim DDU rates when entered at the appropriate facility under 4.1.

4.7 Carrier Route Irregular Parcels

Carrier Route irregular parcels in sacks, on 5-digit pallets, or prepared as bedloaded packages, may claim DDU rates when entered at the appropriate facility under 4.1.

5.0 VERIFICATION

5.1 Place

As directed by the postmaster, the mailer must present destination entry mailings to USPS employees for verification either:

a. At the origin mailer's plant or the origin post office serving the mailer's plant under an authorized plant-verified drop shipment system.

b. At the destination post office or business mail entry unit.

5.2 Mail Separation and Presentation

Destination entry rate mail must be verified under a PVDS system (P750) or be presented for verification and acceptance at a BMEU located at a destination BMC, destination SCF, or other designated destination postal facility. Only plant-verified drop shipments may be deposited at a destination delivery unit not co-located with a post office or other postal facility having a business mail entry unit. When presented to the USPS, destination entry mailings must meet the following requirements:

a. Each mailing must be separated from other mailings for verification. For PVDS, destination entry rate mailings for deposit at one destination postal facility must be separated from mailings for deposit at other facilities to allow for reconciliation with each accompanying Form 8125, 8125–C, or 8125–CD.

b. Mail must be separated from freight transported on the same vehicle.

c. If Periodicals mail is on the same vehicle as BPM, then the Periodicals mail should be loaded toward the tail of the vehicle so that, for each destination entry, Periodicals mail can be offloaded first.

d. Form 8125, 8125–C, or 8125–CD must accompany all PVDS mailings.

5.3 Form 8125

When mailings are verified and paid for at a postal facility different from the one at which they are accepted as mail and deposited into the mailstream, the mailer must ensure that they are accompanied by a Form 8125 completed by the mailer and the verifying post office.

5.4 At BMC

For a mailing to be verified at a BMC, the post office where the mailer's account or license is held must be within the service area of that BMC. The post office must authorize the BMC to act as its agent by sending Form 4410 to the BMC.

5.5 PVDS Seal

The mailer may ask that a PVDS band seal secure the vehicle containing verified mailings before dispatch to the destination facility.

5.6 Mailer Transport

The mailer must transport the PVDS mailing from the place where it was verified to the destination postal facility.

5.7 Volume Standards

Except as permitted for a local mailer under 7.0, destination entry mailings are subject to these volume standards:

a. Regardless of total volume, the pieces for which a destination rate is claimed must represent more than 50% of the mail (by weight or pieces, whichever is greater) presented by the same mailer within any 24-hour period. For this standard, mailer is the party presenting the material to the USPS (or for whom a transportation company has presented the material to the USPS).

b. The same mailer may not in a 24-hour period present for verification and acceptance more than four destination rate mailings at the same destination postal facility (or at another acting as its agent). The mailer may ask for a waiver of this limit when scheduling the deposit of the mailings. There is no maximum for plant-verified drop shipments.

6.0 DEPOSIT

6.1 When, Where

Each mailing claimed at a destination rate must be deposited at the time and location specified by the USPS.

6.2 Vehicles

Mailings must be presented in vehicles that are compatible with dock, yard, and DDU operations, as applicable.

6.3 Appointments

Appointments must be made for destination entry rate mail as follows:

a. Except for a local mailer under 7.0 and mailings of perishable commodities, appointments for deposit of destination entry rate mail at BMCs, ASFs, and SCFs must be scheduled through the appropriate appointment control center at least one business day in advance. Same-day appointments may be granted by a control center only through a telephone request. All appointments for BMC loads must be scheduled by the appropriate BMC control center. Appointments for SCFs and ASFs must be scheduled through the appropriate district control center. Appointments may be made up to 30 calendar days before a desired appointment date. The mailer must adhere to the scheduled mail deposit time and location. The mailer must cancel any appointment by notifying the appropriate control center at least 24 hours in advance of a scheduled appointment.

b. Electronic appointments may be made through the Dropship Appointment System (DSAS) by a mailer or agent using a USPS-issued computer logon ID. Electronic appointments or cancellations must be made at least 12 hours before the desired time and date. All information required by the USPS appointment system regarding a mailing must be provided.

c. For deposit of DDU mailings, an appointment must be made by contacting the DDU at least 24 hours in advance. If the appointment must be canceled, the mailer must notify the DDU at least one business day in advance of a scheduled appointment. Recurring appointments are allowed if shipment frequency is once a week or more often.

d. When Periodicals are transported together with BPM as a mixed load (E250), an appointment must be obtained for deposit at a destination entry facility.

6.4 Advance Scheduling

Except under 7.0, a mailer must schedule deposit of destination entry rate mailings at least 24 hours in advance by contacting the proper district or BMC control center or destination delivery unit. Appointments at delivery units must be made by calling the delivery unit at least 24 hours in advance. Appointments for ASFs, SCFs, or for any multistop loads must be made through the USPS district control center or DSAS in 6.3. Appointments for BMC loads must be scheduled by the proper BMC control center. When making an appointment, or as soon as available, the mailer must provide the control center or DDU with the following information:

a. Mailer's name and address and, when applicable, the name and telephone number of the mailer's agent or local contact.

b. Description of what is being mailed, product name, number of mailings, volume of mail, how prepared and whether containerized (e.g., pallets). For DDU entries, the mailer also must provide the 5-digit ZIP Code(s) of the mail being deposited.

c. Where the mailing was verified.

d. Postage payment method.

e. Requested date and destination facility for mailing.

f. Vehicle identification number, size, and type.

6.5 Adherence to Schedule

The mailer must follow the scheduled deposit time or cancel the appointment by notifying the designated control center. Destination facilities may refuse acceptance or deposit of unscheduled mailings or shipments that arrive more than 2 hours after the scheduled appointment at ASFs, BMCs, or SCFs or more than 20 minutes at delivery units.

6.6 Redirection by USPS

A mailer may be directed to transport destination entry rate mailings to a facility other than the designated DDU, SCF, or BMC due to facility restrictions, building expansions, peak season mail volumes, or emergency constraints.

6.7 Redirection at Mailer's Request

For service reasons, a mailer may ask to transport destination SCF rate mail to a facility other than the designated SCF. This exception may be approved only by the district control center serving the destination facility. To qualify for the SCF rate in this situation, mail deposited at a facility other than the SCF must destinate for processing within that facility and must not require backhauling to the SCF.

6.8 Recurring Appointments

Recurring appointments refers to a drop shipment that is delivered to a destination office with a frequency of at least once a week on the same time and day(s). Mailings must be of a comparable product in terms of mail class, size, volume, and containerization (pallets, pallet boxes, etc.). A request to establish recurring appointments must be written on company letterhead to the postal facility manager/postmaster. The drop shipment appointment control office/postmaster will respond to all requests within 10 days. Recurring appointments may be made for a period not to exceed 6 months. Thereafter, a new application must be submitted to ensure that up-to-date mailer information is on file. Written request for an additional 6 months may be made within 60 days prior to the expiration of a current arrangement. Failure to adhere to scheduled appointments or other abuse of the procedures will result in revocation of recurring appointment

privileges. Requests for recurring appointments must include the following:

a. Name, address, and telephone number of the mailer.

b. Transportation agent's name (contact person) and telephone number(s).

c. Mail volume and preparation (trays/sacks/parcels).

d. Containerization.

e. Size and type of trailer(s) transporting mail.

f. Frequency/schedule.

6.9 Vehicle Unloading

Unloading of destination entry mailings is subject to these conditions:

a. Properly prepared containerized loads (e.g., pallets) are unloaded by the USPS at BMCs, ASFs, and SCFs. The USPS does not unload or permit the mailer (or mailer's agent) to unload palletized loads that are unstable or severely leaning or that have otherwise not maintained their integrity in transit.

b. At BMCs, and ASFs, the driver must unload bedloaded shipments within 8 hours of arrival. Combination containerized and bedloaded mailings are classified as bedloaded shipments for unload times. The USPS may assist in unloading.

c. At delivery units, the driver must unload all mail within 1 hour of arrival. If pallets (including pallet boxes on pallets) are stacked, the driver is required to unload, unstack, and unstrap them. If a mailer transports palletized mail (including sacks on pallets) to a DDU facility that cannot handle pallets, then the driver must unload the pallets into a container specified by the delivery unit.

d. When driver unloading is required, the driver or assistant must stay with and continue to unload the vehicle once at the dock.

e. The driver must remove the vehicle from USPS property after unloading. The driver and assistant are not permitted in USPS facilities except for the dock and designated driver rest area.

6.10 Demurrage

The USPS is not responsible for demurrage or detention charges incurred by a mailer who presents destination entry rate mailings.

6.11 Appeals

Mailers who believe they are denied equitable treatment may appeal to the manager, Customer Service (district), responsible for the destination postal facility.

7.0 EXCEPTION FOR LOCAL MAILER

The restrictions in 5.7 and 6.3 do not apply when a mailer deposits mailings for verification and acceptance at the local post office serving the facility where the mail was prepared, if the mailings are not verified under a plant load authorization or plant-verified drop shipment postage payment authorization. Under this exception, the mailer may claim the destination entry rates for mailings or portions of mailings deposited at the local post office that meet the standards in 2.0, 3.0, or 4.0.

* * * * *

E753 Combining Package Services Parcels for Destination Entry

1.0 COMBINING PARCELS

Package Services mail-Parcel Post, Media Mail, Library Mail, and Bound Printed Matter-parcels may be combined, at the mailer's option and when authorized by USPS, in common 5-digit sacks or pallets for entry either at a destination sectional center facility (DSCF) or a destination delivery unit (DDU), only. Combined parcel mailings must meet the standards of E751, E752, and this section.

1.1 Basic Standards

Only Package Services mail that qualifies as a machinable, nonmachinable, or irregular parcel under C050 and meets the following conditions may be combined under this standard:

a. Parcels may be combined either in 5-digit sacks or on 5-digit pallets (including pallet boxes on pallets) for deposit at a DSCF or DDU. Combining other Package Services parcels with Bound Printed Matter parcels claimed at a carrier route rate is not permitted. All parcels must be prepared in sacks as required by M700 or on pallets as required by M045 unless stated otherwise in this section. Parcels may not be prepared on pallets (including pallet boxes on pallets) for the DSCF rate if the 5-digit delivery facility is unable to handle pallets. Refer to the Drop Ship Product maintained by the National Customer Support Center (NCSC) (see G043) to determine which 5-digit delivery facilities can handle pallets (or pallet boxes on pallets).

b. Parcels may be combined if the following minimum quantity requirements are met: sacks-at least 10 combined pieces; pallets-at least 50 combined pieces and a combined weight of 250 pounds of mail, or 36 inches of mail.

c. Machinable and irregular parcels may be combined in the same 5-digit container.

d. Separate postage statements must be prepared, as appropriate, for each subclass and postage payment method. Pieces may be claimed at single piece rates, presorted rates, and destination entry rates, if applicable.

e. Parcels of a subclass for which no destination entry discount is offered remain ineligible for a destination entry discount but may be combined with pieces that are eligible for a DSCF or DDU entry discount. There are no destination entry rates for single-piece Parcel Post (less than 50 Parcel Post pieces in a mailing) and single-piece Bound Printed Matter, nor for single-piece or presorted Library Mail and Media Mail.

f. Minimum mailing requirements for Parcel Select destination entry rates (50 pieces), Presorted Bound Printed Matter (300 pieces), Presorted Library Mail (500 pieces each level) and Presorted Media Mail (500 pieces each level), must be met separately and are unchanged by combining.

g. All parcels must have correct postage affixed or must be prepared under an approved manifesting procedure as provided in P900 and 5.0.

h. All parcels entered at a DSCF or DDU are ineligible for the barcoded discount.

i. The deposit of combined mail at a destination facility must be in accordance with applicable drop shipment standards.

1.2 Authorization

The requirements for authorization to combine parcels are as follows:

a. A mailer who wants to present combined Package Services mailings must submit a written request to the RCSC serving the post office where the mailer is located. The request must show names of mail owner and mailer (if different); address of the mailer's plant and mailing office (if different); the parcel subclasses in a combined mailing; evidence of authorization to mail under P710, expected date of first mailing; and sample of required computer-generated listings. The expected frequency of mailings under this section must be listed as part of the request.

b. An authorization is valid only for a specified combination of mail subclasses and rate categories and for a specified period of time. It need not be limited to a single mailing or a specific number of mailings.

c. An authorization expires at the same time as the applicable manifest postage payment system authorization and may not be written for a period of more than 2 years. A mailer may terminate an authorization at any time by written notice to the postmaster of the office serving the mailer's location. The USPS may terminate an

authorization by written notice if it finds that the mailer does not meet the applicable standards.

2.0 COMBINED PARCELS PREPARED IN SACKS

2.1 Rate Eligibility

In addition to the applicable standards in E750 for destination entry Package Services mail, the following standards apply for combined Package Services mail prepared in sacks for destination entry rates where applicable:

(a) Parcel Post and Parcel Select rates are applied as follows:

(1) Parcel Select parcels that are contained in 5-digit sacks, each holding at least 10 pieces of any combination of Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates) Media Mail, and/or Library Mail parcels, qualify for Parcel Select DSCF rates, provided all other requirements for the DSCF rate in E751 are met.

(2) Parcel Select pieces that are contained in 5-digit sacks, each holding at least 10 pieces of any combination of Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates), Media Mail, and/or Library Mail parcels, qualify for Parcel Select DDU rates, provided all other requirements for the DDU rate in E751 are met.

(3) Parcel Post parcels for which the 50-piece minimum mailing requirement for Parcel Select rates is not met that are contained in 5-digit sacks, each holding at least 10 pieces of any combination of Bound Printed Matter, Parcel Select, Media Mail, and/or Library Mail parcels, qualify for Parcel Post rates.

b. Bound Printed Matter rates are applied as follows:

(1) Presorted Bound Printed Matter parcels that are contained in 5-digit sacks, each holding at least 10 pieces of any combination of Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates), Media Mail, and/or Library Mail parcels, qualify for Bound Printed Matter DSCF rates, provided all other requirements for the DSCF rate in E752 are met.

(2) Presorted Bound Printed Matter parcels that are contained in 5-digit sacks, each holding at least 10 pieces of any combination of Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates), Media Mail, and/or Library Mail parcels, qualify for Bound Printed Matter DDU rates, provided all other requirements for the DDU rate in E752 are met.

(3) Bound Printed Matter parcels for which the 300-piece minimum mailing requirement for Presorted rates is not met and that are contained in 5-digit sacks, each holding at least 10 pieces of any combination of Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates), Media Mail, and/or Library Mail parcels, qualify for Bound Printed Matter single-piece rates.

c. Library Mail rates are applied as follows:

(1) Presorted Library Mail parcels that are contained in 5-digit sacks, each holding at least 10 pieces of any combination Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates), Media Mail, and/or Library Mail parcels, qualify for 5-digit Library Mail rates.

(2) Library Mail parcels for which the 500-piece minimum mailing requirement for 5-digit Presorted rates is not met that are contained in 5-digit sacks, each holding at least 10 pieces of any combination of Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates), Media Mail, and/or Library Mail parcels, qualify for single-piece Library Mail rates.

d. Media Mail rates are applied as follows:

(1) Presorted Media Mail parcels that are contained in 5-digit sacks, each holding at least 10 pieces of any combination Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates), Media Mail, and/or Library Mail parcels, qualify for 5-digit Media Mail rates.

(2) Media Mail parcels for which the 500-piece minimum mailing requirement for 5-digit Presorted rates is not met, that are contained in 5-digit sacks, each holding at least 10 pieces of any combination of Bound Printed Matter, Parcel Select, Parcel Post (pieces ineligible for destination entry rates), Media Mail, and/or Library Mail parcels, qualify for single-piece Media Mail rates.

2.2 Sack Preparation

Only 5-digit sacks may be prepared. Each sack must contain a minimum of 10 pieces of any combination of Package Services parcels. Sack labels must be prepared as follows: 5-digit: For line 1, use 5-digit ZIP Code on mail. For line 2, use ''PSVC PARCELS 5D.''

3.0 COMBINED PARCELS PREPARED ON PALLETS

3.1 Rate Eligibility

In addition to the applicable standards in E750 for destination entry Package Services mail, the following standards apply for combined Package Services mail prepared on pallets for destination entry rates where applicable:

a. Parcel Post: Under these standards, Parcel Post pieces may be combined with other Package Services mail to meet the pallet minimums. Parcel Select-DSCF rates may be claimed for pieces that are part of a mailing of at least 50 pieces of Parcel Post, prepared on 5-digit pallets of at least 50 pieces and 250 pounds of Package Services mail or 36 inches of mail, and deposited at a designated sectional center facility under E750. Parcel Select-DDU rates may be claimed for any pieces that are part of a mailing of at least 50 pieces of Parcel Post, prepared on 5-digit pallets of combined Package Services mail, and deposited at a designated DDU under E750.

b. Bound Printed Matter: The DSCF and DDU rates apply to Presorted (excluding carrier route) Bound Printed Matter mailings that meet the standards for volume and presort under E752, are prepared on 5-digit pallets of at least 50 pieces and 250 pounds or 36 inches of mail, and are deposited at a designated sectional center facility or designated DDU. Under these standards, the Bound Printed Matter pieces may be combined with other Package Services mail to meet the pallet minimums. Single piece Bound Printed Matter rate mail may be combined with other Package Services mail when placed on a qualifying 5-digit pallet and deposited at a designated sectional center facility or designated DDU.

c. Library Mail: 5-Digit presort and BMC presort rates apply to mailings meeting the standards for volume and presort under E714 and may be combined with other Package Services mail when prepared and presorted on 5-digit pallets of at least 50 pieces and 250 pounds or 36 inches of mail and deposited at a designated sectional center facility or designated DDU. Single piece rate Library Mail may be combined with other Package Services mail when prepared on qualifying 5-digit pallets of at least 50 pieces and 250 pounds or 36 inches of mail that are deposited at a designated sectional center facility or DDU. Single piece Library Mail may be combined with other Package Services mail when placed on a qualifying 5-digit pallet and deposited at a designated sectional

center facility or designated DDU. There is no Library Mail BMC rate under E753.

d. Media Mail: The 5-digit presort rate applies to mailings meeting the standards for volume and presort under E713 when combined with other Package Services mail, prepared and presorted on 5-digit pallets of at least 50 pieces or 250 pounds or 36 inches of mail, and deposited at a designated sectional center facility or designated DDU. Single piece rate Media Mail may be combined with other Package Services mail when placed on qualifying 5-digit pallets that are deposited at a designated DSCF or designated DDU. There is no Media Mail BMC rate under E753.

3.2 Packages

Packages prepared on pallets must meet the applicable standards in M010, M020, M030, and M045.

3.3 Pallet Preparation

5-digit pallets may be prepared whenever there are at least 50 parcels or 250 pounds or 36 inches of combined Parcel Services mail.

3.4 Pallet Presort and Labeling

Only 5-digit pallets are permitted under E753. For line 1, City, State, and 5-digit ZIP Code on mail. For line 2, ''PSVC PARCELS 5D.''

4.0 DOCUMENTATION

Separate postage statements must be prepared for each Package Services mailing. All postage statements must be provided at the time of mailing and must be accompanied by a computer-generated manifest prepared in accordance with P900 and this section. The manifest must be a computer-generated listing in ZIP Code sequence and numbered to correspond to the sacks or pallets that describes the content of each sack or pallet. The mailer must keep this information for 90 days after the mailing is dispatched. If a manifest as described in M045.12.3 is already used to qualify for Parcel Select-DSCF rates, the information required by this section for combined pieces must be added. A pallet identification number must be printed below Line 3 on the pallet label. The manifest must show the following information for each sack or pallet: the number of pieces, combined weight, and total postage amount for each rate category (*e.g.,* Parcel Select-DDU, Bound Printed Matter DDU) and a total sack or pallet combined summary of pieces, weight, and postage. It must also indicate by subclass and rate category, cumulative totals of the number of pieces, weight, and postage of all preceding sacks or pallets added to the totals of the current sack or pallet and a summary showing the total number of pieces and the total postage amount.

F FORWARDING AND RELATED SERVICES

F000 Basic Services

F010 Basic Information

* * * * *

3.0 DIRECTORY SERVICE

[Amend 3.0d by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

4.0 BASIC TREATMENT

* * * * *

4.5 Special Services

[Amend 4.5 by revising 4.5b to add instructions for treatment of insured Standard Mail; revise 4.5c by deleting the last sentence to read as follows:]

Mail with special services is treated according to the charts for each class of mail in 5.0, except that:

* * * * *

b. All insured First-Class Mail is forwarded and returned free of charge. All insured Standard Mail and Package Services mail is forwarded and returned.

c. Parcels undeliverable as originally addressed and forwarded to the addressee at a new address receive special handling service without an additional special handling fee.

* * * * *

[Add new 4.6 to read as follows:]

4.6 Metered Pieces

Mail paid by postage meter that does not have a delivery address and a return address is returned to the post office of mailing. The reason for nondelivery is attached but the address correction fee is not charged. The piece is returned to the meter licensee upon payment of the applicable return postage.

5.0 CLASS TREATMENT FOR ANCILLARY SERVICES

[Amend 5.1 by changing ''E620'' to ''E620 and E630.'']

* * * * *

[Amend heading of 5.3 by removing ''(A)'' to read as follows:]

5.3 Standard Mail

[Amend 5.3 by removing ''(A)'' from ''Standard Mail (A)''; amend 5.3a by replacing ''Standard Mail (B)'' with ''Package Services'' and ''Special Standard Mail'' with ''Media Mail.'' Redesignate current items g and h, as h and i, respectively; amend redesignated i by removing ''(A)'' from ''Standard Mail (A)'' add new g to read as follows:]

Undeliverable Standard Mail is treated as described in the chart below and under these conditions:

* * * * *

g. Standard Mail with insurance, return receipt for merchandise, or Delivery Confirmation must be endorsed ''Address Service Requested,'' ''Forwarding Service Requested,'' or ''Return Service Requested.''

* * * * *

[Amend the chart in 5.3 by adding the following under ''Change Service Requested'' to read as follows:]

Mailer endorsement	USPS action on UAA pieces
Change Service Requested [1]	* * * * * This endorsement is not available for mail with special services (*e.g.,* insured or Delivery Confirmation).

[Revise heading of 5.4 to read as follows:]

5.4 Package Services

[Amend 5.4 by replacing ''Standard Mail (B)'' with ''Package Services mail.'' Remove item 5.4c. Add new item 5.4c to read as follows:]

Undeliverable Package Services mail is treated as described in the chart below and under these conditions:

* * * * *

c. Bound Printed Matter with no ancillary service endorsement and no special service is disposed of by USPS. It is not forwarded or returned to sender. Bound Printed Matter with no ancillary service endorsement with a special service is treated as if it is endorsed ''Forwarding Service Requested.''

* * * * *

[Amend chart in 5.4 by adding an exception for Bound Printed Matter under ''No endorsement'' to read as follows:]

Mailer endorsement	USPS action on UAA pieces
No endorsement	Same as USPS action for ''Forwarding Service Requested.'' *Exception:* Bound Printed Matter with no special service added is disposed of by USPS.

* * * * *

6.0 ENCLOSURES AND ATTACHMENTS

* * * * *

[Amend heading and text of 6.2 by removing the ''(A)'' in Standard Mail; no other changes to text.]

[Revise title of 6.3 to read as follows:]

6.3 Package Services

[Amend 6.3 by replacing references to ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

7.0 MIXED CLASSES

[Amend introductory paragraph of 7.1, 7.1a, and 7.2 by replacing ''Standard Mail'' with ''Standard Mail or Package Services mail''; no other changes to text.]

* * * * *

7.4 Parcel

[Amend 7.4 to specify that combination parcels are returned at the Parcel Post Inter-BMC rate and by replacing ''Special Standard Mail'' with ''Media Mail'' to read as follows:]

A combination parcel containing Media Mail and Bound Printed Matter is charged postage at the Parcel Post Inter-BMC zoned rate when forwarded or returned.

8.0 DEAD MAIL

[Amend 8.1b by replacing ''Standard Mail (A)'' with ''Standard Mail.'' Amend 8.1e by replacing ''Standard Mail (A)'' with ''Standard Mail '' and ''Standard Mail'' with ''Standard Mail and Package Services''; no other changes to text.]

* * * * *

F020 Forwarding

* * * * *

2.0 FORWARDABLE MAIL

* * * * *

[Amend 2.3, 2.4, and 2.6, by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

* * * * *

3.0 POSTAGE FOR FORWARDING

* * * * *

[Amend the title and contents of 3.5 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

[Revise title of 3.6 to read as follows:]

3.6 Package Services

[Amend 3.6 by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

* * * * *

F030 Address Correction, Address Change, FASTforward, and Return Services

1.0 ADDRESS CORRECTION SERVICE

* * * * *

[Amend 1.4 by replacing ''Standard Mail'' with ''Standard Mail and Package Services''; no other changes to text.]

* * * * *

2.0 ADDRESS CHANGE SERVICE (ACS)

[Amend 2.1 by replacing ''Standard Mail'' with ''Standard Mail and Package Services''; no other changes to text.]

* * * * *

2.5 Shipper Paid Forwarding

[Amend 2.5 by adding a reference to the accounting fee for a postage due account:]

Shipper Paid Forwarding is an ACS fulfillment vehicle. It allows mailers of Standard Mail machinable parcels and most Package Services mail to pay forwarding charges via approved ACS participant code(s). For information about Shipper Paid Forwarding, contact the National Customer Support Center (see G043). Mailers have the option of paying forwarding charges through a postage due advance deposit account. If so, then mailers must pay an annual accounting fee.

* * * * *

4.0 SENDER INSTRUCTION

* * * * *

4.2 Special Services

A change-of-address order covers certified, collect on delivery (COD), insured, registered, and return receipt for merchandise mail unless the sender gives other instructions or the addressee moves outside the United States. This mail is treated as follows:

[Amend 4.2d to read as follows:]

* * * * *

d. Insured Standard Mail is forwarded and returned.

* * * * *

[Amend 4.2e by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

* * * * *

G GENERAL INFORMATION

G000 The USPS and Mailing Standards

* * * * *

G090 Experimental Classifications and Rates

G094 Ride-Along Rate for Periodicals

1.0 BASIC ELIGIBILITY

[Amend 1.1, 1.2, and 1.3 by changing ''Standard Mail (A)'' to ''Standard Mail,'' no other changes to text.]

* * * * *

L LABELING LISTS

L000 General Use

[Amend the heading and introductory paragraph of L001 to provide for class of mail name changes and to allow use of L001 with Bound Printed Matter flats to read as follows:]

L001 5-Digit Scheme—Periodicals Flats and Irregular Parcels, Standard Mail Flats and Bound Printed Matter Flats

When 5-digit scheme sort is used for Periodicals flats and irregular parcels, Standard Mail flats, and Bound Printed Matter flats, mail for the 5-digit ZIP Codes shown in Column A must be combined on pallets (packages on pallets only on merged 5-digit scheme, 5-digit scheme carrier routes, or 5-digit scheme pallets, as applicable) or in sacks (merged 5-digit scheme or 5-digit scheme carrier routes sacks, as applicable) labeled to the corresponding destination shown in Column B.

* * * * *

L002 3-Digit ZIP Code Prefix Matrix

This matrix provides information about 3-digit ZIP Code prefixes as follows:

[Amend the last sentence of L002d to read as follows:]

d. * * * Destination SCF Standard Mail rates, destination SCF Package Services rates, or SCF zone and per-piece Periodicals rates are available only to those ZIP Code areas for which an SCF is shown.

* * * * *

L004 3-Digit Code Prefix Groups—ADC Sortation

[Revise the next-to-last sentence of the L004 introduction to read as follows:]

* * * To order labels from the USPS Label Printing Center, use Form 1578–

B and indicate set number 008 (First-Class Mail), set number 009 (Periodicals), or set number 010 (Standard Mail and Bound Printed Matter). * * *

[In L004, replace''[STD only]'' with ''[STD and BPM only],'' replace ''[PER and STD only]'' with ''[PER, STD, and BPM only],'' and replace ''[FCM and STD only]'' with ''[FCM, STD, and BPM only].'']

* * * * *

[Amend the heading of L600 to include Package Services to read as follows:]

L600 Standard Mail and Package Services

L601 BMCs

[Revise introductory paragraph to read as follows:]

Use this list for:

(1) Standard Mail machinable parcels except ASF mail prepared and claimed at DBMC rates.

(2) Standard Mail packages, letter trays, or sacks on pallets.

(3) Bound Printed Matter machinable parcels.

(4) Bound Printed Matter packages or sacks on pallets.

(5) Parcel Post except for ASF mail prepared and claimed at DBMC rates and non-machinable BMC Presort or OBMC Presort rate mail.

(6) Presorted Media Mail and Presorted Library Mail to BMC destinations. For labeling mixed BMC sacks and pallets, mailers must add ''MXD'' before the Column B information of the BMC serving the 3-digit ZIP Code prefix of the post office at which the mail is entered.

* * * * *

[Revise the heading of L602 to read as follows:]

L602 ASFs

[Revise the introductory paragraph to read as follows:]

Use this list for:

(1) Standard Mail machinable parcels if ASF mail is entered at the ASF and claimed at DBMC rates.

(2) Standard Mail packages, letter trays, or sacks on pallets.

(3) Bound Printed Matter machinable parcels if ASF mail is entered at the ASF and claimed at DBMC rates.

(4) Bound Printed Matter packages or sacks on pallets.

(5) Parcel Post machinable parcels if ASF mail is entered at the ASF and claimed at DBMC rates.

* * * * *

[Amend the title of L603 by adding ''Standard Mail'' to read as follows:]

L603 ADCs—Irregular Standard Mail Parcels

* * * * *

[Amend to title of L604 to indicate that the list is used only for Standard Mail irregular parcels to read as follows:]

L604 Originating ADCs—Standard Mail Irregular Parcels

* * * * *

L800 Automation Rate Mailings

* * * * *

[Amend the heading of L802 by changing ''Standard Mail (A)'' to ''Standard Mail'' to read as follows:]

L802 BMC/ASF Entry—Periodicals and Standard Mail

* * * * *

[Amend the heading of L803 by changing ''Standard Mail (A)'' to ''Standard Mail'' to read as follows:]

L803 Non-BMC/ASF Entry—Periodicals and Standard Mail

* * * * *

M MAIL PREPARATION AND SORTATION

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

1.1 Presort Process

[Amend the third sentence of 1.1 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

1.3 Preparation Instructions

For purposes of preparing mail:

* * * * *

[M013.13 was amended in the amended final rule published in 65 FR 50054 (August 16, 2000). The section numbers in this proposed rule reflect those amendments.]

[Redesignate 1.3f through 1.3z as 1.3h through 1.3ab respectively, add new 1.3f and 1.3g to read as follows:]

For purposes of preparing mail:

* * * * *

f. A less-than-full flat tray is one that contains First-Class Mail for the same destination regardless of quantity or whether a full tray was previously prepared for that destination. Less-than-full flat trays may be prepared only if permitted by the standards for the rate claimed.

g. An overflow flat tray is a less-than-full First-Class Mail tray that contains all pieces remaining after preparation of one or more full trays for the same destination. Overflow flat trays may be prepared only if permitted by the standards for the rate claimed.

* * * * *

[Amend redesignated 1.3j to provide for 5-digit/scheme carrier routes sortation for Carrier Route Bound Printed Matter, and to change ''Standard Mail (A)'' to ''Standard Mail'' to read as follows:]

j. A 5-digit/scheme carrier routes sort for carrier route rate Periodicals flats and irregular parcels, Enhanced Carrier Route rate Standard Mail flats, and Carrier Route Bound Printed Matter flats, prepared in sacks or as packages on pallets yields a 5-digit scheme carrier routes sack or pallet for those 5-digit ZIP Codes listed in L001 and 5-digit carrier routes sacks or pallets for other areas. The 5-digit ZIP Codes in each scheme are treated as a single presort destination subject to a single minimum sack or pallet volume, with no further separation by 5-digit ZIP Code required. Sacks or pallets prepared for a 5-digit scheme carrier routes destination that contain carrier route packages for only one of the schemed 5-digit areas are still considered 5-digit scheme carrier routes sorted and are labeled accordingly. The 5-digit/scheme sort is required for carrier route packages of flat-size and irregular parcel Periodicals, is optional for flat-size Enhanced Carrier Route rate Standard Mail, and is optional for Carrier Route Bound Printed Matter flats prepared in sacks or as packages on pallets. If preparation of 5-digit scheme carrier routes sacks or pallets is performed, it must be done for all 5-digit scheme destinations. A 5-digit/scheme carrier routes sort may be performed only for carrier route packages prepared in sacks or as packages on pallets.

[Amend redesignated 1.3k to provide for 5-digit/scheme sortation for Bound Printed Matter flats, and to change ''Standard Mail (A)'' to ''Standard Mail'' to read as follows:]

k. A 5-digit/scheme sort for Periodicals flats and irregular parcels, Standard Mail flats, and Bound Printed Matter flats prepared as packages on pallets yields 5-digit scheme pallets containing automation rate (not applicable to Bound Printed Matter) and Presorted rate 5-digit packages for those 5-digit ZIP Codes listed in L001 and yields 5-digit pallets containing automation rate (not applicable to Bound Printed Matter) and Presorted rate 5-digit packages for other areas. The 5-digit ZIP Codes in each scheme are treated as a single presort destination subject to a single minimum pallet

volume, with no further separation by 5-digit ZIP Code required. Pallets prepared for a 5-digit scheme destination that contain 5-digit packages for only one of the schemed 5-digit areas are still considered 5-digit scheme sorted and are labeled accordingly. The 5-digit/scheme sort is required for flat-size and irregular parcel-size Periodicals, and is optional for flat-size Standard Mail and flat-size Bound Printed Matter that is prepared as packages on pallets and may not be used for other mail prepared on pallets, except for 5-digit packages of Standard Mail irregular parcels that are part of a mailing job that is prepared in part as palletized flats at automation rates. If preparation of 5-digit scheme pallets is performed, it must be done for all 5-digit scheme destinations.

* * * * *

[Amend the last sentence of 1.3p for clarity to read as follows:]

* * * The 3-digit/scheme sort is required for automation rate letter-size First-Class Mail, Periodicals, and Standard Mail and is not permitted to be used for mail entered at another rate.

* * * * *

[Amend 1.3z by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

[Amend the first and last sentences of 1.3aa by replacing ''Parcel Post DSCF'' with ''Parcel Select (Parcel Post) DSCF)''; and by changing ''M630'' to ''M710''; no other changes to text.]

[Amend the first and second sentences of 1.3ab by replacing ''Parcel Post DSCF'' with ''Parcel Select (Parcel Post) DSCF''; no other changes to text.]

1.4 Mailing

* * * * *

[Amend 1.4e by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

[Amend 1.4f by replacing ''Standard Mail (B)'' with ''Package Services'' and ''Special Standard'' with ''Media Mail''; no other changes in text.]

* * * * *

M012 Markings and Endorsements

1.0 MARKINGS—BASIC STANDARDS

1.1 Class and Rate

[Amend 1.1b by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

[Amend 1.1c by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

* * * * *

[Revise the heading of 2.0 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other change.]

2.0 MARKINGS—FIRST-CLASS MAIL AND STANDARD MAIL

2.1 Placement

* * * * *

[Amend 2.1b and c by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

2.2 Exceptions to Markings

[Amend 2.2a and 2.2b by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Amend the heading of 3.0 by replacing ''Standard Mail (B)'' with ''Package Services Mail'' to read as follows:]

3.0 MARKINGS—PACKAGE SERVICES MAIL

3.1 Basic Markings

[Amend 3.1 by changing the subclass name from ''Special Standard Mail'' to ''Media Mail'' and eliminating the ''Library Rate'' marking to read as follows:]

The basic required Package Services subclass marking—''Parcel Post'' or ''PP,'' ''Bound Printed Matter'' or ''BPM,'' ''Media Mail,'' or ''Library Mail''—must be printed on each piece claimed at the respective rate. (The marking ''Library Rate'' may continue to be used on Library Mail until January 1, 2002. The marking ''Special Standard Mail'' (or ''SPEC STD'') may continue to be used on Media Mail until January 1, 2002.) For Parcel Post destination entry rate mail, the marking ''Parcel Select'' may be used as the basic required marking instead of ''Parcel Post.'' The basic required marking must be placed in the postage area (i.e., printed or produced as part of, or directly below or to the left of, the permit imprint indicia or meter stamp or impression).

[Amend the heading of 3.2 for clarity to read as follows:]

3.2 Additional Parcel Select (Parcel Post) Markings

[Amend the first sentence of 3.2 to read as follows:]

Each piece in a Parcel Select (Parcel Post) mailing entered at a DBMC, DSCF, or DDU destination entry rate must bear a marking to indicate that it was mailed at a destination entry rate. * * *

[Amend the heading of 3.3 by changing ''Other'' to ''Additional'' and revise to read as follows:]

3.3 Additional Bound Printed Matter Markings

Each piece of Bound Printed Matter mailed at a Presorted rate must bear the marking ''Presorted'' (or ''PRSRT'') in addition to the basic marking in 3.1. Until January 1, 2002, mailers may use the marking ''Presorted Standard'' (or ''PRSRT STD''). Each piece of Bound Printed Matter mailed at a Carrier Route rate must bear the marking ''Carrier Route Presort'' (or ''CAR–RT SORT'') in addition to the basic marking in 3.1. These additional markings may be placed in the postage area as specified in 3.1. Alternatively, these markings may be placed in the address area on the line directly above or two lines above the address if the marking appears alone, or if no other information appears on the line with the marking except postal optional endorsement line information under M013 or postal carrier route package information under M014.

[Amend the heading of 3.4 to reflect the new subclass name to read as follows:]

3.4 Additional Media Mail Markings

[Amend 3.4 to reflect the new subclass name to read as follows:]

The required marking ''Presorted'' or ''PRSRT'' for Media Mail may be placed in the location specified in 3.1. Alternatively, it may be placed in the address area on the line directly above or two lines above the address provided that only the Media Mail marking appears on that line.

[Amend the heading of 3.5 by changing ''Other'' to ''Additional'' to read as follows:]

3.5 Additional Library Mail Markings

* * * * *

4.0 ENDORSEMENTS—DELIVERY AND ANCILLARY SERVICES

* * * * *

4.5 OCR Read Area

[Amend 4.5 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

M013 Optional Endorsement Lines

1.0 USE

1.1 Basic Standards

[Amend the chart in 1.1 by adding the sortation level and OEL example lines for Carrier Route Bound Printed Matter to read as follows:]

Sortation level	OEL example
* * * * * * *	
Carrier Route—Bound Printed Matter	* * * * * * * * * * * CAR–RT SORT**C–001
* * * * * * *	

* * * * *

2.0 FORMAT

* * * * *

2.5 ZIP Code

[Amend 2.5 by removing the second sentence.]

[Amend the table in 2.5 by revising the entries for ADC and mixed ADC sortation levels to read as follows:

Sortation level	Mail class	Labeling list
*	* * * * * *	
ADC	First-Class Mail (except automation letters), Periodicals (except automation letters), Standard Mail (except Presorted rate irregular and machinable parcels), Presorted Bound Printed Matter (except machinable parcels).	L004
	Standard Mail irregular parcels	L603
Mixed ADC	First-Class Mail (except automation letters)	L002, Column C
	Periodicals (except automation letters), Standard Mail (except Presorted rate irregular and machinable parcels), Presorted Bound Printed Matter (except machinable parcels).	L004
	Standard Mail irregular parcels	L604
*	* * * * * *	

* * * * *

M014 Carrier Route Information Lines

* * * * *

2.0 FORMAT AND CONTENT

* * * * *

2.3 Route Code

* * * * *

[Amend 2.3b by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

M020 Packages and Bundles

1.0 BASIC STANDARDS

* * * * *

1.4 Palletization

[Amend 1.4 by removing all references to bundles to read as follows:]

Packages on pallets must be able to withstand normal transit and handling without breakage or injury to USPS employees. Heavy-gauge shrinkwrap over plastic banding, only shrinkwrap, or only banding material is acceptable if the package can stay together during normal processing. Except for packages of individually polywrapped pieces, packages on BMC pallets must be shrinkwrapped and machinable on BMC parcel sorters. Packages of individually polywrapped pieces may be secured with banding material only. Machinability is determined by the USPS. If used, banding material must be applied at least once around the length and once around the girth; wire and metal strapping are prohibited.

[Redesignate 1.5 and 1.6 as 1.6 and 1.7 and add new 1.5 to read as follows:]

1.5 Package Size—Bound Printed Matter

Each physical package of Presorted Bound Printed Matter must meet the minimum package size prescribed in M045 or M722. For Carrier Route Bound Printed matter prepared in sacks, the ''last physical package'' to an individual carrier route destination may contain less than the minimum package size and could consist of a single addressed piece, provided that all other packages to that carrier route destination meet the minimum package size and contain at least two addressed pieces, and that the total group of pieces to that carrier route meets the Carrier Route rate eligibility minimum in E712. Packages prepared on pallets must meet the packaging requirements under M045

[Amend the heading and the introductory phrase of redesignated 1.6 to read as follows:]

1.6 Package Size—Other Mail Classes

For classes of mail other than Bound Printed Matter, an individual physical package may be prepared with fewer than the minimum number of pieces required by the standards for the rate claimed, without loss of rate eligibility under either of these conditions:

* * * * *

[Amend heading of 2.0 by replacing ''Standard Mail (A)'' with ''Standard Mail'' to read as follows:]

2.0 ADDITIONAL STANDARDS—FIRST-CLASS MAIL, PERIODICALS, STANDARD MAIL, AND BOUND PRINTED MATTER FLATS

2.1 Cards and Letter-Size Pieces

[Amend 2.1c and 2.1d by changing ''Standard Mail (A)'' to ''Standard Mail.'']

* * * * *

[Amend 2.2 by revising the second sentence to read as follows:]

2.2 Flat-Size Pieces

* * * Flat-size pieces must be prepared in packages except under 1.7. First-Class Mail automation flats prepared under the tray-based preparation option in M820.2.3 are not prepared in packages.

* * * * *

[Amend the heading of 3.0 by adding ''All,'' and amend the opening text to read as follows:]

3.0 FACING SLIPS—ALL CARRIER ROUTE MAIL

Facing slips used on any carrier route packages must show this information:

* * * * *

M030 Containers

M031 Labels

* * * * *

2.0 ADDITIONAL STANDARDS—SACK LABELS

2.1 Specifications

[Amend 2.1a to reflect changes in mail class names to read as follows:]

A sack label must meet these specifications:

a. Color: white or manila for Priority Mail, First-Class Mail, Standard Mail and Package Services mail; pink for Periodicals.

* * * * *

3.0 ADDITIONAL STANDARDS—TRAY LABELS PLACEMENT

* * * * *

3.2 Specifications

[Amend 3.2a to change ''Standard Mail (A)'' to ''Standard Mail'' to read as follows:]

A tray label must meet these specifications:

a. Color: White or manila for First-Class Mail and Standard Mail; pink for Periodicals.

* * * * *

4.0 PALLET LABELS

* * * * *

4.2 Specifications

[Amend 4.2 to reflect changes in class names to read as follows:]

Pallet labels must be pink for Periodicals mail or white for Standard Mail and Package Services. The pallet labels must measure at least 8 inches by 11 inches in size.

* * * * *

[Amend the last sentence of 4.7 (as it appeared in the final rule published in 65 FR 50054 (August 16, 2000)) to add the word ''irregular parcel'' in front of ''Bound Printed Matter,'' and to change ''processing category'' to ''''5D'' pallet level'' to read as follows:]

4.7 5-Digit, 5-Digit Carrier Routes, and 5-Digit Scheme Carrier Routes Pallets

All 5-digit carrier routes or 5-digit scheme carrier routes pallets must show the words ''CARRIER ROUTES'' (or ''CR-RTS'') after the processing category description on the content line under M045, M920, M930, and M940. Five-digit pallets of irregular parcel Bound Printed Matter that contain only carrier route rate mail must also show the words ''CARRIER ROUTES'' (or ''CR-RTS'') after the ''5D'' pallet level description on the contents line under M045.

[Amend 4.8 (as it appeared in the final rule published in 65 FR 50054 (August 16, 2000)) by changing ''Standard Mail (A)'' to ''Standard Mail'' to read as follows:]

4.8 Automation Status

All Periodicals and Standard Mail 5-digit, 5-digit scheme, 3-digit, SCF, ADC, ASF, and BMC pallets must show ''BARCODED'' or ''BC'' on the contents line if the pallet contains automation rate mail as provided in M045, M920, M930, and M940. Except for machinable parcels, all Periodicals and Standard Mail 5-digit, 5-digit scheme, 3-digit, SCF, ADC, ASF, and BMC pallets must show ''NONBARCODED'' or ''NBC'' on the contents line if the pallet contains Presorted rate mail under M045, M920, M930, and M940. If a pallet contains copalletized automation rate and Presorted rate mail, the separate ''BARCODED'' and ''NONBARCODED'' designations may be abbreviated ''BC/NBC.''

[The following section was revised as M031.4.10 in the final rule published in 65 FR 50054 (August 16, 2000). Subsequent revisions to the DMM have redesignated this section as 4.9.]

4.9 Extraneous Information

* * * * *

[Amend 4.9c to reflect changes in class names to read as follows:]

c. It does not appear on or between the lines reserved for USPS required information (blank lines are permitted). Exception: For combined mailings of Standard Mail and Package Services machinable parcels, mailer codes and extraneous information may appear between the content line and the post office of mailing line.

* * * * *

[The following section was added as M031.4.13 in the final rule published in 65 FR 50054 (August 16, 2000). Subsequent revisions to the DMM have redesignated this section as 4.12. Amend the title of 4.12 to delete the phrase ''or Bundle'' to read as follows:]

4.12 Pallet Package Information

* * * * *

5.0 SECOND LINE CODES

[Amend the chart in 5.0 to change ''Standard Mail (A)'' to ''Standard Mail,'' add ''First Class Mail'' and code ''FCM,'' and add ''Package Services'' and code ''PSVC'' to read as follows:]

The codes shown below must be used as appropriate on Line 2 of sack, tray, and pallet labels.

Content type	Code
Barcoded	BC.
Barcoded and Nonbarcoded	BC/NBC.
Carrier Route	C (type of route).
Carrier Routes	CR–RTS (5-digit sack and pallet designation).
Digit	D.
First-Class Mail	FCM.
Flats	FLTS.
General Delivery Unit	G.
Highway Contract Route	H.
Irregular Parcels	IRREG.
	(Periodicals, Standard Mail, and Package Services only).
Letters	LTRS.
Machinable Parcels	MACH (Standard Mail and Package Services only).
Mixed	MXD.
Mixed Machinable and Irregular Parcels	MACH & IRREG (Standard Mail only).
Nonbarcoded	NON BC (sacks).
	NBC (pallets, and co-trayed or co-sacked mail under M910).
Package Services	PSVC.
Parcels	PARCELS.
	(First-Class Mail and Package Services only).
Periodicals	PER (see 1.7).
	NEWS (see 1.7).
Post Office Box Section	B.
Rural Route	R.

Content type	Code
Scheme	SCH. (Periodicals, Standard Mail, and (flats only) Bound Printed Matter 5-digit scheme carrier routes sacks and 5-digit scheme pallets only).
Standard Mail	STD.
Working	WKG.

M032 Barcoded Labels

1.0 BASIC STANDARDS—TRAY AND SACK LABELS

1.1 Use

[Amend 1.1 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Amend Exhibit 1.3a, 3-Digit Content Identifier Numbers, by replacing headings ''STANDARD MAIL (A)'' with ''STANDARD MAIL,'' ''STANDARD MAIL (B)'' with ''PACKAGE SERVICES,'' ''Special Standard Mail'' with ''Media Mail,'' and making other changes in content line information to read as follows:]

Class and mailing	CIN	Human-readable content line
* * * * * * *		
STANDARD MAIL		
* * * * * * *		
Enhanced Carrier Route Irregular Parcels—Nonautomation		
car. rt. sacks—saturation	599	STD IRREG WSS [1]
car. rt. sacks—high density	600	STD IRREG WSH [1]
car. rt. sacks—basic	601	STD IRREG LOT [1]
5-digit carrier routes sacks	598	STD IRREG CR–RTS
STD Irregular Parcels—Presorted		
5-digit sacks	590	STD IRREG 5D
3-digit sacks	591	STD IRREG 3D
ADC sacks	592	STD IRREG ADC
mixed ADC sacks	594	STD IRREG WKG
STD Machinable Parcels—Presorted		
5-digit sacks	670	STD MACH 5D
ASF sacks	672	STD MACH ASF
BMC sacks	673	STD MACH BMC
mixed BMC sacks	674	STD MACH WKG
STD Machinable and Irregular Parcels—Presorted		
5-digit sacks	603	STD MACH & IRREG 5D
PACKAGE SERVICES MAIL		
Carrier Route Bound Printed Matter—Flats		
carrier route sacks	657	PSVC FLTS CR [1]
5-digit scheme carrier routes sacks	659	PSVC FLTS CR-RTS SCH
5-digit carrier routes sacks	658	PSVC FLTS CR–RTS
Presorted Bound Printed Matter—Flats		
5-digit sacks	649	PSVC FLTS 5D NON BC
3-digit sacks	650	PSVC FLTS 3D NON BC
SCF sacks	654	PSVC FLTS SCF NON BC
ADC sacks	651	PSVC FLTS ADC NON BC
mixed ADC sacks	653	PSVC FLTS NON BC WKG
Carrier Route Bound Printed Matter—Irregular Parcels		
carrier route sacks	697	PSVC IRREG CR [1]
5-digit carrier routes sacks	698	PSVC IRREG CR–RTS
Presorted Bound Printed Matter—Irregular Parcels		
5-digit sacks	690	PSVC IRREG 5D
3-digit sacks	691	PSVC IRREG 3D
SCF sacks	696	PSVC IRREG SCF
ADC sacks	692	PSVC IRREG ADC
mixed ADC sacks	694	PSVC IRREG WKG
Presorted Bound Printed Matter—Machinable Parcels		
5-digit sacks	680	PSVC MACH 5D
ASF sacks	682	PSVC MACH ASF
BMC sacks	683	PSVC MACH BMC
mixed BMC sacks	684	PSVC MACH WKG
Carrier Route Bound Printed Matter—Machinable Parcels		
carrier route sacks	687	PSVC MACH CR [1]

Class and mailing	CIN	Human-readable content line
Presorted Media Mail and Presorted Library Mail Flats—5-Digit and BMC		
5-digit sacks	649	PSVC FLTS 5D NON BC
BMC sacks	652	PSVC FLTS BMC NON BC
Presorted Media Mail and Presorted Library Mail Irregular Parcels—5-Digit and BMC		
5-digit sacks	690	PSVC IRREG 5D
BMC sacks	693	PSVC IRREG BMC
Presorted Media Mail and Presorted Library Mail Machinable Parcels—5-Digit and BMC		
5-digit sacks	680	PSVC MACH 5D
BMC sacks	683	PSVC MACH BMC
Parcel Post Machinable Parcels		
5-digit sacks	680	PSVC MACH 5D
ASF sacks	682	PSVC MACH ASF
BMC sacks	683	PSVC MACH BMC
mixed BMC sacks	684	PSVC MACH WKG
Parcel Post DSCF and DDU Rates		
5-digit sacks	688	PSVC PARCELS 5D
Combined PSVC Parcels		
5-digit sacks	688	PSVC PARCELS 5D
Combined STD & PSVC Machinable Parcels		
5-digit sacks	660	STD/PSVC MACH 5D
ASF sacks	662	STD/PSVC MACH ASF
BMC sacks	663	STD/PSVC MACH BMC
mixed BMC sacks	664	STD/PSVC MACH WKG

* * * * *

2.0 ADDITIONAL STANDARDS—BARCODED TRAY LABELS

2.1 Paper Stock, Size, and Color

[Amend 2.1a to replace the class name ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

3.0 ADDITIONAL STANDARDS—BARCODED SACK LABELS

[Amend 3.1a by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail''; no other changes to text.

* * * * *

M033 Sacks and Trays

1.0 BASIC STANDARDS

* * * * *

1.2 Equipment

[Amend 1.2a and 1.2f by replacing ''Standard Mail (A)'' with ''Standard Mail''; and by no other changes to text and amend 1.2a by adding a second sentence to read as follows:]

a. First-Class Mail flat-size pieces must be prepared in USPS flat trays with lids. The lids to these flat trays must be placed green side up.

[Amend the heading of 2.0 by replacing ''Standard Mail (A)'' with ''Standard Mail'' to read as follows:]

2.0 FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL

* * * * *

2.2 Flat Tray Preparation (First-Class Mail Only)

[Amend 2.2 by adding new f through h to read as follows:]

All flat tray preparation is subject to these standards:

* * * * *

f. For automation rate mailings prepared under the optional tray-based preparation rules in M820, one less-than-full overflow tray may be prepared for a presort destination when the total number of pieces for that destination meets the minimum for preparation of the tray level under M820, and one or more full trays (see M011) for that destination are also prepared.

g. For automation rate mailings prepared under the optional tray-based preparation rules in M820, when the total number of pieces for a presort destination meets or exceeds the minimum number of pieces required to prepare a tray for that destination, but the total volume does not physically fill a single tray, the mail for that presort destination may be prepared in a less-than-full tray.

h. Pieces prepared as automation flats under the tray-based preparation option in M820 do not have to be grouped by 3-digit ZIP Code prefix in ADC trays or by ADC in mixed ADC trays, if the mailing is prepared using an MLOCR/barcode sorter and standardized documentation is submitted.

* * * * *

M040 Pallets

M041 General Standards

* * * * *

[M041.5.0 and 6.0 were amended in the amended final rule published in 65 FR 48385 (August 8, 2000) and in the final rule published in 65 FR 50054 (August 16, 2000). The language in this proposed rule reflects those amendments.]

5.0 PREPARATION

5.1 Presort

[Amend 5.1 to change the class name from ''Standard Mail (A)'' to ''Standard Mail.''']

5.2 Required Preparation

[Amend 5.2 to change the class name from ''Standard Mail (A)'' to ''Standard Mail'' to read as follows:]

These standards apply to:

a. Periodicals, Standard Mail and Package Services (other than Parcel Post BMC Presort, OBMC Presort, DSCF, and DDU rate mail). A pallet must be prepared to a required sortation level when there are 500 pounds of Periodicals, Standard Mail, or Package Services mail in packages or sacks, or 500 pounds of parcels, or six layers of Periodicals or Standard Mail letter trays. For packages of Periodicals flats and irregular parcels on pallets that are prepared under the standards for package reallocation to protect the SCF pallet (M045.5.0), not all mail for a required 5-digit scheme carrier routes, 5-digit scheme, 5-digit carrier routes, or 5-digit pallet or for an optional merged

5-digit scheme, optional merged 5-digit, or optional 3-digit pallet is required to be on that corresponding pallet level. For packages of Standard Mail flats on pallets that are prepared under the standards for package reallocation to protect the SCF pallet (M045.5.0), not all mail for a required 5-digit carrier routes or 5-digit pallet or for an optional 5-digit scheme carrier routes, merged 5-digit scheme, 5-digit scheme, merged 5-digit pallet, or 3-digit pallet is required to be on that corresponding pallet level. For packages of Standard Mail flats on pallets prepared under the standards for package reallocation to protect the BMC pallet (M045.6.0), not all mail for a required ASF pallet is required to be on an ASF pallet. Mixed ADC or mixed BMC pallets of sacks, trays, or machinable parcels, as appropriate, must be labeled to the BMC or ADC (as appropriate) serving the post office where mailings are entered into the mailstream. The processing and distribution manager of that facility may issue a written authorization to the mailer to label mixed BMC or mixed ADC pallets to the post office or processing and distribution center serving the post office where mailings are entered. These pallets contain all mail remaining after required and optional pallets are prepared to finer sortation levels under M045, as appropriate.

b. Parcel Post mailed at BMC Presort, OBMC Presort, DSCF, and DDU rates. Pallets must meet the requirements specifically prescribed for these rates in M045.

5.3 Minimum Load

[Amend 5.3a by replacing ''Standard Mail (A)'' with ''Standard Mail'' and by changing ''M630'' to ''M710''; no other changes to text.]

* * * * *

5.6 Mail on Pallets

[Amend 5.6 (as it appears in the final rule published in 65 FR 50054 (August 16, 2000)) to provide for separation of flat-size Bound Printed Matter Carrier Route mail from Presorted mail on 5-digit level pallets, to change ''Standard Mail (A)'' to ''Standard Mail,'' to remove references to ''bundles,'' and to clarify and reorganize to read as follows:]

These standards apply to mail on pallets:

a. Pieces in trays, packages, and sacks must be prepared under the standards for the class of mail and rate claimed.

b. When two or more Periodicals mailings, two or more Standard Mail mailings, or two or more Bound Printed Matter mailings are placed together on pallets, the mailer must keep records for each mailing as required by the standards for the class of mail.

c. For Standard and Periodicals letter-size mail prepared in trays on pallets, carrier route rate mail (including automation carrier route) must be prepared on separate 5-digit pallets (5-digit carrier routes pallets) from non-carrier route automation rate or Presorted rate mail (5-digit pallets).

d. Heavier, fuller trays must be placed at the bottom of the load.

e. For Bound Printed Matter irregular parcels, Presorted and Carrier Route rate mail may be combined on all levels of pallet. For Bound Printed Matter flats, Presorted and Carrier Route rate mail may be combined on all levels of pallet except as provided in f and g.

f. For sacks of nonletter-size Periodicals mail on pallets (except for mail prepared with detached address labels), for sacks of nonletter-size Standard Mail on pallets (except for mail prepared with detached address labels and machinable parcels), and for sacks of flat-size Bound Printed Matter, carrier route rate mail must be prepared on separate 5-digit pallets (5-digit carrier routes pallets) from automation rate or Presorted rate mail (5-digit pallets).

g. For packages on pallets of nonletter-size Periodicals, nonletter-size Standard Mail, and flat-size Bound Printed matter, carrier route rate mail must be prepared on separate 5-digit pallets (5-digit carrier routes or 5-digit scheme carrier routes pallets) from automation rate or Presorted rate mail (that must be prepared on 5-digit pallets or 5-digit scheme pallets). Exception: When nonletter-size Periodicals and flat-size Standard Mail is prepared under 5.6h, carrier route rate mail, automation rate mail, and Presorted rate mail may be copalletized on the same merged 5-digit pallet or on the same merged 5-digit scheme pallet for applicable 5-digit ZIP Codes.

h. Mailers of nonletter-size Periodicals and flat-size Standard Mail that prepare packages on pallets may copalletize carrier route rate mail, automation rate mail, and Presorted rate mail on the same merged 5-digit pallet or on the same merged 5-digit scheme pallet under the conditions in M920, M930, or M940.

* * * * *

6.0 COPALLETIZED, COMBINED, OR MIXED-RATE LEVEL MAILINGS OF FLAT-SIZE MAILPIECES

* * * * *

[Amend the heading and contents of 6.4 to change the class name from ''Standard Mail (A)'' to ''Standard Mail.'']

* * * * *

M045 Palletized Mailings

1.0 BASIC USES

[Amend 1.0f by replacing ''Standard Mail (A) and (B)'' with ''Standard Mail and Package Services'' and 1.0i by replacing ''Standard Mail'' with ''Package Services mail'' and by replacing ''M630'' with ''M700''; no other changes to text.]

[Amend the heading of 2.0 to add ''ON PALLETS'' to read as follows:]

2.0 PACKAGES ON PALLETS

[Revise 2.1 to read as follows:]

2.1 Applicability

Only packages of flats and packages of irregular parcels of Periodicals, Standard Mail, and Bound Printed Matter may be prepared in packages placed directly on pallets under the provisions of 2.2 through 2.5 and 3.0.

[Redesignate current 2.2 through 2.4 as 2.3 through 2.5, respectively. Delete current 2.5 and 2.6. Insert new 2.2 to read as follows:]

2.2 Basic Packaging Standards

Package preparation for Periodicals, Standard Mail and Bound Printed Matter must meet the general standards in M010, M020, and the applicable packaging provisions of M200, M610, M620, M720, and M820, except as noted in 2.3 through 2.5. Packages must be sorted to pallets under 3.0. The palletized portion of a mailing may not include packages sorted to mixed ADCs or foreign destinations.

[Amend the heading of redesignated 2.3 by deleting ''Size''; no other changes to text, to read as follows:]

2.3 Periodicals

* * * * *

[Amend the heading of redesignated 2.4 by deleting ''Size'' and replacing ''Standard Mail (A)'' with ''Standard Mail'' to read as follows:]

2.4 Standard Mail

* * * * *

[Revise the heading and contents of redesignated 2.5 to read as follows:]

2.5 Bound Printed Matter

a. Presorted Bound Printed Matter. Packages must be prepared to the package destinations in M722. Packages must be labeled using optional endorsement lines or pressure sensitive labels under M722. The Minimum package size is 10 addressed pieces or 10 pounds, whichever occurs first, except that the last package to a presort

destination may weigh less than 10 pounds. Maximum package size is 20 pounds, except that 5-digit packages that will be placed on a 5-digit scheme or 5-digit pallet may weigh up to 40 pounds. The total number of physical packages for a single presort destination must not exceed the number of 10-pound increments to that destination.

Each physical package must contain at least 2 addressed pieces. Irregular parcels that individually weigh more than 10 pounds and therefore cannot meet the requirement for a minimum of 2 pieces in each physical package must be prepared and palletized as machinable parcels under 3.5 or prepared in sacks under M722.

b. Carrier Route Bound Printed Matter. Minimum package size is 10 addressed pieces or 10 pounds to a carrier route, whichever occurs first, except that the last package to a carrier route destination may weigh less than 10 pounds. Maximum package size is 20 pounds, except that carrier route packages of flats that will be placed on a 5-digit scheme carrier routes or 5-digit carrier routes pallet, and carrier packages of irregular parcels that will be placed on a 5-digit pallet, may weigh up to 40 pounds. The total number of physical packages for a single carrier route destination must not exceed the number of 10-pound increments to that destination. Each physical package must contain at least 2 addressed pieces. Irregular parcels that individually weigh more than 10 pounds and therefore cannot meet the requirement for a minimum of 2 pieces in each physical package must either: (1) be prepared and palletized as machinable parcels under 3.5 and pay the Presorted rates, or (2) be prepared in sacks to qualify for the Carrier Route rates under M723. Packages must be labeled to the carrier route with facing slips under M723, optional endorsement lines under M013, or carrier route information lines under M014.

[Remove 3.0; redesignate 4.0 through 15.0 as 3.0 through 14.0, respectively.]

3.0 PALLET PRESORT AND LABELING

[The following section, Pallet Presort and Labeling, was originally revised as M045.4.0 in the final rule published in 65 FR 50054 (August 16, 2000). The revisions below are revisions to the language in that final rule.]

* * * * *

[Delete redesignated 3.3 pertaining to Bound Printed Matter (revised in the final rule published in 65 FR 50054 (August 16, 2000)). Redesignate 3.4 and 3.5 as 3.5 through 3.6. Add new 3.3 and 3.4 to read as follows:]

3.3 Bound Printed Matter Flats—Packages and Sacks on Pallets

Mailers must prepare pallets in the sequence listed below. Mailers not opting to perform or not permitted to perform scheme sortation under 3.3a and 3.3b using L001 must begin preparing pallets under 3.3c. Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031.

a. 5-Digit Scheme Carrier Routes. Optional. Permitted only for flat-size packages on pallets. May contain only carrier route rate packages for the same 5-digit scheme under L001. If scheme sort is performed, it must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit carrier routes pallets under 3.3c.

(1) Line 1: Use L001, Column B.

(2) Line 2: ''PSVC FLTS'' followed by ''CARRIER ROUTES '' or ''CR–RTS'' and ''SCHEME'' or ''SCH.''

b. 5-Digit Scheme. Optional. Permitted only for flat-size packages on pallets. May contain only Presorted rate packages for the same 5-digit scheme under L001. If scheme sort is performed, it must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit pallets under 3.3d.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PSVC FLTS 5D,'' followed by ''SCHEME'' or ''SCH.''

c. 5-Digit Carrier Routes. Required for sacks and packages (except for packages prepared to 5-digit carrier route scheme pallets under 3.3a). May contain only Carrier Route rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PSVC FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS.''

d. 5-Digit. Required for sacks and packages (except for packages prepared to 5-digit scheme pallets under 3.3b). May contain only Presorted rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PSVC FLTS 5D.''

e. 3-digit: optional. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC FLTS 3D.''

f. SCF. Required. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PSVC FLTS SCF.''

g. ASF. Required. May contain Carrier Route and/or Presorted rate mail. Sort ADC packages or sacks to ASF pallets based on the label to ZIP Code for the ADC destination of the package or sack in L004. See E752 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: ''PSVC FLTS ASF.''

h. Destination BMC: Required. May contain Carrier Route and/or Presorted rate mail. Sort ADC packages or sacks to BMC pallets based on the label to ZIP Code for the ADC destination of the package or sack in L004. See E752 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L601.

(2) Line 2: ''PSVC FLTS BMC.''

i. For sacks on pallets only, mixed BMC. Optional. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: ''PSVC FLTS'' as applicable, followed by ''WKG.''

3.4 Bound Printed Matter Irregular Parcels—Packages and Sacks on Pallets

Prepare pallets in the sequence listed below. Label pallets according to the Line 1 and Line 2 information listed below and under M031.

a. 5-digit. Required. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''PSVC IRREG 5D'' and, if the pallet contains only carrier route mail, followed by ''CARRIER ROUTES'' (OR ''CR–RTS'').

b. 3-digit. Optional. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

c. SCF. Required. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use L002, Column C.

(2) Line 2: ''PSVC IRREG SCF.''

d. Destination ASF. Required. May contain carrier route rate and/or Presorted rate mail. Sort ADC packages or sacks to ASF pallets based on the label to ZIP Code for the ADC destination of the package or sack in L004.

(1) Line 1: use L602.

(2) Line 2: ''PSVC IRREG ASF.''

e. Destination BMC. Required. May contain Carrier Route and/or Presorted rate mail. Sort ADC packages or sacks to BMC pallets based on the label to ZIP Code for the ADC destination of the package or sack in L004.

(1) Line 1: use L601.

(2) Line 2: ''PSVC IRREG BMC.''

f. For sacks on pallets only, mixed BMC. Optional. May contain Carrier Route and/or Presorted rate mail.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: ''PSVC IRREG'' as applicable, followed by ''WKG.''

3.5 Machinable Parcels—Standard Mail, Bound Printed Matter, and Parcel Post (Except BMC Presort, OBMC Presort, and Parcel Select DDU and DSCF)

Mailers must prepare pallets in the sequence listed below. Mailers may prepare Parcel Post other than BMC Presort, OBMC Presort, and Parcel Select DDU and DSCF on pallets under 3.5 as an option. If Parcel Post is optionally sorted under 3.5 it must meet all the requirements of 3.5. Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031.

a. 5-digit. Required, except optional for Standard Mail if 3/5 rates are not claimed.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: ''STD MACH 5D'' or ''PSVC MACH 5D'' as applicable.

b. If DBMC rates are not claimed: Destination BMC. Required.

(1) Line 1: use L601.

(2) Line 2: ''STD MACH BMC'' or ''PSVC MACH BMC,'' as applicable.

c. If DBMC rates are claimed: Destination ASF/BMC. Option 1: Mailers may opt to sort mail to ASFs using L602 only when the mail on the ASF pallet will be deposited at the ASF to claim the DBMC rate. After ASF pallets are prepared (mail need not be sorted to all ASFs) remaining mail must be sorted to BMCs using L601. Mail on BMC pallets deposited at the applicable BMC facility will be eligible for DBMC rates only if its 3-digit ZIP Code prefix is listed in Exhibit E650.5.1 (Standard Mail) or Exhibit E751.1.3 (Parcel Post and Bound Printed Matter) for that entry BMC. Option 2: Mailers may sort mail only to BMCs using L601. Under option 2, only mail for 3-digit ZIP Codes served by a BMC listed in Exhibit E650.5.1 or Exhibit E751.1.3 are eligible for DBMC rates (i.e., mail for 3-digit ZIP Codes served by an ASF in Exhibit E650.5.1 or Exhibit E751.1.3 are not eligible for DBMC rates, nor are 3-digit ZIP Codes that do not appear on Exhibit E650.5.1 or Exhibit E751.1.3).

(1) Line 1: Option 1: use L602 for ASF pallets; use L601 for BMC pallets. Option 2: use L601

(2) Line 2: ''STD MACH'' or ''PSVC MACH'' as applicable; followed by ''ASF'' or ''BMC'' as applicable.

d. Mixed BMC. Optional.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: ''STD MACH'' or ''PSVC MACH'' as applicable, followed by ''WKG.''

[Amend 3.6 by changing ''Special Standard Mail'' to ''Media Mail''; no other changes to text.]

[Amend the heading of redesignated 4.0 by adding ''To Protect SCF Pallet'' and by replacing ''Standard Mail (A)'' with ''Standard Mail'' to read as follows:]

4.0 PACKAGE REALLOCATION TO PROTECT SCF PALLET FOR PERIODICALS FLATS AND IRREGULAR PARCELS AND STANDARD MAIL FLATS ON PALLETS

* * * * *

[The following section (M045.5.0) was originally added as M045.6.0 in the amended final rule published in 65 FR 48385 (August 8, 2000). The revisions below are revisions to the language in that final rule.]

[Amend the heading of redesignated 5.0 by replacing ''Standard Mail (A)'' with ''Standard Mail'' to read as follows:]

5.0 PACKAGE REALLOCATION TO PROTECT BMC PALLET FOR STANDARD MAIL FLATS ON PALLETS

* * * * *

6.0 PALLETS OF PACKAGES, BUNDLES, AND TRAYS OF LETTER-SIZE MAIL

* * * * *

[Amend the heading of 6.2 to read as follows:]

6.2 Standard Mail

[Amend 6.2 by replacing the class name ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

6.4 Commingled Zones

[Amend 6.4 by replacing ''Standard Mail (B)'' with ''Package Services mail,'' and by changing ''M630'' to ''M710 or M720'' to read as follows:]

Pieces of Package Services mail for different zones may be commingled only under M710 or M720.

* * * * *

[Amend the heading of 8.0 by replacing ''Standard Mail (A)'' with ''Standard Mail'' to read as follows:]

8.0 PALLETS OF COPALLETIZED PERIODICALS OR STANDARD MAIL FLAT-SIZE PIECES

* * * * *

[Amend the heading of 8.3 by replacing ''Standard Mail (A)'' with ''Standard Mail'' to read as follows:]

8.3 Standard Mail

[Amend the first sentence of 8.3 to read as follows:]

Additional standards apply to Standard Mail:* * *

* * * * *

8.5 Postage Statement

[Amend 8.5b by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

9.0 PALLETS OF MACHINABLE PARCELS

[Amend the heading of 9.1 to remove the ''(A)'' to read as follows:]

9.1 Standard Mail

* * * * *

[Revise the heading of 9.2 to read as follows:]

9.2 Package Services Mail

[Amend 9.2 by changing ''M630'' to ''M710 and M720.'']

* * * * *

10.0 PARCEL POST—BULK MAIL CENTER (BMC) PRESORT DISCOUNT

10.1 Machinable Parcels

[Amend 10.1c by replacing the label class designation ''STD B'' with ''PSVC'' to read as follows:]

To qualify for the BMC Presort discount:

* * * * *

c. Pallet box Line 2 labeling: ''PSVC MACH BMC.''

10.2 Nonmachinable Parcels

[Amend 10.2c by replacing the label class designation ''STD B'' with ''PSVC'' to read as follows:]

* * * * *

c. Pallet Line 2 labeling: ''PSVC NON MACH BMC'' or ''PSVC NON MACH ASF,'' as appropriate.

11.0 PARCEL POST—ORIGIN BULK MAIL CENTER (OBMC) PRESORT DISCOUNT

11.1 Machinable Parcels

[Amend 11.1c by replacing the label class designation ''STD B'' with ''PSVC'' to read as follows:]

To qualify for the OBMC Presort discount:

* * * * *

c. Pallet box Line 2 labeling: ''PSVC MACH BMC.''

11.2 Nonmachinable Parcels

[Amend 11.2c by replacing the label class designation ''STD B'' with ''PSVC'' to read as follows:]

To qualify for the OBMC Presort discount:

* * * * *

c. Pallet Line 2 labeling: ''PSVC NON MACH BMC'' or ''PSVC NON MACH ASF,'' as appropriate.

12.0 PARCEL POST DSCF RATES—PARCELS ON PALLETS

12.1 Basic Preparation, Parcels on Pallets

[Amend the first sentence of 12.1 by changing ''M630'' to ''M710.'']

* * * * *

[Amend 12.1d(2) by replacing the label class designation ''STD B'' with ''PSVC'' and adding ''PARCELS'' to read as follows:]

* * * * *

(2) For Line 2, use: ''PSVC PARCELS 5D.''

* * * * *

[Amend 12.1e by changing ''M630'' to ''M710.'']

12.2 Alternate Preparation, Parcels on Pallets

[Amend 12.2a by replacing ''M630'' with ''M710.'']

* * * * *

[Amend 12.2c by replacing ''M630'' with M710.'']

[Amend 12.2d(2) by replacing the label class designation ''STD B'' with ''PSVC'' and adding ''PARCELS'' to read as follows:]

* * * * *

(2) For Line 2, use: ''PSVC PARCELS 5D.''

* * * * *

12.3 5-Digit ZIP Codes For Which Pallets May Not Be Prepared

[Amend 12.3 by changing ''Exhibits E652.7.0 and E652.8.0'' to ''Exhibits E751.7.0 and 751.8.0'' and by changing ''M630'' to ''M710.'']

12.4 5-Digit ZIP Codes Requiring BMC Entry

[Amend 12.4 by changing ''E652.6.0'' to ''E751.6.0.''

13.0 PARCEL POST DSCF RATES—SACKS ON PALLETS

[Amend 13.0 by changing ''M630'' to ''M710.'']

[Amend 13.0b by replacing the label class designation ''STD B'' with ''PSVC'' to read as follows:]

* * * * *

b. Line 2: PSVC PP 5D SACKS.

14.0 PARCEL POST DDU RATES

[Amend 14.0 by replacing ''STD B'' with ''PSVC'' and adding ''PARCELS'' in the fourth sentence to read as follows:]

* * * If pieces are sacked or palletized, they must be prepared to 5-digits and labeled as follows: Line 1 labeling, use city, state, and 5-digit ZIP Code destination; Line 2, use ''PSVC PARCELS 5D.'' * * *

* * * * *

M050 Delivery Sequence

* * * * *

4.0 DOCUMENTATION

4.1 General

[Amend 4.1 by changing the class name ''Standard Mail (A)'' to ''Standard Mail'' in the fifth sentence; no other changes to text.]

4.2 High Density

[Amend 4.2a by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

M070 Mixed Classes

M071 Basic Information

1.0 MARKINGS

[Amend 1.1, and 1. 2 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Amend 1.3 by replacing ''Standard Mail (A) Enclosed'' with ''Standard Mail Enclosed'' and ''Standard Mail parcel'' with ''Standard Mail and Package Services parcel''; no other changes to text.]

M072 Express Mail and Priority Mail Drop Shipment

* * * * *

2.0 ADDITIONAL STANDARDS FOR ENCLOSED MAIL

* * * * *

[Revise the heading and contents of 2.3 by changing ''Standard Mail (A)'' to ''Standard Mail.'']

[Revise heading of 2.4 to ''Package Services Mail'' to read as follows:]

2.4 Package Services Mail

[Amend 2.4 by changing ''P710, P720, or P730'' to ''P910, P920, or P930'' and by changing ''E652'' to ''E751.'']

* * * * *

[Amend the heading of M073 to reflect the new class of mail names to read as follows:]

M073 Combined Mailings of Standard Mail and Package Services Parcels

1.0 COMBINED MACHINABLE PARCELS—RATES OTHER THAN PARCEL POST OBMC PRESORT, BMC PRESORT, DSCF, AND DDU

[Amend 1.1 by replacing ''Standard Mail (A)'' with ''Standard Mail'' and by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

[Amend 1.2 by replacing ''Standard Mail (A)'' with ''Standard Mail,'' by replacing ''Standard Mail (B)'' with ''Package Services mail,'' and by replacing ''Standard Mail'' with ''Standard Mail and Package Services''; no other changes to text.]

* * * * *

[Amend 1.4 and 1.5c by replacing ''Standard Mail (A)'' with ''Standard Mail'' and by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

[Amend 1.6a by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

[Amend 1.6b by replacing ''STD A/B'' with ''STD/PSVC''; no other changes to text.]

2.0 COMBINED PARCELS—PARCEL POST OBMC PRESORT, BMC PRESORT, AND DSCF RATES

2.1 Qualification

[Amend 2.1a, b, and c by replacing ''Standard Mail (A)'' with ''Standard Mail,'' and by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

2.2 Authorization

[Amend 2.2 by replacing ''Standard Mail (A)'' with ''Standard Mail,'' and by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

2.3 Postage Payment

[Amend 2.3 by replacing ''P710'' with ''P910.'']

2.4 Preparation and Rates

[Amend 2.4 by replacing ''Standard Mail (A)'' with ''Standard Mail,'' and by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

2.5 Documentation

[Amend 2.5 by replacing ''Standard Mail (A)'' with ''Standard Mail,'' and by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

* * * * *

M074 Plant Load Mailings

* * * * *

3.0 INTERSERVICE AREA PLANT-LOADED SHIPMENTS

* * * * *

[Revise heading of 3.4 to reflect the new mail class names to read as follows:]

3.4 Standard Mail and Package Services

[Amend 3.4 by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail''; no other changes to text.]

* * * * *

[Amend 3.7c by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail''; no other changes to text.]

* * * * *

M100 First-Class Mail (Nonautomation)

[Add new headings M110 and 1.0 to read as follows:]

M110 Single-Piece First-Class Mail

1.0 PREPARATION

[Redesignate E130.2.3 as M110.1.0; no changes in text.]

* * * * *

M600 Standard Mail

[Amend the heading of M610 by removing ''(A)'' to read as follows:]

M610 Presorted Standard Mail

1.0 BASIC STANDARDS

* * * * *

[Amend the heading and contents of 1.3 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

4.0 FLAT-SIZE PIECES AND IRREGULAR PARCELS

* * * * *

[Amend 4.6 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Delete 6.0 pertaining to preparation of bedloaded bundles of flats.]

M620 Enhanced Carrier Route Standard Mail

1.0 BASIC STANDARDS

1.1 All Mailings

[Amend 1.1a by replacing ''E620'' with ''E630''.]

* * * * *

[Revise the heading of 1.4 to read as follows:]

1.4 Exception

[Amend 1.4 by replacing ''Standard Mail (A)'' with ''Standard Mail''.]

* * * * *

5.0 RESIDUAL PIECES

[Amend 5.0 by replacing ''Standard Mail (A)'' with ''Standard Mail''.] changes to text.]

[Delete 6.0 pertaining to preparation of bedloaded bundles of flats.]

[Add new section M700 to read as follows:]

M700 Package Services

[Redesignate M630.1.0 as M710 to read as follows:]

M710 Parcel Post

[Add new heading 1.0 to read as follows:]

1.0 BASIC REQUIREMENTS

[Add 1.1 to read as follows:]

1.1 General

All mailings at Parcel Post rates are subject to these general standards:

a. Each mailing must meet the applicable standards in E710, E711, E751, and M010 and M030.

b. All pieces that are palletized must be prepared under M045, and if sacked, prepared under M710.

c. There are no presort, sacking, or labeling standards for single-piece rate Parcel Post.

[Redesignate M630.1.1 as M710.1.2, no changes to text.]

[Redesignate M630.1.2 as M710.1.3, amend to show DSCF and DDU rate mail need not be separated by zone, and amend for numbering revisions to read as follows:]

1.3 Separation

Except for mail entered at DSCF or DDU rates (which are not zoned rates), Parcel Post pieces must be separated by zones when presented for acceptance unless either the correct postage is affixed to each piece or the mailing is prepared under 1.4, or presented under a special postage payment system under P910, P920, or P930. If DSCF sacks prepared under 2.2 are included in the same mailing as DSCF pallets prepared under M045.12.1e, at the time of acceptance the mailer must separate the sacks that are overflow from palletized mail from those sacks that were prepared under the provisions of 2.2.

[Redesignate M630.8.0 as E710.1.4; amend to delete references to Bound Printed Matter, to read as follows:]

1.4 Commingled Zones

Zoned Parcel Post pieces need not be separated by zones when presented other than as individual pieces or with full correct postage affixed to each piece, subject to this section. Nonidentical-weight pieces not bearing the full correct postage may not be commingled unless authorized by the RCSC manager serving the office of mailing. The mail must be prepared and documented:

a. Under P910 or P930; or

b. Under all these conditions:

(1) The mail must be sacked or palletized.

(2) A unique number is assigned to each sack/pallet in the mailing and printed on a separate line at the top of the sack/pallet label (above the Line 1 information).

(3) A detailed list accompanies each mailing or mailing segment, sequenced numerically by the numbers assigned to sacks/pallets in the mailing, that shows the post office where the mail is to be entered (entry post office), a unique identifier for the mailing or mailing segment that also appears on the corresponding postage statement(s), the name and address of the mailer, the permit number (if applicable), the date of mailing, individual line entries for each sack/pallet, and the total number of pieces to each zone and in the entire mailing or mailing segment. Line entries for sacks/pallets containing mail for only one zone must show the sack/pallet number, the sortation level, the zone for which the mail is destined, and the total number of pieces for the sack/pallet. Entries for sacks/pallets containing mail for more than one zone must also show (by zone) the number of pieces to each 3-digit ZIP Code area and the total number of pieces for that zone for the sack/pallet. Mailings are not accepted if there are discrepancies between the information in the detailed listing or on the postage statement and the results of USPS random verification of piece counts and postage.

* * * * *

[Redesignate M630.1.3 as M710.1.5, and amend by changing references from ''P710, P720, or P730'' to ''P910, P920, or P930,'' and clarifying to read as follows:]

1.5 Documentation

Parcel Post mailings must be documented as follows:

a. Postage Statement. A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each bulk mailing (a mailing that includes pieces qualifying for rates that require a 50-piece minimum volume requirement).

b. Other Documentation. When presented for acceptance, documentation of postage by entry office and presort level (*e.g.,* by BMC for DBMC, OBMC Presort and BMC Presort mail and by 5-digit ZIP Code for DSCF and DDU rates) is required under P910, P920, or P930. Except for DSCF rate mail palletized under the alternate preparation option that requires separate documentation, documentation other than the postage statement is not required when the correct rate is affixed to each piece, or when each piece is of identical weight and the pieces are separated by zone and within each zone are grouped by pieces subject to the same combination of rates. DSCF rate mail palletized under the alternate preparation option in M045 must submit the detailed documentation required in M045.12.2.

[Add 2.0 to read as follows:]

2.0 DSCF RATE

2.1 General

[Redesignate contents of M630.1.4 as M710.2.1; amend by changing the reference ''1.5'' to ''2.2,'' by changing the reference ''Exhibit E652.6.0'' to ''Exhibit E751.6.0,'' and by changing the reference to ''Exhibit E652.7.0 and Exhibit E652.8.0'' to ''Exhibit E751.7.0 and Exhibit E751.8.0''; no other changes to text.'']

2.2 DSCF Sack Preparation

[Redesignate M630.1.5 as M710.2.2; amend redesignated 2.2d by replacing ''STD B 5D'' with ''PSVC PARCELS 5D''; no other change in text.]

3.0 DDU RATE

[Redesignate M630.1.6 as M710.3.0; amend redesignated 3.0b by changing ''E652'' to ''E751''; amend redesignated 3.0d by changing ''Exhibit E652.7.0 and Exhibit E652.8.0'' to ''Exhibit E751.7.0 and Exhibit E751.8.0''; amend redesignated 3.0e(2) by changing ''STD B 5D'' with ''PSVC PARCELS 5D,'' no other changes to text.

[Add 4.0 to read as follows:]

4.0 OPTIONAL MACHINABLE PARCEL PREPARATION

4.1 Basic Standards

Mailers may opt to prepare Parcel Post machinable parcels in sacks under 4.2 or palletized under M045. Pieces must be separated by zones when presented to the USPS unless either the correct postage is affixed to each piece or the mailing is prepared under 1.4. Pieces for more than one zone may not be placed in the same bundle or sack, and bundles and sacks must be separated by zone when presented to the USPS.

4.1 Sack Preparation

Sack size, preparation sequence, and Line 1 labeling:

a. 5-digit: required (minimum of 10 pieces/20 pounds, smaller volume not permitted); for Line 1, use 5-digit ZIP Code destination of pieces, preceded for military mail by the prefixes under M031.

b. Destination ASF: optional; allowed only for mail deposited at an ASF to claim the DBMC rate (minimum of 10 pieces/20 pounds, smaller volume not permitted); for Line 1, use L602. Exhibit E751.1.3d determines DBMC rate eligibility.

c. Destination BMC: required (minimum of 10 pieces/20 pounds, smaller volume not permitted); for Line 1, use L601. Exhibit E751.1.3d determines DBMC rate eligibility.

d. Mixed BMC: required (no minimum); for Line 1, use ''MXD'' followed by the Column B information in L601 for the BMC serving the 3-digit ZIP Code prefix of the entry post office.

4.3 Sack Line 2

Line 2:

a. 5-digit: ''PSVC MACH 5D.''

b. ASF: ''PSVC MACH ASF.''

c. Destination BMC: ''PSVC MACH BMC.''

d. Mixed BMC: ''PSVC MACH WKG.''

e. Any Line 2 processing code required by the labeling list must be right-justified.

* * * * *

[Add new M720 to read as follows:]

M720 Bound Printed Matter

M721 Single Piece Rates

1.0 BASIC STANDARDS

1.1 General

There are no presort, sacking or labeling standards for single-piece rate Bound Printed Matter (BPM).

1.2 Markings

Each piece mailed at single-piece BPM rates must be marked ''Bound Printed Matter'' (or ''BPM'') subject to M012.

M722 Presorted Bound Printed Matter

1.0 BASIC STANDARDS

1.1 General

All mailings of Presorted Bound Printed Matter (BPM) are subject to the standards in 2.0 through 4.0 and to these general standards:

a. Each mailing must meet the applicable standards in E710, E712, E752, and in M010, M020, and M030.

b. All pieces in a mailing must be within the same processing category as described in C050. A BPM irregular parcel is a piece that is neither a machinable parcel as defined in C050.4.1, or a flat as defined in C050.3.1. Irregular parcels are also pieces that meet the size and weight standards for a machinable parcel but are not individually boxed or packaged to withstand processing on BMC parcel sorters under C010.

c. All pieces must be sorted to the finest extent possible under 2.0 through 4.0 or palletized under M045.

d. Subject to M012, pieces must be marked ''Bound Printed Matter'' (or ''BPM'') and ''Presorted'' (or ''PRSRT'').

1.2 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight and the pieces are separated by rate (zone) when presented for acceptance.

1.3 Separation

Pieces for each zone must be sacked separately. When presented for verification, sacks must be separated by zone. Exception: Pieces for different zones may be sacked together and the sacks do not have to separated by zone for verification if any of the following apply:

a. Full (exact) postage is affixed to each piece in the mailing.

b. The mailing is prepared under P910, P930 or 1.4.

c. The pieces are claimed at DSCF or DDU rates.

1.4 Commingling Zones

Zone rated BPM need not be separated by zones when presented other than as individual pieces or with full correct postage affixed to each piece, subject to this section. Nonidentical-weight pieces not bearing the full correct postage may not be commingled unless authorized by the

RCSC manager serving the office of mailing. The mail must be prepared and documented:

a. Under P910 or P930; or

b. Under all these conditions:

(1) A unique number is assigned to each pallet in the mailing and printed on a separate line at the top of the pallet label (above the Line 1 information).

(2) A detailed list accompanies each mailing or mailing segment, sequenced numerically by the numbers assigned to the pallets in the mailing, that shows the post office where the mail is to be entered (entry post office), a unique identifier for the mailing or mailing segment that also appears on the corresponding postage statement, the name and address of the mailer, the permit number, the date of mailing, individual line entries for each pallet, and the total number of pieces to each zone in the entire mailing or mailing segment. Line entries for pallets containing mail for only one zone must show the pallet number, the sortation level, the zone for which the mail is destined, and the total number of pieces for the pallet. Entries for pallets containing mail for more than one zone must also show (by zone) the number of pieces to each 3-digit ZIP Code area and the total number of pieces for that zone for the pallet. Mailings are not accepted if there are discrepancies between the information in the detailed listing or on the postage statement and the results of USPS random verification of piece counts and postage.

2.0 REQUIRED PREPARATION-FLATS

2.1 Package Preparation

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces, or 10 pounds, whichever occurs first. Smaller volumes not permitted except for mixed ADC packages. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds each. Each package (except mixed ADC packages) must contain at least 2 addressed pieces. Packages must be prepared and labeled in the following required sequence:

a. 5-digit: required; red Label D or optional endorsement line (OEL).

b. 3-digit: required, green Label 3 or OEL.

c. ADC: required, pink Label A or OEL.

d. Mixed ADC: required; tan Label MXD or OEL.

2.2 Sack Preparation

A sack must be prepared when the quantity of mail for a required presort destination reaches either 20 addressed pieces, or 20 pounds, whichever occurs first. Smaller volumes not permitted (except mixed ADC sacks). Required preparation sequence and Line 1 sack labeling:

a. 5-digit: required; for Line 1, use 5-digit ZIP Code destination of packages (for military mail, the ZIP Code is preceded by the prefixes under M031).

b. 3-digit: required; for Line 1, use L002, Column A.

c. SCF: optional; for Line 1, use L005, Column B.

d. ADC: required; for Line 1, use L004, Column B.

e. Mixed ADC: required; for Line 1, use ''MXD'' followed by the city/state/ZIP Code of the ADC serving the 3-digit ZIP Code of the entry post office, as shown in L004, Column B.

2.3 Sack Label Line 2

Line 2 information:

a. 5-digit: ''PSVC FLATS 5D NON BC.''

b. 3-digit: ''PSVC FLATS 3D NON BC.''

c. SCF: ''PSVC FLATS SCF NON BC.''

d. ADC: ''PSVC FLATS ADC NON BC.''

e. Mixed ADC: ''PSVC FLATS NON BC WKG.''

3.0 REQUIRED PREPARATION-IRREGULAR PARCELS WEIGHING 10 POUNDS OR LESS

3.1 Package Preparation

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces, or 10 pounds, whichever occurs first. Smaller volumes not permitted except for mixed ADC packages. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks or prepared for and entered at DDU rates may weigh a maximum of 40 pounds each. Each physical package must contain at least 2 addressed pieces (except mixed ADC). Packages must be prepared and labeled in the following required sequence:

(1) 5-digit: required; red Label D or optional endorsement line (OEL).

(2) 3-digit: required; green Label 3 or OEL.

(3) ADC: required; pink Label A or OEL.

(4) Mixed ADC: required; (no minimum): tan Label MXD or OEL.

3.2 Sack Preparation

A sack must be prepared when the quantity of mail for a required presort destination reaches either 10 addressed pieces, or 20 pounds, whichever occurs first. Smaller volumes not permitted (except mixed ADC sacks). Required preparation sequence, and Line 1 labeling:

a. 5-digit: required; for Line 1, use 5-digit ZIP Code destination of packages (for military mail, the ZIP Code is preceded by the prefixes under M031).

b. 3-digit: required; for Line 1, use L002, Column A.

c. SCF: optional; for Line 1, use L005, Column B.

d. ADC: required; for Line 1, use L004, Column B.

e. Mixed ADC: required (no minimum); for Line 1, use ''MXD'' followed by the city/state/ZIP Code of the ADC serving the 3-digit ZIP Code of the entry post office, as shown in L004, Column B.

3.3 Sack Label Line 2

Line 2 information:

a. 5-digit: ''PSVC IRREG 5D.''

b. 3-digit: ''PSVC IRREG 3D.''

c. SCF: ''PSVC IRREG SCF.''

d. ADC: ''PSVC IRREG ADC.''

e. Mixed ADC: ''PSVC IRREG WKG.''

3.4 Exception to Sacking

Sacking is not required for 5-digit packages when prepared for and entered at DDU rates; such packages may be bedloaded and may weigh up to 40 pounds.

4.0 REQUIRED PREPARATION-IRREGULAR PARCELS WEIGHING OVER 10 POUNDS

4.1 Piece Preparation

Packaging is not permitted for pieces weighing over 10 pounds except under 4.4. Each piece must be enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag.

4.2 Sack Preparation

A sack must be prepared when the quantity of mail for a required presort destination reaches either 10 addressed pieces, or 20 pounds, whichever occurs first. Smaller volumes not permitted (except mixed ADC sacks). Required preparation sequence, and Line 1 labeling:

a. 5-digit: required; for Line 1, use 5-digit ZIP Code destination of packages (for military mail, the ZIP Code is preceded by the prefixes under M031).

b. 3-digit: required; for Line 1, use L002, Column A.

c. SCF: optional; for Line 1, use L005, Column B.

d. ADC: required; for Line 1, use L004, Column B.

e. Mixed ADC: required (no minimum); for Line 1, use ''MXD''

followed by the city/state/ZIP Code of the ADC serving the 3-digit ZIP Code of the entry post office, as shown in L004, Column B.

4.3 Sack Label Line 2

Line 2 information:
a. 5-digit: ''PSVC IRREG 5D.''
b. 3-digit: ''PSVC IRREG 3D.''
c. SCF: ''PSVC IRREG SCF.''
d. ADC: ''PSVC IRREG ADC.''
e. Mixed ADC: ''PSVC IRREG WKG.''

4.4 Exception to Sacking

Pieces may be prepared only in 5-digit packages when entered at DDU rates; such packages may be bedloaded and may weigh up to 40 pounds.

5.0 REQUIRED PREPARATION-MACHINABLE PARCELS

5.1 Sack Preparation DBMC Rates Not Claimed

A sack must be prepared when the quantity of parcels for a required presort destination reaches either 10 addressed pieces, or 20 pounds, whichever occurs first. Smaller volumes not permitted except in origin (mixed) BMC sacks. Required preparation sequence and Line 1 sack labeling:

a. 5-digit: required; for Line 1, use 5-digit ZIP Code destination of parcels (for military mail, the ZIP Code is preceded by the prefixes under M031).

b. BMC: required; for Line 1, use L601, Column B.

c. Origin (mixed) BMC: required (no minimum); for Line 1, ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code of the entry post office.

5.2 Sack Label Line 2 DBMC Rates Not Claimed

Line 2 information:
a. 5-digit: ''PSVC MACH 5D.''
b. BMC: ''PSVC MACH BMC.''
c. Mixed BMC: ''PSVC MACH WKG.''

5.3 Sack Preparation for DBMC Rates

A sack must be prepared when the quantity of parcels for a required presort destination reaches either 10 addressed pieces, or 20 pounds, whichever occurs first. Smaller volumes not permitted except in origin (mixed) BMC sacks. See E752 for DBMC rate eligibility. Required preparation sequence and Line 1 sack labeling:

a. 5-digit: required; for Line 1, use 5-digit ZIP Code destination of parcels (for military mail, the ZIP Code is preceded by the prefixes under M031).

b. Destination ASF: optional; allowed only for mail deposited at an ASF to claim DBMC rate; for Line 1, use L602. DBMC rate eligibility is determined by E752 and Exhibit E751.5.0.

c. Destination BMC: required; for Line 1, use L601, Column B. DBMC rate eligibility is determined by E752 and Exhibit E751.5.0.

d. Origin (mixed) BMC: required (no minimum); for Line 1, ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code of the entry post office.

5.4 Sack Label Line 2 for DBMC Rates

Line 2 information:
a. 5-digit: ''PSVC MACH 5D.''
b. ASF: ''PSVC MACH ASF.''
c. BMC: ''PSVC MACH BMC.''
d. Mixed BMC: ''PSVC MACH WKG.''

M723 Carrier Route Bound Printed Matter

1.0 BASIC STANDARDS

1.1 General

All mailings of Carrier Route Bound Printed Matter (BPM) are subject to the standards in 2.0 through 4.0 and to these general standards:

a. Each mailing must meet the applicable standards in E710, E712, E752, and in M010, M020, and M030.

b. All pieces in a mailing must be within the same processing category as described in C050. A BPM irregular parcel is a piece that is neither a machinable parcel as defined in C050.4.1, or a flat as defined in C050.3.1. Irregular parcels are also pieces that meet the size and weight standards for a machinable parcel but are not individually boxed or packaged to withstand processing on BMC parcel sorters under C010.

c. All pieces must be sorted to the finest extent possible under 2.0 through 4.0 or palletized under M045.

d. Subject to M012, pieces must be marked ''Bound Printed Matter'' (or ''BPM''), and ''Carrier Route Presort'' (or ''CAR–RT SORT'').

1.2 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight and the pieces are separated by rate (zone) when presented for acceptance.

1.3 Separation

Pieces for each zone must be sacked separately. When presented for verification, sacks must be separated by zone. Exception: Pieces for different zones may be sacked together and the sacks do not have to separated for verification if any of the following apply:

a. Full postage is affixed to each piece in the mailing.

b. The mailing is prepared under P910, P930 or 1.4.

c. The pieces are claimed at DSCF or DDU rates.

1.4 Commingling Zones

Zone rated BPM need not be separated by zones when presented other than as individual pieces or with full correct postage affixed to each piece, subject to this section. Nonidentical-weight pieces not bearing the full correct postage may not be commingled unless authorized by the RCSC manager serving the office of mailing. The mail must be prepared and documented:

a. Under P910 or P930; or

b. Under all these conditions:

(1) A unique number is assigned to each pallet in the mailing and printed on a separate line at the top of the pallet label (above the Line 1 information).

(2) A detailed list accompanies each mailing or mailing segment, sequenced numerically by the numbers assigned to the pallets in the mailing, that shows the post office where the mail is to be entered (entry post office), a unique identifier for the mailing or mailing segment that also appears on the corresponding postage statement, the name and address of the mailer, the permit number (if applicable), the date of mailing, individual line entries for each pallet, and the total number of pieces to each zone and in the entire mailing or mailing segment. Line entries for pallets containing mail for only one zone must show the pallet number, the sortation level, the zone for which the mail is destined, and the total number of pieces for the pallet. Entries for pallets containing mail for more than one zone must also show (by zone) the number of pieces to each 3-digit ZIP Code area and the total number of pieces for that zone for the pallet. Mailings are not accepted if there are discrepancies between the information in the detailed listing or on the postage statement and the results of USPS random verification of piece counts and postage.

1.5 Residual Pieces

Residual pieces not sorted under 2.0, 3.0, or 4.0, may be prepared as a Presorted Bound Printed Matter mailing under M722 provided that they are that are part of the same mailing job and reported on the same postage statement. Pieces at the Presorted rate do not need to meet a separate 300 piece minimum. These pieces must be separated from the qualifying carrier route portion when presented to the USPS for verification.

Presorted flats are not eligible for DDU rates.

2.0 REQUIRED PREPARATION—FLATS

2.1 Package Preparation

A carrier route package (or packages) must be prepared when there are 10 or more addressed pieces or 10 or more pounds, whichever occurs first, for an individual carrier route. Smaller volumes are not permitted to be prepared in carrier route packages. The maximum weight of each physical package is 40 pounds. Each package must contain at least 2 addressed pieces except for the last package for each carrier route destination under M020. Packages must be labeled with a facing slip unless the package is labeled using a carrier route information line (M014) or an optional endorsement line (M013).

2.2 Sack Preparation

A carrier route sack must be prepared when the quantity of mail for an individual carrier route reaches a minimum of 20 addressed pieces, or 20 pounds, whichever occurs first. Smaller volumes must not be prepared in a direct carrier route sack. Mail that cannot be prepared in a direct carrier route sack may be placed in a 5-digit scheme carrier routes sack and/or a 5-digit carrier routes sack. Preparation sequence and Line 1 sack labeling:

a. Carrier route: required; for Line 1, use 5-digit ZIP Code destination of packages (for military mail, the ZIP Code is preceded by the prefixes under M031).

b. 5-digit scheme carrier routes: optional (no minimum); for Line 1, use L001, Column B.

c. 5-digit carrier routes: required (no minimum); for Line 1, use 5-digit ZIP Code destination of packages, (for military mail, the ZIP Code is preceded by the prefixes under M031).

2.3 Sack Label Line 2

Line 2 information:

a. Carrier route: ''PSVC FLATS CR,'' followed by the route type and number.

b. 5-digit scheme carrier routes: ''PSVC FLATS CR-RTS SCH.''

c. 5-digit carrier routes: ''PSVC FLATS CR-RTS.''

2.4 Exception to Sacking

Sacking is not required for packages when prepared for and entered at DDU rates; such packages may be bedloaded and may weigh up to 40 pounds.

3.0 REQUIRED PREPARATION—IRREGULAR PARCELS WEIGHING 10 POUNDS OR LESS

3.1 Package Preparation

No packaging is required in direct carrier route sacks. Otherwise, a carrier route package (or packages) must be prepared when the quantity of addressed pieces for a carrier route reaches a minimum of 10 pieces, or 20 pounds, whichever occurs first. Smaller volumes are not permitted to be prepared in carrier route packages except for the last package for each carrier route destination under M020. The maximum weight of each physical package is 40 pounds. Each package must contain at least 2 addressed pieces. Packages must be labeled with a facing slip unless the package is labeled using a carrier route information line (M014) or an optional endorsement line (M013).

3.2 Sack Preparation

A direct carrier route sack must be prepared when the quantity of mail for an individual carrier route reaches a minimum of 10 addressed pieces, or 20 pounds, whichever occurs first. Smaller volumes permitted in 5-digit carrier routes sacks. Required preparation sequence and Line 1 labeling:

a. Carrier route: required; for Line 1, use 5-digit ZIP Code destination of packages (for military mail, the ZIP Code is preceded by the prefixes under M031).

b. 5-digit carrier routes: required; for Line 1, use 5-digit ZIP Code destination of packages (for military mail, the ZIP Code is preceded by the prefixes under M031).

3.3 Sack Label Line 2

Line 2 information:

a. Carrier route: ''PSVC IRREG CR,'' followed by the route type and number.

b. 5-digit carrier routes: ''PSVC IRREG CR-RTS.''

3.4 Exception to Sacking

Sacking is not required for packages when prepared for and entered at DDU rates; such packages may be bedloaded and may weigh up to 40 pounds.

4.0 REQUIRED PREPARATION—IRREGULAR PARCELS WEIGHING OVER 10 POUNDS

4.1 Carrier Route Sack Preparation

Irregular parcels must be prepared only in direct carrier route sacks. Each carrier route sack must contain a minimum of 20 pounds. Smaller volumes not permitted. Required preparation:

a. Line 1 labeling: Use 5-digit ZIP Code destination of the pieces.

b. Line 2 information: ''PSVC IRREG CR,'' followed by the route type and number.

5.0 REQUIRED PREPARATION—MACHINABLE PARCELS

5.1 Carrier Route Sack Preparation

Machinable parcels may be prepared only in direct carrier route sacks. Each carrier route sack must contain a minimum of 10 addressed pieces, or 20 pounds, whichever occurs first. Smaller volumes not permitted. Required preparation:

a. Line 1 labeling: Use 5-digit ZIP Code destination of the pieces.

b. Line 2 information: ''PSVC MACH CR,'' followed by the route type and number.

* * * * *

[Add new heading M730 to read as follows:]

M730 Media Mail

[Add heading 1.0 to read as follows:]

1.0 BASIC STANDARDS

[Redesignate M630.4.1 through M630.4.3 as M730.1.1 through M730.1.3 respectively.]

[Amend the heading of redesignated 1.1 to read as follows:]

1.1 General

[Revise redesignated 1.1 to read as follows:]

There are no preparation standards for single-piece Media Mail. Presorted Media Mail must be prepared under 2.0 unless prepared on pallets under M045, or as outside parcels under E713. Mailings of nonmachinable (outside) parcels eligible for presort rates must be prepared to preserve the required presort as instructed by the mailing office postmaster.

1.2 Marking

[Amend redesignated 1.2 by ''Special Standard Mail'' with ''Media Mail'' and ''SPEC STD'' with ''Media Mail''; no other changes to text.]

* * * * *

[Add new heading 2.0 to read as follows:]

2.0 PREPARATION

[Redesignate M630.4.4 through M630.4.6 as M730.2.1 through M730.2.3, respectively.]

[Amend the heading of redesignated 2.1 to read as follows:]

2.1 Sack or Package on Pallet Preparation (5-Digit Rate)

[Amend 2.1 to read as follows:]

5-digit sack or package size (for packages on pallets) and labeling: 5-

digit (only); required (minimum of eight pieces/20 pounds, smaller volume not permitted); 20-pound maximum for packages on pallets; no label required on packages; on sacks, use 5-digit ZIP Code destination of pieces for Line 1, preceded for military mail by the prefixes under M031.

2.2 Sack Preparation (BMC Rate)

[Amend redesignated M730.2.2 by removing ''/1,000 cubic inches''.]

2.3 Sack Line 2

[Amend redesignated M730.2.3a and b by replacing ''STD'' and ''STD B'' with ''PSVC''; no other changes to text.]

* * * * *

[Add new heading M740 to read as follows:]

M740 Library Mail

[Add heading 1.0 to read as follows:]

1.0 BASIC STANDARDS

[Redesignate M630.5.1 through M630.5.3 as M7401.1 through M74.1.3, respectively.

1.1 General

[Amend redesignated M740.1.1 by replacing ''E630.5.0'' with ''E714''; no other changes to text.]

1.2 Marking

[Amend redesignated 1.2 to eliminate ''Library Rate'' as optional marking in the first sentence and delete the last sentence to read as follows:]

Each piece claimed at Library Mail rates must be marked ''Library Mail'' under M012. Each piece claimed at presorted Library Mail rates also must be marked ''Presorted'' or ''PRSRT'' under M012.

* * * * *

[Add new heading 2.0 to read as follows:]

2.0 PREPARATION

[Redesignate M630.5.4 through M630.5.6 as M740.2.1 through M740.2.3, respectively.]

2.1 Sack Preparation (5-Digit Rate)

[Amend redesignated 2.1 by removing ''/1,000 cubic inches''.]

2.2 Sack Preparation (BMC Rate)

[Amend redesignated 2.2 by removing ''/1,000 cubic inches''.]

2.3 Sack Line 2

[Amend redesignated M740.2.3 a and M740.2.3b by replacing ''STD'' and ''STD B'' with ''PSVC''; no other changes to text.]

* * * * *

M800 All Automation Mail

* * * * *

M820 Flat-Size Mail

1.0 BASIC STANDARDS

* * * * *

1.2 Mailings

[Amend 1.2 by revising the second and third sentences to read as follows:]

* * * First-Class Mail and Periodical mailings may include pieces prepared at automation 5-digit, 3-digit and basic rates, as applicable. Standard Mail mailings may include pieces prepared at automation 3/5 and basic rates. * * *

* * * * *

1.5 Package Preparation

[Amend the first sentence of 1.5 by adding exception to read as follows; and amend the fourth sentence by replacing the ''3.1 or 4.1'' with ''4.1 or 5.1'':]

Except for First-Class Mail prepared under 3.0, all pieces must be prepared in packages. * * *

* * * * *

[Add new 1.11 to read as follows:]

1.11 Tray-Based Preparation

For First-Class Mail prepared under the tray-based option in 3.0, mailers may not combine FSM 881 and FSM 1000 pieces in the same mailing.

* * * * *

[Revise 2.0 heading to read as follows:]

2.0 FIRST-CLASS MAIL—REQUIRED PACKAGE-BASED PREPARATION

[Amend 2.1a to make preparation of 5-digit packages optional to read as follows:]

2.1 Package Preparation

Package size, preparation sequence, and labeling:

a. 5-digit: optional, but required for 5-digit rate eligibility (10-piece minimum, fewer not permitted); red Label D or optional endorsement line (OEL).

* * * * *

[Amend 2.2a to make preparation of 5-digit trays optional and to change ''M031'' to ''M032'' to read as follows:]

2.2 Tray Preparation

Tray size, preparation sequence, and Line 1 labeling:

a. 5-digit: optional, but required for 5-digit rate eligibility, full trays, no overflow; for Line 1, use 5-digit ZIP Code destination of packages, preceded for military mail by the prefixes under M032.

* * * * *

[Redesignate current 3.0 and 4.0 as 4.0 and 5.0, respectively, and add new 3.0 to read as follows:]

3.0 FIRST-CLASS MAIL—OPTIONAL TRAY-BASED PREPARATION

Tray size, preparation sequence and Line 1 labeling:

a. 5-digit: optional, but 5-digit trays required for rate eligibility (90-piece minimum, fewer not permitted); one less-than-full or overflow tray allowed; for Line 1, for 5-digit trays, use 5-digit ZIP Code destination of pieces, preceded for military mail by the prefixes under M031. (Preparation to qualify for 5-digit rate is optional and need not be done for all 5-digit destinations.)

b. 3-digit: required (90-piece minimum, fewer not permitted); one less-than-full or overflow tray allowed; for Line 1 use L002, Column A for 3-digit destinations.

c. Origin 3-digit: required for each 3-digit ZIP Code served by the SCF of the origin (verification) office; no minimum; for Line 1 use L002, Column A for 3-digit destinations.

d. ADC: required: (90-piece minimum, fewer not permitted); one less-than-full or overflow tray allowed; group pieces by 3-digit ZIP Code prefix; for Line 1 use L004, (ZIP Code prefixes in Column A must be combined and labeled to the corresponding ADC destination shown in Column B) As an exception, pieces do not have to be grouped by 3-digit ZIP Code prefix in ADC trays, if the mailing is prepared using a MLOCR/barcode sorter and standardized documentation is submitted.

e. Mixed ADC: required (no minimum for rate eligibility); group pieces by ADC; for Line 1, use ''MXD'' followed by the city/state/ZIP of the facility serving the 3-digit ZIP Code of the entry post office, as shown in L002, Column C. As an exception, pieces do not have to be grouped by ADCs in mixed ADC trays, if the mailing is prepared using a MLOCR/barcode sorter and standardized documentation is submitted.

* * * * *

M900 Advanced Preparation Options

M910 Co-Traying and Co-Sacking of Automation Rate and Presorted Rate Mailings of Flat-Size Mail

1.0 FIRST-CLASS MAIL

* * * * *

1.2 Package Preparation

[Amend 1.2 by changing ''M820'' to ''M820.2.1'' to read as follows:]

The automation rate mailing must be packaged and labeled under M820 2.1.

The Presorted rate mailing must be packaged and labeled under M130.

* * * * *

P000 Postage and Payment Methods

P010 General Standards

P011 Payment

1.0 PREPAYMENT AND POSTAGE DUE

1.1 Prepayment Conditions

[Amend 1.1 by redesignating 1.1b through 1.1e as 1.1c through 1.1f, respectively. Add new item 1.1b to read as follows:]

The mailer is responsible for proper payment of postage. Postage on all mail must be fully prepaid at the time of mailing, except as specifically provided by standard for:

* * * * *

b. Merchandise return service (S923).

* * * * *

3.0 COLLECTION OF POSTAGE DUE

* * * * *

[Add new 3.3 and 3.4 to clarify standards for advance deposit accounts and annual accounting fees to read as follows:]

3.3 Advance Deposit Account

Mailers may choose to establish an advance deposit account(s) from which postage, per-piece charges, and other fees are deducted. For certain special services, an advance deposit account is required. Except for business reply mail, which requires a separate account, mailers may use a single advance deposit account to pay postage due charges for more than one special service (*e.g.,* merchandise return service and bulk parcel return service).

3.4 Annual Accounting Fee

Except for accounts used solely to pay postage due for shortpaid mail, address correction notices, and undeliverable-as-addressed pieces returned to sender (e.g., return service requested), mailers must pay a separate annual accounting fee for each special service paid through an advance deposit account. This fee covers the administrative cost of maintaining the account and provides the mailer with the accounting of all charges deducted from that account. The accounting fee is charged once each 12-month period on the anniversary date of the initial accounting fee payment. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that which is in effect on the date of payment.

* * * * *

P012 Documentation

* * * * *

[Amend the heading of 2.0 by replacing ''Standard Mail (A)'' with ''Standard Mail'' to read as follows:]

2.0 STANDARDIZED DOCUMENTATION—FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL

2.1 Basic Standard

[Amend 2.1 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

2.2 Format and Content

[Amend 2.2 by replacing ''Standard Mail (A)'' with ''Standard Mail''; and add new 2.2c(3)(c) and amend 2.2c(6) by adding second sentence to read as follows:]

* * * * *

c. For mail in trays or sacks, the body of the listing reporting these required elements:

* * * * *

(3) * * *; or (c) group destination for automation flats prepared under the tray-based option for each 3-digit in ADC trays and for each ADC in mixed ADC trays.

* * * * *

(6) * * * The tray identification number is optional for tray-based automation flats.

* * * * *

2.3 Rate Level Column Headings

* * * * *

[Amend 2.3 by replacing all references to ''Standard Mail (A)'' with ''Standard Mail'' and by revising 2.3a to provide for separate 5-digit and 3-digit rates for automation First-Class flats to read as follows:]

The actual name of the rate level (or corresponding abbreviation) is used for column headings required by 2.2 and shown below:

a. Automation First-Class Mail, Periodicals, and Standard Mail:

Rate	Abbreviation
* * * * * * *	
5-Digit [First-Class Mail letters/cards and flats, Periodicals letters and flats and Standard Mail letters]	5B
3-Digit [First-Class Mail letters/cards and flats, Periodicals letters and flats and Standard Mail letters]	3B
* * * * * * *	
3/5 [Standard Mail flats]	3/5 B
* * * * * * *	

* * * * *

P013 Rate Application and Computation

1.0 BASIC STANDARDS

* * * * *

[Amend 1.3 by replacing ''Special Standard Mail'' with ''Media Mail''; no other changes to text.]

1.4 Affixing Postage—Single-Piece Rate Mailings

[Amend 1.4 by replacing ''Standard Mail (B)'' with ''Package Services and amend the first sentence to read as follows:]

In a postage-affixed Express Mail, Priority Mail, single-piece First-Class Mail, or Package Services mailing, the mailer must affix to each piece a value in adhesive stamps or meter stamps equal to at least the postage required. A mailer may also use precanceled stamps on single-piece First-Class Mail. Less than the correct amount of postage may be affixed only when permitted by standard or specific USPS authorization.

1.5 Affixing Postage—Other Than Single-Piece Rate Mailings

[Amend 1.5 by replacing ''Standard Mail'' with ''Standard Mail and ''Package Services, and amend the introductory paragraph to read as follows:]

In a First-Class Mail postage affixed mailing other than single-piece or a Standard Mail presorted mailing, the mailer must affix to each piece a value in precanceled stamps or meter impressions that equals at least the full amount of postage at the applicable rate. In a Package Services postage affixed mailing other than single-piece mailing, the mailer must affix to each piece a value in meter impressions that equals at least the full amount of postage at the applicable rate; or

a. For First-Class Mail, the applicable postage at the lowest rate claimed in the mailing (or a lesser amount if authorized under P760) if all additional postage is paid at the time of mailing.

b. For Standard Mail, the minimum per piece charge, with the pound rate charge paid with permit imprint under the applicable standards; or the applicable postage at the lowest rate claimed in the mailing (or a lesser amount if authorized under P760) if all additional postage is paid at the time of mailing.

* * * * *

2.0 RATE APPLICATION—EXPRESS MAIL, FIRST-CLASS MAIL, AND PRIORITY MAIL

* * * * *

2.4 Priority Mail

[Amend 2.4 by revising the third sentence to read as follows:]

* * * The minimum postage amount per addressed piece is that for a piece weighing 1 pound. * * *

* * * * *

[Amend 2.6 by revising the second sentence to read as follows:]

2.6 Keys and Identification Devices

• * * * Keys and identification devices weighing more than 13 ounces but not more than 1 pound are mailed at the 1-pound Priority Mail rate plus the fee in R100.9.0; keys and identification devices weighing over 1 pound but not more than 2 pounds are mailed at the 2-pound rate plus the fee in R100.9.0.

3.0 RATE APPLICATION—PERIODICALS

* * * * *

3.2 Applying Pound Rate

[Amend 3.2 by replacing ''Regular and Preferred outside-county'' with ''Outside-County and Science-of-Agriculture Outside-County'' in the second sentence to read as follows:]

* * * Outside-County and Science-of-Agriculture Outside-County pound rates are based on the weight of the advertising portion of the mail sent to each postal zone (as computed from the entry office) and the weight of the nonadvertising portion without regard to zone.* * *

[Amend 3.3 by replacing ''Classroom rate'' with ''Classroom'' in the fourth and last sentence.]

* * * * *

[Amend title of 5.0 by replacing ''Standard Mail (B)'' with ''Package Services'' to read as follows:]

5.0 RATE APPLICATION—PACKAGE SERVICES

* * * * *

[Revise heading of 5.4 to read as follows:]

5.4 Media Mail

[Amend 5.4 by replacing ''Special Standard Mail'' with ''Media Mail''; no other changes to text.]

* * * * *

[Amend the heading of 8.0 by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

[Amend heading of 9.0 by replacing ''Standard Mail (B) with ''Package Services'' to read as follows:]

9.0 COMPUTING POSTAGE—PACKAGE SERVICES

[Revise 9.0 in its entirety to clarify how to calculate postage for Package Services:]

9.1 Parcel Post (including Parcel Select), Media Mail, Library Mail, and Single-Piece Bound Printed Matter—Permit Imprint

To compute the total postage for a mailing, for each weight increment, multiply the number of pieces by the applicable rate per piece. Round each product off to four decimal places. Add the products and round up the total postage to the nearest whole cent.

9.2 Parcel Post (including Parcel Select), Media Mail, Library Mail, and Single-Piece Bound Printed Matter—Postage Affixed

For each piece, affix the postage for the weight increment and, if applicable, the zone to which the piece is addressed, as shown in R700. To calculate the total postage for the mailing, add all of the affixed postage amounts for each piece.

9.3 Presorted and Carrier Route Bound Printed Matter—Permit Imprint

Presorted and Carrier Route Bound Printed Matter mailings paid with permit imprint are charged a per pound rate and a per piece rate as follows:

a. Per pound rate:

(1) For pieces 1 pound or less, compute the per pound rate by multiplying the total number of addressed pieces by the 1-pound rate for the rate category and zone. Do not round this result.

(2) For pieces weighing more than 1 pound, compute the per pound rate by multiplying the unrounded total weight of the addressed pieces by the pound rate for the category and zone. Do not round this result.

b. Per-piece rate. Multiply the total number of addressed pieces by the applicable piece rate.

c. Total Postage. Calculate total postage by adding the total per piece calculation to the total per pound calculation. Round off the total postage to the nearest whole cent.

9.4 Presorted and Carrier Route Bound Printed Matter—Postage Affixed

Presorted and Carrier Route Bound Printed Matter mailings with postage affixed are charged a per pound rate and a per piece rate as follows:

a. For each addressed piece, calculate the per pound rate:

(1) If the piece weighs 1 pound or less, the per pound rate is the rate listed in R700.2.0 for the rate category and zone.

(2) If the piece weighs more than 1 pound, compute the per pound rate by multiplying the unrounded weight of the piece by the pound rate for the category and zone. Do not round this result.

b. Postage per piece. Compute the postage for each piece by adding the calculated per pound rate to the per piece rate for the category and zone. Round this number up to the next tenth of a cent. Affix this amount of postage to the piece.

c. Total Postage for Mailing. Add all of the affixed postage amounts for each piece in the mailing.

P014 Refunds and Exchanges

* * * * *

2.0 POSTAGE AND FEES REFUNDS

* * * * *

[Amend 2.3 by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

2.4 Full Refund

[Amend 2.4 by revising 2.4i to read as follows:]

A full refund (100%) may be made when:

* * * * *

i. An annual presort mailing fee is paid for Presorted First-Class Mail, Standard Mail, Presorted Media Mail, or Presorted Library Mail and when a destination entry mailing fee is paid for destination entry Parcel Post and Bound

Printed Matter and no mailings are made during the corresponding 12-month period.

* * * * *

4.0 REFUND REQUEST FOR EXCESS POSTAGE (VALUE ADDED REFUND)—AT TIME OF MAILING

[Amend 4.1, 4.13, 4.14c, 4.14d, 4.17a (5) and 4.17a (6) and by changing ''Standard Mail (A)'' to ''Standard Mail.'']

* * * * *

2.0 PERSONALIZED STAMPED ENVELOPE

P021 Stamped Stationery

* * * * *

2.5 Optional information

[Amend 2.5b by changing ''Standard Mail (A)'' to ''Standard Mail.'']

* * * * *

P022 Postage Stamps

1.0 PURCHASE AND USE

1.2 Postage Due

[Amend 1.2 by removing the second sentence to read as follows:]

Postage due must be paid in cash.

P023 Precanceled Stamps

1.0 BASIC INFORMATION

1.2 Use

[Amend 1.2 by replacing ''Standard Mail (A)'' with ''Standard Mail''.]

3.5 Content of Postmark

[Amend 3.5a by replacing ''Standard Mail (A) with ''Standard Mail''.]

* * * * *

P030 Postage Meters and Meter Stamps

1.0 BASIC INFORMATION

* * * * *

[Amend 1.5 by replacing ''Special Standard Mail'' with ''Media Mail''; no other changes to text.]

* * * * *

3.0 METER SETTING

* * * * *

[Amend the title of 3.5 by replacing ''Setting'' with ''Service'' to read as follows:]

3.5 On-Site Meter Service Program

[Amend the last sentence of 3.5 to show the new categories for on site meter setting and add a new sentence to exclude secured postage devices from the meter service fees.]

* * * The licensee must pay applicable on-site meter service fees in R900 and postage by check or advance deposit account at the time of the meter service. Secured postage meters are not subject to checking in/out fees.

* * * * *

4.0 METER STAMPS

* * * * *

[Amend 4.8 and 4.9 by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail''; no other changes to text.]

* * * * *

5.0 MAILINGS

[Amend 5.1 by replacing ''Special Standard Mail'' with ''Media Mail'' and by removing ''(A)'' from Standard Mail (A)''; no other changes to text.]

* * * * *

P040 Permit Imprints

1.0 BASIC INFORMATION

[Amend 1.1 by replacing ''Standard Mail (A)'' with ''Standard Mail'' and ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

* * * * *

2.0 INDICIA PREPARATION

* * * * *

[Amend 2.5 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

3.0 INDICIA CONTENT

* * * * *

[Amend 3.2 by changing Standard Mail to Standard Mail and Package Services in the heading and content.]

* * * * *

[Amend 3.4a by replacing ''Standard Mail'' with ''Standard Mail and Package Services.'']

[Amend 3.4b by replacing ''Standard Mail (A) with ''Standard Mail''; no other changes to text.]

4.0 INDICIA FORMAT

* * * * *

[Amend heading of Exhibit 4.1a by replacing ''Standard Mail (A) Official Mail'' with ''Standard Mail Official Mail'' and ''Standard Mail (B) Official Mail'' with ''Package Services Official Mail''; and replace indicia example ''SPECIAL STANDARD MAIL'' with ''MEDIA MAIL''; no other changes to text.]

* * * * *

[Amend the title of Exhibit 4.1b to read as follows:]

Exhibit 4.1b Indicia Formats for First-Class Mail, Standard Mail, and Package Services Mail

[Amend Exhibit 4.1b by replacing ''Standard Mail (A)'' with ''Standard Mail,'' ''Special Standard Mail'' with ''Media Mail,'' and ''PP D/S'' with ''Parcel Select.'']

* * * * *

P070 Mixed Classes

1.0 ATTACHMENTS OF DIFFERENT CLASSES

[Amend 1.1 by replacing ''Standard Mail'' with ''Standard Mail and Package Service Mail''; no other changes to text.]

[Amend 1.2 and 1.3 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

2.0 ENCLOSURE IN PERIODICALS PUBLICATION

[Amend 2.1 through 2.10 by replacing ''Standard Mail (A)'' with ''Standard Mail; no other changes to text.'']

[Revise heading of 3.0 to read as follows:]

3.0 ENCLOSURE IN STANDARD MAIL AND PACKAGE SERVICES MAIL

[Amend 3.2 by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.'']

* * * * *

[Amend heading of 5.0 by replacing ''Special Standard Mail'' with ''Media Mail'' to read as follows:]

5.0 COMBINED MAILINGS OF MEDIA MAIL AND BOUND PRINTED MATTER

* * * * *

5.4 Rating of Unmarked Parcel

[Amend 5.4 by replacing ''Special Standard Mail'' with ''Media Mail'' and Amend the introductory paragraph in 5.4 to include Inter-BMC/ASF rates to read as follows:]

A parcel containing Bound Printed Matter and Media Mail is charged postage at the Inter-BMC/ASF Parcel Post rates if it:

* * * * *

P200 Periodicals

1.0 BASIC INFORMATION

* * * * *

[Amend 1.4 by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail''; no other changes to text.]

* * * * *

[Amend 1.9 by replacing ''Standard Mail'' with ''Standard Mail and Package Services''; no other changes to text.]

* * * * *

P600 Standard Mail

1.0 BASIC INFORMATION

[Amend 1.1 by redesignating 1.1b as P700.1.1, redesignating 1.1a as 1.1; and

by replacing ''Standard Mail (A)'' with ''Standard Mail''; no other changes to text.]

* * * * *

[Amend the heading of 2.0 to delete ''Standard Mail (A)'' to read as follows:]

2.0 PRESORTED AND ENHANCED CARRIER ROUTE RATES

* * * * *

[Amend the heading of 3.0 to delete ''Standard Mail (A)'' to read as follows:]

3.0 AUTOMATION RATES

* * * * *

[Add new 4.0 to read as follows:]

4.0 MACHINABLE PARCEL BARCODED DISCOUNT

4.1 All Pieces in Mailing Eligible

If all parcels in a mailing are eligible for the machinable parcel barcoded discount under E610 and E620, the mailing may be paid with meter stamps, permit imprints, or precanceled postage under the applicable standards.

4.2 Less than 100% Eligibility

If fewer than 100% of the parcels in the mailing are eligible for the machinable parcel barcoded discount, the following postage payment standards apply:

a. Payment with precanceled stamps is not permitted.

b. Metered postage may be used only if exact postage is affixed to each piece in the mailing.

c. Use of permit imprints is permitted only under a manifest mailing system (P910).

[Add new 5.0 to read as follows:]

5.0 MAIL WITH SPECIAL SERVICES

5.1 Bulk Insurance

Mailings for which bulk insurance is requested must pay postage and fees through a manifest mailing system (P910).

5.2 Electronic Option Delivery Confirmation

If electronic option Delivery Confirmation is requested for all the pieces in the mailing and the mailing consists of pieces of identical weight, postage may be paid with metered postage or permit imprints under the applicable standards in 2.0. If Delivery Confirmation is not requested for all of the pieces in the mailing, or if the pieces are not identical weight, either the exact metered postage must be affixed to each piece, or a manifest mailing system must be used for permit imprint mail under P910. Use of precanceled stamps is not permitted with Delivery Confirmation.

5.3 Return Receipt for Merchandise

If return receipt for merchandise is requested for all the pieces in the mailing and the mailing consists of pieces of identical weight, postage may be paid with metered postage or permit imprints under the applicable standards in 2.0. If return receipt for merchandise is not requested for all of the pieces in the mailing, or if the pieces are not identical weight, either the exact metered postage must be affixed to each piece, or a manifest mailing system must be used for permit imprint mail under P910. Use of precanceled stamps is not permitted with return receipt for merchandise.

[Redesignate the heading P700 as P900. Redesignate the heading and contents of P710, P720, P730, P750, and P760 as P910, P920, P930, P950, and P960, respectively.]

[Add new P700 to read as follows:]

P700 Package Services

1.0 BASIC INFORMATION

1.1 Payment Method

[Redesignate P600.1.1b as the contents of 1.1 and amend for clarity to read as follows:]

The mailer is responsible for proper postage payment. Subject to the corresponding standards, postage for Package Services mail may be paid by any method except precanceled stamps. Pieces with postage affixed must bear the correct postage unless excepted by standard. A permit imprint may be used for mailings that contain nonidentical-weight pieces only under P910, P920, or P930. Permit imprints may be used for identical weight pieces provided the mail can be separated at acceptance into groups that each contain pieces subject to the same zone and same combination of rates (*e.g.,* all are zone 4, Inter-BMC, with a BMC presort discount and a barcoded discount). Identical weight permit imprint mail also may be mailed under P910, P920, or P930.

1.2 Postage Statement and Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each presorted Package Services mailing. The postage statement must be supported by documentation as required by P012 and the rate claimed unless the correct rate is affixed to each piece or if each piece is of identical weight and the pieces are separated by rate when presented for acceptance.

P900 Special Postage Payment Systems

* * * * *

P920 Optional Procedure (OP) Mailing System

1.0 BASIC INFORMATION

[Amend 1.1 by replacing ''Standard Mail'' with ''Standard Mail and Package Services mail''; no other changes to text.]

* * * * *

P950 Plant-Verified Drop Shipment (PVDS)

1.0 DESCRIPTION

* * * * *

[Amend 1.2c and 1.3b by replacing ''Standard Mail'' with ''Standard Mail and Package Services''; no other changes to text.]

* * * * *

2.0 PROGRAM PARTICIPATION

* * * * *

[Amend 2.3e and 2.5 by replacing ''Standard Mail'' with ''Standard Mail and Package Services''; no other changes to text.]

* * * * *

[Amend 2.7 by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

[Revise heading of 2.8 to read as follows:]

2.8 Postage Statement—Package Services Mail

[Amend 2.8 by replacing ''Standard Mail (B)'' with ''Package Services mail''; no other changes to text.]

* * * * *

4.0 POSTAGE

* * * * *

[Amend 4.2 by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

[Revise heading of 4.3 to read as follows:]

4.3 Package Services Mail

[Amend 4.3 by replacing ''Standard Mail (B) with ''Package Services mail''; no other changes to text.]

* * * * *

[Amend the heading of 5.0 by replacing ''Standard Mail (A)'' with ''Standard Mail.'']

* * * * *

[Revise heading of 6.0 to read as follows:]

6.0 PACKAGE SERVICES PVDS OPTION

* * * * *

[Amend 6.2 by replacing ''Standard Mail (B) with ''Package Services mail''; no other changes to text.]

* * * * *

[Amend heading of P960 by removing ''(A)'' to read as follows:]

P960 First-Class or Standard Mail Mailings With Different Payment Methods

* * * * *

[Amend entire R module to read as follows:]

BILLING CODE 7710–12–P

R000 Stamps and Stationery

1.0 PLAIN STAMPED ENVELOPES (P021)

Fee, in addition to the postage value preprinted on the envelope:

Type	Size	Fee	
		Each	500
Basic[1]	6-3/4	$0.08	$12.00
	10	0.08	14.00
Special[2]	Any	0.09	19.00

1. Includes regular, window, precanceled regular, and precanceled window envelopes.
2. Includes envelopes with patched-in stamps (e.g., hologram envelopes).

2.0 PERSONALIZED STAMPED ENVELOPES (P021)

Fee, in addition to the postage value preprinted on the envelope:

Type	Size	Fee	
		50	500
Basic[1]	6-3/4	$3.50	$17.00
	10	3.50	20.00
Special[2]	Any	4.50	25.00

1. Includes regular, window, precanceled regular, and precanceled window envelopes.
2. Includes envelopes with patched-in stamps (e.g., hologram envelopes).

3.0 STAMPED CARDS (P021)

Fee, in addition to the postage value preprinted on the card:

Type	Fee
Single card	$0.02
Double reply-paid card	0.04
Sheet of 40 cards (uncut)	0.80

4.0 POSTAGE STAMPS

Postage stamps are available in the following denominations:

Purpose	Form	Denomination
Regular Postage	Panes of up to 100	$0.01, .02, .03, .04, .05, .10, .15, .20, .21,.22, .23, .25, .28, .29, .30, .32, .33,.34, .40, .45, .46, .50, .52, .55, .60, .75, .77, .78, $1, $2, $3.45, $5, $12.30
	Booklets	$0.21 ($2.10 booklet)
		$0.34 ($3.40 and $6.80 booklets)
	Coils of 100	$0.20, .21, .22, .23 (additional ounce postage), .33, .34
	Coils of 3,000	$0.01, .02, .03, .05, .10, .23, .33, .34
	Coils of 10,000	$0.05, .33, .34
Precanceled Presorted Rate Postage — First-Class Mail and Standard Mail (A)	Coils of 500, 3,000, and 10,000	Various nondenominated (available only to permit holders)
Commemorative	Panes of up to 50	$0.34 and other denominations
	20-Stamp Booklets	$0.34 ($6.80 booklets)
Breast Cancer Research	Panes of up to 20	Purchase price of $0.40; postage value equivalent to First-Class Mail nonautomation single-piece rate (proposed $0.34); remainder is contribution to fund breast cancer research.

R100 First-Class Mail

1.0 NONAUTOMATION—SINGLE PIECES WEIGHING 13 OUNCES OR LESS

Card Rate 1.1

Single and double cards meeting the standards in C100:

Type	Rate
Single	$0.210

Letters, Flats, and Parcels 1.2

Letters, flats, and parcels (i.e., not card rate); nonstandard surcharge in 10.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	$0.340
Each additional ounce or fraction	0.230

2.0 NONAUTOMATION—PRESORTED

Card Rate 2.1

Single and double cards meeting the standards in C100: $0.190 each.

Letters, Flats, and Parcels 2.2

Letters, flats, and parcels (i.e., not card rate); nonstandard surcharge in 10.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.320
(For pieces weighing more than 2 ounces)	0.274
Each additional ounce or fraction	0.230

3.0 AUTOMATION—SINGLE PIECES OF QUALIFIED BUSINESS REPLY MAIL

Card Rate 3.1

Single cards meeting the standards in E150 and S922:

Type	Rate[1]
Single	$0.180

1. QBRM is also subject to fees in R900

Letters 3.2

Letter-size single pieces other than cards meeting the standards in E150 and S922:

Weight Increment	Rate[1]
First ounce or fraction of an ounce	$0.310
Second ounce or fraction	0.230

1. QBRM is also subject to fees in R900

4.0 AUTOMATION—BASIC

Card Rate 4.1 Single and double cards meeting the standards in C100: $0.174 each.

Letters 4.2 Letter-size pieces other than card rate:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.280
(For pieces weighing more than 2 ounces)	0.234
Each additional ounce or fraction	0.230

Flats 4.3 Flat-size pieces; nonstandard surcharge in 10.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.310
(For pieces weighing more than 2 ounces)	0.264
Each additional ounce or fraction	0.230

5.0 AUTOMATION—3-DIGIT

Card Rate 5.1 Single and double cards meeting the standards in C100: $0.167 each.

Letters 5.2 Letter-size pieces other than card rate:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.271
(For pieces weighing more than 2 ounces)	0.225
Each additional ounce or fraction	0.230

Flats 5.3 Flat-size pieces; nonstandard surcharge in 10.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.295
(For pieces weighing more than 2 ounces)	0.249
Each additional ounce or fraction	0.230

6.0 AUTOMATION—5-DIGIT

Card Rate 6.1 Single and double cards meeting the standards in C100: $0.154 each.

Letters 6.2 Letter-size pieces other than card rate:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.253
(For pieces weighing more than 2 ounces)	0.207
Each additional ounce or fraction	0.230

Flats
6.3

Flat-size pieces; nonstandard surcharge in 10.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.275
(For pieces weighing more than 2 ounces)	0.229
Each additional ounce or fraction	0.230

7.0 AUTOMATION—CARRIER ROUTE

Card Rate
7.1

Single and double cards meeting the standards in C100: $0.149 each.

Letters
7.2

Letter-size pieces other than card rate:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.248
(For pieces weighing more than 2 ounces)	0.202
Each additional ounce or fraction	0.230

Summary of First-Class Rates
7.3

Letters, Flats, and Parcels Weight Not Over (ounces)	Nonautomation		Automation						
			Letter-Size				Flat-Size		
	Single-Piece	Pre-sorted	Basic	3-Digit	5-Digit	Carrier Route	Basic	3-Digit	5-Digit
1	$0.340[1]	$0.320[1]	$0.280	$0.271	$0.253	$0.248	$0.310[1]	$0.295[1]	$0.275[1]
2	0.570	0.550	0.510	0.501	0.483	0.478	0.540	0.525	0.505
3[2]	0.800	0.734	0.694	0.685	0.667	0.662	0.724	0.709	0.689
4	1.030	0.964	0.924[3]	0.915[3]	0.897[3]	0.892[3]	0.954	0.939	0.919
5	1.260	1.194	----	----	----	----	1.184	1.169	1.149
6	1.490	1.424	----	----	----	----	1.414	1.399	1.379
7	1.720	1.654	----	----	----	----	1.644	1.629	1.609
8	1.950	1.884	----	----	----	----	1.874	1.859	1.839
9	2.180	2.114	----	----	----	----	2.104	2.089	2.069
10	2.410	2.344	----	----	----	----	2.334	2.319	2.299
11	2.640	2.574	----	----	----	----	2.564	2.549	2.529
12	2.870	2.804	----	----	----	----	2.794	2.779	2.759
13	3.100	3.034	----	----	----	----	3.024	3.009	2.989
Card Rate[4]									
Single	0.21	0.19	0.174	0.167	0.154	0.149	----	----	----

1. Nonstandard surcharge in 10.0 might apply: single-piece $0.11; presorted $0.05.
2. Presorted and automation rates for pieces weighing over 2 ounces reflect a first-ounce discount of $0.046 per piece.
3. Weight not to exceed 3.5 ounces; pieces over 3 ounces subject to additional standards.
4. Rates shown apply to each single or double postcard when originally mailed; reply half of double postcard must bear postage at applicable rate when returned unless prepared as business reply mail.

8.0 PRIORITY MAIL

Weight Not Over (pounds)[1]	Zone					
	L, 1, 2, & 3	4	5	6	7	8
1	$3.45	$3.45	$3.45	$3.45	$3.45	$3.45
2[2]	3.85	3.85	3.85	3.85	3.85	3.85
3	5.10	5.10	5.10	5.10	5.10	5.10
4	6.35	6.35	6.35	6.35	6.35	6.35
5	7.60	7.60	7.60	7.60	7.60	7.60
6	7.85	8.00	8.15	8.55	8.85	9.45
7	8.05	8.40	8.70	9.50	10.10	11.30
8	8.15	8.80	9.25	10.45	11.35	13.15
9	8.30	9.20	9.80	11.40	12.60	15.00
10	8.40	9.70	10.45	12.40	13.75	16.85
11	8.65	10.35	11.35	13.40	14.80	18.15
12	8.90	11.00	12.15	14.40	15.90	19.60
13	9.15	11.65	13.00	15.45	17.05	21.00
14	9.40	12.30	13.80	16.45	18.15	22.45
15	9.65	12.95	14.65	17.45	19.25	23.85
16	9.90	13.65	15.40	18.45	20.40	25.30
17	10.15	14.30	16.25	19.45	21.50	26.75
18	10.55	14.95	17.05	20.45	22.65	28.15
19	10.95	15.60	17.90	21.45	23.75	29.65
20	11.40	16.35	18.70	22.45	24.90	31.00
21	11.80	17.05	19.45	23.50	26.00	32.40
22	12.25	17.75	20.30	24.50	27.15	33.70
23	12.65	18.45	21.10	25.45	28.25	35.05
24	13.05	19.15	21.95	26.45	29.35	36.35
25	13.50	19.85	22.75	27.50	30.55	37.80
26	13.90	20.50	23.55	28.50	31.65	39.10
27	14.30	21.25	24.35	29.50	32.80	40.45
28	14.70	21.95	25.20	30.45	33.90	41.75
29	15.15	22.60	26.00	31.45	35.05	43.05
30	15.55	23.30	26.85	32.50	36.15	44.40
31	15.95	24.05	27.60	33.50	37.30	45.70
32	16.40	24.70	28.45	34.50	38.40	47.10
33	16.80	25.40	29.25	35.50	39.55	48.40
34	17.20	26.05	30.10	36.45	40.65	49.70
35	17.65	26.80	30.90	37.50	41.75	51.05
36	18.05	27.50	31.70	38.50	42.90	52.35
37	18.45	28.20	32.50	39.50	44.00	53.70
38	18.85	28.90	33.35	40.55	45.15	55.05
39	19.30	29.60	34.15	41.55	46.25	56.40
40	19.70	30.30	35.00	42.50	47.40	57.70
41	20.10	30.95	35.75	43.50	48.50	59.00
42	20.55	31.70	36.60	44.50	49.65	60.35
43	20.95	32.40	37.40	45.55	50.75	61.70
44	21.35	33.05	38.25	46.55	51.90	63.10
45	21.80	33.75	39.05	47.50	53.00	64.40
46	22.20	34.50	39.80	48.50	54.10	65.75
47	22.60	35.15	40.65	49.55	55.30	67.05
48	23.00	35.85	41.45	50.55	56.40	68.35
49	23.45	36.60	42.30	51.55	57.55	69.70
50	23.85	37.25	43.10	52.55	58.65	71.00
51	24.25	37.95	43.90	53.50	59.70	72.40
52	24.70	38.65	44.70	54.55	60.85	73.70
53	25.10	39.35	45.55	55.55	61.90	75.00
54	25.50	40.05	46.35	56.55	63.00	76.35
55	25.95	40.75	47.20	57.55	64.00	77.65
56	26.35	41.40	47.95	58.60	65.10	79.00
57	26.75	42.15	48.80	59.55	66.20	80.35
58	27.15	42.85	49.60	60.55	67.25	81.70
59	27.60	43.50	50.45	61.55	68.40	83.00
60	28.00	44.20	51.25	62.60	69.45	84.30
61	28.40	44.95	52.05	63.60	70.55	85.70
62	28.85	45.60	52.85	64.55	71.60	87.00
63	29.25	46.30	53.70	65.55	72.70	88.40
64	29.65	47.05	54.50	66.60	73.80	89.70
65	30.10	47.70	55.30	67.60	74.85	91.05
66	30.50	48.40	56.10	68.60	76.00	92.35
67	30.90	49.10	56.95	69.60	77.05	93.65
68	31.35	49.80	57.75	70.55	78.10	95.00
69	31.75	50.50	58.60	71.60	79.25	96.30
70	32.15	51.20	59.35	72.60	80.30	97.70

1. Parcels that weigh less than 15 pounds but measure more than 84 inches in combined length and girth are charged the applicable rate for a 15-pound parcel.
2. The 2-pound rate is charged for matter sent in a flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

9.0 KEYS AND IDENTIFICATION DEVICES

Weight Not Over (ounces)	Rate[1]
1[2]	$0.69
2	0.92
3	1.15
4	1.38
5	1.61
6	1.84
7	2.07
8	2.30
9	2.53
10	2.76
11	2.99
12	3.22
13	3.45
1 pound	3.80
2 pounds	4.20

1. Includes $0.35 fee.
2. Nonstandard surcharge in 10.0 might apply.

10.0 NONSTANDARD SURCHARGES

Surcharge per piece:

a. Single-piece rate: $0.11.

b. Presorted and automation (flat-size) rate: $0.05.

11.0 FEES

Presort Mailing Fee 11.1 Presort mailing fee, per 12-month period, per office of mailing: $125.00.

Pickup Fee 11.2 Priority Mail only, per occurrence: $10.25. May be combined with Express Mail and Package Services Parcel Post pickups.

R200 Periodicals

1.0 OUTSIDE-COUNTY—EXCLUDING SCIENCE-OF-AGRICULTURE

Pound Rates 1.1

Per pound or fraction:

a. For the nonadvertising portion: $0.186.

b. For the advertising portion:

Zone	Rate
Delivery Unit	$0.180
SCF	0.210
1 & 2	0.247
3	0.263
4	0.302
5	0.361
6	0.423
7	0.499
8	0.563

Piece Rates 1.2

Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.318	$0.262	$0.286
3-Digit	0.274	0.229	0.247
5-Digit	0.222	0.174	0.194
Carrier Route	0.141	—	—
High Density	0.116	—	—
Saturation	0.098	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.5 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discounts 1.3

Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00066 per piece.

b. Delivery unit piece discount for each addressed piece eligible for the delivery unit rate under E250: $0.021.

c. SCF piece discount for each addressed piece eligible for the SCF rate under E250: $0.012.

Nonprofit 1.4

Authorized nonprofit mailers receive a discount of 5% off of the total Outside-County postage excluding the postage for advertising pounds. The 5% discount does not apply to commingled nonsubscriber copies in excess of the 10% allowance provided under E215.

Classroom 1.5

Authorized Classroom mailers receive a discount of 5% off of the total Outside-County postage excluding the postage for advertising pounds. The 5% discount does not apply to commingled nonsubscriber copies in excess of the 10% allowance provided under E215.

2.0 OUTSIDE-COUNTY—SCIENCE-OF-AGRICULTURE

Pound Rates

2.1 Per pound or fraction:

a. For the nonadvertising portion: $0.186.

b. For the advertising portion:

Zone	Rate
Delivery Unit	$0.135
SCF	0.158
1 & 2	0.186
3	0.263
4	0.302
5	0.361
6	0.423
7	0.499
8	0.563

Piece Rates

2.2 Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.318	$0.262	$0.286
3-Digit	0.274	0.229	0.247
5-Digit	0.222	0.174	0.194
Carrier Route	0.141	—	—
High Density	0.116	—	—
Saturation	0.098	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.5 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discounts

2.3 Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00066 per piece.

b. Delivery unit piece discount for each addressed piece eligible for the delivery unit rate under E250: $0.021.

c. SCF piece discount for each addressed piece eligible for the SCF rate under E250: $0.012.

3.0 IN-COUNTY

Pound Rates

3.1 Per pound or fraction:

Zone	Rate
Delivery Unit	$0.118
All Others	0.145

Piece Rates 3.2

Per addressed piece:

Presort Level	Nonautomation	Automation[1]	
		Letter-Size	Flat-Size
Basic	$0.099	$0.049	$0.072
3-Digit	0.092	0.048	0.069
5-Digit	0.084	0.045	0.064
Carrier Route	0.048	—	—
High Density	0.032	—	—
Saturation	0.027	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.5 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discount 3.3

Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: $0.005.

4.0 FEES

Application Fees 4.1

Per application:

a. Original entry: $350.00.

b. News agent registry: $40.00.

c. Additional entry: $50.00.

d. Reentry: $40.00.

Address Correction Service Fees 4.2

Charge per notice issued:

a. Manual: $0.60.

b. Automated: $0.20.

R500 Express Mail

1.0 EXPRESS MAIL—ALL SERVICE LEVELS

Weight Not Over (pounds)	Service[1]			Weight Not Over (pounds)	Service[1]		
	Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee		Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee
1/2	$9.25	$9.40	$12.30	36	67.15	68.00	70.15
1	13.80	13.95	16.05	37	69.00	69.25	71.40
2[2]	13.80	13.95	16.05	38	70.50	70.65	72.80
3	16.65	16.80	18.85	39	71.80	71.95	74.10
4	19.45	19.60	21.70	40	73.10	73.25	75.40
5	22.25	22.40	24.50	41	74.40	74.55	76.70
6	25.05	25.20	27.30	42	75.80	75.95	78.10
7	27.75	27.90	30.00	43	77.10	77.25	79.40
8	28.95	29.10	31.20	44	78.45	78.60	80.75
9	30.20	30.35	32.45	45	79.80	80.00	82.10
10	31.40	31.55	33.65	46	81.05	81.20	83.35
11	32.90	33.05	35.15	47	82.45	82.65	84.75
12	35.30	35.45	37.55	48	83.75	83.95	86.05
13	36.55	36.70	39.25	49	85.05	85.25	87.35
14	37.95	38.10	40.20	50	86.35	86.55	88.65
15	39.15	39.30	41.40	51	87.80	87.95	90.05
16	40.50	40.65	42.75	52	89.00	89.20	91.30
17	41.85	42.00	44.10	53	90.45	90.60	92.70
18	43.10	43.25	45.35	54	91.75	91.90	94.00
19	44.40	44.55	46.65	55	93.05	93.20	95.30
20	45.75	45.90	48.00	56	94.45	94.60	96.70
21	47.00	47.20	49.40	57	95.70	95.85	97.95
22	48.30	48.50	50.80	58	97.05	97.20	99.30
23	49.70	49.90	52.20	59	98.50	98.65	100.80
24	51.10	51.30	53.60	60	100.05	100.20	102.35
25	52.50	52.70	55.00	61	101.70	101.85	104.00
26	53.90	54.10	56.40	62	103.25	103.45	105.55
27	55.30	55.50	57.80	63	104.85	105.00	107.10
28	56.70	56.90	59.20	64	106.50	106.65	108.80
29	58.10	58.30	60.60	65	108.05	108.20	110.35
30	59.00	59.30	61.60	66	109.70	109.90	112.00
31	60.00	60.30	62.60	67	111.30	111.45	113.55
32	61.75	62.05	64.30	68	112.95	113.10	115.25
33	63.25	63.55	65.90	69	114.50	114.65	116.80
34	64.10	65.35	67.30	70	116.05	116.20	118.35
35	65.75	66.65	68.80				

1. Same Day Airport service is currently suspended.
2. The 2-pound rate is charged for matter sent in a flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

2.0 FEES

Address Correction Service Fee
2.1

Charge per notice issued (manual only): $0.60.

Pickup Fee
2.2

Per occurrence: $10.25. May be combined with Priority Mail and Package Services Parcel Post pickups.

Fee for Delivery Stops
2.3

Custom Designed Service only, each: $10.25.

R600 Standard Mail

1.0 REGULAR STANDARD MAIL

Automation Letter-Size Minimum Per-Piece Rates
1.1

Pieces 0.2188 pound (3.5 ounces) or less:

Entry Discount[1]	Basic	3-Digit	5-Digit
None	$0.200	$0.193	$0.172
DBMC	0.183	0.176	0.155
DSCF	0.178	0.171	0.150
DDU	—	—	—

1. Pieces weighing over 3 ounces subject to additional standards.

Letter-Size Minimum Presorted Per-Piece Rates
1.2

Pieces 0.2063 pound (3.3 ounces) or less:

Entry Discount	Basic	3/5
None	$0.242	$0.225
DBMC	0.225	0.208
DSCF	0.220	0.203
DDU	—	—

Nonletter-Size Minimum Per-Piece Rates
1.3

Pieces 0.2063 pound (3.3 ounces) or less:

	Presorted[1,2]		Automation[3]	
Entry Discount	Basic	3/5	Basic	3/5
None	$0.311	$0.258	$0.267	$0.231
DBMC	0.294	0.241	0.250	0.214
DSCF	0.289	0.236	0.245	0.209
DDU	—	—	—	—

1. The residual shape surcharge of $0.18 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620 for further requirements). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.
3. Available only for automation-compatible flats.

Piece and Pound Rates
1.4

Pieces more than 0.2063 pound (3.3 ounces):

Piece/Pound Rate[1]	Presorted[2,3]		Automation[4]	
	Basic	3/5	Basic	3/5
Per Piece	$0.175	$0.122	$0.131	$0.095
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS	PLUS
None	$0.661	$0.661	$0.661	$0.661
DBMC	0.578	0.578	0.578	0.578
DSCF	0.553	0.553	0.553	0.553
DDU	—	—	—	—

1. Each piece is subject to both a piece rate and a pound rate.
2. Residual shape surcharge of $0.18 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
3. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620 for further requirements). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.
4. Available only for automation-compatible flats.

2.0 ENHANCED CARRIER ROUTE STANDARD MAIL

Automation Letter-Size Minimum Per-Piece Rates
2.1

Pieces 0.2188 pound (3.5 ounces) or less:

Entry Discount	Basic[1]
None	$0.163
DBMC	0.146
DSCF	0.141
DDU	0.135

1. Pieces weighing over 3 ounces subject to additional standards.

Nonautomation Letter-Size Minimum Per-Piece Rates
2.2

Pieces 0.2063 pound (3.3 ounces) or less:

Entry Discount	Basic	High Density	Saturation
None	$0.175	$0.152	$0.143
DBMC	0.158	0.135	0.126
DSCF	0.153	0.130	0.121
DDU	0.147	0.124	0.115

Nonletter-Size Minimum Per Piece Rates
2.3

Pieces 0.2063 pound (3.3 ounces) or less:

Entry Discount[1]	Basic	High Density	Saturation
None	$0.175	$0.154	$0.148
DBMC	0.158	0.137	0.131
DSCF	0.153	0.132	0.126
DDU	0.147	0.126	0.120

1. Residual shape surcharge of $0.15 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Piece and Pound Rates
2.4

Pieces more than 0.2063 pound (3.3 ounces):

Piece/Pound Rate[1,2]	Basic	High Density	Saturation
Per Piece	$0.055	$0.034	$0.028
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS
None	$0.584	$0.584	$0.584
DBMC	0.501	0.501	0.501
DSCF	0.476	0.476	0.476
DDU	0.450	0.450	0.450

1. Each piece is subject to both a piece rate and a pound rate.
2. Residual shape surcharge of $0.15 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

3.0 NONPROFIT STANDARD MAIL

Automation Letter-Size Minimum Per-Piece Rates
3.1

Pieces 0.2188 pound (3.5 ounces) or less:

Entry Discount[1]	Basic	3-Digit	5-Digit
None	$0.129	$0.122	$0.101
DBMC	0.112	0.105	0.084
DSCF	0.107	0.100	0.079
DDU	—	—	—

1. Pieces weighing over 3 ounces subject to additional standards.

Presorted Letter-Size Minimum Per-Piece Rates
3.2

Pieces 0.2063 pound (3.3 ounces) or less:

Entry Discount	Basic	3/5
None	$0.159	$0.150
DBMC	0.142	0.133
DSCF	0.137	0.128
DDU	—	—

Nonletter-Size Minimum Per-Piece Rates
3.3

Pieces 0.2063 pound (3.3 ounces) or less:

	Presorted[1,2]		Automation[3]	
Entry Discount	Basic	3/5	Basic	3/5
None	$0.219	$0.175	$0.178	$0.158
DBMC	0.202	0.158	0.161	0.141
DSCF	0.197	0.153	0.156	0.136
DDU	—	—	—	—

1. Residual shape surcharge of $0.18 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620 for further requirements). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.
3. Available only for automation-compatible flats.

Piece and Pound Rates
3.4

Pieces more than 0.2063 pound (3.3 ounces):

Piece/Pound Rate[1]	Presorted[2,3]		Automation[4]	
	Basic	3/5	Basic	3/5
Per Piece	$0.099	$0.055	$0.058	$0.038
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS	PLUS
None	$0.580	$0.580	$0.580	$0.580
DBMC	0.497	0.497	0.497	0.497
DSCF	0.472	0.472	0.472	0.472
DDU	—	—	—	—

1. Each piece is subject to both a piece rate and a pound rate.
2. Residual shape surcharge of $0.18 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
3. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620 for further requirements). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.
4. Available only for automation-compatible flats.

4.0 NONPROFIT ENHANCED CARRIER ROUTE STANDARD MAIL

Automation Letter-Size Minimum Per-Piece Rates
4.1

Pieces 0.2188 pound (3.5 ounces) or less:

Entry Discount	Basic[1]
None	$0.100
DBMC	0.083
DSCF	0.078
DDU	0.072

1. Pieces weighing over 3 ounces subject to additional standards.

Nonautomation Letter-Size Minimum Per-Piece Rates
4.2

Pieces 0.2063 pound (3.3 ounces) or less:

Entry Discount	Nonautomation		
	Basic	High Density	Saturation
None	$0.113	$0.090	$0.084
DBMC	0.096	0.073	0.067
DSCF	0.091	0.068	0.062
DDU	0.085	0.062	0.056

Nonletter-Size Minimum Per-Piece Rates
4.3

Pieces 0.2063 pound (3.3 ounces) or less:

Entry Discount[1]	Basic	High Density	Saturation
None	$0.113	$0.097	$0.092
DBMC	0.096	0.080	0.075
DSCF	0.091	0.075	0.070
DDU	0.085	0.069	0.064

1. Residual shape surcharge of $0.15 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Piece and Pound Rates
4.4

Pieces more than 0.2063 pound (3.3 ounces):

Piece/Pound Rate[1,2]	Basic	High Density	Saturation
Per Piece	$0.037	$0.021	$0.016
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS
None	$0.370	$0.370	$0.370
DBMC	0.287	0.287	0.287
DSCF	0.262	0.262	0.262
DDU	0.236	0.236	0.236

1. Each piece is subject to both a piece rate and a pound rate.
2. Residual shape surcharge of $0.15 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

5.0 FEES

Presort Mailing Fee
5.1

Presort mailing fee per 12-month period (Regular, Enhanced Carrier Route, Nonprofit, and Nonprofit Enhanced Carrier Route): $125.00.

Address Correction Service Fees
5.2

See R900.

Bulk Parcel Return Service Fee
5.3

See R900.

Weighted Fee
5.4

For return of pieces bearing the ancillary service markings "Address Service Requested" and "Forwarding Service Requested" (see F010):

Single-Piece Weight Not Over (ounces)	Weighted Fee per Piece[1]
1	$0.82
2	1.36
3	1.91
4	2.45
5	3.00
6	3.54
7	4.08
8	4.63
9	5.17
10	5.72
11	6.26
12	6.80
13	7.35
15.999	7.92

1. Weighted fee equals single-piece First-Class Mail or Priority Mail rate multiplied by 2.472 (see F010).

6.0 RESIDUAL SHAPE SURCHARGE

Items that are prepared as a parcel or are neither letter-size nor flat-size, per piece:

Rate Category	Surcharge
Regular and Nonprofit	$0.18
Enhanced Carrier Route and Nonprofit Enhanced Carrier Route	0.15

7.0 BARCODED DISCOUNT

Deduct $0.03 per piece for machinable parcels with a barcode (see E610 and E620 for eligibility).

R700 Package Services

1.0 PACKAGE SERVICES PARCEL POST

Inter-BMC/ASF Single-Piece Machinable Parcel Post

1.1

Inter-BMC/ASF ZIP Codes only, no discount, no surcharge:

Weight Not Over (pounds)[1]	Zone[2, 3, 4, 5, 6, 7]						
	1 & 2	3	4	5	6	7	8
2	$3.47	$3.47	$3.47	$3.47	$3.47	$3.47	$3.47
3	3.95	4.29	4.68	4.68	4.68	4.68	4.68
4	4.10	4.58	5.40	5.89	5.89	5.89	5.89
5	4.25	4.83	5.86	7.10	7.10	7.10	7.10
6	4.39	5.08	6.28	7.81	8.14	8.36	8.97
7	4.52	5.30	6.68	8.49	9.19	9.63	10.84
8	4.66	5.51	7.02	9.09	10.23	10.89	12.71
9	4.76	5.71	7.38	9.64	11.28	12.16	14.58
10	4.90	5.90	7.69	10.15	12.01	13.42	16.45
11	4.99	6.08	8.00	10.63	12.62	14.63	17.71
12	5.10	6.25	8.28	11.07	13.17	15.73	19.09
13	5.20	6.39	8.55	11.48	13.68	16.69	20.52
14	5.30	6.57	8.81	11.88	14.18	17.31	21.89
15	5.39	6.71	9.06	12.24	14.64	17.91	23.27
16	5.48	6.85	9.30	12.60	15.07	18.45	24.04
17	5.58	6.97	9.53	12.91	15.49	18.98	24.74
18	5.65	7.11	9.74	13.22	15.86	19.46	25.41
19	5.75	7.24	9.94	13.52	16.24	19.93	26.04
20	5.82	7.35	10.12	13.79	16.58	20.37	26.63
21	5.90	7.48	10.31	14.07	16.92	20.79	27.19
22	5.97	7.58	10.49	14.32	17.23	21.19	27.73
23	6.05	7.71	10.68	14.55	17.52	21.56	28.24
24	6.11	7.81	10.84	14.80	17.81	21.93	28.73
25	6.18	7.91	11.01	15.00	18.08	22.26	29.19
26	6.25	8.01	11.17	15.22	18.35	22.59	29.62
27	6.33	8.11	11.31	15.42	18.59	22.90	30.05
28	6.38	8.21	11.47	15.62	18.83	23.20	30.45
29	6.45	8.31	11.62	15.80	19.06	23.49	30.84
30	6.51	8.39	11.74	15.97	19.27	23.76	31.20
31	6.58	8.47	11.88	16.14	19.49	24.04	31.55
32	6.63	8.57	12.01	16.30	19.69	24.29	31.89
33	6.69	8.66	12.14	16.47	19.88	24.53	32.21
34	6.75	8.72	12.25	16.62	20.06	24.76	32.52
35	6.81	8.81	12.39	16.76	20.24	24.98	32.81

1. Parcels that weigh less than 2 pounds are charged the 2-pound rate.
2. For barcoded discount, deduct $0.03 per parcel.
3. For OBMC Presort discount, deduct $0.93 per parcel.
4. For BMC Presort discount, deduct $0.23 per parcel.
5. Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
6. For parcels that weigh more than 35 pounds, see1.2.
7. Regardless of weight, a parcel that meets any of the criteria in E711.2.3 must pay the rate for a nonmachinable parcel in1.2.

1.2 Inter-BMC/ASF Single-Piece Nonmachinable Parcel Post

Rates shown include the $1.79 nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in E712.1.3 must pay the nonmachinable surcharge as listed in this rate table.

Weight Not Over[1] (pounds)	Zone[2, 3, 4, 5]						
	1 & 2	3	4	5	6	7	8
2	$5.26	$5.26	$5.26	$5.26	$5.26	$5.26	$5.26
3	5.74	6.08	6.47	6.47	6.47	6.47	6.47
4	5.89	6.37	7.19	7.68	7.68	7.68	7.68
5	6.04	6.62	7.65	8.89	8.89	8.89	8.89
6	6.18	6.87	8.07	9.60	9.93	10.15	10.76
7	6.31	7.09	8.47	10.28	10.98	11.42	12.63
8	6.45	7.30	8.81	10.88	12.02	12.68	14.50
9	6.55	7.50	9.17	11.43	12.99	13.95	16.37
10	6.69	7.69	9.48	11.94	13.80	15.21	18.24
11	6.78	7.87	9.79	12.42	14.41	16.42	19.50
12	6.89	8.04	10.07	12.86	14.96	17.52	20.88
13	6.99	8.18	10.34	13.27	15.47	18.48	22.31
14	7.09	8.36	10.60	13.67	15.97	19.10	23.68
15	7.18	8.50	10.85	14.03	16.43	19.70	25.06
16	7.27	8.64	11.09	14.39	16.86	20.24	25.83
17	7.37	8.76	11.32	14.70	17.28	20.77	26.53
18	7.44	8.90	11.53	15.01	17.65	21.25	27.20
19	7.54	9.03	11.73	15.31	18.03	21.72	27.83
20	7.61	9.14	11.91	15.58	18.37	22.16	28.42
21	7.69	9.27	12.10	15.86	18.71	22.58	28.98
22	7.76	9.37	12.28	16.11	19.02	22.98	29.52
23	7.84	9.50	12.47	16.34	19.31	23.35	30.03
24	7.90	9.60	12.63	16.59	19.60	23.72	30.52
25	7.97	9.70	12.80	16.79	19.87	24.05	30.98
26	8.04	9.80	12.96	17.01	20.14	24.38	31.41
27	8.12	9.90	13.10	17.21	20.38	24.69	31.84
28	8.17	10.00	13.26	17.41	20.62	24.99	32.24
29	8.24	10.10	13.41	17.59	20.85	25.28	32.63
30	8.30	10.18	13.53	17.76	21.06	25.55	32.99
31	8.37	10.26	13.67	17.93	21.28	25.83	33.34
32	8.42	10.36	13.80	18.09	21.48	26.08	33.68
33	8.48	10.45	13.93	18.26	21.67	26.32	34.00
34	8.54	10.51	14.04	18.41	21.85	26.55	34.31
35	8.60	10.60	14.18	18.55	22.03	26.77	34.60
36	8.65	10.67	14.31	18.70	22.21	26.98	34.89
37	8.71	10.74	14.41	18.84	22.37	27.20	35.16
38	8.76	10.83	14.53	18.96	22.53	27.39	35.43
39	8.83	10.90	14.63	19.08	22.68	27.57	35.68
40	8.87	10.98	14.74	19.21	22.83	27.75	35.91
41	8.94	11.05	14.84	19.34	22.98	27.95	36.15
42	8.98	11.12	14.94	19.45	23.11	28.11	36.39
43	9.03	11.18	15.05	19.56	23.25	28.28	36.59
44	9.08	11.24	15.13	19.65	23.37	28.43	36.81
45	9.13	11.32	15.23	19.76	23.50	28.59	37.01
46	9.18	11.38	15.32	19.87	23.63	28.74	37.20
47	9.24	11.45	15.41	19.96	23.75	28.88	37.40
48	9.28	11.51	15.51	20.51	23.85	29.02	37.57
49	9.33	11.57	15.60	20.15	23.97	29.16	37.74
50	9.37	11.62	15.66	20.24	24.08	29.29	37.91
51	9.42	11.69	15.76	20.33	24.18	29.41	38.07
52	9.47	11.76	15.84	20.41	24.27	29.53	38.22
53	9.51	11.81	15.90	20.49	24.37	29.65	38.39
54	9.56	11.88	15.99	20.58	24.47	29.77	38.53
55	9.60	11.91	16.08	20.64	24.55	29.87	38.67
56	9.66	11.99	16.15	20.73	24.65	29.98	38.82
57	9.70	12.04	16.22	20.80	24.74	30.09	38.94
58	9.74	12.09	16.29	20.88	24.81	30.19	39.07
59	9.79	12.14	16.37	20.94	24.90	30.28	39.19
60	9.83	12.20	16.45	21.01	24.97	30.38	39.32
61	9.89	12.26	16.51	21.07	25.06	30.48	39.49
62	9.93	12.31	16.57	21.14	25.12	30.56	39.64
63	9.95	12.36	16.65	21.19	25.20	30.64	39.80
64	10.00	12.41	16.72	21.25	25.26	30.72	39.94
65	10.04	12.46	16.77	21.32	25.34	30.81	40.08
66	10.10	12.52	16.84	21.37	25.40	30.89	40.21
67	10.14	12.56	16.90	21.44	25.47	30.96	40.36
68	10.17	12.60	16.98	21.49	25.53	31.04	40.50
69	10.22	12.65	17.04	21.54	25.59	31.12	40.61
70	10.26	12.71	17.10	21.60	25.65	31.18	40.75
Over-sized	34.75	38.94	45.10	54.87	66.41	82.14	108.13

1. Parcels that weigh less than 2 pounds are charged the 2-pound rate.
2. For OBMC Presort discount, deduct $0.93 per parcel.
3. For BMC Presort discount, deduct $0.23 per parcel.
4. Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
5. Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Local and Intra-BMC/ASF Single-Piece Machinable Parcel Post

1.3

Weight Not Over (pounds)[1]	Zone[2, 3, 4, 5]				
	Local	1 & 2	3	4	5
2	$2.82	$3.08	$3.08	$3.08	$3.08
3	3.04	3.49	3.49	3.49	3.49
4	3.25	3.65	3.85	3.85	4.10
5	3.44	3.80	4.19	4.19	4.58
6	3.61	3.94	4.50	4.50	5.03
7	3.69	4.06	4.79	4.79	5.45
8	3.77	4.20	5.05	5.07	5.84
9	3.85	4.30	5.25	5.32	6.21
10	3.94	4.43	5.51	5.56	6.55
11	4.00	4.53	5.70	5.79	6.87
12	4.08	4.65	5.86	6.00	7.19
13	4.16	4.75	6.01	6.20	7.46
14	4.22	4.85	6.11	6.40	7.74
15	4.29	4.94	6.25	6.58	8.00
16	4.37	5.02	6.39	6.75	8.25
17	4.42	5.12	6.52	6.92	8.47
18	4.48	5.19	6.66	7.08	8.71
19	4.53	5.29	6.78	7.23	8.92
20	4.61	5.37	6.90	7.37	9.12
21	4.65	5.43	7.02	7.51	9.32
22	4.71	5.52	7.12	7.64	9.50
23	4.76	5.59	7.25	7.77	9.69
24	4.82	5.65	7.35	7.90	9.86
25	4.87	5.72	7.45	8.02	10.03
26	4.92	5.80	7.55	8.13	10.19
27	4.97	5.86	7.66	8.24	10.34
28	5.02	5.92	7.76	8.35	10.48
29	5.08	6.00	7.85	8.45	10.63
30	5.14	6.05	7.94	8.55	10.78
31	5.18	6.12	8.01	8.65	10.91
32	5.23	6.18	8.11	8.74	11.04
33	5.28	6.24	8.20	8.84	11.18
34	5.32	6.29	8.26	8.92	11.29
35	5.37	6.35	8.35	9.01	11.40

1. Parcels that weigh less than 2 pounds are charged the 2-pound rate.
2. For barcoded discount, deduct $0.03 per parcel.
3. Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
4. For parcels that weigh more than 35 pounds, see 1.4.
5. Regardless of weight, a parcel that meets any of the criteria in E711.2.3 must pay the rate for a nonmachinable parcel in 1.4.

Local and Intra-BMC/ASF Single-Piece Nonmachinable Parcel Post

1.4

Rates shown include the $0.40 nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in E712.1.3 must pay the nonmachinable surcharge as listed in this rate table.

Weight Not Over (pounds)[1]	Zone[2,3]				
	Local	1&2	3	4	5
2	$3.22	$3.48	$3.48	$3.48	$3.48
3	3.44	3.89	3.89	3.89	3.89
4	3.65	4.05	4.25	4.25	4.50
5	3.84	4.20	4.59	4.59	4.98
6	4.01	4.34	4.90	4.90	5.43
7	4.09	4.46	5.19	5.19	5.85
8	4.17	4.60	5.45	5.47	6.24
9	4.25	4.70	5.65	5.72	6.61
10	4.34	4.83	5.91	5.96	6.95
11	4.40	4.93	6.10	6.19	7.27
12	4.48	5.05	6.26	6.40	7.59
13	4.56	5.15	6.41	6.60	7.86
14	4.62	5.25	6.51	6.80	8.14
15	4.69	5.34	6.65	6.98	8.40
16	4.77	5.42	6.79	7.15	8.65
17	4.82	5.52	6.92	7.32	8.87
18	4.88	5.59	7.06	7.48	9.11
19	4.93	5.69	7.18	7.63	9.32
20	5.01	5.77	7.30	7.77	9.52
21	5.05	5.83	7.42	7.91	9.72
22	5.11	5.92	7.52	8.04	9.90
23	5.16	5.99	7.65	8.17	10.09
24	5.22	6.05	7.75	8.30	10.26
25	5.27	6.12	7.85	8.42	10.43
26	5.32	6.20	7.95	8.53	10.59
27	5.37	6.26	8.06	8.64	10.74
28	5.42	6.32	8.16	8.75	10.88
29	5.48	6.40	8.25	8.85	11.03
30	5.54	6.45	8.34	8.95	11.18
31	5.58	6.52	8.41	9.05	11.31
32	5.63	6.58	8.51	9.14	11.44
33	5.68	6.64	8.60	9.24	11.58
34	5.72	6.69	8.66	9.32	11.69
35	5.77	6.75	8.75	9.41	11.80
36	5.80	6.80	8.83	9.50	11.93
37	5.85	6.87	8.89	9.58	12.04
38	5.89	6.92	8.98	9.66	12.15
39	5.94	6.98	9.06	9.73	12.25
40	5.99	7.02	9.12	9.81	12.36
41	6.03	7.09	9.21	9.88	12.46
42	6.08	7.13	9.27	9.95	12.55
43	6.12	7.18	9.34	10.02	12.66
44	6.18	7.23	9.40	10.09	12.74
45	6.21	7.28	9.46	10.16	12.83
46	6.25	7.34	9.54	10.22	12.91
47	6.30	7.40	9.60	10.29	13.00
48	6.34	7.44	9.66	10.35	13.10
49	6.37	7.48	9.73	10.41	13.17
50	6.42	7.52	9.78	10.47	13.26
51	6.46	7.58	9.84	10.53	13.33
52	6.49	7.63	9.92	10.58	13.41
53	6.54	7.66	9.97	10.64	13.48
54	6.58	7.70	10.03	10.70	13.56
55	6.63	7.75	10.07	10.75	13.63
56	6.66	7.80	10.14	10.81	13.69
57	6.69	7.85	10.20	10.86	13.77
58	6.74	7.89	10.23	10.91	13.83
59	6.78	7.94	10.30	10.96	13.89
60	6.80	7.98	10.36	11.01	13.96
61	6.87	8.03	10.41	11.06	14.03
62	6.89	8.08	10.45	11.11	14.08
63	6.93	8.11	10.51	11.15	14.14
64	6.97	8.16	10.55	11.20	14.21
65	7.01	8.20	10.61	11.24	14.26
66	7.03	8.25	10.66	11.29	14.33
67	7.09	8.30	10.71	11.33	14.38
68	7.12	8.32	10.75	11.38	14.43
69	7.17	8.36	10.80	11.42	14.49
70	7.20	8.41	10.87	11.46	14.54
Oversized	19.82	28.99	28.99	28.99	28.99

1. Pieces that weigh less than 2 pounds are charged the 2-pound rate.
2. Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
3. Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

1.5 Parcel Select — DBMC

Destination facility ZIP Codes only, discount included:

Weight Not Over (pounds)[1]	Zone[2, 3, 4, 5]			
	1 & 2	3	4	5
2	$2.22	$2.40	$2.58	$2.59
3	2.39	2.85	3.03	3.12
4	2.57	3.15	3.43	4.26
5	2.73	3.43	3.76	4.75
6	2.84	3.68	4.05	5.22
7	3.00	3.95	4.32	5.64
8	3.15	4.22	4.57	6.05
9	3.29	4.47	4.82	6.43
10	3.43	4.71	5.05	6.79
11	3.57	4.94	5.26	7.12
12	3.70	5.17	5.48	7.44
13	3.82	5.32	5.67	7.73
14	3.94	5.49	5.87	8.01
15	4.06	5.62	6.04	8.28
16	4.18	5.75	6.21	8.54
17	4.29	5.86	6.38	8.78
18	4.40	5.98	6.53	9.02
19	4.50	6.09	6.69	9.23
20	4.61	6.21	6.85	9.44
21	4.71	6.32	6.99	9.66
22	4.81	6.42	7.13	9.85
23	4.90	6.53	7.27	10.04
24	5.00	6.63	7.39	10.22
25	5.08	6.71	7.52	10.39
26	5.14	6.81	7.64	10.56
27	5.22	6.89	7.75	10.71
28	5.28	6.99	7.87	10.88
29	5.36	7.10	7.99	11.03
30	5.41	7.16	8.09	11.18
31	5.49	7.24	8.20	11.32
32	5.54	7.33	8.31	11.46
33	5.61	7.40	8.41	11.59
34	5.67	7.47	8.50	11.71
35	5.73	7.55	8.61	11.84
36	5.79	7.61	8.70	11.97
37	5.83	7.68	8.79	12.09
38	5.90	7.77	8.88	12.19
39	5.95	7.82	8.97	12.30
40	6.00	7.89	9.05	12.42
41	6.06	7.97	9.15	12.52
42	6.10	8.04	9.22	12.61
43	6.17	8.09	9.31	12.73
44	6.21	8.14	9.40	12.82
45	6.25	8.22	9.46	12.92
46	6.32	8.28	9.55	13.00
47	6.36	8.34	9.61	13.10
48	6.40	8.39	9.70	13.20
49	6.46	8.46	9.76	13.27
50	6.50	8.51	9.84	13.37
51	6.54	8.56	9.90	13.45
52	6.60	8.64	9.98	13.52
53	6.63	8.69	10.04	13.61
54	6.67	8.74	10.11	13.68
55	6.73	8.78	10.17	13.76
56	6.77	8.85	10.25	13.82
57	6.80	8.90	10.30	13.91
58	6.86	8.94	10.36	13.98
59	6.89	9.00	10.43	14.05
60	6.93	9.06	10.49	14.12
61	6.98	9.09	10.55	14.19
62	7.02	9.14	10.61	14.25
63	7.05	9.20	10.67	14.31
64	7.10	9.23	10.72	14.37
65	7.14	9.30	10.78	14.44
66	7.18	9.35	10.84	14.50
67	7.21	9.40	10.90	14.56
68	7.25	9.44	10.95	14.62
69	7.29	9.46	11.01	14.68
70	7.33	9.54	11.06	14.73
Oversized	16.66	24.55	30.24	30.24

1. Parcels that weigh less than 2 pounds are charged the 2-pound rate.
2. For barcoded discount, deduct $0.03 per parcel (machinable parcels only). Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC mail entered at an ASF.
3. Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
4. Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.
5. For nonmachinable Parcel Select DBMC parcels, add $0.45 per parcel. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in E711.2.3 must pay the nonmachinable surcharge.

Parcel Select— DSCF 1.6

Destination facility ZIP Codes only, discount included:

Weight Not Over (pounds)[1]	DSCF[2, 3]
2	$1.67
3	1.78
4	1.91
5	2.02
6	2.12
7	2.21
8	2.30
9	2.40
10	2.48
11	2.56
12	2.64
13	2.72
14	2.78
15	2.84
16	2.92
17	2.98
18	3.04
19	3.10
20	3.16
21	3.22
22	3.27
23	3.32
24	3.38
25	3.43
26	3.47
27	3.53
28	3.57
29	3.63
30	3.94
31	3.72
32	3.76
33	3.81
34	3.86
35	3.90
36	3.94
37	3.91
38	3.95
39	4.00
40	4.10
41	4.09
42	4.13
43	4.18
44	4.26
45	4.29
46	4.34
47	4.37
48	4.40
49	4.45
50	4.48
51	4.51
52	4.55
53	4.58
54	4.61
55	4.65
56	4.69
57	4.71
58	4.76
59	4.78
60	4.82
61	4.85
62	4.88
63	4.91
64	4.94
65	5.05
66	5.08
67	5.12
68	5.15
69	5.19
70	5.22
Oversized	12.14

1. Parcels that weigh less than 2 pounds are charged the 2-pound rate.
2. Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
3. Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Parcel Select—DDU Destination facility ZIP Codes only, discount included:

1.7

Weight Not Over (pounds)[1]	DDU[2, 3]
2	$1.21
3	1.26
4	1.32
5	1.37
6	1.41
7	1.45
8	1.50
9	1.55
10	1.59
11	1.63
12	1.67
13	1.72
14	1.74
15	1.78
16	1.82
17	1.85
18	1.90
19	1.92
20	1.96
21	1.99
22	2.02
23	2.06
24	2.08
25	2.12
26	2.15
27	2.19
28	2.21
29	2.25
30	2.27
31	2.31

Weight Not Over (pounds)[1]	DDU[2, 3]
32	2.33
33	2.36
34	2.40
35	2.43
36	2.46
37	2.47
38	2.51
39	2.54
40	2.57
41	2.60
42	2.65
43	2.67
44	2.67
45	2.70
46	2.74
47	2.77
48	2.79
49	2.82
50	2.84
51	2.87
52	2.90
53	2.92
54	2.94
55	2.98
56	3.01
57	3.03
58	3.07
59	3.07
60	3.10
61	3.13

Weight Not Over (pounds)[1]	DDU[2, 3]
62	3.16
63	3.18
64	3.21
65	3.24
66	3.27
67	3.29
68	3.31
69	3.34
70	3.38
Oversized	8.69

1. Parcels that weigh less than 2 pounds are charged the 2-pound rate.
2. Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
3. Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

2.0 BOUND PRINTED MATTER

Single-Piece Rates
2.1

Single-Piece Bound Printed Matter Rate:

Weight Not Over (pounds)	Zone[1]						
	Local, 1 & 2	3	4	5	6	7	8
1.5	$1.70	$1.75	$1.82	$1.93	$2.03	$2.17	$2.27
2.0	1.74	1.80	1.90	2.04	2.18	2.36	2.50
2.5	1.78	1.86	1.98	2.16	2.33	2.56	2.73
3.0	1.82	1.91	2.06	2.27	2.48	2.75	2.96
3.5	1.86	1.97	2.14	2.39	2.63	2.95	3.19
4.0	1.90	2.02	2.22	2.50	2.78	3.14	3.42
4.5	1.94	2.08	2.30	2.62	2.93	3.34	3.65
5.0	1.98	2.13	2.38	2.73	3.08	3.53	3.88
6.0	2.06	2.24	2.54	2.96	3.38	3.92	4.34
7.0	2.14	2.35	2.70	3.19	3.68	4.31	4.80
8.0	2.22	2.46	2.86	3.42	3.98	4.70	5.26
9.0	2.30	2.57	3.02	3.65	4.28	5.09	5.72
10.0	2.38	2.68	3.18	3.88	4.58	5.48	6.18
11.0	2.46	2.79	3.34	4.11	4.88	5.87	6.64
12.0	2.54	2.90	3.50	4.34	5.18	6.26	7.10
13.0	2.62	3.01	3.66	4.57	5.48	6.65	7.56
14.0	2.70	3.12	3.82	4.80	5.78	7.04	8.02
15.0	2.78	3.23	3.98	5.03	6.08	7.43	8.48

1. For barcoded discount, deduct $0.03 per parcel (machinable parcels only).

Presorted and Carrier Route Rates
2.2

Each piece is subject to both a piece rate and a pound rate:

Rate	Zone						
	Local, 1 & 2	3	4	5	6	7	8
Per Piece							
Presorted[1]	$0.905	$0.905	$0.905	$0.905	$0.905	$0.905	$0.905
Carrier Route	0.828	0.828	0.828	0.828	0.828	0.828	0.828
Per Pound	0.064	0.092	0.138	0.209	0.286	0.376	0.450

1. For barcoded discount, deduct $0.03 per piece (machinable parcels only). Barcoded discount is not available for parcels mailed at Carrier Route rates.

Destination Entry Rates
2.3

Each piece is subject to both a piece rate and a pound rate:

Rate			DBMC Zone[1]			
	DDU	DSCF	1 & 2	3	4	5
Per Piece						
Presorted	$0.608[2]	$0.659	$0.843	$0.843	$0.843	$0.843
Carrier Route	0.531	0.582	0.766	0.766	0.766	0.766
Per Pound	0.033	0.035	0.060	0.086	0.132	0.201

1. For barcoded discount on Presorted pieces, deduct $0.03 per piece (machinable parcels only). Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC mail entered at an ASF. Barcoded discount is not available for parcels mailed at Carrier Route rates.
2. This rate is not available for Presorted flats.

3.0 MEDIA MAIL

Weight Not Over (pounds)	Single-Piece[1]	5-Digit	BMC[1]
1	$1.21	$0.68	$0.99
2	1.66	1.13	1.44
3	2.11	1.58	1.89
4	2.56	2.03	2.34
5	3.01	2.48	2.79
6	3.46	2.93	3.24
7	3.91	3.38	3.69
8	4.21	3.68	3.99
9	4.51	3.98	4.29
10	4.81	4.28	4.59
11	5.11	4.58	4.89
12	5.41	4.88	5.19
13	5.71	5.18	5.49
14	6.01	5.48	5.79
15	6.31	5.78	6.09
16	6.61	6.08	6.39
17	6.91	6.38	6.69
18	7.21	6.68	6.99
19	7.51	6.98	7.29
20	7.81	7.28	7.59
21	8.11	7.58	7.89
22	8.41	7.88	8.19
23	8.71	8.18	8.49
24	9.01	8.48	8.79
25	9.31	8.78	9.09
26	9.61	9.08	9.39
27	9.91	9.38	9.69
28	10.21	9.68	9.99
29	10.51	9.98	10.29
30	10.81	10.28	10.59
31	11.11	10.58	10.89
32	11.41	10.88	11.19
33	11.71	11.18	11.49
34	12.01	11.48	11.79
35	12.31	11.78	12.09
36	12.61	12.08	12.39
37	12.91	12.38	12.69
38	13.21	12.68	12.99
39	13.51	12.98	13.29
40	13.81	13.28	13.59
41	14.11	13.58	13.89
42	14.41	13.88	14.19
43	14.71	14.18	14.49
44	15.01	14.48	14.79
45	15.31	14.78	15.09
46	15.61	15.08	15.39
47	15.91	15.38	15.69
48	16.21	15.68	15.99
49	16.51	15.98	16.29
50	16.81	16.28	16.59
51	17.11	16.58	16.89
52	17.41	16.88	17.19
53	17.71	17.18	17.49
54	18.01	17.48	17.79
55	18.31	17.78	18.09
56	18.61	18.08	18.39
57	18.91	18.38	18.69
58	19.21	18.68	18.99
59	19.51	18.98	19.29
60	19.81	19.28	19.59
61	20.11	19.58	19.89
62	20.41	19.88	20.19
63	20.71	20.18	20.49
64	21.01	20.48	20.79
65	21.31	20.78	21.09
66	21.61	21.08	21.39
67	21.91	21.38	21.69
68	22.21	21.68	21.99
69	22.51	21.98	22.29
70	22.81	22.28	22.59

1. For barcoded discount, deduct $0.03 per parcel (machinable parcels only). Barcoded discount is not available for parcels mailed at the 5-digit rate.

4.0 LIBRARY MAIL

Weight Not Over (pounds)	Single-Piece[1]	5-Digit	BMC[1]
1	$1.20	$0.67	$0.98
2	1.65	1.12	1.43
3	2.10	1.57	1.88
4	2.55	2.02	2.33
5	3.00	2.47	2.78
6	3.45	2.92	3.23
7	3.90	3.37	3.68
8	4.20	3.67	3.98
9	4.50	3.97	4.28
10	4.80	4.27	4.58
11	5.10	4.57	4.88
12	5.40	4.87	5.18
13	5.70	5.17	5.48
14	6.00	5.47	5.78
15	6.30	5.77	6.08
16	6.60	6.07	6.38
17	6.90	6.37	6.68
18	7.20	6.67	6.98
19	7.50	6.97	7.28
20	7.80	7.27	7.58
21	8.10	7.57	7.88
22	8.40	7.87	8.18
23	8.70	8.17	8.48
24	9.00	8.47	8.78
25	9.30	8.77	9.08
26	9.60	9.07	9.38
27	9.90	9.37	9.68
28	10.20	9.67	9.98
29	10.50	9.97	10.28
30	10.80	10.27	10.58
31	11.10	10.57	10.88
32	11.40	10.87	11.18
33	11.70	11.17	11.48
34	12.00	11.47	11.78
35	12.30	11.77	12.08
36	12.60	12.07	12.38
37	12.90	12.37	12.68
38	13.20	12.67	12.98
39	13.50	12.97	13.28
40	13.80	13.27	13.58
41	14.10	13.57	13.88
42	14.40	13.87	14.18
43	14.70	14.17	14.48
44	15.00	14.47	14.78
45	15.30	14.77	15.08
46	15.60	15.07	15.38
47	15.90	15.37	15.68
48	16.20	15.67	15.98
49	16.50	15.97	16.28
50	16.80	16.27	16.58
51	17.10	16.57	16.88
52	17.40	16.87	17.18
53	17.70	17.17	17.48
54	18.00	17.47	17.78
55	18.30	17.77	18.08
56	18.60	18.07	18.38
57	18.90	18.37	18.68
58	19.20	18.67	18.98
59	19.50	18.97	19.28
60	19.80	19.27	19.58
61	20.10	19.57	19.88
62	20.40	19.87	20.18
63	20.70	20.17	20.48
64	21.00	20.47	20.78
65	21.30	20.77	21.08
66	21.60	21.07	21.38
67	21.90	21.37	21.68
68	22.20	21.67	21.98
69	22.50	21.97	22.28
70	22.80	22.27	22.58

1. For barcoded discount, deduct $0.03 per parcel (machinable parcels only). Barcoded discount is not available for parcels mailed at the 5-digit rate.

5.0 FEES

Presort Mailing Fees
5.1

Presort mailing fees, per 12-month period:

a. Presorted Media Mail: $125.00.

b. Presorted Library Mail: $125.00.

Destination Entry Mailing Fees
5.2

Destination entry mailing fees, per 12-month period:

a. Parcel Select (DBMC, DSCF, DDU): $125.00.

b. Bound Printed Matter (DBMC, DSCF, DDU): $125.00.

Address Correction Service Fees
5.3

See R900.

Pickup Fees
5.4

Parcel Post only, per occurrence: $10.25. May be combined with Express Mail and Priority Mail pickups.

6.0 BARCODED DISCOUNT

Deduct $0.03 for machinable parcels with a barcode (see E720, E730, E740, and E750 for eligibility).

R900 Services

1.0 ADDRESS CORRECTION SERVICE (F030)

For all classes of mail:

a. Manual notice, each: $0.60.

b. Electronic notice, each: $0.20.

2.0 ADDRESS SEQUENCING SERVICE (A920)

Basic Service 2.1

Each card removed because of an incorrect or undeliverable address: $0.25

Blanks for Missing Addresses 2.2

Each card removed because of an incorrect or undeliverable address: $0.25.

Insertion of blank cards for missing addresses: No charge.

Missing or New Addresses Added 2.3

Each card removed because of an incorrect or undeliverable address: $0.25.

Each address added: $0.25.

3.0 BULK PARCEL RETURN SERVICE (BPRS) (S924)

Permit Fee 3.1

Annual permit fee: $125.00.

Accounting Fee 3.2

Annual accounting fee: $375.00.

Per Piece Charge 3.3

For each piece returned, regardless of weight: $1.65.

4.0 BUSINESS REPLY MAIL (BRM) (S922)

Low-Volume BRM 4.1

Annual permit fee: $125.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.35.

High-Volume BRM 4.2

Annual permit fee: $125.00.

Annual accounting fee (for advanced deposit account): $375.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.10.

Low-Volume QBRM 4.3

Annual permit fee: $125.00.

Annual accounting fee (for advanced deposit account): $375.00.

Per piece charge (in addition to First-Class Mail QBRM postage (R100.3.0)): $0.06.

High-Volume QBRM
4.4

Annual permit fee: $125.00.

Annual accounting fee (for advanced deposit account): $375.00.

Quarterly fee: $850.00.

Per piece charge (in addition to First-Class Mail QBRM postage (R100.3.0)): $0.03.

Nonletter-Size Weight-Averaged BRM
4.5

Annual permit fee: $125.00.

Annual accounting fee (for advanced deposit account): $375.00.

Monthly maintenance fee: $600.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.01.

5.0 CALLER SERVICE (D920)

Fees are charged as follows:

a. For each separation provided, per semiannual period (all post offices): $375.00.

b. For each reserved call number, per calendar year (all post offices): $30.00.

6.0 CERTIFICATE OF MAILING (S914)

Per Piece
6.1

Fee, in addition to postage:

a. For each Form 3817 or facsimile: $0.75.

b. For firm mailing books (Form 3877 or facsimile), per piece listed: $0.25 (minimum charge $0.75).

c. For duplicate copy of Form 3817, Form 3877, or facsimile, per page: $0.75.

Bulk Quantities
6.2

Fee, in addition to postage for each Form 3606 (or facsimile):

Service	Fee
One certificate for first 1,000 pieces (or fraction thereof)	$3.50
Each additional 1,000 pieces (or fraction thereof)	0.40
Duplicate copy of Form 3606	0.75

7.0 CERTIFIED MAIL (S912)

Fee, in addition to postage and other fees, per piece: $2.10.

8.0 COLLECT ON DELIVERY (COD) (S921)

Fee, in addition to postage and other fees, per piece:

Amount to be collected or insurance coverage desired[1]			Fee
$0.01	to	50.00	$4.50
50.01	to	100.00	5.50
100.01	to	200.00	6.50
200.01	to	300.00	7.50
300.01	to	400.00	8.50
400.01	to	500.00	9.50
500.01	to	600.00	10.50
600.01	to	700.00	11.50
700.01	to	800.00	12.50
800.01	to	900.00	13.50
900.01	to	1,000.00	14.50
Restricted delivery[2]			$3.20
Notice of nondelivery			3.00
Alteration of COD charges or designation of new addressee			3.00
Registered COD[3]			4.00

1. For Express Mail COD shipments, the COD fee charged is based on the amount to be collected.
2. Not available with Express Mail COD.
3. Fee for registered COD, regardless of amount to be collected or insurance value.

9.0 DELIVERY CONFIRMATION (S918)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Priority Mail	
Electronic	$0.00
Retail	0.40
Standard Mail[1]	
Electronic	0.25
Package Services	
Electronic	0.25
Retail	0.65

1. Only available for pieces subject to the residual shape surcharge.

10.0 EXPRESS MAIL INSURANCE (S500)

Fee, in addition to postage and other fees:

a. For amount of merchandise insurance liability:

Insurance Coverage Desired			Fee
$ 0.01	to	$ 500.00	$0.00
500.01	to	5,000.00	$1.00 per $100 or fraction thereof over $500 in desired coverage
Express Mail merchandise maximum liability: $5,000.00.			

b. Document reconstruction maximum liability: $500.00.

11.0 INSURED MAIL (S913)

Fee, in addition to postage and other fees, for merchandise insurance liability, per piece:

Insurance Coverage Desired			Fee	Bulk Insurance Fee
$ 0.01	to	$ 50.00[1]	$1.35	$0.60
50.01	to	100.00[2]	2.10	1.10
100.01	to	200.00	3.10	2.10
200.01	to	300.00	4.10	3.10
300.01	to	400.00	5.10	4.10
400.01	to	500.00	6.10	5.10
500.01	to	600.00	7.10	6.10
600.01	to	700.00	8.10	7.10
700.01	to	800.00	9.10	8.10
800.01	to	900.00	10.10	9.10
900.01	to	1,000.00	11.10	10.10
1,000.01	to	5,000.00	11.10 plus $1.00 per $100 or fraction thereof over $1,000 in desired coverage	10.10 plus $1.00 per $100 or fraction thereof over $1,000 in desired coverage

Insured mail maximum liability: $5,000.00.

1. For merchandise insured for $50 or less, Form 3813 is used with an elliptical insured marking (no insured number is assigned).
2. For merchandise insured for more than $50, Form 3813-P is used with an insured number.

12.0 MAILING LIST SERVICE (A910)

List Correction 12.1

For each address on list: $0.25.

Minimum charge per list: $7.50.

5-Digit ZIP Code Sortation 12.2

For sortation of mailing lists on cards into groups labeled by 5-digit ZIP Code, per 1,000 addresses or fraction: $73.00.

Election Boards 12.3

For address changes provided to election boards and voter registration commissions, per Form 3575: $0.24.

13.0 MERCHANDISE RETURN SERVICE (S923)

Permit Fee 13.1

Annual permit fee: $125.00.

Accounting Fee 13.2

Annual accounting fee (for advance deposit account): $375.00.

Per Piece Charge 13.3

For each piece returned: $0.00.

14.0 METER SERVICE (P030)

On-Site 14.1

Fees for on-site meter service:

a. Meter service (per employee, per visit): $31.00.

b. Meters reset/examined (per meter): $4.00.

c. Checking meters in/out service (per meter, except for Secured Postage meters): $4.00.

15.0 MONEY ORDERS (S020)

Fees, each:

a. Domestic money order: $0.90.

b. Postal military money order (issued by military facilities authorized by the Department of Defense): $0.35.

c. Inquiry (includes the issuance of a copy of a paid money order): $3.00.

16.0 PARCEL AIRLIFT (PAL) (S930)

Fee, in addition to postage and other fees, per piece:

Weight	Fee
Not more than 2 pounds	$0.40
Over 2 but not more than 3 pounds	0.75
Over 3 but not more than 4 pounds	1.15
Over 4 pounds but not more than 30 pounds	1.55

17.0 PERMIT IMPRINT (P040)

Application fee: $125.00.

18.0 PICKUP SERVICE (D010)

Available for Express Mail, Priority Mail, and Parcel Post, per pickup: $10.25.

19.0 POST OFFICE BOX SERVICE (D910)

For service provided:

a. Deposit per key issued: $1.00.

b. Key duplication or replacement (after first two keys), each: $4.00.

c. Post office box lock replacement, each: $10.00.

d. Box fee per semiannual (6-month) period:

	Box Size and Fee				
Fee Group	1	2	3	4	5
B2	$30.00	$45.00	$85.00	$170.00	$300.00
C3	27.50	40.00	75.00	150.00	250.00
C4	22.50	32.50	60.00	125.00	212.50
C5	19.00	27.50	50.00	87.50	150.00
D6	10.00	16.00	25.00	50.00	90.00
D7	8.50	13.00	22.50	40.00	65.00
E[1]	0.00	0.00	0.00	0.00	0.00

1. A customer ineligible for carrier delivery service may obtain one post office box at the Group E fee, subject to administrative decisions regarding customer's proximity to post office. See D910.

20.0 REGISTERED MAIL (S911)

Insurance Status	Declared Value			Fee (in addition to postage and handling charge)	Handling Charge (in addition to postage and fee)
Without Insurance	$ .00			$7.25	—
With Insurance (for declared value)	$ 0.01	to	100.00	7.50	—
	100.01	to	500.00	8.25	—
	500.01	to	1,000.00	9.00	—
	1,000.01	to	2,000.00	9.75	—
	2,000.01	to	3,000.00	10.50	—
	3,000.01	to	4,000.00	11.25	—
	4,000.01	to	5,000.00	12.00	—
	5,000.01	to	25,000.00	$12.00 plus $0.75 per $1,000 or fraction over $10,000	—
With Insurance[1] (for declared value)	$25,000.01	to	$1,000,000.00	$27.00	plus $0.75 per $1,000 or fraction over first $25,000.
	1,000,000.01	to	15,000,000.00	758.25	plus $0.75 per $1,000 or fraction over first $1,000,000.
	15,000,000.01+			11,258.25	plus amount determined by Postal Service based on weight, space, and value.

1. Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.

21.0 RESTRICTED DELIVERY (S916)

Fee, in addition to postage and other fees, per piece: $3.20.

22.0 RETURN RECEIPT (S915)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Requested at time of mailing(showing to whom delivered, original signature, date of delivery, and addressee's address, if different)	$1.50
Requested after mailing (showing to whom delivered, signature, date of delivery, and delivery address)	3.50

23.0 RETURN RECEIPT FOR MERCHANDISE (S917)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Requested at time of mailing(showing to whom delivered, signature, date of delivery, and delivery address if available)	$2.35
Delivery record	3.50

24.0 SHIPPER PAID FORWARDING (F010)

Annual accounting fee for advance deposit account: $375.00.

25.0 SIGNATURE CONFIRMATION (S919)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Priority Mail	
Electronic	$1.25
Retail	1.75
Package Services	
Electronic	$1.25
Retail	1.75

26.0 SPECIAL HANDLING (S930)

Fee, in addition to postage and other fees, per piece:

Weight	Fee
Not more than 10 pounds	$5.40
Over 10 pounds	7.50

BILLING CODE 7710–12–C

S SPECIAL SERVICES

S000 Miscellaneous Services

S010 Indemnity Claims

* * * * *

2.0 GENERAL FILING INSTRUCTIONS

2.1 Who May File

[Amend 2.1 by revising 2.1a and 2.1c to read as follows:]

A claim may be filed by:

a. Only the sender, for the complete loss of a registered, insured, COD, or Express Mail item (including merchandise return service parcels where special services were added and paid for by the sender).

* * * * *

c. Only the merchandise return permit holder, for merchandise return service parcels that are registered or insured as indicated by the permit holder on the MRS label.

* * * * *

S070 Mixed Classes

1.0 BASIC INFORMATION

1.1 Priority Mail Drop Shipment

[Amend 1.1 by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

1.2 Special Handling

[Amend 1.2 by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

* * * * *

S500 Special Services for Express Mail

* * * * *

[Amend 3.0 by changing ''Standard Mail'' to ''Package Services''; no other changes to text.]

S900 Special Postal Services

S910 Security and Accountability

S911 Registered Mail

1.0 BASIC INFORMATION

* * * * *

1.5 Additional Services

[Amend 1.5 by adding new item f to read as follows:]

The following services may be combined with registered mail if the applicable standards for the services are met and the additional service fees are paid:

* * * * *

f. Signature Confirmation.

* * * * *

S912 Certified Mail

1.0 BASIC INFORMATION

* * * * *

1.4 Additional Services

[Revise 1.4 to read as follows:]

The following services may be combined with certified mail if the applicable standards for the services are met and the additional service fees are paid:

a. Return receipt.

b. Restricted delivery.

[Add new 1.5 to specify that mailers may request a receipt after mailing to read as follows:]

1.5 Delivery Record

Mailers may request a verified delivery record after mailing under S915.

2.0 MAILING

* * * * *

2.5 Procedure

[Amend 2.5 by revising 2.5a to read as follows:]

A mailer of certified mail must:

a. Enter on Form 3800 the name and complete address of the person or firm to whom the mail is addressed.

* * * * *

S913 Insured Mail

1.0 BASIC INFORMATION

* * * * *

1.2 Eligible Matter

[Amend 1.2 by changing the class names, removing the ''Standard Mail Enclosed'' marking requirement, and adding bulk insurance to Standard Mail to read as follows:]

The following types of mail matter may be insured:

a. Package Services.

b. First-Class Mail, if it contains matter that may be mailed as Standard Mail or Package Services.

c. Standard Mail pieces subject to the residual shape surcharge (bulk insurance only).

d. Official government mail endorsed ''Postage and Fees Paid.''

1.3 Ineligible Matter

[Amend 1.3 by revising 1.3f to read as follows:]

The following types of mail may not be insured:

* * * * *

f. Standard Mail cards, letters, and flats (i.e., pieces that are not subject to the residual shape surcharge).

* * * * *

1.5 Additional Services

[Revise 1.5 to read as follows:]

The following services may be combined with insurance if the applicable standards for the services are met and the additional service fees are paid:

a. Delivery Confirmation.

b. Parcel airlift (PAL) service.

c. Restricted delivery (for items insured for more than $50).

d. Return receipt for merchandise (for items insured for up to $50).

e. Return receipt service (for items insured for more than $50).

f. Signature Confirmation.

g. Special handling.

[Add new 1.6 to show that customers may request a delivery record after mailing to read as follows:]

1.6 Delivery Record

Mailers may request a verified delivery record after mailing under S915.

* * * * *

4.0 DELIVERY

[Amend 4.0 by changing ''parcel'' to ''item'' to read as follows:]

An item insured for $50 or less is delivered as ordinary mail. Delivery of insured mail is subject to D042.

S914 Certificate of Mailing

1.0 BASIC INFORMATION

1.1 Description

[Amend 1.1 to read as follows:]

Certificate of mailing service provides evidence that mail has been presented to the Postal Service for mailing. Certificate of mailing service does not provide a record of delivery.

[Revise heading of 1.2 to read as follows:]

1.2 Eligible Matter—Bulk Quantities

[Amend 1.2 by clarifying text to read as follows:]

Form 3606 is used for a bulk mailing as a certificate to specify the number of pieces mailed. This certificate is provided only for a mailing of identical pieces of First-Class Mail, Standard Mail, and Package Services. This certificate states only the total number of articles mailed and must not be used as an itemized list. A certificate of mailing cannot be issued for a bulk mailing paid with a permit imprint.

[Revise heading of 1.3 to read as follows:]

1.3 Eligible Matter—Single Pieces

[Amend 1.3 by clarifying text to read as follows:]

Form 3817 is used for an individual certificate for single pieces of First-Class Mail (including Priority Mail) and Package Services. Privately printed forms also may be used.

[Revise heading of 1.4 to read as follows:]

1.4 Eligible Matter—Three or More Single Pieces

[Amend 1.4 by clarifying the first sentence to read as follows:]

When requesting a certificate of mailing for three or more pieces of single-piece rate mail presented at one time, a mailer may use Form 3877 (firm mailing book) or a privately printed facsimile, subject to payment of the applicable fee for each item listed.

* * *

* * * * *

[Add new 1.7 to read as follows:]

1.7 Additional Services

The following services may be combined with certificate of mailing if the applicable standards for the services are met and the additional service fees are paid:

a. Parcel airlift (PAL) service.

b. Special handling.

* * * * *

S915 Return Receipt

1.0 BASIC INFORMATION

1.1 Description

[Revise 1.1 to show that the return receipt is mailed back to sender:]

Return receipt service provides a mailer with evidence of delivery (to whom the mail was delivered and date of delivery). After delivery, the return receipt is mailed back to the sender. A return receipt requested before mailing also supplies the recipient's actual delivery address, if the delivery address is different from the address used by the sender. A return receipt may be requested before or after mailing.

[Revise 1.2 to read as follows:]

1.2 Eligible Matter

Return receipt service is available for Express Mail, First-Class Mail (including Priority Mail), and Package Services when purchased with one of the following services:

a. Certified Mail.

b. COD.

c. Delivery Confirmation.

d. Insurance (for more than $50).

e. Restricted delivery (for items insured for more than $50).

f. Return receipt for merchandise (for items insured for up to $50).

g. Signature Confirmation.

* * * * *

[Add new 1.7 to show additional services to read as follows:]

1.7 Additional Services

The following special services may be combined with return receipt service if the applicable standards for the services are met and the additional service fees are paid:

a. PAL.

b. Special handling.

2.0 OBTAINING SERVICE

* * * * *

2.2 After Mailing

[Revise 2.2 to clarify how to apply for a delivery record after mailing:]

The mailer may request a delivery record after mailing. When a delivery record is available, the USPS provides the mailer information from that record, including to whom the mail was delivered and the date of delivery. A return receipt after mailing is not available for return receipt for merchandise service. The mailer requests a delivery record by completing Form 3811–A, paying the appropriate fee in R900, and submitting the request to one of the following offices:

a. For items mailed to an APO/FPO, U.S. territory or possession, or freely associated state (with the exception of Puerto Rico and the Virgin Islands), send the form to the office of delivery.

b. For items delivered prior to the activation of the new signature capture process, send the form to the office of delivery.

c. For items delivered after signature capture activation, send the form to any post office.

[Add new 2.3 to show the time limits for requesting a delivery record after mailing:]

2.3 Time Limit

A request for a return receipt after mailing for Express Mail must be submitted within 90 days after the date of mailing. All other requests must be submitted within 2 years from the date of mailing.

* * * * *

S916 Restricted Delivery

1.0 BASIC INFORMATION

* * * * *

[Revise the heading and text of 1.2 to clarify that restricted delivery cannot be used with Standard Mail to read as follows:]

1.2 Eligible Matter

Restricted delivery service is available for First-Class Mail (including Priority Mail) and Package Services that is sent COD, insured for more than $50, registered, or certified.

* * * * *

[Add new 1.7 to read as follows:]

1.7 Additional Services

In addition to the prerequisites listed in 1.2, the following services may be combined with restricted delivery if the applicable standards for the services are met and the additional service fees are paid:

a. Delivery Confirmation.

b. Parcel airlift service (PAL).

c. Signature Confirmation.

d. Special handling.

* * * * *

S917 Return Receipt for Merchandise

1.0 BASIC INFORMATION

1.1 Description

[Add the following sentence after the first sentence:]

* * * After delivery, the return receipt is mailed back to the sender.

* * *

* * * * *

[Revise heading of 1.2 to read as follows:]

1.2 Eligible Matter

[Amend 1.2 to add return receipt for merchandise service to Standard Mail:]

Return receipt for merchandise is available for merchandise sent as First-Class Mail (including Priority Mail), Standard Mail pieces subject to the residual shape surcharge, and Package Services.

1.3 Additional Services

[Amend 1.3 by clarifying text to read as follows:]

The following services may be combined with return receipt for merchandise if the applicable standards for the services are met and the additional service fees are paid:

a. Delivery Confirmation.

b. Insurance (for up to $50).

c. Special handling.

* * * * *

[Add new 2.7 to specify how a mailer applies for a delivery record:]

2.7 Receipt Not Received

A mailer who did not receive return receipt for merchandise service for which the mailer had paid may request information from the delivery record using Form 3811–A. Any request must be filed within 2 years after the date of mailing. Mailers cannot request a delivery record unless the item originally was sent with return receipt for merchandise.

3.0 DELIVERY

[Amend 3.0 to delete information about delivery records to read as follows:]

Delivery of return receipt for merchandise mail is subject to D042.

S918 Delivery Confirmation

1.0 BASIC INFORMATION

* * * * *

1.2 Eligible Matter

[Amend 1.2 by adding availability of electronic option to Standard Mail subject to residual shape surcharge to read as follows:]

Delivery Confirmation service is available for Priority Mail, Standard Mail pieces subject to the residual shape surcharge (electronic option only), and Package Services.

[Revise the heading and text of 1.3 to read as follows:]

1.3 Ineligible Matter

Delivery Confirmation is not available for the following:

a. Mail addressed to APO/FPO destinations or to United States territories, possessions, and freely-associated states listed in G011 (except for Puerto Rico and U.S. Virgin Islands, to which service is available).

b. Mail paid with precanceled stamps.

c. Standard Mail cards, letters, and flats (i.e., pieces that are not subject to the residual shape surcharge).

* * * * *

5.0 ACCEPTANCE

[Amend 5.0 by deleting the last sentence in 5.0a.]

* * * * *

[Add new S919 for Signature Confirmation to read as follows:]

S919 Signature Confirmation

1.0 Basic Information

1.1 Description

Signature Confirmation service provides the mailer with information about the date and time an article was delivered, including the recipient's signature, and, if delivery was attempted but not successful, the date and time of the delivery attempt. A delivery record is maintained by the USPS and is available, via fax or mail, upon request. No acceptance record is kept at the office of mailing. Signature Confirmation service is available only at the time of mailing. Signature Confirmation service does not include insurance.

1.2 Eligible Matter

Signature Confirmation is available for Priority Mail and Package Services.

1.3 Service Not Available

Signature Confirmation service is not available for the following:

a. Mail addressed to APO/FPO destinations or to United States territories, possessions, and freely-associated states listed in G011 (except for Puerto Rico and U.S. Virgin Islands, to which service is available).

b. Mail paid with precanceled stamps.

1.4 Service Options

The two Signature Confirmation service options are:

a. Retail option: Available at post offices at the time of mailing. A mailing receipt is provided. Mailers can access delivery information over the Internet at www.usps.com or by calling 1–800–222–1811 toll-free and providing the article number.

b. Electronic option: Available to mailers who apply identifying barcodes to each piece, establish an electronic link with the Postal Service to exchange acceptance and delivery data, provide an electronic file with Signature Confirmation that are entered for mailing, and retrieve delivery status information electronically. No mailing receipt is provided; the mailer's manifest serves as a receipt. Mailers can access delivery information over the Internet at www.usps.com or by calling 1–800–222–1811 toll-free and providing the article number.

1.5 Fees and Postage

The applicable Signature Confirmation fee in R900 must be paid in addition to the correct postage. The fee and postage may be paid with postage stamps, meter stamps, or permit imprint.

1.6 Additional Services

Signature Confirmation may be combined with:

a. Collect on delivery (COD).

b. Insured mail.

c. Registered mail.

d. Restricted delivery (if purchased with insurance for more than $50, COD, or registry service).

e. Special handling.

1.7 Where to Mail

A mailer may mail articles with retail option Signature Confirmation at a post office, branch, or station, or give articles to a rural carrier.

1.8 Firm Mailing Books

If three or more articles are presented for mailing at one time, the mailer may use Form 3877, Firm Mailing Book for Accountable Mail, provided by the Postal Service at no charge, or privately printed firm mailing bills. Privately printed or computer-generated firm mailing bills that contain the same information as Form 3877 may be used if approved by the local postmaster. The mailer may omit columns from Form 3877 that are not applicable to Signature Confirmation mail. Required elements are the package identification code (PIC), 5-digit destination ZIP Code, and applicable fees. If the mailer wants the firm mailing bills receipted by the Postal Service, the mailer must present the books with the articles to be mailed at a post office. The sheets of the books are the mailer's receipts. All entries made in firm mailing books must be made by typewriter or ink. Alterations must be initialed by the mailer and accepting postal employee. All unused portions of the addressee column must be obliterated with a diagonal line. A receipt is required for refund requests.

1.9 Signature Waiver

Customers may waive the recipient signature by indicating this in the prescribed location on the retail label or by placing the endorsement ''WAIVER OF SIGNATURE REQUESTED'' directly on the shipping label or package in accordance with M012. The endorsement must be printed consistent with the requirements for the carrier release endorsement. This option allows the delivery employee to sign for the article on the first delivery attempt to the listed address if the addressee or addressee's agent is not available to accept the shipment. Customers who waive the signature requirement must accept the delivery employee's signature and date of delivery as proof of delivery. For retail labels, detach both parts of the gummed label and attach to the mailpiece.

2.0 LABELS

2.1 Types of Labels

Mailers may use one of the three Signature Confirmation label options shown in Exhibit 2.1. Additional information may be found in a supplement to Publication 91, Delivery Confirmation Technical Guide:

a. Form 153 obtained from the post office at no charge. This form may be used only with the retail option (see Exhibit 2.1a).

[Exhibit 2.1a, PS Form 153, will be published at a later date.]

b. USPS Label 315, available at no charge to electronic option mailers (see Exhibit 2.1b).

[Exhibit 2.1b, Label 315, will be published at a later date.]

c. Privately printed barcoded labels that meet the requirements in 2.0 and 3.0 (see Exhibit 2.1c).

[Exhibit 2.1c, Privately Printed Label, will be published at a later date.]

2.2 Label Placement

The barcoded label section of Label 315 or Form 152 must be placed either

above the delivery address and to the right of the return address or to the left of the delivery address. A privately printed Signature Confirmation label that is separate from a privately printed address label must be placed in close proximity to the address label. In all cases, the entire Signature Confirmation label must be placed on the address side of the mailpiece and not overlap any adjacent side.

3.0 BARCODES

3.1 Symbology

Labels printed by mailers must meet the following symbology requirements:

a. Mailers printing their own barcodes and using the retail option (1.4a) must print their barcodes using Automatic Identification Manufacturers' (AIM) Uniform Specifications for USS Code Interleaved 2 of 5.

b. Mailers printing their own barcodes and using the electronic option (1.4b) must use one of the following barcode symbologies: UCC/EAN 128, USS Code Interleaved 2 of 5, USS Code 39, or USS Code 128. Each barcode must contain a unique Package Identification Code (PIC) as specified in 3.2. The barcodes must meet the specifications in Publication 91.

3.2 Package Identification Code (PIC)

Each barcode symbology must contain a unique PIC:

a. For UCC/EAN 128, each barcode must contain a unique PIC and be made up of five fields totaling 22 characters. Additional information and specifications can be found in Publication 91. The five required data fields are:

(1) Application Identifier (AI): Two characters; identifies the article as a Signature Confirmation piece.

(2) Service Type Code (STC): two characters; identifies the type of product or service used for each item.

(3) Customer ID: nine characters; DUNS® number that uniquely identifies the customer.

(4) Package Sequence Number (PSN): eight characters; fixed sequential number.

(5) Modulus 10 Check digit: one character.

b. For USS Code Interleaved 2 of 5, USS Code 39, and USS Code 128, each barcode must contain a unique PIC and be made up of four fields totaling 20 characters. The four required data fields are fields 2 through 5 above. Additional information and specifications can be found in Publication 91. These symbologies do not use an Application Identifier (AI).

3.3 Printing

Labels printed by mailers must meet the following specifications:

a. Each barcoded label must bear a unique Signature Confirmation PIC barcode as specified in 3.2 and have ''USPS SIGNATURE CONFIRMATION'' printed between 1/8 inch and 1/2 inch above the barcode in minimum 12-point bold sans serif type. Human-readable characters that represent the barcode ID must be printed between 1/8 inch and 1/2 inch under the barcode in minimum 10-point bold sans serif type. These characters must be parsed in accordance with Publication 91. There must be a minimum of 184-inch clearance between the barcode and any printing. The preferred range of widths of narrow bars and spaces is 0.015 inch to 0.017 inch. The width of the narrow bars or spaces must be at least 0.013 inch but no more than 0.021 inch. All bars must be at least 3/4 inch high. Bold (1/16 inch minimum) bars must appear between 1/8 inch and 1/2 inch above and below the human-readable endorsements to segregate the Signature Confirmation barcode from other areas of the shipping label. The line length must be equal to the length of the barcode (see Exhibit 2.1b).

b. Each barcode must meet the requirements in 3.1 for the type of service requested.

c. Mailers must obtain Postal Service certification for each printer used to print barcoded Signature Confirmation labels. For certification, a mailer must forward for evaluation and approval 20 barcoded labels/forms generated by each printer to the National Customer Support Center (NCSC), Attention Barcode Certification (see G043 for address). The Postal Service will issue the mailer a PS Form 3152, Delivery Confirmation Certification, for each printer certified. All barcodes must be in accordance with 2.0 and 3.0. Further certification instructions are included in Publication 91.

d. Barcodes that do not meet specifications will not be accepted by the USPS. The USPS will contact the mailer if problems with the barcodes are found and will try to resolve the problem. The USPS may suspend a mailer's certification if electronic file quality does not meet specifications.

e. Mailers who have previously received certification for label printing under the Delivery Confirmation program must submit five Signature Confirmation labels to the NCSC (see G043).

4.0 ELECTRONIC FILE TRANSMISSION

Mailers must meet the following standards for electronic file transmission:

a. Publication 91 contains specifications for electronic file transmission. A test file transmission must be uploaded and approved before mailings begin. Upon certification, USPS will issue to the mailer a Form 3152 for the mailer's electronic file format.

b. Mailers using the electronic option will be required to transmit a file with a unique record for each article mailed. The USPS will contact the mailer if problems with the file are found and will try to resolve those problems. The USPS may suspend a mailer's certification if the electronic file quality does not meet specifications. In addition, USPS acceptance units will be notified to charge the customer the retail option Signature Confirmation fee.

c. Mailers who have previously received certification for electronic file transmission under the Delivery Confirmation program are not required to do any additional certification for Signature Confirmation service use.

5.0 ACCEPTANCE

Customers must meet the following requirements when presenting electronic option Signature Confirmation mail for acceptance:

a. Presorted or permit imprint mailings containing pieces for which fees are paid for Signature Confirmation service must be presented to a post office business mail entry unit (BMEU), detached mail unit (DMU) at the mailer's plant, bulk mail center or auxiliary service facility business mail entry unit, or other postal facility capable of properly verifying the mailing and at which the mailer has obtained the necessary permits or license and paid any applicable mailing fee.

b. Mailers who use the electronic option or print their own labels must submit a completed PS Form 3152 with each mailing. Each PS Form 3152 must contain the Signature Confirmation electronic file number or barcode equivalent, date of mailing, and, if available, the total number of Signature Confirmation pieces by class of mail. The barcode format must comply with standards in Publication 91.

S920 Convenience

S921 Collect on Delivery (COD) Mail

1.0 BASIC INFORMATION

1.1 Description

[Amend 1.1 to show the new $1,000 limit for COD to read as follows:]

Any mailer may use collect on delivery (COD) service to mail an article for which the mailer has not been paid and have its price and the cost of the postage collected from the recipient. If the recipient pays the amount due by check payable to the mailer, the USPS forwards the check to the mailer. If the recipient pays the amount due in cash, the USPS collects the money order fee(s) from the recipient and sends a postal money order(s) to the mailer. The amount collected from the recipient may not exceed $1,000. COD service provides the mailer with a mailing receipt, and a delivery record is maintained by the Postal Service.

[Amend 1.2 by replacing ''Standard Mail (B)'' with ''Package Services'' and ''Special Standard Mail'' with ''Media Mail''; no other changes to text.]

* * * * *

[Amend title of 1.4 by replacing ''Other'' with ''Additional'' to read as follows:]

1.4 Additional Services

[Amend 1.4 by clarifying the text to read as follows:]

The following services may be combined with COD if the applicable standards for the services are met and the additional service fees are paid:

a. Delivery Confirmation (not available with Express Mail COD).

b. Restricted delivery (not available with Express Mail COD).

c. Return receipt.

d. Signature Confirmation.

* * * * *

S922 Business Reply Mail (BRM)

* * * * *

3.0 POSTAGE AND FEES

* * * * *

[Redesignate current 3.4 through 3.11 as 3.6 through 3.13, respectively. Add new 3.4 and 3.5 to read as follows:]

3.4 Quarterly Fee for High-Volume QBRM

Mailers may choose to pay a quarterly fee in addition to the annual accounting fee; payment of the quarterly fee entitles mailers to a lower per-piece charge. The quarterly fee (and annual accounting fee) must be paid at each post office where mail is returned and for each separate billing desired. Mailers are committed to the ''quarterly fee system'' only for the time they pay the quarterly fee (i.e., mailers can opt out of the quarterly fee and high-volume QBRM per-piece charges by simply not paying the fee for the next quarter). The quarterly fee cannot be paid or renewed retroactively to receive a lower per-piece charge on pieces already paid for and delivered. The quarterly fee can be paid for any three consecutive calendar months.

3.5 Payment Period for Quarterly Fee

The quarterly fee must be paid in advance for at least one but no more than four quarterly periods. A quarterly period begins on either the first day of the month (if a mailer pays on or before the 15th of the month) or the first day of the following month (if a mailer pays after the 15th of the month) and continues for three consecutive calendar months. A mailer who pays the quarterly fee is entitled to the reduced per-piece charge from the date of payment through the end of the quarterly period.

[Amend the heading of redesignated 3.6 by adding ''Weight-Averaging'' to read as follows:]

3.6 Nonletter-Size BRM Weight-Averaging Fees

[Amend redesignated 3.6 by clarifying text to read as follows:]

A mailer must pay the annual BRM permit fee and the annual accounting fee when the bulk weight-averaging method for nonletter-size BRM in 7.0 is used. In addition, a maintenance fee must be paid monthly for each account to which postage and fees are charged on the basis of this method. * * *

* * * * *

S923 Merchandise Return Service

1.0 BASIC INFORMATION

1.1 Description

[Amend 1.1 by replacing ''Standard Mail (B)'' with ''Package Services'' and ''Special Standard Mail'' with ''Media Mail'' and by deleting references to the per-piece fee to read as follows:]

Merchandise return service allows an authorized permit holder to pay the postage and special service fees on single-piece rate First-Class Mail, Priority Mail, and Package Services parcels that are returned by the permit holder's customers via a special label produced by the permit holder.

* * * * *

1.3 Payment Guarantee

[Revise 1.3 read as follows:]

The permit holder guarantees payment of the proper postage and special service fees (except for insurance purchased by the sender) on all parcels returned via a special label produced by the permit holder.

* * * * *

1.8 Priority Mail Reshipment

[Amend 1.8 by replacing ''Standard Mail'' with ''Package Services''; no other changes to text.]

* * * * *

1.11 Mailer Markings and Endorsements

[Amend 1.11 to show that unmarked pieces will be treated as Parcel Post to read as follows:]

It is recommended but not required that permit holders preprint a rate marking on the merchandise return service labels they distribute. Preprinting a rate marking guarantees that returned parcels will be given service and charged postage according to the wishes of the permit holder. Regardless of weight, all unmarked parcels will be treated as Parcel Post and charged Parcel Post rates.

[Remove item 1.12.]

2.0 PERMITS

* * * * *

2.3 Multiple Accounts

[Amend 2.3 to clarify the reference to the annual accounting fee:]

When an advance deposit account is kept at each entry location, a separate permit is needed and the annual merchandise return service permit and annual accounting fees must be paid at each office.

* * * * *

2.7 Permit Cancellation

[Amend 2.7 to remove references to the per-piece fee and to delete the last sentence to read as follows:]

The USPS may cancel a permit if the permit holder refuses to accept and pay postage and fees on merchandise return service parcels, fails to keep sufficient funds in the advance deposit account to cover postage and fees, or distributes merchandise return labels or tags that do not meet USPS standards.

* * * * *

[Revise 3.0 to read as follows:]

3.0 POSTAGE AND FEES

3.1 Postage

Merchandise return service parcels are charged single-piece rate postage and special service fees based on the class or subclass marking on the label. If a parcel is unmarked, then it is charged Parcel Post rates. If the postage for the returned parcel is zoned and there is no way to determine where it was sent from (i.e., no postmark or

return address), then postage is calculated at zone 4 (for Priority Mail) or zone 4 Inter-BMC/ASF rates (for Parcel Post). Postage is deducted from an advance deposit account.

3.2 Per Piece Charge

There is no per piece charge for returned parcels.

3.3 Permit Fee

A permit fee is charged once each 12-month period on the anniversary date of the permit. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that which is in effect on the date of payment.

3.4 Advance Deposit Account and Annual Accounting Fee

The permit holder must pay postage and special service fees through an advance deposit account and must pay an annual accounting fee (see R900). The accounting fee is charged once each 12-month period on the anniversary date of the initial accounting fee payment. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that which is in effect on the date of payment. A separate advance deposit account for MRS is not required; the annual accounting fee is charged if MRS postage and fees are paid from an existing account.

4.0 ADDITIONAL FEATURES

[Amend heading of 4.1 by adding ''Indicated by Permit Holder'' to read as follows:]

4.1 Insurance Indicated by Permit Holder

[Amend 4.1 by clarifying text to read as follows:]

The permit holder may obtain insured mail service with MRS. Only Package Services matter (i.e., matter not required to be mailed at First-Class Mail rates under E110) may be insured. Insured mail may be combined with Delivery Confirmation and special handling, or both. To request insured mail service, the permit holder must preprint or rubber-stamp ''Insurance Desired by Permit Holder for $ (value)'' to the left of and above the ''Merchandise Return Label'' legend and below the ''Total Postage and Fees Due'' statement on the merchandise return label. The value part of the endorsement, showing the dollar amount of insurance for the article, may be handwritten by the permit holder. If insurance is paid for by the MRS permit holder, then only the MRS permit holder may file a claim (S010).

[Remove current 4.2. Add new 4.2 to read as follows:]

4.2 Insurance Added by Sender

If the permit holder has not indicated insured mail service on the MRS label, then the sender has the option of adding insurance and paying the applicable insured fee. If insurance is paid by the sender, then only the sender may file a claim (S010). The permit holder pays postage upon receipt, but does not pay the insured fee when insurance is added by the sender.

[Revise the title of 4.3 to read ''Insured Markings''; no other changes to text.]

* * * * *

5.0 FORMAT

* * * * *

5.6 Format Elements

[Amend 5.6 by revising 5.6c to clarify that rate markings are optional on MRS labels.]

Format standards required for the merchandise return label are shown in Exhibit 5.6a, Exhibit 5.6b, Exhibit 5.6c, and Exhibit 5.6d, and described as follows:

* * * * *

c. Rate Marking. If the rate marking recommended in 1.11 is used, it must be placed in the space to the right and above the ''Merchandise Return Label'' legend. The marking must be at least 3/16 inch high and printed or rubber-stamped. Only the permit holder may apply this marking.

* * * * *

[Amend the postage and fee markings shown in 5.6d(2) to remove the entry for the merchandise return service fee.]

[Amend the postage and fee markings shown in 5.6e(2) to remove the entry for the merchandise return service fee.]

[Amend Exhibits 5.6a, 5.6b, 5.6d, and 5.6d to remove the entry for the merchandise return service fee.]

* * * * *

S924 Bulk Parcel Return Service

1.0 BASIC INFORMATION

1.1 Description

[Amend 1.1 to change ''Standard Mail (A)'' to ''Standard Mail'' and to add payment information:]

Bulk parcel return service (BPRS) allows mailers of large quantities of Standard Mail machinable parcels that are either undeliverable-as-addressed or opened and remailed by addressees to be returned to designated postal facilities. The mailer has the option of picking up all returned parcels from a designated postal facility at a predetermined frequency specified by the Postal Service or having them delivered by the Postal Service in a manner and frequency specified by the Postal Service. For this service a mailer pays an annual permit fee and a per piece charge for each parcel returned. Payment for the returned pieces is deducted from an advance deposit account.

1.2 Availability

[Amend 1.2 by replacing ''Standard Mail (A)'' with ''Standard Mail'' and ''Standard Mail (B)'' with ''Package Services'' in 1.2i; no other changes to text.]

* * * * *

[Add new 1.4 to indicate that bulk parcel return service cannot be used with special services to read as follows:]

1.4 Special Services

Special services cannot be added to pieces sent through bulk parcel return service.

* * * * *

[Amend 3.0 by replacing ''Postage'' with ''Charges'' to read as follows:]

3.0 CHARGES AND FEES

* * * * *

[Renumber current 3.2 as 3.5. Add new 3.2 through 3.4 to clarify the per-piece charges and to describe the new annual accounting fee to read as follows:]

3.2 Per-Piece Charge

Each piece returned through BPRS is charged only the per-piece charge in R900. Postage is not charged for pieces returned through BPRS.

3.3 Advance Deposit Account

The permit holder must pay BPRS fees through an advance deposit account and pay an annual accounting fee (see R900). This fee covers the administrative cost of maintaining the account and provides the mailer with a single accounting of all charges deducted from that account. The accounting fee is charged once each 12-month period on the anniversary date of the initial accounting fee payment. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that which is in effect on the date of payment.

3.4 Existing Advance Deposit Account

A separate advance deposit account for MRS is not required; the annual accounting fee is charged if MRS

postage and fees are paid from an existing account.

[Amend the title and content of renumbered 3.5 to clarify the payment guarantee to read as follows:]

3.5 Payment Guarantee

The permit holder guarantees payment of all applicable fees. The post office returns MRS items to the permit holder only when there are sufficient funds in the advance deposit account to pay the fees on returned pieces.

* * * * *

5.0 FORMAT

[Amend Exhibit 5.0 to change the class marking to ''Standard Mail.'']

* * * * *

5.4 Class Endorsement

[Amend 5.4 to change ''STANDARD MAIL A'' to ''STANDARD MAIL.'' No other changes to text.]

* * * * *

S930 Handling

1.0 SPECIAL HANDLING

* * * * *

1.2 Availability

[Amend 1.2 by replacing ''Standard Mail (B)'' with ''Package Services'' and ''Special Standard Mail'' with ''Media Mail''; no other changes to text.]

1.3 Additional Services

[Amend 1.3 to clarify the opening sentence, to change ''Standard Mail (B)'' to ''Package Services,'' and to add Signature Confirmation to read as follows:]

The following special services may be combined with special handling if the applicable standards for the services are met and the additional service fees are paid:

a. COD.

b. Delivery Confirmation.

c. Insurance.

d. PAL (for Package Services only).

e. Return receipt for merchandise.

f. Signature Confirmation.

* * * * *

[Add new 1.7 to clarify that the nonmachinable surcharge is not charged on pieces sent special handling:]

1.7 Nonmachinable Parcels

The Parcel Post nonmachinable surcharge is not charged on parcels sent special handling.

2.0 PARCEL AIRLIFT (PAL)

* * * * *

[Amend 2.2 by replacing ''Standard Mail (B)'' with ''Package Services''; no other changes to text.]

2.3 Additional Services

[Amend 2.3 to clarify the opening sentence to read as follows:]

The following special services may be combined with PAL if the applicable standards for the services are met and the additional service fees are paid:

* * * * *

An appropriate amendment to 39 CFR to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 00–21416 Filed 8–28–00; 8:45 am]

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Federal Register

Tuesday,
August 29, 2000

Part III

Environmental Protection Agency

40 CFR Part 63
National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6855–1]

RIN 2060–AJ17

National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On September 21, 1998 (63 FR 50280), EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for Pharmaceuticals Production. On November 17 and 20, 1998, petitions for reconsideration and review of the September 1998 rule were filed in the U.S. Court of Appeals for the District of Columbia Circuit. The petitioners raised over 12 technical issues and concerns with the rule. Additional issues were raised by intervenors on the side of the petitioners. On April 10, 2000, EPA proposed amendments to the Pharmaceuticals Production NESHAP to address the issues raised by the petitioners. This document takes final action on those proposed amendments.

EFFECTIVE DATE: August 29, 2000.

ADDRESSES: Docket No. A–96–03 contains supporting information used in developing the NESHAP. The docket is located at the U. S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 in Room M–1500, and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning these final amendments, contact Mr. Randy McDonald, Organic Chemicals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5402, electronic mail address mcdonald.randy@epa.gov. For information concerning applicability and rule determinations, contact your State or local representative or the appropriate EPA Regional Office representative. Following is a listing of EPA Regional contacts.

EPA Regional Office Contacts

Director, Office of Environmental Stewardship, Attn: Air Compliance Clerk: U.S. EPA Region I, 1 Congress Street, Suite 1100 (SEA), Boston, MA 02114–2023, (617) 918–1740

Umesh Dholakia: U.S. EPA Region II, 290 Broadway Street, New York, NY 10007–1866, (212) 637–4023

Doreen Au: U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–5471

Lee Page, U.S. EPA Region IV, 61 Forsyth Street, SW, Atlanta, GA 30303–3104, (404) 562–9131

Shaun Burke, IL/IN, (312) 353–5713; Joseph Cardile, MI/WI, (312) 353–2151; Erik Hardin, MN/OH, (312) 353–2402; U.S. EPA Region V, 77 West Jackson Boulevard, Chicago, IL 60604–3507

John Jones: U.S. EPA Region VI, 1445 Ross Avenue, Suite 1200 (6EN–AT), Dallas, TX 75202, (214) 665–7233

Gary Schlicht: U.S. EPA Region VII, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7097

Tami Thomas-Burton: U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, CO 80202, (303) 312–6581

Ken Bigos: U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1240

Dan Meyer: U.S. EPA Region X, 1200 Sixth Street, Seattle, WA 98101, (206) 553–4150

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA).) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials. *Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of this final rule will be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules http://www.epa.gov/ttn/oarpg. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated category and entities affected by this action include:

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry	325411 and 325412 Typically 325199	2833 and 2834 Typically 2869	• Producers of finished dosage forms of drugs (*e.g.*, tablets, capsules, and solutions), active ingredients, or precursors. • Producers of material whose primary use is as an active ingredient or precursor.

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the regulation affected by this action. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine all of the applicability criteria in § 63.1250 of the promulgated rule, as well as in the amendments to the applicability sections contained in this action. If you have questions regarding the applicability of these amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The information presented in this preamble is organized as follows:

I. What Is the History of the Pharmaceuticals Production NESHAP?

On September 21, 1998, we promulgated NESHAP for Pharmaceuticals Production as subpart GGG in 40 CFR part 63. On November 17 and 20, 1998, the Pharmaceutical Research and Manufacturers of America (PhRMA) filed petitions for reconsideration and review of the promulgated Pharmaceuticals Production NESHAP in the U.S. Court of Appeals for the District of Columbia Circuit, *PhRMA* v. *EPA,* 98–1551 (D.C. Cir.). Issues raised by the petitioners included applicability of the rule, definition of a process, the 98 percent reduction requirement for certain process vents, the alternative standard, and recordkeeping requirements. The intervenors raised additional issues regarding the applicability of the rule to specialty chemical manufacturers and the clarity of the rule, especially with respect to the leak detection and repair (LDAR) provisions. On December 21, 1999, the parties filed a motion to lodge a settlement agreement with the court. The settlement agreement established a schedule by which EPA would propose revisions to the NESHAP and the preamble language agreed to by the parties. The settlement agreement provided that EPA would sign proposed rule amendments no later than 60 days after execution of the settlement. The settlement agreement also provided that EPA would sign final rule amendments no later than 180 days after the date on which the proposed amendments were signed. On February 22, 2000, the parties filed a motion to lodge a stipulation to modify the settlement agreement. The parties agreed to change the date by which EPA must sign the proposed rule amendments from 60 to 90 days after the execution of the settlement agreement (March 20, 2000). The date by which EPA must sign the final amendments was not changed (August 21, 2000).

On April 10, 2000 (65 FR 19152), we proposed amendments to address the issues raised by PhRMA and the intervenors of the promulgated Pharmaceuticals Production NESHAP which include corrections and clarifications to ensure that the rule will be implemented as intended. In this action, we are promulgating the amendments proposed on April 10, 2000.

II. What Types of Public Comments Were Received on the April 10, 2000 Proposal?

We received seven public comment letters on the April 10, 2000 proposed amendments. Six of the comment letters were from industry representatives, and one was from a university representative. The comments addressed the compliance dates, applicability, requirements for hydrogenation vents and wastewater, recordkeeping burden, and the delegation of authority. The commenters also identified errors and incomplete discussions in the preamble to the proposed amendments, minor inconsistencies between the proposed amendments and the settlement agreement, and miscellaneous typographical errors. Some commenters expressed support for the proposed changes. We considered these comments and, where appropriate, made changes to the proposed amendments. This preamble summarizes significant issues raised and the changes to the proposed amendments. Our response to all comments can be found in National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production: Summary of Public Comments and Responses on Proposed Amendments. This document may be found in the docket.

III. What Major Issues Were Raised in the Public Comments and What Changes Were Made for the Final Amendments?

A. Applicability

Comment: One commenter interprets the proposed changes to § 63.1250(b) to mean that a source that implements process changes that meet the new definition of the term ''reconstruction'' may be subject to new source requirements under the amended rule, whereas they would have been subject to less stringent existing source requirements under the original rule. However, after reading the discussion in the preamble to the proposed amendments regarding compliance dates for new and reconstructed sources that would apply in the event the final amendments are more stringent than the original NESHAP, the commenter is unsure when such sources must comply with the new source requirements (or how long they may continue to comply with existing source requirements). The statement that such sources must ''continue to comply with the NESHAP until October 21, 2002'' was particularly confusing because it was not clear which requirements apply after the amendments are promulgated or whether the source must comply with existing source requirements after October 21, 2002 until it meets reconstruction.

Response: The proposed change to § 63.1250(b) would require compliance with the new source requirements for dedicated pharmaceutical manufacturing process units (PMPU) that have the potential to emit hazardous air pollutants (HAP) emissions above specified thresholds and for which reconstruction commenced after October 21, 1999. The commenter is correct that such a reconstructed PMPU would have been subject to existing source requirements under the September 21, 1998 promulgated rule. As a result, it is possible that the PMPU would be subject to more stringent requirements under the amended rule than under the September 21, 1998 promulgated rule. The date when the PMPU must be in compliance with the requirements for new sources depends on the date that reconstruction commenced, as specified in § 63.1250(f) (4) or (5). If you commenced reconstruction between October 21, 1999 and April 10, 2000, you must comply with the requirements for new sources beginning on October 21, 2002. If you commenced reconstruction after April 10, 2000 and before August 29, 2000, you must comply with the requirements for new sources beginning on the date 1 year after the effective date of the final amendments. In both cases, if you startup the reconstructed PMPU before the date when it must be in compliance with the new source requirements, you must, at a minimum, comply with the requirements for existing sources in the September 21, 1998 promulgated rule between startup and that date. If reconstruction commences after August 29, 2000, you must comply with the existing source requirements specified in today's amendments until you shutdown to commence reconstruction, and you must comply with the new source requirements upon startup of the

reconstructed source, as specified in § 63.1250(f)(2).

Comment: One commenter is uncertain whether their process to produce an imaging agent classified under SIC code 2835 would be subject to the NESHAP. This commenter was confused by the revised definitions of the terms ''pharmaceutical product,'' ''precursor,'' and ''component,'' as well as the corresponding discussion in the preamble to the proposed amendments. As an alternative, this commenter believes we should consider using the applicability language in 40 CFR 439.0 of the Pharmaceutical Manufacturing Point Source Category because the commenter considers that wording to be more definitive.

Response: The definition of pharmaceutical product includes any material whose manufacturing process is described by NAICS code 325411 or 325412. In-vivo diagnostic substances described by SIC code 2835 are also covered by NAICS 325412. If your imaging agent is one of these substances, it is a pharmaceutical product, and the process to produce it is subject to subpart GGG. If that imaging agent is produced at a facility whose primary manufacturing operations are described by SIC code 2833 or 2834, the processes used to produce precursors to the imaging agent would also be subject to subpart GGG. Conversely, if the imaging agent is an in-vitro diagnostic substance, it is excluded from the definition of active ingredient. Thus it is not a pharmaceutical product, and its production process is not subject to subpart GGG. We disagree with the commenter's suggestion to use the same applicability language as in 40 CFR 439.0. The NESHAP and effluent limitation guidelines are developed under different statutes with different mandates; the applicability does not need to be identical.

B. Compliance Dates

Comment: Two commenters oppose the proposed delay in the compliance dates. One of the commenters believes the delay is unnecessary because cost-effective control technologies are available. The other commenter opposes the delay because we did not promulgate the NESHAP until 10 months after the scheduled promulgation date, the NESHAP specifies the maximum compliance time allowed by the CAA even though many control measures could be implemented in a much shorter time, and the commenter believes the proposed changes weaken the control requirements.

One of the commenters also disagrees with our assertion that the authority to revise emission standards under section 112(d) of the CAA also includes the authority to set new compliance dates. The commenter says the CAA does not provide the authority to delay the general applicability of the promulgated standard beyond 3 years from promulgation; it only allows compliance with the amendments, if more stringent than the original rule, to be extended to 3 years after promulgation of the amendments. The commenter further states that it is clear that we have not revised the NESHAP in accordance with section 112(d) of the CAA because there is no indication that we reevaluated the maximum achievable control technology (MACT) floor or beyond-the-floor options.

Response: As we explained in the preamble to the proposed amendments, we believe the scope of the changes are sufficiently far-reaching and complex that the amended rule would effectively be a new rule. We proposed a compliance date 3 years after the date the settlement agreement was signed and available. This time period was selected to be consistent with the time period that we considered to be reasonable for achieving compliance with the September 21, 1998 promulgated rule. We continue to believe this is reasonable.

C. Process Vent Requirements

Comment: Section 63.1254(a)(3)(ii)(C) of the proposed amendments would require 95 percent control for the sum of all process vents within some processes that contain hydrogenation steps. One commenter stated that the proposed requirement will be unattainable for some processes even if all nonhydrogenation vents are completely controlled. The commenter believes the required reduction should be 93 percent as for other existing processes. However, to fully address the safety issue of hydrogenation vents, the commenter also requested that we consider exempting all emissions from the hydrogenation step from the point hydrogen is added until after the excess hydrogen is purged from the reactor.

Response: The commenter's reference is to the provision that would allow processes containing hydrogenation vents to achieve at least 95 percent reduction overall, rather than comply with the 98 percent requirement for the Total Resource Effectiveness (TRE) streams and either the 93 percent reduction or mass limit for other streams. The provision was added to address concerns that controlling some hydrogenation vents could be unsafe; the 95 percent requirement is applied to the process and allows (in exchange for lessening of the requirement to control TRE vents to 98 percent) an overall emission reduction that is greater than the MACT floor. Contrary to the commenter's assertion, other existing processes are required to achieve 93 percent control on vents other than TRE vents, and 98 percent on TRE vents, not just an overall 93 percent as stated. Therefore, the level of the standard is actually higher than 93 percent for processes containing TRE vents. This added provision is intended to allow greater flexibility in selecting streams for control, while preserving the emissions reductions associated with the standard. Additionally, the provision was suggested by the industry trade association, which suggests that this level of control (95 percent) is achievable in the industry.

D. Wastewater Requirements

Comment: One commenter disagrees with the proposed change in the annual load used to determine an affected wastewater stream from 1 Megagrams per year (Mg/yr) to 0.25 Mg/yr. The commenter notes that our rationale for changing the load threshold was that we changed the definition of process. However, according to the commenter, there is no definitive correlation between the terms ''process'' and ''point of determination.'' Furthermore, because we did not propose changes to the definition of ''point of determination'' or to the referenced terms ''storage tank'' and ''last recovery device,'' the commenter believes the load threshold should remain at 1 Mg/yr.

Response: We disagree with the commenter. For processes with wastewater discharges that either do not go through recovery devices or the recovery devices are dedicated to particular discharges, the change in the definition of the term ''process'' will result in less HAP discharged per process. In addition, storage tanks that are assigned to one process under the original definition of the term ''process'' may not all be assigned to a single process under the revised definition. Therefore, we continue to believe that it is reasonable to reduce the load threshold for a PMPU.

Comment: One commenter requested that we remove methanol from the list of soluble HAP. The commenter is concerned that without this change, publicly owned treatment works (POTW) will no longer accept methanol-containing wastewater that is determined to be affected wastewater under the Pharmaceuticals Production

NESHAP because the POTW do not want to become affected sources under the NESHAP for POTW. As evidence to support removing methanol from the list, the commenter refers to the preamble for the Pharmaceutical Manufacturing Point Source Category in which we recognize that methanol is adequately treated at POTW. The commenter also pointed out that the American Forest and Paper Association filed a petition requesting EPA to remove methanol from the list of HAP contained in section 112(b)(1) of the CAA, and that some of the data in that petition address the treatability of methanol in POTW.

Response: Under the NESHAP, every wastewater stream that meets the applicable concentration cutoff must be managed and treated in a manner consistent with MACT; this requirement applies to streams treated either onsite or offsite. Another point to remember is that the basis for the wastewater treatment requirements was steam stripping. Biological treatment that meets specific conditions is allowed as an alternative.

Comment: In § 63.1256(g)(13)(ii), which exempts owners and operators from the wastewater provisions in subpart GGG if they treat wastewater in boilers and process heaters that are permitted under the Resource Conservation and Recovery Act (RCRA), one commenter requested that we change the phrase ''boilers and process heaters'' to ''boilers and industrial furnaces.'' The commenter pointed out that 40 CFR 260.10 does not define process heaters, and that the existing language could be construed to mean that the exemptions in § 63.1256(g)(13)(ii) do not apply to energy recovery devices classified as industrial furnaces (*i.e.,* cement kilns, lime kilns, and blast furnaces).

Response: We did not intend to exclude industrial furnaces from the list of RCRA-permitted devices that are exempt from the wastewater provisions. We intended to apply exemptions in the same manner as in the Hazardous Organic NESHAP (HON), which addressed this issue by including industrial furnaces in the definition of the term ''boiler.'' The reasons for including industrial furnaces within the definition of the term ''boiler'' as opposed to defining a separate term are presented in the preamble to proposed amendments for the HON (61 FR 43705). Therefore, the final amendments include a definition for the term ''boiler'' that is identical to the definition in § 63.111 of the HON. Note that this change also affects industrial furnaces used as air pollution control devices under § 63.1257(a)(4), as well as wastewater treatment units under § 63.1256(g)(13).

Comment: One commenter noted that the list of exempt wastewater in § 63.1256(a)(3)(i) omits two of the types of wastewater that are exempted in § 63.132(f) of the HON: equipment leaks and activities included in maintenance and startup, shutdown, and malfunction plans. The commenter requested that we add these two exemptions to the list in § 63.1256(a)(3)(i) so that pharmaceutical plants are not required to manage small, infrequent, and/or random leaks and discharges of wastewater in accordance with the provisions of § 63.1256. In subsequent discussions, the commenter cited an example of such small discharges as the small amount of water that drains from a hose when it is disconnected from one unit so that it can be moved and reconnected to another unit. Even though the hose is purged before being disconnected, some water remains.

Response: After considering the comments, we decided to provide exemptions for equipment leaks and for drips from disconnected hoses. The exemption for equipment leaks is consistent with the HON, which provides the basis for most of the wastewater provisions in subpart GGG. Specifically, § 63.132(f) exempts equipment leaks with HAP concentrations greater than 10,000 parts per million by weight (ppmw) from the management and treatment requirements for Group 1 wastewater. Equipment leaks with lower concentrations are also effectively exempted in the HON because they are unlikely to exceed the Group 1 wastewater flow rate threshold of 10 liters per minute (lpm). The drips from a disconnected hose are unintentional discharges that occur despite reasonable efforts to purge the hose before disconnecting it. We believe these drips can be considered spills, which are exempt from the wastewater provisions. However, to clarify this point, we have provided a specific exemption for drips from procedures such as disconnecting hoses after clearing lines.

We decided not to add an exemption for wastewater that is discharged as a result of activities included in maintenance wastewater plans. Under the proposed amendments, § 63.1256(a)(3)(ii) exempts maintenance wastewater from the definition of wastewater, which means it is not subject to the wastewater provisions other than the requirements in § 63.1256(a)(3)(ii). Adding another exemption for wastewater generated as a result of activities covered by the maintenance wastewater plan would be redundant.

We also decided not to add an exemption for wastewater that is discharged as a result of activities included in startup, shutdown, and malfunction plans. Section 63.1250(g) specifies that each provision in subpart GGG (except the emission limitations) applies during startups, shutdowns, and malfunctions. This provision effectively exempts wastewater generated during startups, shutdowns, and malfunctions from the management and treatment requirements in § 63.1256. According to § 63.1250(g), the only requirement for such wastewater is that the owner or operator must identify and implement procedures to prevent or minimize emissions during startups, shutdowns, and malfunctions; and the procedures must be documented in a written plan. Therefore, we believe adding an exemption in § 63.1256(a)(3) is unnecessary because existing provisions already accomplish the goal of such an exemption.

After considering the comments and the exemption provisions in general, we decided that the requirements would be clearer if we rearranged a few statements. Therefore, in the final amendments, we have moved the list of exemptions from § 63.1256(a)(3)(i) to the definition of the term ''wastewater stream.'' We also added equipment leaks and drips from procedures such as disconnecting hoses to the list. We then redesignated the multiphase discharge requirements in § 63.1256(a)(4) as § 63.1256(a)(3), and we redesignated the maintenance wastewater requirements in § 63.1256(a)(3)(ii) as § 63.1256(a)(4). We also added a statement to the redesignated § 63.1256(a)(4) to specify that maintenance wastewater is exempt from all other provisions in subpart GGG. Finally, we revised § 63.1256(a) introductory paragraph and § 63.1256(a)(1) to more clearly explain what provisions are specified in § 63.1256(a)(1) through (5). We believe these changes clarify the wastewater provisions without changing the intent.

E. Recordkeeping

Comment: One commenter believes the recordkeeping and reporting burden is excessive and suggests that we continue to work with the Food and Drug Administration to increase flexibility, perhaps by using the concepts of ''Master Process'' or ''Batch Records.'' The commenter acknowledges that the concept of a ''standard batch'' helps to alleviate this burden but cites our Agency Information Collection Request notice (65 FR 17258, March 31, 2000), which

estimates the average recordkeeping and reporting burden to be 694 hours per source per year, as evidence that more relief is needed.

Response: The recordkeeping and reporting requirements in the proposed amendments are needed to demonstrate compliance. These requirements received considerable scrutiny during the settlement negotiations. As the commenter noted, we introduced the concept of a ''standard batch'' as one way to minimize the burden. Another way to minimize the burden is to implement the alternative standard; the reduction in the burden associated with this compliance option is not reflected in the estimate in the Agency Information Collection Request.

F. Delegation of Authority

Comment: Several commenters oppose the proposed change to the delegation of authority language because it was not part of the settlement agreement, and we did not explain why the change is needed. One commenter also expressed concern that the proposed change could have a significant adverse impact on sources by requiring a second layer of regulatory agency approval of alternatives to monitoring or recordkeeping provisions in cases where a State rule and the Pharmaceuticals Production NESHAP apply to the same source. The commenter noted that getting approval from both the State and EPA would result in a substantial burden on the source without providing any additional environmental benefit.

Response: After considering the comments, we have decided not to amend the delegation of authority provisions in § 63.1261 of the September 21, 1998 promulgated rule. The proposed amendments to § 63.1261 reference terms that are defined in proposed amendments to § 63.90 of 40 CFR part 63, subpart E (64 FR 1880, January 12, 1999). The regulations in subpart E implement section 112(l) of the CAA and specify the procedures and criteria for approving State, local, territorial, and tribal rules, programs, or other requirements that would substitute for NESHAP. The proposed amendments to subpart E are intended to clarify these procedures and criteria, including the authorities which we will and will not delegate. Because the proposed amendments to subpart E may not be promulgated before the amendments to subpart GGG, we must remove the references to them from subpart GGG. We anticipate, however, that after amendments to subpart E are promulgated, we will also amend subpart GGG (and all other NESHAP) to be consistent.

G. Clarification of Statements in the Proposal Preamble

Several commenters expressed concern that the discussions of some issues in the preamble to the proposed amendments could cause confusion because the discussions were either incomplete or inconsistent with the proposed regulatory language. The following paragraphs discuss each concern.

1. Annual Mass Emission Limit for Process Vents

Section II.G of the preamble to the proposed amendments explains the proposed changes in the 900 kilograms per year (kg/yr) annual mass limit compliance option for process vents. For example, one of the proposed changes in this compliance option was to allow it to be used for all of the other vents in a process where at least one vent meets the requirements for control to 98 percent under § 63.1254(a)(3)(i).

Comment: One commenter believes the proposal preamble may cause confusion because it does not also say that you may comply with the 900 kg/yr annual mass limit for all of the other vents in a process where at least one vent complies with the alternative standard in § 63.1254(c), or at least one vent is routed to a control device subject to the grandfathering provisions in § 63.1254(a)(3)(ii).

Response: The commenter is correct that the proposed amendments extend the 900 kg/yr annual mass limit compliance option to more situations than the one described in the proposal preamble. Section 63.1254(a)(2)(iii) in the final amendments, which is identical to the language in the proposed amendments, specifies three types of vents that you may exclude when determining compliance with the 900 kg/yr annual mass limit: (1) All vents that must be controlled to 98 percent in accordance with § 63.1254(a)(3)(i), (2) all vents that otherwise would be subject to the 98 percent control requirement if they were not controlled by a grandfathered control device according to § 63.1254(a)(3)(ii), and (3) all vents that are controlled in accordance with the alternative standard in § 63.1254(c).

2. Emission Reduction for Processes With Both TRE and Hydrogenation Vents

Section II.H of the proposal preamble includes a discussion of the emission limitations for vents in processes that include at least one TRE vent and at least one hydrogenation vent that we proposed adding in § 63.1254(a)(3)(ii)(C).

Comment: One commenter believes the explanation of the proposed emission limitation is confusing because it does not clearly describe the two distinct parts to the proposed provision in § 63.1254(a)(3)(ii)(C). According to the commenter, the first part applies to processes that meet specified control criteria on or before April 2, 1997, and these processes must maintain the level of control achieved on the date of the proposed amendments (*i.e.,* April 10, 2000). The commenter also noted that the second part applies to any other process where the annual mass limit or process-based emission reduction (for the sum of the non-TRE vents) cannot be met because the hydrogenation vent(s) cannot be safely controlled, and the HAP emissions from the sum of all vents in these processes must be reduced by at least 95 percent.

Response: We agree with the commenter that the proposal preamble did not fully explain the two parts of the proposed provisions for processes with hydrogenation vents. The commenter's assessment of the second part of this provision is correct, but the first part needs additional discussion. Processes that had a TRE vent on or before April 2, 1997 and for which the HAP emissions from the sum of all process vents were controlled to between 93 and 98 percent by weight must continue to be controlled to the level achieved on or before April 2, 1997 (not on or before April 10, 2000).

3. Recordkeeping Requirements for Process Vents

Section II.O of the proposal preamble describes several proposed changes to the recordkeeping requirements, including a discussion of the proposed concept of a ''standard batch.''

Comment: One commenter believes the discussion is confusing because it does not clearly state that the requirement to check whether standard batch conditions have been exceeded applies only to two types of processes: (1) Processes subject to the 900 kg/yr annual mass emission limit and (2) processes subject to a percent reduction requirement where at least one vent in the process is controlled to less than the percent reduction required for the process as a whole. The commenter is concerned that the proposal preamble could be interpreted to mean the check is required for all processes.

Response: The commenter is correct. You may define a standard batch for any process. However, the requirement to document whether each batch meets all

of the conditions of the standard batch applies only in the two cases identified by the commenter. Because changes in operating conditions may cause changes in emission levels, this documentation (along with the requirement to recalculate uncontrolled and controlled emissions for each nonstandard batch) is the procedure used to demonstrate ongoing compliance in these two situations. The documentation is not needed in other situations where other types of monitoring are sufficient to demonstrate ongoing compliance (*e.g.,* a continuous emissions monitoring system (CEMS) for demonstrating compliance with the alternative standard) or the changes in emission levels do not affect ongoing compliance (*e.g.,* when all vents in a process are routed to the same control device). The documentation requirements are specified in § 63.1259(b)(5) in both the proposed and final amendments.

4. Compliance With Subpart PPP

Section II.C of the proposal preamble discussed the proposed addition of a § 63.1250(h)(6) to address overlap situations between subparts GGG and PPP.

Comment: One commenter pointed out that the second reference to subpart GGG that says, ''* * * you would still be required to comply with all other requirements in subpart GGG * * *'' is incorrect and should say, ''* * * you would also be required to comply with all other requirements in subpart PPP for the corresponding PMPU * * *''

Response: The commenter is correct. If you demonstrate compliance with subpart GGG by controlling process vents in accordance with the requirements in subpart PPP, you must also comply with all of the other requirements in subpart PPP for the corresponding PMPU.

H. Technical Correction to Monitoring Requirements for Hydrogen Halides and Halogens

Comment: One commenter raised an issue that involves the alternative standard. Under the alternative standard in the promulgated NESHAP, the owner or operator must use CEMS to demonstrate ongoing compliance with the total organic compound (TOC) and total hydrogen halide and halogen outlet concentration limits. The commenter states that CEMS should not be required to demonstrate compliance with the hydrogen halide and halogen limits because we have not required CEMS to demonstrate compliance with hydrochloric acid (HCl) and chlorine limits in past rules (*e.g.,* the hazardous waste combustion, municipal waste combustion, and hospital/medical/infectious waste incineration), and there are no EPA-approved, commercially available methods to monitor these pollutants in gas streams continuously. As an alternative, the commenter recommends that we require parametric monitoring like that already required to demonstrate compliance with the other outlet concentration limits in the rule.

Response: We agree with the commenter that clarification of the hydrogen halide and halogen monitoring requirements under the alternative standard is needed. As a result, we have made technical amendments to the standard for alternative procedures for monitoring hydrogen halides and halogens emitted under two scenarios: (1) When these pollutants are generated in combustion devices that are used to control halogenated vent streams, and (2) when these pollutants are emitted directly from the process.

One of the primary sources of hydrogen halide and halogen emissions is combustion devices that are used to control halogenated vent streams. In these situations, most of the chlorine is converted to HCl in the incinerator. Therefore, we believe that monitoring for HCl would serve as an acceptable surrogate for all of the hydrogen halides and halogens in the emission stream. We provided three options for monitoring to demonstrate compliance with the outlet concentration limit for hydrogen halides and halogens under the alternative standard for these emission streams. The first option is to continuously monitor for HCl using an instrument based on Fourier Transform infrared (FTIR) spectroscopy that meets Performance Specification 15 in appendix B of 40 CFR part 60. Because HCl is readily controlled in a properly operated scrubber, the second option requires the owner or operator to conduct an initial demonstration that the scrubber reduces HCl by 95 percent, set scrubber operating parameters during the initial compliance determination, and demonstrate ongoing compliance by continuously monitoring the operating parameters. In the event an owner or operator wishes to monitor for HCl using a CEMS for which we have not promulgated a performance specification, we are also including a third option that requires the owner or operator to prepare a monitoring plan and submit it for approval in accordance with the procedures specified in § 63.8.

If you emit hydrogen halides and halogens directly from the process, the requirement to use CEMS to measure the total hydrogen halide and halogen concentration is unchanged from the September 21, 1998 promulgated rule. However, because we have not promulgated performance specifications for halogen monitors, we have amended the rule to require that the owner or operator prepare a monitoring plan and submit it for approval in accordance with § 63.8.

I. Minor Technical Corrections

We are making several changes throughout subpart GGG to correct referencing and typographical errors, to improve consistency in terminology, and to make the amendments consistent with the settlement agreement. Two of the commenters identified many of the needed corrections; we identified several others. All of the corrections are described in Table 1.

TABLE 1.—MINOR TECHNICAL CORRECTIONS TO SUBPART GGG

Section of subpart GGG	Description of correction
63.1250(f)(5)(i)	Changed the referenced date from April 2, 1997 to April 10, 2000. The intended date was the date of publication of the proposed amendments, not the date of publication of the proposed rule, because a source that commences construction or reconstruction after April 10, 2000 must, upon startup before August 29, 2000, comply with the proposed amendments.
63.1250(h)(1)(i)	Corrected a typographical error in this paragraph. The word ''of'' was replaced with ''or'' in the first sentence so that the sentence reads as follows: ''* * * elect to comply with either the provisions of this subpart or the provisions of another subpart * * *''.
63.1250(h)(2) and (3)	Replaced the word ''consistency'' with ''compliance'' in the headings of both sections to be consistent with the language used in the headings in § 63.1250(h)(1), (4), (5), and (6).

TABLE 1.—MINOR TECHNICAL CORRECTIONS TO SUBPART GGG—Continued

Section of subpart GGG	Description of correction
63.1252(d)(6) through (d)(8)	Corrected these paragraphs by replacing the incorrect references to § 63.1254(a)(2) and (a)(3) with the correct references to § 63.1254(a)(1)(i). Replaced incorrect reference to § 63.1253(c)(1) with correct reference to § 63.1253(c)(1)(i). Replaced the word ''requirements'' with ''criteria''.
63.1255(b)(4)(iv)(B)	Corrected this paragraph by replacing incomplete reference to § 63.178(c)(iii) with the complete reference to § 63.178(c)(3)(iii).
63.1255(c)(2)(i) and (e)(3)	Corrected these paragraphs by replacing references to § 63.178(b) with references to § 63.178. The more comprehensive reference allows an owner or operator to implement the monitoring interval adjustment option in § 63.178(c) for valves under § 63.1255(e)(3). However, the change has essentially no impact for pumps and agitators because § 63.1255(b)(4)(iv)(B) specifies that the monitoring interval adjustment for pumps and agitators is to be quarterly, which is the same monitoring frequency that is specified in § 63.1255(c)(2)(i). This is the intended result. In effect, because the HON requires monthly monitoring, the adjustment is already built in to § 63.1255(c)(2)(i). We do not believe that an additional adjustment is warranted.
63.1255(e)(5)(iii)	Corrected typographical errors in the definitions of two of the terms that follow Equation 4. The uppercase ''I'' for the variable that counts the number of subgroups has been replaced with the correct lowercase ''i''.
63.1255(f)(1)(iii)	Corrected this paragraph by replacing the incorrect reference to paragraph (b)(3)(iii)(B) with the correct reference to paragraph (b)(4)(iii)(B).
63.1255(f)(4)(iv)	Corrected this paragraph by replacing the incorrect reference to paragraph (b)(3)(i) with the correct reference to paragraph (b)(4)(i).
63.1255(h)(3)(ii)	Corrected this paragraph by replacing the incorrect reference to paragraph (b)(3)(iv) with the correct reference to paragraph (b)(4)(iv).
63.1256(a)(1)(i)(B)	Revised this paragraph to specify that the wastewater stream is an affected wastewater stream if the concentration of partially soluble and/or soluble HAP is ''greater than'' 5,200 ppmw, whereas the original language specified a concentration ''of'' 5,200 ppmw. This change makes the terminology in this paragraph consistent with the terminology in § 63.1256(a)(1)(i)(A), (C), and (D).
63.1257(d)(2)(i)(C)(*4*)(*ii*)	Corrected this paragraph by replacing the incorrect reference to paragraph (d)(2)(iii) with the correct reference to paragraph (d)(3)(iii).
63.1258(b)(5)(ii)	Added a sentence to the end of this paragraph that was part of the settlement agreement but was inadvertently left out of the proposed amendments. The sentence reads as follows: ''If the owner or operator corrects for supplemental gases as specified in § 63.1257(a)(3)(ii) for noncombustion control devices, the flow must be evaluated as specified in paragraph (b)(5)(ii)(C) of this section.''

IV. What Are the Administrative Requirements for These Final Amendments?

A. Executive Order 12866, Regulatory Planning and Review

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

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

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

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

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

Pursuant to the terms of Executive Order 12866, it has been determined that these amendments do not constitute a ''significant regulatory action'' because they do not add any new control requirements. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

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

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position

supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the Agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

Today's amendments will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because State and local governments do not own or operate any sources that would be subject to these amendments. Thus, the requirements of section 6 of the Executive Order do not apply to today's action.

C. Executive Order 13084, Consultation and Coordination With Indian Tribal Governments

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

Today's amendments to subpart GGG do not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate sources subject to these amendments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to today's action.

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

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. Today's amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, this rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the Pharmaceuticals Production NESHAP for any year has been estimated to be approximately $64 million (63 FR 50287, September 21, 1998), and today's amendments do not add new requirements that would increase this cost. Thus, today's amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that these amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, today's amendments are not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's amendments on small entities, a small entity is defined as: (1) A small business in SIC code 2833 or 2834 that has as many as 750 employees; (2) a small business in SIC code 2869 that has as many as 1,000 employees; (3) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less

than 50,000; and (4) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's amendments on small entities, we have concluded that this action will not have a significant economic impact on a substantial number of small entities. The EPA has determined that none of the small entities will experience a significant impact because the amendments impose no additional regulatory requirements on owners or operators of affected sources.

Although today's amendments will not have a significant economic impact, EPA nonetheless has tried to reduce the impact of the amendments on small entities. Many of the amendments define optional means of compliance. For example, vapor balancing was added as an optional means of compliance for storage tanks, a facilitywide limit on the mass of process vent emissions replaces the limit on the number of processes that may comply with the process-based emission limit, additional compliance alternatives are included for process vents that meet the criteria for 98 percent control, and optional parameter monitoring is included as an alternative to correcting to 3 percent oxygen when supplemental gas is introduced to a dense gas system or a system controlled with combustion devices and the owner or operator complies with the alternative standard. The proposed amendments also include simplified recordkeeping requirements when the owner or operator documents conditions that define a standard batch, and the process is operated within that range of conditions.

G. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the 1998 NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control No. 2060–0358. An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1781.01), and a copy may be obtained from Sandy Farmer by mail at U.S. Environmental Protection Agency, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by email at farmer.sandy@epa.gov, or by calling (202) 260–2740.

Today's amendments will have no net impact on the information collection burden estimates made previously. An oversight has been corrected by adding recordkeeping and reporting requirements for storage tanks equipped with floating roofs. The promulgated rule only included recordkeeping and reporting requirements for add-on control devices for storage tanks even though add-on control devices and floating roofs were considered in the cost impacts and burden estimates. Also, the amendments clarify the intent of several provisions in the 1998 NESHAP and correct inadvertent omissions and minor drafting errors in the 1998 NESHAP. Consequently, the ICR has not been revised.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Pub. L. 104–113 (March 7, 1996), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* material specifications, test methods, sampling and analytical procedures, and business practices) that are developed or adopted by one or more voluntary consensus bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

During the rulemaking, EPA searched for voluntary consensus standards that might be applicable. The search identified no applicable voluntary consensus standards. Accordingly, the NTTAA requirement to use applicable voluntary consensus standards does not apply to today's amendments.

I. The Congressional Review Act

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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. § 804(2). This rule will be effective August 29, 2000.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 15, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 63 of title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

Subpart GGG—National Emission Standards for Pharmaceuticals Production

2. Section 63.1250 is amended by:
a. Revising paragraph (a),
b. Revising paragraph (b),
c. Revising paragraph (c),
d. Revising paragraph (f);
e. Revising paragraph (h)(1);
f. Revising paragraph (h)(2) heading;
g. Revising paragraph (h)(3) heading;
h. Revising paragraphs (h) (4) and (5); and
i. Adding paragraph (h)(6).

The revisions and additions read as follows:

§ 63.1250 Applicability.

(a) *Definition of affected source.* (1) The affected source subject to this subpart consists of the pharmaceutical manufacturing operations as defined in § 63.1251. Except as specified in paragraph (d) of this section, the provisions of this subpart apply to pharmaceutical manufacturing operations that meet the criteria specified in paragraphs (a)(1) (i) through (iii) of this section:

(i) Manufacture a pharmaceutical product as defined in § 63.1251;

(ii) Are located at a plant site that is a major source as defined in section 112(a) of the Act; and

(iii) Process, use, or produce HAP.

(2) Determination of the applicability of this subpart shall be reported as part of an operating permit application or as otherwise specified by the permitting authority.

(b) *New source applicability.* A new affected source subject to this subpart and to which the requirements for new sources apply is: An affected source for which construction or reconstruction commenced after April 2, 1997, and the standard was applicable at the time of construction or reconstruction; or a pharmaceutical manufacturing process unit (PMPU) dedicated to manufacturing a single product that has the potential to emit 10 tons per year of any one HAP or 25 tons per year of combined HAP for which construction commenced after April 2, 1997 or reconstruction commenced after October 21, 1999.

(c) *General Provisions.* Table 1 of this subpart specifies and clarifies the provisions of subpart A of this part that apply to an owner or operator of an affected source subject to this subpart. The provisions of subpart A specified in Table 1 are the only provisions of subpart A that apply to an affected source subject to this subpart.

* * * * *

(f) *Compliance dates.* The compliance dates for affected sources are as follows:

(1) An owner or operator of an existing affected source must comply with the provisions of this subpart no later than October 21, 2002.

(2) An owner or operator of a new or reconstructed affected source must comply with the provisions of this subpart on August 29, 2000 or upon startup, whichever is later.

(3) Notwithstanding the requirements of paragraph (f)(2) of this section, a new source which commences construction or reconstruction after April 2, 1997 and before September 21, 1998 shall not be required to comply with this subpart until September 21, 2001 if:

(i) The requirements of this subpart are more stringent than the requirements of this subpart in effect before August 29, 2000 and contained in the 40 CFR, part (63.1200–end), edition revised as of July 1, 2000; and

(ii) The owner or operator complies with the requirements published on April 2, 1997 (62 FR 15754) during the period until September 21, 2001.

(4) Notwithstanding the requirements of paragraph (f)(2) of this section, a new source which commences construction or reconstruction after September 21, 1998 and before April 10, 2000 shall not be required to comply with this subpart until October 21, 2002 if:

(i) The requirements of this subpart are more stringent than the requirements of this subpart in effect before August 29, 2000; and

(ii) The owner or operator complies with the requirements of this subpart in effect before August 29, 2000 during the period between startup and October 21, 2002.

(5) Notwithstanding the requirements of paragraph (f)(2) of this section, a new source which commences construction or reconstruction after April 10, 2000 and before August 29, 2000 shall not be required to comply with this subpart until August 29, 2001 if:

(i) The requirements of this subpart are more stringent than the requirements published on April 10, 2000 (65 FR 19152); and

(ii) The owner or operator complies with the requirements of this subpart in effect before August 29, 2000 during the period between startup and August 29, 2001.

(6) Pursuant to section 112(i)(3)(B) of the Act, an owner or operator may request an extension allowing the existing source up to 1 additional year to comply with section 112(d) standards.

(i) For purposes of this subpart, a request for an extension shall be submitted no later than 120 days prior to the compliance dates specified in paragraphs (f) (1) through (5) of this section, except as provided in paragraph (f)(6)(ii) of this section. The dates specified in § 63.6(i) for submittal of requests for extensions shall not apply to sources subject to this subpart.

(ii) An owner or operator may submit a compliance extension request after the date specified in paragraph (f)(6)(i) of this section provided the need for the compliance extension arose after that date and before the otherwise applicable compliance date, and the need arose due to circumstances beyond reasonable control of the owner or operator. This request shall include the data described in § 63.6(i)(6)(i) (A), (B), (C), and (D).

* * * * *

(h) * * *

(1) *Compliance with other MACT standards.* (i) After the compliance dates specified in this section, an affected source subject to the provisions of this subpart that is also subject to the provisions of any other subpart of this part 63 may elect to comply with either the provisions of this subpart or the provisions of another applicable subpart governing the maintenance of records and reporting to EPA. The affected source shall identify in the Notification of Compliance Status report required by § 63.1260(f) under which authority such records will be maintained.

(ii) After the compliance dates specified in paragraph (f) of this section, at an offsite reloading or cleaning facility subject to § 63.1253(f), compliance with the emission standards and associated initial compliance, monitoring, recordkeeping, and reporting provisions of any other subpart of this part 63 constitutes compliance with the provisions of § 63.1253(f)(7) (ii) or (iii). The owner or operator of the affected storage tank shall identify in the Notification of Compliance Status report required by § 63.1260(f) the subpart of this part 63 with which the owner or operator of the offsite reloading or cleaning facility complies.

(2) *Compliance with 40 CFR parts 264 and 265, subparts AA, BB, and/or CC.* * * *

* * * * *

(3) *Compliance with 40 CFR 60.112(b).* * * *

* * * * *

(4) *Compliance with subpart I of this part.* After the compliance dates specified in this section, an affected source with equipment subject to subpart I of this part may elect to comply with either the provisions of § 63.1255 or the provisions of subpart H of this part for all such equipment. The owner or operator shall identify in the Notification of Compliance Status report required by § 63.1260(f) the provisions with which the owner elects to comply.

(5) *Compliance with other regulations for wastewater.* After the compliance dates specified in this section, the owner or operator of an affected wastewater stream that is also subject to provisions in 40 CFR parts 260 through 272 may elect to determine whether this subpart or 40 CFR parts 260 through 272 contain the more stringent control requirements (*e.g.,* design, operation, and inspection requirements for waste management units; numerical treatment standards; etc.) and the more stringent testing, monitoring, recordkeeping, and reporting. Compliance with provisions of 40 CFR parts 260 through 272 that are determined to be more stringent than the requirements of this subpart constitutes compliance with this subpart. For example, provisions of 40 CFR parts 260 through 272 for treatment units that meet the conditions specified in § 63.1256(g)(13) constitute compliance with this subpart. In the Notification of Compliance Status report required by § 63.1260(f), the owner or operator shall identify the more stringent provisions of 40 CFR parts 260 through 272 with which the owner or operator will comply. The owner or operator shall also identify in the

Notification of Compliance Status report required by § 63.1260(f) the information and procedures used to make any stringency determinations. If the owner or operator does not elect to determine the more stringent requirements, the owner or operator must comply with both the provisions of 40 CFR parts 260 through 272 and the provisions of this subpart.

(6) *Compliance with subpart PPP of this part.* After the compliance dates specified in this section, an affected source with equipment in a pharmaceutical manufacturing process unit that is also part of an affected source under subpart PPP of this part may elect to demonstrate compliance with § 63.1254 by controlling all process vents in accordance with § 63.1425 (b), (c)(1), (c)(3), (d), and/or (f). Alternatively, the owner or operator may elect to determine which process vents must be controlled to comply with the percent reduction requirements of § 63.1254 and control only those vents in accordance with § 63.1425 (b), (c)(1), (c)(3), (d), and/or (f). For any pharmaceutical manufacturing process unit controlled in accordance with the requirements of § 63.1425, the owner or operator must also comply with all other requirements in subpart PPP of this part. In the Notification of Compliance Status report required by § 63.1260(f), the owner or operator shall identify which pharmaceutical manufacturing process units are meeting the control requirements for process vents and all other requirements of subpart PPP of this part, and the owner or operator shall describe the calculations and other information used to identify which process vents must be controlled to comply with the percent reduction requirements of § 63.1254, if applicable.

* * * * *

3. Section 63.1251 is amended by:

a. Revising the definitions for *Active ingredient, Annual average concentration, Construction, Consumption, Excipient, Large control device, Pharmaceutical manufacturing operations, Pharmaceutical product, Primary use, Process, Process tank, Repaired, Shutdown, Small control device, Startup, Storage tank, Vapor-mounted seal,* and *Wastewater stream;*

b. Removing the definition of *Component;*

c. Revising paragraphs (3) and (8) in the definition for *Operating scenario;* and

d. Adding definitions in alphabetical order for *Boiler, Combustion device burner, Dense gas system, Isolated intermediate, Maintenance wastewater, Precursor, Reconstruction, Standard batch, Supplemental gases,* and *System flowrate.*

The revisions and additions read as follows:

§ 63.1251 Definitions.

* * * * *

Active ingredient means any material that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of man or other animals. This term does not include food, food additives (except vitamins and other materials described by SIC code 2833 or 2834), color additives, cosmetics, in-vitro diagnostic substances, x-ray film, test indicator devices, and medical devices such as implants, artificial joints, surgical bandages, and stitching material.

* * * * *

Annual average concentration, as used in the wastewater provisions in § 63.1256, means the total mass of partially soluble and/or soluble HAP compounds in a wastewater stream during the calendar year divided by the total mass of the wastewater stream discharged during the same calendar year, as determined according to the procedures specified in § 63.1257(e)(1)(i) and (ii).

* * * * *

Boiler means any enclosed combustion device that extracts useful energy in the form of steam and is not an incinerator. Boiler also means any industrial furnace as defined in 40 CFR 260.10.

* * * * *

Combustion device burner means a device designed to mix and ignite fuel and air to provide a flame to heat and oxidize waste organic vapors in a combustion device.

* * * * *

Construction means the onsite fabrication, erection, or installation of an affected source or a PMPU. Addition of new equipment to a PMPU subject to existing source standards does not constitute construction, but it may constitute reconstruction of the affected source or PMPU if it satisfies the definition of reconstruction in this section.

Consumption means the quantity of all HAP raw materials entering a process in excess of the theoretical amount used as reactant, assuming 100 percent stoichiometric conversion. The raw materials include reactants, solvents, and any other additives. If a HAP is generated in the process as well as added as a raw material, consumption includes the quantity generated in the process.

* * * * *

Dense gas system means a conveyance system operated to limit oxygen levels below 12 percent.

* * * * *

Excipient means any substance other than the active drug or product which has been appropriately evaluated for safety and is included in a drug delivery system to either aid the processing of the drug delivery system during its manufacture; protect, support, or enhance stability, bioavailablity, or patient acceptability; assist in product identification; or enhance any other attribute of the overall safety and effectiveness of the drug delivery system during storage or use.

* * * * *

Isolated intermediate means a product of a process. An isolated intermediate is usually a product of a chemical synthesis, fermentation, or biological extraction process; several different isolated intermediates may be produced in the manufacture of a finished dosage form of a drug. Precursors, active ingredients, or finished dosage forms are considered isolated intermediates. An isolated intermediate is stored before subsequent processing. Storage occurs at any time the intermediate is placed in equipment used solely for storage, such as drums, totes, day tanks, and storage tanks. The storage of an isolated intermediate marks the end of a process.

* * * * *

Large control device means a control device that controls total HAP emissions of greater than or equal to 10 tons/yr, before control.

* * * * *

Maintenance wastewater means wastewater generated by the draining of process fluid from components in the pharmaceutical manufacturing process unit into an individual drain system in preparation for or during maintenance activities. Maintenance wastewater can be generated during planned and unplanned shutdowns and during periods not associated with a shutdown. Examples of activities that can generate maintenance wastewater include descaling of heat exchanger tubing bundles, cleaning of distillation column traps, draining of pumps into an individual drain system, and draining of portions of the pharmaceutical manufacturing process unit for repair. Wastewater from cleaning operations is not considered maintenance wastewater.

* * * * *

Operating scenario, * * *

(3) The applicable control requirements of this subpart, including the level of required control, and for vents, the level of control for each vent;

* * * * *

(8) For reporting purposes, a change to any of these elements not previously reported, except for paragraph (5) of this definition, shall constitute a new operating scenario.

* * * * *

Pharmaceutical manufacturing operations means the facilitywide collection of PMPU and any other equipment such as heat exchanger systems, wastewater and waste management units, or cooling towers that are not associated with an individual PMPU, but that are located at a facility for the purpose of manufacturing pharmaceutical products and are under common control.

* * * * *

Pharmaceutical product means any of the following materials, excluding any material that is a nonreactive solvent, excipient, binder, or filler, or any material that is produced in a chemical manufacturing process unit that is subject to the requirements of subparts F and G of this part 63:

(1) Any material described by the standard industrial classification (SIC) code 2833 or 2834; or

(2) Any material whose manufacturing process is described by North American Industrial Classification System (NAICS) code 325411 or 325412; or

(3) A finished dosage form of a drug, for example, a tablet, capsule, solution, etc.; or

(4) Any active ingredient or precursor that is produced at a facility whose primary manufacturing operations are described by SIC code 2833 or 2834; or

(5) At a facility whose primary operations are not described by SIC code 2833 or 2834, any material whose primary use is as an active ingredient or precursor.

* * * * *

Precursor means a material that is manufactured to undergo further chemical change or processing to ultimately manufacture an active ingredient or finished dosage form of a drug. This term does not include commodity chemicals produced by the synthetic organic chemical manufacturing industry.

* * * * *

Primary use means 50 percent or more of a material is used for a particular purpose.

Process means all equipment which collectively function to produce a pharmaceutical product or isolated intermediate (which is also a pharmaceutical product). A process may consist of one or more unit operations. For the purposes of this subpart, process includes any, all, or a combination of reaction, recovery, separation, purification, or other activity, operation, manufacture, or treatment which are used to produce a pharmaceutical product or isolated intermediate. Cleaning operations conducted are considered part of the process. Nondedicated solvent recovery operations located within a contiguous area within the affected source are considered single processes. A storage tank that is used to accumulate used solvent from multiple batches of a single process for purposes of solvent recovery does not represent the end of the process. Nondedicated formulation operations occurring within a contiguous area are considered a single process that is used to formulate numerous materials and/or products. Quality assurance and quality control laboratories are not considered part of any process. Ancillary activities are not considered a process or part of any process. Ancillary activities include boilers and incinerators (not used to comply with the provisions of § 63.1253, § 63.1254, or § 63.1256(h)), chillers and refrigeration systems, and other equipment and activities that are not directly involved (*i.e.,* they operate within a closed system and materials are not combined with process fluids) in the processing of raw materials or the manufacturing of a pharmaceutical product.

* * * * *

Process tank means a tank that is used to collect material discharged from a feedstock storage tank or unit operation and to transfer this material to another unit operation within the process or to a product storage tank. Surge control vessels and bottoms receivers that fit these conditions are considered process tanks. Product storage tanks are considered process tanks and are part of the PMPU that produce the stored material. For the purposes of this subpart, vents from process tanks are considered process vents.

* * * * *

Reconstruction, as used in § 63.1250(b), shall have the meaning given in § 63.2, except that ''affected or previously unaffected stationary source'' shall mean either ''affected facility'' or ''PMPU.'' As used in § 63.1254(a)(3)(ii)(A)(*3*), reconstruction shall have the meaning given in § 63.2, except that ''source'' shall mean ''control device.''

* * * * *

Repaired means that equipment:

(1) Is adjusted, or otherwise altered, to eliminate a leak as defined in the applicable paragraphs of § 63.1255, and;

(2) Is, unless otherwise specified in applicable provisions of § 63.1255, monitored as specified in § 63.180(b) and (c) as appropriate, to verify that emissions from the equipment are below the applicable leak definition.

* * * * *

Shutdown means the cessation of operation of a continuous process for any purpose. Shutdown also means the cessation of a batch process or any related individual piece of equipment required or used to comply with this subpart as a result of a malfunction or for replacement of equipment, repair, or any other purpose not excluded from this definition. Shutdown also applies to emptying and degassing storage vessels. Shutdown does not apply to cessation of a batch process at the end of a campaign, for routine maintenance, for rinsing or washing of equipment between batches, or other routine operations.

* * * * *

Small control device means a control device that controls total HAP emissions of less than 10 tons/yr, before control.

* * * * *

Standard batch means a batch process operated within a range of operating conditions that are documented in an operating scenario. Emissions from a standard batch are based on the operating conditions that result in highest emissions. The standard batch defines the uncontrolled and controlled emissions for each emission episode defined under the operating scenario.

Startup means the setting in operation of a continuous process unit for any purpose; the first time a new or reconstructed batch process unit begins production; for new equipment added, including equipment used to comply with this subpart, the first time the equipment is put into operation; or, for the introduction of a new product/process, the first time the product or process is run in equipment. For batch process units, startup does not apply to the first time the equipment is put into operation at the start of a campaign to produce a product that has been produced in the past, after a shutdown for maintenance, or when the equipment is put into operation as part of a batch within a campaign. As used in § 63.1255, startup means the setting in operation of a piece of equipment or

a control device that is subject to this subpart.

Storage tank means a tank or other vessel that is used to store organic liquids that contain one or more HAP as raw material feedstocks. Storage tank also means a tank or other vessel in a tank farm that receives and accumulates used solvent from multiple batches of a process or processes for purposes of solvent recovery. The following are not considered storage tanks for the purposes of this subpart:

(1) Vessels permanently attached to motor vehicles such as trucks, railcars, barges, or ships;

(2) Pressure vessels designed to operate in excess of 204.9 kilopascals and without emissions to the atmosphere;

(3) Vessels storing organic liquids that contain HAP only as impurities;

(4) Wastewater storage tanks; and

(5) Process tanks (including product tanks and isolated intermediate tanks).

Supplemental gases are any gaseous streams that are not defined as process vents, or closed-vent systems from wastewater management and treatment units, storage tanks, or equipment components and that contain less than 50 ppmv TOC, as determined through process knowledge, that are introduced into vent streams or manifolds. Air required to operate combustion device burner(s) is not considered supplemental gas.

* * * * *

System flowrate means the flowrate of gas entering the control device.

* * * * *

Vapor-mounted seal means a continuous seal that completely covers the annular space between the wall of the storage tank or waste management unit and the edge of the floating roof and is mounted such that there is a vapor space between the stored liquid and the bottom of the seal.

* * * * *

Wastewater stream means water that is discarded from a PMPU through a single POD, that contains an annual average concentration of partially soluble and/or soluble HAP compounds of at least 5 parts per million by weight and a load of at least 0.05 kg/yr. The following are not considered wastewater streams for the purposes of this subpart:

(1) Stormwater from segregated sewers;

(2) Water from fire-fighting and deluge systems, including testing of such systems;

(3) Spills;

(4) Water from safety showers;

(5) Samples of a size not greater than reasonably necessary for the method of analysis that is used;

(6) Equipment leaks;

(7) Wastewater drips from procedures such as disconnecting hoses after clearing lines; and

(8) Noncontact cooling water.

* * * * *

4. Section 63.1252 is amended by:

a. Revising the introductory paragraph;

b. Revising paragraph (d)(2);

c. Revising the first sentence in paragraph (d)(5);

d. Revising paragraph (d)(6) through (d)(8);

e. Revising paragraph (e) introductory text;

f. Revising the second sentence in paragraph (e)(1); and

g. Adding paragraph (e)(4).

The revisions and additions read as follows:

§ 63.1252 Standards: General.

Each owner or operator of any affected source subject to the provisions of this subpart shall control HAP emissions to the level specified in this section on and after the compliance dates specified in § 63.1250(f). Initial compliance with the emission limits is demonstrated in accordance with the provisions of § 63.1257, and continuous compliance is demonstrated in accordance with the provisions of § 63.1258.

* * * * *

(d) * * *

(2) Only emission sources subject to the requirements of § 63.1253(b)(1) or (c)(1)(i) or § 63.1254(a)(1)(i) may be included in any averaging group.

* * * * *

(5) Emission points controlled to comply with a State or Federal rule other than this subpart may not be credited in an emission averaging group, unless the level of control has been increased after November 15, 1990 above what is required by the other State or Federal rule. * * *

(6) Not more than 20 processes subject to § 63.1254(a)(1)(i), and 20 storage tanks subject to § 63.1253(b)(1) or (c)(1)(i) at an affected source may be included in an emissions averaging group.

(7) Compliance with the emission standards in § 63.1253 shall be satisfied when the annual percent reduction efficiency is greater than or equal to 90 percent for those tanks meeting the criteria of § 63.1253(a)(1) and 95 percent for those tanks meeting the criteria of § 63.1253(a)(2), as demonstrated using the test methods and compliance procedures specified in § 63.1257(g).

(8) Compliance with the emission standards in § 63.1254(a)(1)(i) shall be satisfied when the annual percent reduction efficiency is greater than or equal to 93 percent, as demonstrated using the test methods and compliance procedures specified in § 63.1257(h).

(e) *Pollution prevention alternative.* Except as provided in paragraph (e)(1) of this section, an owner or operator may choose to meet the pollution prevention alternative requirement specified in either paragraph (e)(2) or (3) of this section for any PMPU or for any situation described in paragraph (e)(4) of this section, in lieu of the requirements specified in §§ 63.1253, 63.1254, 63.1255, and 63.1256. Compliance with paragraphs (e)(2) and (3) of this section shall be demonstrated through the procedures in § 63.1257(f). Any PMPU for which the owner or operator seeks to comply by using the pollution prevention alternative shall begin with the same starting material(s) and end with the same product(s). The owner or operator may not comply with the pollution prevention alternative by eliminating any steps of a process by transferring the step offsite (to another manufacturing location).

(1) * * * The hydrogen halides that are generated as a result of combustion control of emissions must be controlled according to the requirements of paragraph (g)(1) of this section.

* * * * *

(4) The owner or operator may comply with the requirements in either paragraph (e)(2) or (3) of this section for a series of processes, including situations where multiple processes are merged, subject to the following conditions:

(i) The baseline period shall be a single year beginning no earlier than the 1992 calendar year.

(ii) The term ''PMPU'' shall have the meaning provided in § 63.1251 except that the baseline and modified PMPU may include multiple processes (*i.e.*, precursors, active ingredients, and final dosage form) if the owner or operator demonstrates to the satisfaction of the Administrator that the multiple processes were merged after the baseline period into an existing process or processes.

(iii) Nondedicated formulation and solvent recovery processes may not be merged with any other processes.

* * * * *

5. Section 63.1253 is amended by:

a. Revising paragraph (a);

b. Revising paragraph (d); and

c. Adding paragraph (f).

The revisions and additions read as follows:

§ 63.1253 Standards: Storage tanks.

(a) Except as provided in paragraphs (d), (e), and (f) of this section, the owner or operator of a storage tank meeting the criteria of paragraph (a)(1) of this section is subject to the requirements of paragraph (b) of this section. Except as provided in paragraphs (d), (e), and (f) of this section, the owner or operator of a storage tank meeting the criteria of paragraph (a)(2) of this section is subject to the requirements of paragraph (c) of this section. Compliance with the provisions of paragraphs (b) and (c) of this section is demonstrated using the initial compliance procedures in § 63.1257(c) and the monitoring requirements in § 63.1258.

(1) A storage tank with a design capacity greater than or equal to 38 m^3 but less than 75 m^3 storing a liquid for which the maximum true vapor pressure of total HAP is greater than or equal to 13.1 kPa.

(2) A storage tank with a design capacity greater than or equal to 75 m^3 storing a liquid for which the maximum true vapor pressure of total HAP is greater than or equal to 13.1 kPa.

* * * * *

(d) As an alternative standard, the owner or operator of an existing or new affected source may comply with the storage tank standards by routing storage tank vents to a combustion control device achieving an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 20 ppmv or less, and an outlet concentration of hydrogen halides and halogens of 20 ppmv or less. If the owner or operator is routing emissions to a noncombustion control device, it must achieve an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 50 ppmv or less, and an outlet concentration of hydrogen halides and halogens of 50 ppmv or less. Compliance with the outlet concentrations shall be determined by the initial compliance procedures of § 63.1257(c)(4) and the continuous emission monitoring requirements of § 63.1258(b)(5).

* * * * *

(f) *Vapor balancing alternative.* As an alternative to the requirements in paragraphs (b) and (c) of this section, the owner or operator of an existing or new affected source may implement vapor balancing in accordance with paragraphs (f)(1) through (7) of this section.

(1) The vapor balancing system must be designed and operated to route organic HAP vapors displaced from loading of the storage tank to the railcar or tank truck from which the storage tank is filled.

(2) Tank trucks and railcars must have a current certification in accordance with the U.S. Department of Transportation (DOT) pressure test requirements of 49 CFR part 180 for tank trucks and 49 CFR 173.31 for railcars.

(3) Hazardous air pollutants must only be unloaded from tank trucks or railcars when vapor collection systems are connected to the storage tank's vapor collection system.

(4) No pressure relief device on the storage tank, or on the railcar, or tank truck shall open during loading or as a result of diurnal temperature changes (breathing losses).

(5) Pressure relief devices on affected storage tanks must be set to no less than 2.5 psig at all times to prevent breathing losses. The owner or operator shall record the setting as specified in § 63.1259(b)(12) and comply with the requirements for each pressure relief valve in paragraphs (f)(5)(i) through (iii) of this section:

(i) The pressure relief valve shall be monitored quarterly using the method described in § 63.180(b).

(ii) An instrument reading of 500 ppmv or greater defines a leak.

(iii) When a leak is detected, it shall be repaired as soon as practicable, but no later than 5 days after it is detected, and the owner or operator shall comply with the recordkeeping requirements of § 63.1255(g)(4)(i) through (iv).

(6) Railcars or tank trucks that deliver HAP to an affected storage tank must be reloaded or cleaned at a facility that utilizes one of the control techniques in paragraph (f)(6)(i) through (ii) of this section:

(i) The railcar or tank truck must be connected to a closed-vent system with a control device that reduces inlet emissions of HAP by 90 percent by weight or greater; or

(ii) A vapor balancing system designed and operated to collect organic HAP vapor displaced from the tank truck or railcar during reloading must be used to route the collected HAP vapor to the storage tank from which the liquid being transferred originated.

(7) The owner or operator of the facility where the railcar or tank truck is reloaded or cleaned must comply with the requirements in paragraph (f)(7)(i) through (iii) of this section:

(i) Submit to the owner or operator of the affected storage tank and to the Administrator a written certification that the reloading or cleaning facility will meet the requirements of this section. The certifying entity may revoke the written certification by sending a written statement to the owner or operator of the affected storage tank giving at least 90 days notice that the certifying entity is rescinding acceptance of responsibility for compliance with the requirements of this paragraph (b)(7)(i).

(ii) If complying with paragraph (f)(6)(i) of this section, demonstrate initial compliance in accordance with § 63.1257(c), demonstrate continuous compliance in accordance with § 63.1258, keep records as specified in § 63.1259, and prepare reports as specified in § 63.1260.

(iii) If complying with paragraph (f)(6)(ii) of this section, keep records of:

(A) The equipment to be used and the procedures to be followed when reloading the railcar or tank truck and displacing vapors to the storage tank from which the liquid originates, and

(B) Each time the vapor balancing system is used to comply with paragraph (f)(6)(ii) of this section.

6. Section 63.1254 is revised to read as follows:

§ 63.1254 Standards: Process vents.

(a) *Existing sources.* For each process, the owner or operator of an existing affected source must comply with the requirements in paragraphs (a)(1) and (3) of this section or paragraphs (a)(2) and (3) of this section. Initial compliance with the required emission limits or reductions in paragraphs (a)(1) through (3) of this section is demonstrated in accordance with the initial compliance procedures described in § 63.1257(d), and continuous compliance is demonstrated in accordance with the monitoring requirements described in § 63.1258.

(1) *Process-based emission reduction requirement.*

(i) Uncontrolled HAP emissions from the sum of all process vents within a process that are not subject to the requirements of paragraph (a)(3) of this section shall be reduced by 93 percent or greater by weight, or as specified in paragraph (a)(1)(ii) of this section. Notification of changes in the compliance method shall be reported according to the procedures in § 63.1260(h).

(ii) Any one or more vents within a process may be controlled in accordance with any of the procedures in paragraphs (a)(1)(ii)(A) through (D) of this section. All other vents within the process must be controlled as specified in paragraph (a)(1)(i) of this section.

(A) To outlet concentrations less than or equal to 20 ppmv as TOC and less than or equal to 20 ppmv as hydrogen halides and halogens;

(B) By a flare that meets the requirements of § 63.11(b);

(C) By a control device specified in § 63.1257(a)(4); or

(D) In accordance with the alternative standard specified in paragraph (c) of this section.

(2) *Process-based annual mass limit.* (i) Actual HAP emissions from the sum of all process vents within a process must not exceed 900 kilograms (kg) in any 365-day period.

(ii) Actual HAP emissions from the sum of all process vents within processes complying with paragraph (a)(2)(i) of this section are limited to a maximum of 1,800 kg in any 365-day period.

(iii) Emissions from vents that are subject to the requirements of paragraph (a)(3) of this section and emissions from vents that are controlled in accordance with the procedures in paragraph (c) of this section may be excluded from the sums calculated in paragraphs (a)(2)(i) and (ii) of this section.

(iv) The owner or operator may switch from compliance with paragraph (a)(2) of this section to compliance with paragraph (a)(1) of this section only after at least 1 year of operation in compliance with paragraph (a)(2) of this section. Notification of such a change in the compliance method shall be reported according to the procedures in § 63.1260(h).

(3) *Individual vent emission reduction requirements.*

(i) Except as provided in paragraph (a)(3)(ii) of this section, uncontrolled HAP emissions from a process vent must be reduced by 98 percent or in accordance with any of the procedures in paragraphs (a)(1)(ii)(A) through (D) of this section if the uncontrolled HAP emissions from the vent exceed 25 tons per year, and the flow-weighted average flowrate (FRa) calculated using Equation 1 of this subpart is less than or equal to the flowrate index (FRI) calculated using Equation 2 of this subpart.

$$FR_a = \frac{\sum_{i=1}^{n}(D_i)(FR_i)}{\sum_{i=1}^{n}(D_i)} \qquad \text{(Eq. 1)}$$

$$FRI = 0.02 * (HL) - 1{,}000 \qquad \text{(Eq. 2)}$$

Where:

FR_a = flow-weighted average flowrate for the vent, scfm.

D_i = duration of each emission event, min.

FR_i = flowrate of each emission event, scfm.

n = number of emission events.

FRI = flowrate index, scfm.

HL = annual uncontrolled HAP emissions, lb/yr, as defined in § 63.1251.

(ii) *Grandfathering provisions.* As an alternative to the requirements in paragraph (a)(3)(i) of this section, the owner or operator may comply with the provisions in paragraph (a)(3)(ii)(A), (B), or (C) of this section, if applicable.

(A) *Control device operation.* If the owner or operator can demonstrate that a process vent is controlled by a control device meeting the criteria specified in paragraph (a)(3)(ii)(A)(*1*) of this section, then the control device is required to be operated according to paragraphs (a)(3)(ii)(A)(*2*), (*3*), and (*4*) of this section:

(*1*) The control device was installed on any process vent that met the conditions of paragraph (a)(3)(i) of this section on or before April 2, 1997, and was operated to reduce uncontrolled emissions of total HAP by greater than or equal to 93 percent by weight, but less than 98 percent by weight;

(*2*) The device must be operated to reduce inlet emissions of total HAP by 93 percent or by the percent reduction specified for that control device in any preconstruction permit issued pursuant to regulations approved or promulgated through rulemaking under title I (including parts C or D) of the Clean Air Act, whichever is greater;

(*3*) The device must be replaced or upgraded to achieve at least 98 percent reduction of HAP or meet any of the conditions specified in paragraphs (a)(1)(ii)(A) through (D) of this section upon reconstruction or replacement.

(*4*) The device must be replaced or upgraded to achieve at least 98 percent reduction of HAP or meet any of the conditions specified in paragraphs (a)(1)(ii)(A) through (D) of this section by April 2, 2007, or 15 years after issuance of the preconstruction permit, whichever is later.

(B) *Process operations.* If a process meets all of the conditions specified in paragraphs (a)(3)(ii)(B)(*1*) through (*3*) of this section, the required level of control for the process is the level that was achieved on or before April 2, 1997. This level of control is demonstrated using the same procedures that are used to demonstrate compliance with paragraph (a)(1) of this section.

(*1*) At least one vent in the process met the conditions of paragraph (a)(3)(i) of this section on or before April 2, 1997; and

(*2*) The overall control for the process on or before April 2, 1997 was greater than or equal to 93 percent by weight, but less than 98 percent by weight; and

(*3*) The production-indexed HAP consumption factor for the 12-month period in which the process was operated prior to the compliance date is less than one-half of the 3-year average baseline value established no earlier than the 1987 through 1989 calendar years.

(C) *Hydrogenation vents.* Processes meeting the conditions of paragraphs (a)(3)(ii)(C)(*1*) through (*3*) of this section are required to be operated to maintain the level of control achieved on or before April 2, 1997. For all other processes meeting the conditions of paragraph (a)(3)(ii)(C)(*3*) of this section, uncontrolled HAP emissions from the sum of all process vents within the process must be reduced by 95 percent or greater by weight.

(*1*) Processes containing a process vent that met the conditions of paragraph (a)(3)(i) of this section on or before April 2, 1997; and

(*2*) Processes that are controlled to greater than or equal to 93 percent by weight, but less than 98 percent by weight; and

(*3*) Processes with a hydrogenation vent that, in conjunction with all other process vents from the process that do not meet the conditions of paragraph (a)(3)(i) of this section, cannot meet the requirements of paragraph (a)(1) or (2) of this section.

(b) *New sources.* (1) Except as provided in paragraph (b)(2) of this section, uncontrolled HAP emissions from the sum of all process vents within a process at a new affected source shall be reduced by 98 percent or greater by weight or controlled in accordance with any of requirements of paragraphs (a)(1)(ii)(A) through (D) of this section. Initial compliance with the required emission limit or reduction is demonstrated in accordance with the initial compliance procedures in § 63.1257(d), and continuous compliance is demonstrated in accordance with the monitoring requirements described in § 63.1258.

(2) *Annual mass limit.* The actual HAP emissions from the sum of all process vents for which the owner or operator is not complying with paragraph (b)(1) of this section are limited to 900 kg in any 365-day period.

(c) *Alternative standard.* As an alternative standard, the owner or operator of an existing or new affected source may comply with the process vent standards by routing vents from a process to a combustion control device achieving an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 20 ppmv or less, and an outlet concentration of hydrogen halides and halogens of 20 ppmv or less. If the owner or operator is routing emissions to a noncombustion control device, it must achieve an outlet TOC concentration, as calibrated on methane or the predominant HAP, of 50 ppmv or

less, and an outlet concentration of hydrogen halides and halogens of 50 ppmv or less. Any process vents within a process that are not routed to this control device must be controlled in accordance with the provisions of paragraph (a) or (b) of this section, as applicable. Initial compliance with the outlet concentrations is demonstrated in accordance with the initial compliance procedures described in § 63.1257(d)(1)(iv), and continuous compliance is demonstrated in accordance with the emission monitoring requirements described in § 63.1258(b)(5).

7. Section 63.1255 is amended by:

a. Revising paragraph (a)(1);

b. Revising paragraph (a)(7);

c. Revising paragraphs (a)(10)(ii) and (iii);

d. Adding paragraphs (a)(11) and (12);

e. Revising paragraph (b);

f. Revising paragraph (c)(2)(i);

g. Revising ''paragraph (b)(1)(v)'' to read ''paragraph (b)(4)(i)'' in paragraph (c)(3)(i);

h. Revising the definitions of the terms ''P_L'' and ''P_T'' following Equation 3 in paragraph (c)(4)(iv);

i. Removing the definition of the term ''PS'' following Equation 3 in paragraph (c)(4)(iv) and adding the definition of the term ''P_S'' following Equation 3 in paragraph (c)(4)(iv);

j. Revising ''paragraph (b)(1)(vi)'' to read ''paragraph (b)(4)(ii)'' in paragraph (c)(5)(i)(B);

k. Revising paragraphs (c)(5)(vi)(B) and (C);

l. Revising paragraphs (c)(6) and (7);

m. Revising paragraph (c)(9);

n. Revising paragraphs (d)(1)(ii);

o. Revising paragraph (e)(3) introductory text;

p. Revising the definitions of the terms ''$\%V_{Li}$'' and ''V_i'' following Equation 4 in paragraph (e)(5)(iii);

q. Revising the definition of the term ''$\%V_L$'' following Equation 5 in paragraph (e)(6)(ii);

r. Revising ''paragraph (b)(1)(v)'' to read ''paragraph (b)(4)(i)'' in paragraph (e)(7)(i);

s. Adding paragraphs (e)(7)(iii)(A) through (C);

t. Revising the second sentence in paragraph (e)(9);

u. Revising paragraph (f);

v. Revising paragraph (g)(2) introductory text;

w. Revising paragraph (g)(2)(i)(A);

x. Removing paragraph (g)(2)(v), redesignating paragraphs (g)(2)(vi) through (ix) as paragraphs (g)(2)(v) through (viii), and revising redesignated paragraphs (g)(2)(vi) and (viii);

y. Revising the first sentence in paragraph (g)(3);

z. Revising paragraph (g)(4) introductory text

aa. Revising paragraph (g)(4)(iv)

bb. Revising paragraph (g)(4)(v)(A)

cc. Revising ''§ 63.174(c)'' to read ''§ 63.174(c)(1)(i) and (c)(2)(ii)'' in the first sentence in paragraph (g)(4)(vii)(B)

dd. Revising ''§§ 63.178(c)(3)(ii) and (c)(3)(iii)'' to read ''§ 63.178(c)(3)(ii) and (iii)'' in the first sentence in paragraph (g)(4)(viii)

ee. Revising the first sentence in paragraph (g)(5) introductory text

ff. Removing paragraph (g)(5)(ii), redesignating paragraphs (g)(5)(iii) through (vi) as paragraphs (g)(5)(ii) through (v), and revising ''appendix'' to read ''section'' in the second sentence of redesignated paragraph (g)(5)(ii)

gg. Revising paragraph (g)(6) heading

hh. Revising the first sentence in paragraph (g)(7) introductory text

ii. Revising ''paragraph (b)(1)(vi)'' to read ''paragraph (b)(4)(ii)'' in paragraph (g)(7)(i)(D)

jj. Revising paragraph (h)(2) heading

kk. Revising paragraph (h)(2)(i)(B)

ll. Revising ''paragraph (b)(1)(ix)'' to read ''paragraph (b)(4)(iv)'' in paragraph (h)(2)(ii)

mm. Revising ''paragraph (b)(1)(vi)'' to read ''paragraph (b)(4)(ii)'' in paragraph (h)(2)(iii)(B)

nn. Revising paragraph (h)(2)(iv)

oo. Revising ''§ 63.1250(e)'' to read ''§ 63.1250(f)'' in the second sentence in paragraph (h)(3)(i)

pp. Revising paragraph (h)(3)(ii) introductory text

qq. Revising paragraphs (h)(3)(ii)(C) and (D); and

rr. Revising paragraph (h)(3)(iv);

The revisions and additions read as follows:

§ 63.1255 Standards: Equipment leaks.

(a) * * *

(1) The provisions of this section apply to pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, instrumentation systems, control devices, and closed-vent systems required by this section that are intended to operate in organic hazardous air pollutant service 300 hours or more during the calendar year within a source subject to the provisions of this subpart.

* * * * *

(7) Equipment to which this section applies shall be identified such that it can be distinguished readily from equipment that is not subject to this section. Identification of the equipment does not require physical tagging of the equipment. For example, the equipment may be identified on a plant site plan, in log entries, or by designation of process boundaries by some form of weatherproof identification. If changes are made to the affected source subject to the leak detection requirements, equipment identification for each type of component shall be updated, if needed, within 90 calendar days or by the next Periodic Report following the end of the monitoring period for that component, whichever is later.

* * * * *

(10) * * *

(ii) The identification on a valve in light liquid or gas/vapor service may be removed after it has been monitored as specified in paragraph (e)(7)(iii) of this section, and no leak has been detected during the follow-up monitoring.

(iii) The identification on equipment, except on a valve in light liquid or gas/vapor service, may be removed after it has been repaired.

(11) Except as provided in paragraph (a)(11)(i) of this section, all terms in this subpart that define a period of time for completion of required tasks (*e.g.,* weekly, monthly, quarterly, annual) refer to the standard calendar periods unless specified otherwise in the section or paragraph that imposes the requirement.

(i) If the initial compliance date does not coincide with the beginning of the standard calendar period, an owner or operator may elect to utilize a period beginning on the compliance date, or may elect to comply in accordance with the provisions of paragraph (a)(11)(ii) or (iii) of this section.

(ii) Time periods specified in this subpart for completion of required tasks may be changed by mutual agreement between the owner or operator and the Administrator, as specified in subpart A of this part. For each time period that is changed by agreement, the revised period shall remain in effect until it is changed. A new request is not necessary for each recurring period.

(iii) Except as provided in paragraph (a)(11)(i) or (ii) of this section, where the period specified for compliance is a standard calendar period, if the initial compliance date does not coincide with the beginning of the calendar period, compliance shall be required according to the schedule specified in paragraph (a)(11)(iii)(A) or (B) of this section, as appropriate.

(A) Compliance shall be required before the end of the standard calendar period within which the initial compliance date occurs if there remain at least 3 days for tasks that must be performed weekly, at least 2 weeks for tasks that must be performed monthly, at least 1 month for tasks that must be

performed each quarter, or at least 3 months for tasks that must be performed annually; or

(B) In all other cases, compliance shall be required before the end of the first full standard calendar period after the period within which the initial compliance date occurs.

(iv) In all instances where a provision of this subpart requires completion of a task during each of multiple successive periods, an owner or operator may perform the required task at any time during each period, provided the task is conducted at a reasonable interval after completion of the task during the previous period.

(12) In all cases where the provisions of this subpart require an owner or operator to repair leaks by a specified time after the leak is detected, it is a violation of this section to fail to take action to repair the leaks within the specified time. If action is taken to repair the leaks within the specified time, failure of that action to successfully repair the leak is not a violation of this section. However, if the repairs are unsuccessful, a leak is detected and the owner or operator shall take further action as required by applicable provisions of this section.

(b) *References.* (1) The owner or operator of a source subject to this section shall comply with the provisions of subpart H of this part, as specified in paragraphs (b)(2) through (4) of this section. The term ''process unit'' as used in subpart H of this part shall be considered to be defined the same as ''group of processes'' for sources subject to this subpart GGG. The term ''fuel gas system,'' as used in subpart H of this part, shall not apply for the purposes of this subpart GGG.

(2) Sections 63.160, 63.161, 63.162, 63.163, 63.167, 63.168, 63.170, 63.173, 63.175, 63.176, 63.181, and 63.182 shall not apply for the purposes of this subpart GGG. The owner or operator shall comply with the provisions specified in paragraphs (b)(2)(i) through (viii) of this section.

(i) Sections 63.160 and 63.162 shall not apply; instead, the owner or operator shall comply with paragraph (a) of this section;

(ii) Section 63.161 shall not apply; instead, the owner or operator shall comply with § 63.1251;

(iii) Sections 63.163 and 63.173 shall not apply; instead, the owner or operator shall comply with paragraph (c) of this section;

(iv) Section 63.167 shall not apply; instead, the owner or operator shall comply with paragraph (d) of this section;

(v) Section 63.168 shall not apply; instead, the owner or operator shall comply with paragraph (e) of this section;

(vi) Section 63.170 shall not apply; instead, the owner or operator shall comply with § 63.1254;

(vii) Section 63.181 shall not apply; instead, the owner or operator shall comply with paragraph (g) of this section; and

(viii) Section 63.182 shall not apply; instead, the owner or operator shall comply with paragraph (h) of this section.

(3) The owner or operator shall comply with §§ 63.164, 63.165, 63.166, 63.169, 63.177, and 63.179 in their entirety, except that when these sections reference other sections of subpart H of this part, the references shall mean the sections specified in paragraphs (b)(2) and (4) of this section. Section 63.164 applies to compressors. Section 63.165 applies to pressure relief devices in gas/vapor service. Section 63.166 applies to sampling connection systems. Section 63.169 applies to pumps, valves, connectors, and agitators in heavy liquid service; instrumentation systems; and pressure relief devices in liquid service. Section 63.177 applies to general alternative means of emission limitation. Section 63.179 applies to alternative means of emission limitation for enclosed-vented process units.

(4) The owner or operator shall comply with §§ 63.171, 63.172, 63.174, 63.178, and 63.180, except as specified in paragraphs (b)(4)(i) through (vi) of this section.

(i) Section 63.171 shall apply, except § 63.171(a) shall not apply. Instead, delay of repair of equipment for which leaks have been detected is allowed if one of the conditions in paragraphs (b)(4)(i)(A) through (B) exists:

(A) The repair is technically infeasible without a process shutdown. Repair of this equipment shall occur by the end of the next scheduled process shutdown.

(B) The owner or operator determines that repair personnel would be exposed to an immediate danger if attempting to repair without a process shutdown. Repair of this equipment shall occur by the end of the next scheduled process shutdown.

(ii) Section 63.172 shall apply for closed-vent systems used to comply with this section, and for control devices used to comply with this section only, except:

(A) Section 63.172(k) and (l) shall not apply. The owner or operator shall instead comply with paragraph (f) of this section.

(B) Owners or operators may, instead of complying with the provisions of § 63.172(f), design a closed-vent system to operate at a pressure below atmospheric pressure. The system shall be equipped with at least one pressure gage or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the associated control device is operating.

(iii) Section 63.174 shall apply except:

(A) Section 63.174(f), (g), and (h) shall not apply. Instead of § 63.174(f), (g), and (h), the owner or operator shall comply with paragraph (f) of this section. Section 63.174(b)(3) shall not apply. Instead of § 63.174(b)(3), the owner or operator shall comply with paragraphs (b)(3)(iii)(B) through (F) of this section.

(B) If the percent leaking connectors in a group of processes was greater than or equal to 0.5 percent during the initial monitoring period, monitoring shall be performed once per year until the percent leaking connectors is less than 0.5 percent.

(C) If the percent leaking connectors in the group of processes was less than 0.5 percent, but equal to or greater than 0.25 percent, during the initial or last required monitoring period, the owner or operator may elect to monitor once every 4 years. An owner or operator may comply with the requirements of this paragraph by monitoring at least 40 percent of the connectors in the first 2 years and the remainder of the connectors within the next 2 years. The percent leaking connectors will be calculated for the total of all required monitoring performed during the 4-year period.

(D) Except as provided in paragraph (b)(4)(iii)(B) of this section, if leaking connectors comprise at least 0.5 percent but less than 1.0 percent of the connectors during the last monitoring period, the owner or operator shall monitor at least once every 2 years for the next monitoring period. At the end of that 2-year monitoring period, the owner or operator shall monitor once per year if the percent leaking connectors is greater than or equal to 0.5 percent; if the percent leaking connectors is less than 0.5 percent, the owner or operator shall monitor in accordance with paragraph (b)(4)(iii)(C) or (F) of this section, as appropriate.

(E) If an owner or operator determines that 1 percent or greater of the connectors in a group of processes are leaking, the owner or operator shall monitor the connectors once per year. The owner or operator may elect to use the provisions of paragraph (b)(4)(iii)(C), (D), or (F) of this section, as appropriate,

after a monitoring period in which less than 1 percent of the connectors are determined to be leaking.

(F) The owner or operator may elect to perform monitoring once every 8 years if the percent leaking connectors in the group of processes was less than 0.25 percent during the initial or last required monitoring period. An owner or operator shall monitor at least 50 percent of the connectors in the first 4 years and the remainder of the connectors within the next 4 years. If the percent leaking connectors in the first 4 years is equal to or greater than 0.35 percent, the monitoring program shall revert at that time to the appropriate monitoring frequency specified in paragraph (b)(4)(iii)(C), (D), or (E) of this section.

(iv) Section 63.178 shall apply except:

(A) Section 63.178(b), requirements for pressure testing, may be applied to all processes (not just batch processes) and to supply lines between storage and processing areas.

(B) For pumps, the phrase ''at the frequencies specified in Table 1 of this subpart'' in § 63.178(c)(3)(iii) shall mean ''quarterly'' for the purposes of this subpart.

(v) Section 63.180 shall apply except § 63.180(b)(4)(ii)(A) through (C) shall not apply. Instead, calibration gases shall be a mixture of methane and air at a concentration of approximately, but less than, 10,000 parts per million methane for agitators; 2,000 parts per million for pumps; and 500 parts per million for all other equipment, except as provided in § 63.180(b)(4)(iii).

(vi) When §§ 63.171, 63.172, 63.174, 63.178, and 63.180 reference other sections in subpart H of this part, the references shall mean those sections specified in paragraphs (b)(2) and (b)(4)(i) through (v) of this section, as applicable.

(c) * * *

(2)(i) *Monitoring.* Each pump and agitator subject to this section shall be monitored quarterly to detect leaks by the method specified in § 63.180(b) except as provided in §§ 63.177, 63.178, paragraph (f) of this section, and paragraphs (c)(5) through (9) of this section.

* * * * *

(4) * * *

(iv) * * *

P_L = number of pumps found leaking as determined through periodic monitoring as required in paragraphs (c)(2)(i) and (ii) of this section.

P_T = total pumps in organic HAP service, including those meeting the criteria in paragraphs (c)(5) and (6) of this section.

P_S = number of pumps in a continuous process leaking within 1 quarter of startup during the current monitoring period.

(5) * * *

(vi) * * *

(B) If indications of liquids dripping from the pump/agitator seal exceed the criteria established in paragraph (c)(5)(vi)(A) of this section, or if, based on the criteria established in paragraph (c)(5)(vi)(A) of this section, the sensor indicates failure of the seal system, the barrier fluid system, or both, a leak is detected.

(C) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected, except as provided in paragraph (b)(4)(i) of this section.

* * * * *

(6) Any pump/agitator that is designed with no externally actuated shaft penetrating the pump/agitator housing is exempt from the requirements of paragraphs (c)(1) through (3) of this section.

(7) Any pump/agitator equipped with a closed-vent system capable of capturing and transporting any leakage from the seal or seals back to the process or to a control device that complies with the requirements of paragraph (b)(4)(ii) of this section is exempt from the requirements of paragraphs (c)(2) through (5) of this section.

* * * * *

(9) If more than 90 percent of the pumps in a group of processes meet the criteria in either paragraph (c)(5) or (6) of this section, the group of processes is exempt from the requirements of paragraph (c)(4) of this section.

(d) * * *

(1) * * *

(ii) The cap, blind flange, plug, or second valve shall seal the open end at all times except during operations requiring process fluid flow through the open-ended valve or line, or during maintenance or repair. The cap, blind flange, plug, or second valve shall be in place within 1 hour of cessation of operations requiring process fluid flow through the open-ended valve or line, or within 1 hour of cessation of maintenance or repair. The owner or operator is not required to keep a record documenting compliance with the 1-hour requirement.

* * * * *

(e) * * *

(3) *Monitoring.* The owner or operator of a source subject to this section shall monitor all valves, except as provided in paragraph (f) of this section and in § 63.177, at the intervals specified in paragraph (e)(4) of this section and shall comply with all other provisions of this section, except as provided in paragraph (b)(4)(i) of this section, §§ 63.178 and 63.179.

* * * * *

(5) * * *

(iii) * * *

$\%V_{Li}$ = percent leaking valves in subgroup i, most recent value calculated according to the procedures in paragraphs (e)(6)(ii) and (iii) of this section.

V_i = number of valves in subgroup i.

* * *

* * * * *

(6) * * *

(ii) * * *

$\%V_L$ = percent leaking valves as determined through periodic monitoring required in paragraphs (e)(2) through (4) of this section.

* * *

* * * * *

(7) * * *

(iii) * * *

(A) The monitoring shall be conducted as specified in § 63.180(b) and (c) as appropriate to determine whether the valve has resumed leaking.

(B) Periodic monitoring required by paragraphs (e)(2) through (4) of this section may be used to satisfy the requirements of paragraph (e)(7)(iii) of this section, if the timing of the monitoring period coincides with the time specified in paragraph (e)(7)(iii) of this section. Alternatively, other monitoring may be performed to satisfy the requirements of paragraph (e)(7)(iii) of this section, regardless of whether the timing of the monitoring period for periodic monitoring coincides with the time specified in paragraph (e)(7)(iii) of this section.

(C) If a leak is detected by monitoring that is conducted pursuant to paragraph (e)(7)(iii) of this section, the owner or operator shall follow the provisions of paragraphs (e)(7)(iii)(C)(*1*) and (*2*) of this section to determine whether that valve must be counted as a leaking valve for purposes of paragraph (e)(6) of this section.

(*1*) If the owner or operator elects to use periodic monitoring required by paragraphs (e)(2) through (4) of this section to satisfy the requirements of paragraph (e)(7)(iii) of this section, then the valve shall be counted as a leaking valve.

(*2*) If the owner or operator elects to use other monitoring prior to the periodic monitoring required by paragraphs (e)(2) through (4) of this section to satisfy the requirements of paragraph (e)(7)(iii) of this section, then the valve shall be counted as a leaking

valve unless it is repaired and shown by periodic monitoring not to be leaking.

* * * * *

(9) * * * Instead, the owner or operator shall monitor each valve in organic HAP service for leaks once each quarter, or comply with paragraph (e)(4)(iii) or (iv) of this section, except as provided in paragraph (f) of this section.

(f) *Unsafe to monitor/inspect, difficult to monitor/inspect, and inaccessible equipment.* (1) Equipment that is designated as unsafe to monitor, unsafe to inspect, difficult to monitor, difficult to inspect, or inaccessible is exempt from the monitoring requirements as specified in paragraphs (f)(1)(i) through (iv) of this section provided the owner or operator meets the requirements specified in paragraph (f)(2), (3), or (4) of this section, as applicable. All equipment must be assigned to a group of processes. Ceramic or ceramic-lined connectors are subject to the same requirements as inaccessible connectors.

(i) For pumps and agitators, paragraphs (c)(2), (3), and (4) of this section do not apply.

(ii) For valves, paragraphs (e)(2) through (7) of this section do not apply.

(iii) For connectors, § 63.174(b) through (e) and paragraphs (b)(4)(iii)(B) through (F) of this section do not apply.

(iv) For closed-vent systems, § 63.172(f)(1) and (2) and § 63.172(g) do not apply.

(2) *Equipment that is unsafe to monitor or unsafe to inspect.* (i) Valves, connectors, agitators, and pumps may be designated as unsafe to monitor if the owner or operator determines that monitoring personnel would be exposed to an immediate danger as a consequence of complying with the monitoring requirements referred to in paragraphs (f)(1)(i) through (iii) of this section.

(ii) Any part of a closed-vent system may be designated as unsafe to inspect if the owner or operator determines that monitoring personnel would be exposed to an immediate danger as a consequence of complying with the monitoring requirements referred to in paragraph (f)(1)(iv) of this section.

(iii) The owner or operator of equipment that is designated as unsafe to monitor must have a written plan that requires monitoring of the equipment as frequently as practicable during safe to monitor times, but not more frequently than the periodic monitoring schedule otherwise applicable to the group of processes in which the equipment is located.

(iv) For any parts of a closed-vent system designated as unsafe to inspect, the owner or operator must have a written plan that requires inspection of the closed-vent systems as frequently as practicable during safe to inspect times, but not more frequently than annually.

(3) *Equipment that is difficult to monitor or difficult to inspect.* (i) A valve, agitator, or pump may be designated as difficult to monitor if the owner or operator determines that the valve, agitator, or pump cannot be monitored without elevating the monitoring personnel more than 2 meters above a support surface, or it is not accessible in a safe manner when it is in organic HAP service.

(ii) Any part of a closed-vent system may be designated as difficult to inspect if the owner or operator determines that the equipment cannot be inspected without elevating the monitoring personnel more than 2 meters above a support surface, or it is not accessible in a safe manner when it is in organic HAP service.

(iii) At an existing source, any valve, agitator or pump within a group of processes that meets the criteria of paragraph (f)(3)(i) of this section may be designated as difficult to monitor, and any parts of a closed-vent system that meet the requirements of paragraph (f)(3)(ii) of this section may be designated as difficult to inspect. At a new affected source, an owner or operator may designate no more than 3 percent of valves as difficult to monitor.

(iv) The owner or operator of valves, agitators, or pumps designated as difficult to monitor must have a written plan that requires monitoring of the equipment at least once per calendar year or on the periodic monitoring schedule otherwise applicable to the group of processes in which the equipment is located, whichever is less frequent. For any part of a closed-vent system designated as difficult to inspect, the owner or operator must have a written plan that requires inspection of the closed-vent system at least once every 5 years.

(4) *Inaccessible, ceramic, or ceramic-lined connectors.* (i) A connector may be designated as inaccessible if it is:

(A) Buried;

(B) Insulated in a manner that prevents access to the connector by a monitor probe;

(C) Obstructed by equipment or piping that prevents access to the connector by a monitor probe;

(D) Unable to be reached from a wheeled scissor-lift or hydraulic-type scaffold which would allow access to equipment up to 7.6 meters (25 feet) above the ground; or

(E) Not able to be accessed at any time in a safe manner to perform monitoring. Unsafe access includes, but is not limited to, the use of a wheeled scissor-lift on unstable or uneven terrain, the use of a motorized man-lift basket in areas where an ignition potential exists, or access would require near proximity to hazards such as electrical lines, or would risk damage to equipment.

(ii) A connector may be designated as inaccessible if it would require elevating the monitoring personnel more than 2 meters above a permanent support surface or would require the erection of scaffold.

(iii) At an existing source, any connector that meets the criteria of paragraph (f)(4)(i) or (ii) of this section may be designated as inaccessible. At a new affected source, an owner or operator may designate no more than 3 percent of connectors as inaccessible.

(iv) If any inaccessible, ceramic, or ceramic-lined connector is observed by visual, audible, olfactory, or other means to be leaking, the leak shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected, except as provided in paragraph (b)(4)(i) of this section.

(v) Any connector that is inaccessible or that is ceramic or ceramic-lined is exempt from the recordkeeping and reporting requirements of paragraphs (g) and (h) of this section.

(g) * * *

(2) *General recordkeeping.* Except as provided in paragraph (g)(5)(i) of this section and in paragraph (a)(9) of this section, the following information pertaining to all equipment subject to the requirements in this section shall be recorded:

(i)(A) A list of identification numbers for equipment (except connectors that are subject to paragraph (f)(4) of this section) subject to the requirements of this section. Except for equipment subject to the recordkeeping requirements in paragraphs (g)(2)(ii) through (viii) of this section, equipment need not be individually identified if, for a particular type of equipment, all items of that equipment in a designated area or length of pipe subject to the provisions of this section are identified as a group, and the number of subject items of equipment is indicated. The list for each type of equipment shall be completed no later than the completion of the initial survey required for that component. The list of identification numbers shall be updated, if needed, to incorporate equipment changes identified during the course of each monitoring period within 90 calendar days, or by the next Periodic Report, following the end of the monitoring period for the type of equipment

component monitored, whichever is later.

* * * * *

(vi) A list of equipment designated as unsafe to monitor/inspect or difficult to monitor/inspect under paragraph (f) of this section and a copy of the plan for monitoring or inspecting this equipment.

* * * * *

(viii) For equipment that the owner or operator elects to monitor as provided under § 63.178(c), a list of equipment added to batch product processes since the last monitoring period required in § 63.178(c)(3)(ii) and (iii). This list must be completed for each type of equipment within 90 calendar days, or by the next Periodic Report, following the end of the monitoring period for the type of equipment monitored, whichever is later. Also, if the owner or operator elects to adjust monitoring frequency by the time in use, as provided in § 63.178(c)(3)(iii), records demonstrating the proportion of the time during the calendar year the equipment is in use in a manner subject to the provisions of this section are required. Examples of suitable documentation are records of time in use for individual pieces of equipment or average time in use for the process unit.

(3) *Records of visual inspections.* For visual inspections of equipment subject to the provisions of paragraphs (c)(2)(iii) and (c)(5)(iv) of this section, the owner or operator shall document that the inspection was conducted and the date of the inspection. * * *

(4) *Monitoring records.* When each leak is detected as specified in paragraph (c) of this section and § 63.164, paragraph (e) of this section and § 63.169, and §§ 63.172 and 63.174, the following information shall be recorded and kept for 5 years (at least 2 years onsite, with the remaining 3 years either onsite or offsite):

* * * * *

(iv) The maximum instrument reading measured by Method 21 of 40 CFR part 60, appendix A, after the leak is successfully repaired or determined to be nonrepairable.

(v) * * *

(A) The owner or operator may develop a written procedure that identifies the conditions that justify a delay of repair. The written procedures shall be included either as part of the startup/shutdown/malfunction plan, required by § 63.1259(a)(3), or in a separate document that is maintained at the plant site. Reasons for delay of repair may be documented by citing the relevant sections of the written procedure.

* * * * *

(5) *Records of pressure tests.* The owner or operator who elects to pressure test a process equipment train or supply lines between storage and processing areas to demonstrate compliance with this section is exempt from the requirements of paragraphs (g)(2), (3), (4), and (6) of this section.

* * *

* * * * *

(6) *Records of compressor and relief device compliance tests.* * * *

* * * * *

(7) *Records for closed-vent systems.* The owner or operator shall maintain records of the information specified in paragraphs (g)(7)(i) through (iii) of this section for closed-vent systems and control devices subject to the provisions of paragraph (b)(4)(ii) of this section.

* * *

* * * * *

(h) * * *

(2) *Notification of compliance status report.* * * *

(i) * * *

(B) Number of each equipment type (*e.g.,* valves, pumps) in organic HAP service, excluding equipment in vacuum service.

* * * * *

(iv) Section 63.9(j) shall not apply to the Notification of Compliance Status report described in this paragraph (h)(2).

(3) * * *

(ii) For equipment complying with the provisions of paragraphs (b) through (g) of this section, except paragraph (b)(4)(iv) of this section and § 63.179, the summary information listed in paragraphs (h)(3)(ii)(A) through (L) of this section for each monitoring period during the 6-month period.

* * * * *

(C) Separately, the number of pumps and agitators for which leaks were detected as described in paragraph (c)(2) of this section, the total number of pumps and agitators monitored, and, for pumps, the percent leakers;

(D) Separately, the number of pumps and agitators for which leaks were not repaired as required in paragraph (c)(3) of this section;

* * * * *

(iv) Any revisions to items reported in earlier Notification of Compliance Status report, if the method of compliance has changed since the last report.

8. Section 63.1256 is amended by:

a. Revising paragraph (a) introductory test;

b. Revising paragraph (a)(1) introductory text;

c. Revising paragraphs (a)(1)(i)(A) and (B);

d. Removing paragraph (a)(3) and redesignating paragraph (a)(4) as paragraph (a)(3);

e. Adding paragraph (a)(4);

f. Revising paragraph (a)(5) introductory text;

g. Revising paragraph (a)(5)(ii)(C);

h. Adding paragraph (a)(5)(ii)(D);

i. Adding paragraph (b)(6)(i);

j. Revising paragraphs (d)(2) introductory text and paragraph (d)(2)(i);

k. Revising paragraph (g)(8)(ii);

l. Revising paragraph (g)(11)(ii); and

m. Revising paragraph (g)(12).

The revisions and additions read as follows:

§ 63.1256 Standards: Wastewater.

(a) *General.* Each owner or operator of any affected source (existing or new) shall comply with the general wastewater requirements in paragraphs (a)(1) through (3) of this section and the maintenance wastewater provisions in paragraph (a)(4) of this section. An owner or operator may transfer wastewater to a treatment operation not owned by the owner or operator in accordance with paragraph (a)(5) of this section.

(1) *Identify wastewater that requires control.* For each POD, the owner or operator shall comply with the requirements in either paragraph (a)(1)(i) or (ii) of this section to determine whether a wastewater stream is an affected wastewater stream that requires control for soluble and/or partially soluble HAP compounds or to designate the wastewater stream as an affected wastewater stream, respectively. The owner or operator may use a combination of the approaches in paragraphs (a)(1)(i) and (ii) of this section for different affected wastewater generated at the source.

(i) * * *

(A) The wastewater stream contains partially soluble HAP compounds at an annual average concentration greater than 1,300 ppmw, and the total soluble and partially soluble HAP load in all wastewater from the PMPU exceeds 0.25 Mg/yr.

(B) The wastewater stream contains partially soluble and/or soluble HAP compounds at an annual average concentration greater than 5,200 ppmw, and the total soluble and partially soluble HAP load in all wastewater from the PMPU exceeds 0.25 Mg/yr.

* * * * *

(4) *Maintenance wastewater requirements.* Each owner or operator of a source subject to this subpart shall comply with the requirements of

paragraphs (a)(4)(i) through (iv) of this section for maintenance wastewater containing partially soluble or soluble HAP listed in Tables 2 and 3 of this subpart. Maintenance wastewater is exempt from all other provisions of this subpart.

(i) The owner or operator shall prepare a description of maintenance procedures for management of wastewater generated from the emptying and purging of equipment in the process during temporary shutdowns for inspections, maintenance, and repair (*i.e.,* a maintenance turnaround) and during periods which are not shutdowns (*i.e.,* routine maintenance). The descriptions shall:

(A) Specify the process equipment or maintenance tasks that are anticipated to create wastewater during maintenance activities; and

(B) Specify the procedures that will be followed to properly manage the wastewater and minimize organic HAP emissions to the atmosphere; and

(C) Specify the procedures to be followed when clearing materials from process equipment.

(ii) The owner or operator shall modify and update the information required by paragraph (a)(4)(i) of this section as needed following each maintenance procedure based on the actions taken and the wastewater generated in the preceding maintenance procedure.

(iii) The owner or operator shall implement the procedures described in paragraphs (a)(4)(i) and (ii) of this section as part of the startup, shutdown, and malfunction plan required under § 63.6(e)(3).

(iv) The owner or operator shall maintain a record of the information required by paragraphs (a)(4)(i) and (ii) of this section as part of the startup, shutdown, and malfunction plan required under § 63.6(e)(3).

(5) *Offsite treatment or onsite treatment not owned or operated by the source.* The owner or operator may elect to transfer affected wastewater streams or a residual removed from such affected wastewater to an onsite treatment operation not owned or operated by the owner or operator of the source generating the wastewater or residual, or to an offsite treatment operation.

* * * * *

(ii) * * *

(C) Section 63.6(g); or

(D) If the affected wastewater streams or residuals removed from affected wastewater streams received by the transferee contain less than 50 ppmw of partially soluble HAP, then the transferee must, at a minimum, manage and treat the affected wastewater streams and residuals in accordance with one of the following:

(*1*) Comply with paragraph (g)(10) of this section and cover the waste management units up to the activated sludge unit; or

(*2*) Comply with paragraphs (g)(11)(i), (ii), and (h) of this section and cover the waste management units up to the activated sludge unit; or

(*3*) Comply with paragraph (g)(10) of this section provided that the owner or operator of the affected source demonstrates that less than 5 percent of the total soluble HAP is emitted from waste management units up to the activated sludge unit; or

(*4*) Comply with paragraphs (g)(11)(i), (ii), and (h) of this section provided that the owner or operator of the affected source demonstrates that less than 5 percent of the total soluble HAP is emitted from waste management units up to the activated sludge unit.

* * * * *

(b) * * *

(6) * * *

(i) The owner or operator shall measure the seal gaps or inspect the wastewater tank within 30 calendar days of the determination that the floating roof is unsafe.

* * * * *

(d) * * *

(2) *Filling of large containers.* Pumping affected wastewater or a residual removed from affected wastewater into a container with a capacity greater than or equal to 0.42 m^3 shall be conducted in accordance with the conditions in paragraphs (d)(2)(i) and (ii) of this section.

(i) Comply with any one of the procedures specified in paragraph (d)(2)(i)(A), (B), or (C) of this section.

(A) Use a submerged fill pipe. The submerged fill pipe outlet shall extend to no more than 6 inches or within two fill pipe diameters of the bottom of the container while the container is being filled.

(B) Locate the container within an enclosure with a closed-vent system that routes the organic HAP vapors vented from the container to a control device.

(C) Use a closed-vent system to vent the displaced organic vapors vented from the container to a control device or back to the equipment from which the wastewater is transferred.

* * * * *

(g) * * *

(8) * * *

(ii) *Percent mass removal/destruction option.* The owner or operator shall reduce, by removal or destruction, the mass of total partially soluble HAP compounds by 99 percent or more. The removal destruction efficiency shall be determined by the procedures specified in § 63.1257(e)(2)(ii) or (iii)(C) for noncombustion, nonbiological treatment processes; § 63.1257(e)(2)(ii) or (iii)(D) for combustion processes; § 63.1257(e)(2)(iii)(F) for open biological treatment processes; and § 63.1257(e)(2)(ii) or (iii)(G) for closed biological treatment processes.

* * * * *

(11) * * *

(ii) For open biological treatment processes, compliance shall be determined using the procedures specified in § 63.1257(e)(2)(iii)(E). For closed aerobic biological treatment processes, compliance shall be determined using the procedures specified in § 63.1257(e)(2)(ii), (iii)(E), or (iii)(G). For closed anaerobic biological treatment processes, compliance shall be determined using the procedures specified in § 63.1257(e)(2)(ii) or (iii)(G).

* * * * *

(12) *Percent mass removal/destruction option for soluble HAP compounds at new sources.* The owner or operator of a new source shall reduce, by removal or destruction, the mass flow rate of total soluble HAP from affected wastewater by 99 percent or more. The removal/destruction efficiency shall be determined by the procedures in § 63.1257(e)(2)(ii) or (iii)(C) for noncombustion, nonbiological treatment processes; § 63.1257(e)(2)(ii) and (iii)(D) for combustion processes; § 63.1257(e)(2)(iii)(F) for open biological treatment processes; and § 63.1257(e)(2)(ii) or (iii)(G) for closed biological treatment processes.

* * * * *

9. Section 63.1257 is amended by:

a. Revising paragraph (a)(3);

b. Revising paragraph (a)(5);

c. Revising paragraph (b)(6) introductory text;

d. Revising paragraph (b)(6)(iii);

e. Adding a new sentence at the end of paragraph (b)(8)(i)(A) introductory text;

f. Revising paragraph (b)(8)(i)(A)(*3*)(*i*);

g. Revising paragraph (b)(10) introductory text;

h. Revising paragraphs (b)(10)(i) and (ii);

i. Redesignating paragraphs (b)(10)(iii) through (v) as paragraphs (b)(10)(iv) through (vi) and revising redesignated paragraphs (b)(10)(iv) introductory text and (b)(10)(v);

j. Adding paragraph (b)(10)(iii);

k. Revising the second sentence in paragraph (c)(1) introductory text;

l. Revising paragraph (c)(3)(v);

m. Revising paragraphs (d)(1)(i) through (iii);

n. Revising equation 13 and the definitions of the terms ''$(P_i)_{Tn}$'' and ''MW_i'' for Equations 13 through 17 in paragraph (d)(2)(i)(C)(*1*);

o. Removing the definitions of the terms ''(P_i*)'' and ''(P_j*)'' for Equations 13 through 17 in paragraph (d)(2)(i)(C)(*1*) and adding definitions for the terms ''P_i*'' and ''Pj*'' for Equations 13 through 17 in paragraph (d)(2)(i)(C)(*1*);

p. Removing the last sentence in paragraph (d)(2)(i)(C)(*2*)(*i*);

q. Revising paragraph (d)(2)(i)(C)(*4*) introductory text;

r. Revising paragraph (d)(2)(i)(C)(*4*)(*ii*);

s. Revising the definition of the term ''x_j'' after Equation 24 in paragraph (d)(2)(i)(D)(*2*);

t. Revising paragraphs (d)(2)(i)(D)(*3*) and (*4*);

u. Revising paragraph (d)(2)(i)(E);

v. Revising the first sentence in paragraph (d)(2)(i)(H);

w. Adding a new sentence between the third and fourth sentences in paragraph (d)(2)(ii);

x. Revising paragraph (d)(3) introductory text;

y. Revising paragraph (d)(3)(ii)(A);

z. Adding paragraph (d)(3)(iii);

aa. Removing the definition of the term ''P'' for Equation 45 in paragraph (e)(2)(iii)(C)(*3*) and adding the definition of the term ''ρ'' for Equation 45 in paragraph (e)(2)(iii)(C)(*3*);

bb. Revising ''Equation 44'' to read ''Equation 46'' in the first sentence in paragraph (e)(2)(iii)(C)(*5*);

cc. Removing the definition of the term ''π'' for Equation 47 in paragraph (e)(2)(iii)(D)(*3*) and revising the definition of the term ''ρ''' for Equation 47 in paragraph (e)(2)(iii)(D)(*3*);

dd. Adding the definition of the term ''p'' as the last definition for Equation 47 in paragraph (e)(2)(iii)(D)(*3*);

ee. Revising paragraph (e)(2)(iii)(E)(*3*) introductory text;

ff. Revising ''Equation 49'' to read ''Equation 50'' in the first sentence in paragraph (e)(2)(iii)(E)(*3*)(*ii*);

gg. Revising the definitions of the terms ''QMW_a, QMW_b'' and ''QMG_b'' for Equation 51 in paragraph (e)(2)(iii)(G)(*3*);

hh. Revising the first sentence in paragraph (f)(1)(iii)(B);

ii. Revising paragraph (f)(2)(ii)(A); and

jj. Redesignating paragraphs (h)(2)(i) and (h)(3) as paragraphs (h)(3) and (4), revising redesignated paragraph (h)(3), and removing Equation 61 from redesignated paragraph (h)(4).

The revisions and additions read as follows:

§ 63.1257 Test methods and compliance procedures.

(a) * * *

(3) *Outlet concentration correction for supplemental gases.* (i) *Combustion devices.* Except as provided in § 63.1258(b)(5)(ii)(A), for a combustion device used to comply with an outlet concentration standard, the actual TOC, organic HAP, and hydrogen halide and halogen must be corrected to 3 percent oxygen if supplemental gases, as defined in § 63.1251, are added to the vent stream or manifold. The integrated sampling and analysis procedures of Method 3B of 40 CFR part 60, appendix A, shall be used to determine the actual oxygen concentration ($\%O_{2d}$). The samples shall be taken during the same time that the TOC or total organic HAP or hydrogen halides and halogen samples are taken. The concentration corrected to 3 percent oxygen (C_d) shall be computed using Equation 7A of this subpart:

$$C_c = C_m\left(\frac{17.9}{20.9 - \%O_{2d}}\right) \qquad \text{(Eq. 7A)}$$

Where:

C_c = concentration of TOC or total organic HAP or hydrogen halide and halogen corrected to 3 percent oxygen, dry basis, ppmv.

C_m = total concentration of TOC or total organic HAP or hydrogen halide and halogen in vented gas stream, average of samples, dry basis, ppmv.

$\%O_{2d}$ = concentration of oxygen measured in vented gas stream, dry basis, percent by volume.

(ii) *Noncombustion devices.* Except as provided in § 63.1258(b)(5)(ii)(B), if a control device other than a combustion device is used to comply with a TOC, organic HAP, or hydrogen halide outlet concentration standard, the owner or operator must correct the actual concentration for supplemental gases using Equation 7B of this subpart; process knowledge and representative operating data may be used to determine the fraction of the total flow due to supplemental gas.

$$C_a = C_m\left(\frac{V_s + V_a}{V_a}\right) \qquad \text{(Eq. 7B)}$$

Where:

C_a = corrected outlet TOC, organic HAP, and hydrogen halides and halogens concentration, dry basis, ppmv

C_m = actual TOC, organic HAP, and hydrogen halides and halogens concentration measured at control device outlet, dry basis, ppmv

V_a = total volumetric flow rate of all gas streams vented to the control device, except supplemental gases

V_s = total volumetric flow rate of supplemental gases

* * * * *

(5) *Initial compliance with alternative standard.* Initial compliance with the alternative standards in §§ 63.1253(d) and 63.1254(c) for combustion devices is demonstrated when the outlet TOC concentration is 20 ppmv or less, and the outlet hydrogen halide and halogen concentration is 20 ppmv or less. Initial compliance with the alternative standards in §§ 63.1253(d) and 63.1254(c) for noncombustion devices is demonstrated when the outlet TOC concentration is 50 ppmv or less, and the outlet hydrogen halide and hydrogen concentration is 50 ppmv or less. To demonstrate initial compliance, the owner or operator shall be in compliance with the monitoring provisions in § 63.1258(b)(5) on the initial compliance date. The owner or operator shall use Method 18 to determine the predominant organic HAP in the emission stream if the TOC monitor is calibrated on the predominant HAP.

* * * * *

(b) * * *

(6) The following methods are specified for concentration measurements:

* * * * *

(iii) Method 26 or 26A of appendix A of part 60 shall be used to determine hydrogen chloride, hydrogen halide and halogen concentrations in control device efficiency determinations or in the 20 ppmv outlet hydrogen halide concentration standard.

* * * * *

(8) * * *

(i) * * *

(A) * * * The owner or operator must consider all relevant factors, including load and compound-specific characteristics in defining absolute worst-case conditions.

* * * * *

(*3*) * * *

(*i*) Periods when the stream contains the highest combined VOC and HAP load, in lb/hr, described by the emission profiles in paragraph (b)(8)(ii) of this section;

* * * * *

(10) *Wastewater testing.* Wastewater analysis shall be conducted in accordance with paragraph (b)(10)(i), (ii), (iii), (iv), or (v) of this section.

(i) *Method 305.* Use procedures specified in Method 305 of 40 CFR part 63, appendix A, and comply with

requirements specified in paragraph (b)(10)(vi) of this section.

(ii) *Method 624, 625, 1624, or 1625.* Use procedures specified in Method 624, 625, 1624, or 1625 of 40 CFR part 136, appendix A, and comply with requirements in paragraph (b)(10)(vi) of this section.

(iii) *Method 8260 or 8270.* Use procedures specified in Method 8260 or 8270 in ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication No. SW–846, Third Edition, September 1986, as amended by Update I, November 15, 1992. As an alternative, an owner or operator may use any more recent, updated version of Method 8260 or 8270 approved by the EPA. For the purpose of using Method 8260 or 8270 to comply with this subpart, the owner or operator must maintain a formal quality assurance program consistent with either Section 8 of Method 8260 or Method 8270, and this program must include the following elements related to measuring the concentrations of volatile compounds:

(A) Documentation of site-specific procedures to minimize the loss of compounds due to volatilization, biodegradation, reaction, or sorption during the sample collection, storage, and preparation steps.

(B) Documentation of specific quality assurance procedures followed during sampling, sample preparation, sample introduction, and analysis.

(C) Measurement of the average accuracy and precision of the specific procedures, including field duplicates and field spiking of the material source before or during sampling with compounds having similar chemical characteristics to the target analytes.

(iv) *Other EPA methods.* Use procedures specified in the method, validate the method using the procedures in paragraph (b)(10)(iv)(A) or (B) of this section, and comply with the procedures in paragraph (b)(10)(vi) of this section.

* * * * *

(v) *Methods other than an EPA method.* Use procedures specified in the method, validate the method using the procedures in paragraph (b)(10)(iv)(A) of this section, and comply with the requirements in paragraph (b)(10)(vi) of this section.

* * * * *

(c) * * *

(1) * * * Initial compliance with the outlet concentration requirement of § 63.1253(d) is demonstrated by fulfilling the requirements of paragraph (a)(5) of this section.

* * * * *

(3) * * *

(v) When the phrase ''the maximum true vapor pressure of the total organic HAP's in the stored liquid falls below the values defining Group 1 storage vessels specified in table 5 or table 6 of this subpart'' is referred to in § 63.120(b)(1)(iv), the phrase ''the maximum true vapor pressure of the total organic HAP in the stored liquid falls below 13.1 kPa'' shall apply for the purposes of this subpart.

* * * * *

(d) * * *

(1) * * *

(i) Initial compliance with § 63.1254(a)(2)(i) is demonstrated when the actual emissions of HAP from the sum of all process vents within a process is less than or equal to 900 kg/yr. Initial compliance with § 63.1254(a)(2)(ii) is demonstrated when the actual emissions of HAP from the sum of all process vents in compliance with § 63.1254(a)(2)(i) is less than or equal to 1,800 kg/yr. Uncontrolled HAP emissions and controlled HAP emissions shall be determined using the procedures described in paragraphs (d)(2) and (3) of this section.

(ii) Initial compliance with the percent reduction requirements in § 63.1254(a)(1)(i), (a)(3), and (b) is demonstrated by:

(A) Determining controlled HAP emissions using the procedures described in paragraph (d)(3) of this section, and uncontrolled HAP emissions determined using the procedures described in paragraph (d)(2) of this section, and demonstrating that the reductions required by § 63.1254(a)(1)(i), (a)(3), and (b) are met; or

(B) Controlling the process vents using a device meeting the criteria specified in paragraph (a)(4) of this section.

(iii) Initial compliance with the outlet concentration requirements in § 63.1254(a)(1)(ii)(A), (a)(3), and (b)(1) is demonstrated when the outlet TOC concentration is 20 ppmv or less and the outlet hydrogen halide and halogen concentration is 20 ppmv or less. The owner or operator shall demonstrate compliance by fulfilling the requirements in paragraph (a)(6) of this section.

* * * * *

(2) * * *

(i) * * *

(C) * * *

(*1*) * * *

$$E = \frac{\sum_{i=1}^{n}\left(\left(P_i^*\right)\left(x_i\right)\left(MW_i\right)\right)}{760 - \sum_{j=1}^{m}\left(\left(P_j^*\right)\left(x_j\right)\right)} \times \Delta\eta \qquad \text{(Eq. 13)}$$

* * * * *

P_i^* = vapor pressure of each HAP in the vessel headspace at any temperature between the initial and final heatup temperatures, mmHg.

P_j^* = vapor pressure of each condensable VOC (including HAP) in the vessel headspace at any temperature between the initial and final heatup temperatures, mmHg.

* * *

$(P_i)_{Tn}$ = partial pressure of each HAP in the vessel headspace at initial (T_1) and final (T_2) temperature.

MW_i = molecular weight of the individual HAP. * * *

* * * * *

(*4*) If the vessel contents are heated to the boiling point, emissions must be calculated using the procedure in paragraphs (d)(2)(i)(C)(*4*)(*i*) and (*ii*) of this section.

* * * * *

(*ii*) While boiling, the vessel must be operated with a properly operated process condenser. An initial demonstration that a process condenser is properly operated is required for some process condensers, as described in paragraph (d)(3)(iii) of this section.

(D) * * *

(*2*) * * *

x_j = mole fraction of each condensable (including HAP) in the liquid phase.

* * * * *

(*3*) The average ratio of moles of noncondensable to moles of an individual HAP in the emission stream is calculated using Equation 25 of this subpart; this calculation must be

repeated for each HAP in the emission stream:

$$n_{Ri} = \frac{\left(\frac{P_{nc1}}{(P_i*)(x_i)} + \frac{P_{nc2}}{(P_i*)(x_i)}\right)}{2} \qquad \text{(Eq. 25)}$$

Where:

n_{Ri} = average ratio of moles of noncondensable to moles of individual HAP.

P_{nc1} = initial partial pressure of the noncondensable gas, as calculated using Equation 23 of this subpart.

P_{nc2} = final partial pressure of the noncondensable gas, as calculated using Equation 24 of this subpart.

P_i* = vapor pressure of each individual HAP.

x_i = mole fraction of each individual HAP in the liquid phase.

n = number of HAP compounds.

i = identifier for a HAP compound.

(*4*) The mass of HAP emitted shall be calculated using Equation 26 of this subpart:

$$E = \left(V_{nc1} - V_{nc2}\right) \times \frac{P_{atm}}{RT} \times \sum_{i=1}^{n} \frac{MW_i}{n_{Ri}} \qquad \text{(Eq. 26)}$$

Where:

E = mass of HAP emitted.

V_{nc1} = initial volume of noncondensable gas in the vessel, as calculated using Equation 21 of this subpart.

V_{nc2} = final volume of noncondensable gas in the vessel, as calculated using Equation 22 of this subpart.

n_{Ri} = average ratio of moles of noncondensable to moles of individual HAP, as calculated using Equation 25 of this subpart.

P_{atm} = atmospheric pressure, standard.

R = ideal gas law constant.

T = temperature of the vessel, absolute.

MW_i = molecular weight of each HAP.

* * * * *

(E) *Vacuum systems.* Emissions from vacuum systems may be calculated using Equation 33 of this subpart if the air leakage rate is known or can be approximated.

$$E = \frac{(La)(t)}{MW_{nc}} \left(\frac{\sum_{i=1}^{n} P_i MW_i}{P_{system} - \sum_{j=1}^{m} P_j} \right) \qquad \text{(Eq. 33)}$$

Where:

E = mass of HAP emitted.

P_{system} = absolute pressure of receiving vessel or ejector outlet conditions, if there is no receiver.

P_i = partial pressure of the HAP at the receiver temperature or the ejector outlet conditions.

P_j = partial pressure of condensable (including HAP) at the receiver temperature or the ejector outlet conditions.

La = total air leak rate in the system, mass/time

MW_{nc} = molecular weight of noncondensable gas.

t = time of vacuum operation.

MW_i = molecular weight of the individual HAP in the emission stream, with HAP partial pressures calculated at the temperature of the receiver or ejector outlet, as appropriate.

* * * * *

(H) *Empty vessel purging.* Emissions from empty vessel purging shall be calculated using Equation 36 of this subpart (Note: The term $e^{-Ft/v}$ can be assumed to be 0): * * *

(ii) * * * Modified versions of the engineering evaluation methods in paragraphs (d)(2)(i)(A) through (H) may be used if the owner or operator demonstrates that they have been used to meet other regulatory obligations, and they do not affect applicability assessments or compliance determinations under this subpart GGG.

* * *

* * * * *

(3) *Controlled emissions.* An owner or operator shall determine controlled emissions using the procedures in either paragraph (d)(3)(i) or (ii) of this section.

* * * * *

(ii) * * *

(A) The performance test shall be conducted by performing emission testing on the inlet and outlet of the control device following the test methods and procedures of § 63.1257(b). Concentrations shall be calculated from the data obtained through emission testing according to the procedures in paragraph (a)(2) of this section.

* * * * *

(iii) *Initial compliance demonstration for condensers.*

(A) *Air pollution control devices.* During periods in which a condenser functions as an air pollution control device, controlled emissions shall be calculated using the emission estimation equations described in paragraph (d)(3)(i)(B) of this section.

(B) *Process condensers.* During periods when the condenser is operating as a process condenser, the owner or operator is required to demonstrate that the process condenser is properly operated if the process condenser meets either of the criteria described in paragraphs (d)(2)(iii)(B)(*1*) and (*2*) of this section. The owner or operator must either measure the condenser exhaust gas temperature and show it is less than the boiling or bubble point of the substance(s) in the vessel, or perform a material balance around the vessel and condenser to show that at least 99

percent of the material vaporized while boiling is condensed. The initial demonstration shall be conducted for all appropriate operating scenarios and documented in the Notification of Compliance Status report described in § 63.1260(f).

(*1*) The process condenser is not followed by an air pollution control device; or

(*2*) The air pollution control device following the process condenser is not a condenser or is not meeting the alternative standard of § 63.1254(c).

* * * * *

(e) * * *

(2) * * *

(iii) * * *

(C) * * *

(*3*) * * *

ρ = density of the wastewater, kg/m^3.

* * * * *

(D) * * *

(*3*) * * *

ρ = density of the wastewater stream, kg/m^3.

* * * * *

p = number of runs.

* * * * *

(E) * * *

(*3*) *Destruction efficiency.* The owner or operator shall comply with the provisions in either paragraph (e)(2)(iii)(E)(*3*)(*i*) or (*ii*) of this section. Compliance is demonstrated if the destruction efficiency, E, is equal to or greater than 95 percent.

* * * * *

(G) * * *

(*3*) * * *

QMW_a, QMW_b = mass flow rate of partially soluble and/or soluble HAP compounds in wastewater entering (QMW_a) and exiting (QMW_b) the treatment process, kilograms per hour (as calculated using Equations 44 and 45).

QMG_b = mass flow rate of partially soluble and/or soluble HAP compounds in vented gas stream exiting the control device, kg/hr.

* * * * *

(f) * * *

(1) * * *

(iii) * * *

(B) For batch processes, the annual factor shall be calculated either every 10 batches for the 12-month period preceding the 10th batch (10-batch rolling average) or a maximum of once per month, if the number of batches is greater than 10 batches per month.

* * *

(2) * * *

(ii) * * *

(A) The mass of HAP calculated using Equation 55 of this subpart:

$$M = [kg/kg]_b (0.75 - P_R)(M_{prod}) \qquad \text{(Eq. 55)}$$

Where:

$[kg/kg]_b$ = the baseline production-indexed HAP consumption factor, in kg/kg.

M_{prod} = the annual production rate, in kg/yr.

M = the annual reduction required by add-on controls, in kg/yr.

P_R = the fractional reduction in the annual kg/kg factor achieved using pollution prevention where P_R is ≥0.5.

* * * * *

(h) * * *

(3) Equations 60 and 61 of this subpart shall be used to calculate total HAP emissions:

$$E_{TU} = \sum_{i=1}^{n} E_{Ui} \qquad \text{(Eq. 60)}$$

$$E_{TC} = \sum_{i=1}^{n} E_{Ci} \qquad \text{(Eq. 61)}$$

Where:

E_{Ui} = yearly uncontrolled emissions from process i.

E_{Ci} = yearly actual emissions for process i.

E_{TU} = total yearly uncontrolled emissions.

E_{TC} = total yearly actual emissions.

n = number of processes included in the emissions average.

* * * * *

10. Section 63.1258 is amended by:

a. Revising paragraph (b)(5);

b. Revising paragraph (b)(6)(iii);

c. Revising the first sentence in paragraph (b)(8) introductory text; and

d. Revising paragraph (c).

The revisions read as follows:

§ 63.1258 Monitoring requirements.

* * * * *

(b) * * *

(5) *Monitoring for the alternative standards.* (i) For control devices that are used to comply with the provisions of § 63.1253(d) or § 63.1254(c), the owner or operator shall monitor and record the outlet TOC concentration and the outlet hydrogen halide and halogen concentration every 15 minutes during the period in which the device is functioning in achieving the HAP removal required by this subpart using CEMS as specified in paragraphs (b)(5)(i)(A) through (D) of this section.

(A) A TOC monitor meeting the requirements of Performance Specification 8, 9, or 15 of appendix B of part 60 shall be installed, calibrated, and maintained according to § 63.8. For any TOC monitor meeting Performance Specification 8, the owner or operator must also comply with Appendix F, procedure 1 of 40 CFR part 60.

(B) Except as specified in paragraphs (b)(5)(i)(C) and (D) of this section, the owner or operator must monitor HCl using either a FTIR CEMS that meets Performance Specification 15 of appendix B of part 60 or any other CEMS capable of measuring HCl for which a performance specification has been promulgated in appendix B of part 60. To monitor HCl with a CEMS for which a performance specification has not been promulgated, the owner or operator must prepare a monitoring plan and submit it for approval in accordance with the procedures specified in § 63.8.

(C) As an alternative to using a CEMS as specified in paragraph (b)(5)(i)(B) of this section to monitor halogenated vent streams that are controlled by a combustion device followed by a scrubber, the owner or operator may elect to monitor scrubber operating parameters as specified in paragraph (b)(1)(ii) of this section that demonstrate the HCl emissions are reduced by at least 95 percent by weight.

(D) The owner or operator need not monitor the hydrogen halide and halogen concentration if, based on process knowledge, the owner or operator determines that the emission stream does not contain hydrogen halides or halogens.

(ii) An owner or operator complying with the alternative standard using control devices in which supplemental gases are added to the vents or manifolds must either correct for supplemental gases as specified in § 63.1257(a)(3) or comply with the requirements of paragraph (b)(5)(ii)(A) or (B) of this section. If the owner or operator corrects for supplemental gases as specified in § 63.1257(a)(3)(ii) for noncombustion control devices, the flow rates must be evaluated as specified in paragraph (b)(5)(ii)(C) of this section.

(A) *Provisions for combustion devices.* As an alternative to correcting for supplemental gases as specified in § 63.1257(a)(3), the owner or operator may monitor residence time and firebox temperature according to the requirements of paragraphs (b)(5)(ii)(A)(*1*) and (*2*) of this section. Monitoring of residence time may be accomplished by monitoring flowrate into the combustion chamber.

(*1*) If complying with the alternative standard instead of achieving a control efficiency of 95 percent or less, the owner or operator must maintain a minimum residence time of 0.5 seconds and a minimum combustion chamber temperature of 760°C.

(*2*) If complying with the alternative standard instead of achieving a control efficiency of 98 percent or less, the owner or operator must maintain a minimum residence time of 0.75 seconds and a minimum combustion chamber temperature of 816°C.

(B) *Provisions for dense gas systems.* As an alternative to correcting for supplemental gases as specified in § 63.1257(a)(3), for noncombustion devices used to control emissions from dense gas systems, as defined in § 63.1251, the owner or operator shall monitor flowrate as specified in paragraphs (b)(5)(ii)(B)(*1*) through (*4*) of this section.

(*1*) Use Equation 63 of this subpart to calculate the system flowrate setpoint at which the average concentration is 5,000 ppmv TOC:

$$F_s = \frac{721 \times E_{an}}{5{,}000} \qquad \text{(Eq. 63)}$$

Where:

F_s = system flowrate setpoint, scfm.
E_{an} = annual emissions entering the control device, lbmols/yr.

(*2*) Annual emissions used in Equation 63 of this subpart must be based on the actual mass of organic compounds entering the control device, as calculated from the most representative emissions inventory data submitted within the 5 years before the Notification of Compliance Status report is due. The owner or operator must recalculate the system flowrate setpoint once every 5 years using the annual emissions from the most representative emissions inventory data submitted during the 5-year period after the previous calculation. Results of the initial calculation must be included in the Notification of Compliance Status report, and recalculated values must be included in the next Periodic report after each recalculation. For all calculations after the initial calculation, to use emissions inventory data calculated using procedures other than those specified in § 63.1257(d), the owner or operator must submit the emissions inventory data calculations and rationale for their use in the Notification of Process Change report or an application for a part 70 permit renewal or revision.

(*3*) In the Notification of Compliance Status report, the owner or operator may elect to establish both a maximum daily average operating flowrate limit above the flowrate setpoint and a reduced outlet concentration limit corresponding to this flowrate limit. The owner or operator may also establish reduced outlet concentration limits for any daily average flowrates between the flowrate setpoint and the flowrate limit. The correlation between these elevated flowrates and the corresponding outlet concentration limits must be established using Equation 64 of this subpart:

$$C_a = \frac{F_s}{F_a} \times 50 \qquad \text{(Eq. 64)}$$

Where:

C_a = adjusted outlet concentration limit, dry basis, ppmv.
50 = outlet concentration limit associated with the flowrate setpoint, dry basis, ppmv.
F_s = system flowrate setpoint, scfm.
F_a = actual system flowrate limit, scfm.

(*4*) The owner or operator must install and operate a monitoring system for measuring system flowrate. The flowrate into the control device must be monitored and recorded at least once every hour. The system flowrate must be calculated as the average of all values measured during each 24-hour operating day. The flowrate monitoring device must be accurate to within 5 percent of the system flowrate setpoint, and the flowrate monitoring device must be calibrated annually.

(C) *Flow rate evaluation for noncombustion devices.* To demonstrate continuous compliance with the requirement to correct for supplemental gases as specified in § 63.1257(a)(3)(ii) for noncombustion devices, the owner or operator must evaluate the volumetric flow rate of supplemental gases, V_s, and the volumetric flow rate of all gases, V_a, each time a new operating scenario is implemented based on process knowledge and representative operating data. The procedures used to evaluate the flow rates, and the resulting correction factor used in Equation 7B of this subpart, must be included in the Notification of Compliance Status report and in the next Periodic report submitted after an operating scenario change.

(6) * * *

(iii) Each loss of all pilot flames for flares.

* * * * *

(8) *Violations.* Exceedances of parameters monitored according to the provisions of paragraphs (b)(1)(ii), (iv) through (ix), and (b)(5)(ii)(A) and (B) of this section, or excursions as defined by paragraphs (b)(7)(i) through (iii) of this section, constitute violations of the operating limit according to paragraphs (b)(8)(i), (ii), and (iv) of this section.

* * *

* * * * *

(c) *Monitoring for emission limits.* The owner or operator of any affected source complying with the provisions of § 63.1254(a)(2) shall demonstrate continuous compliance with the 900 and 1,800 kg/yr emission limits by calculating daily 365-day rolling summations of emissions. For any owner or operator opting to switch compliance strategy from the 93 percent control requirement to the annual mass emission limit method, as described in § 63.1254(a)(1)(i), the rolling summations, beginning with the first day after the switch, must include emissions from the past 365 days.

* * * * *

11. Section 63.1259 is amended by:

a. Revising paragraph (a)(3)(i);

b. Revising paragraph (a)(3)(iii);

c. Revising paragraph (b)(4);

d. Revising paragraphs (b)(5)(i) and (b)(5)(ii);

e. Removing paragraph (b)(6), redesignating paragraphs (b)(7) through (b)(11) as paragraphs (b)(6) through (b)(10), and revising the redesignated paragraphs (b)(6) and (b)(9); and

f. Adding paragraphs (b)(11) and (12).

The revisions and additions read as follows:

§ 63.1259 Recordkeeping requirements.

(a) * * *

(3) * * *

(i) The owner or operator shall record the occurrence and duration of each malfunction of the process operations or of air pollution control equipment used to comply with this subpart, as specified in § 63.6(e)(3)(iii).

* * * * *

(iii) For each startup, shutdown, or malfunction, the owner or operator shall record all information necessary to demonstrate that the procedures specified in the affected source's startup, shutdown, and malfunction plan were followed, as specified in § 63.6(e)(3)(iii), and shall record all maintenance performed on the air pollution control equipment, as specified in § 63.10(b)(2)(iii); alternatively, the owner or operator

shall record any actions taken that are not consistent with the plan, as specified in § 63.6(e)(3)(iv).

* * * * *

(b) * * *

(4) For purposes of compliance with the annual mass limits of § 63.1254(a)(2) and (b)(2), daily records of the rolling annual total emissions.

(5) * * *

(i) For processes or process vents that are in compliance with the percent reduction requirements of § 63.1254(a)(1), (a)(3), or (b)(1) and containing vents controlled to less than the percent reduction requirement, the following records are required:

(A) Standard batch uncontrolled and controlled emissions for each process;

(B) Actual uncontrolled and controlled emissions for each nonstandard batch; and

(C) A record whether each batch operated was considered a standard batch.

(ii) For processes in compliance with the annual mass limits of § 63.1254(a)(2) or (b)(2), the following records are required:

(A) The number of batches per year for each batch process;

(B) The operating hours per year for continuous processes;

(C) Standard batch uncontrolled and controlled emissions for each process;

(D) Actual uncontrolled and controlled emissions for each nonstandard batch;

(E) A record whether each batch operated was considered a standard batch.

(6) Wastewater concentration per POD or process, except as provided in § 63.1256(a)(1)(ii).

* * * * *

(9) Description of worst-case operating conditions as required in § 63.1257(b)(8).

* * * * *

(11) If the owner or operator elects to comply with § 63.1253(b) or (c) by installing a floating roof, the owner or operator must keep records of each inspection and seal gap measurement in accordance with § 63.123(c) through (e) as applicable.

(12) If the owner or operator elects to comply with the vapor balancing alternative in § 63.1253(f), the owner or operator must keep records of the DOT certification required by § 63.1253(f)(2) and the pressure relief vent setting and the leak detection records specified in § 63.1253(f)(5).

* * * * *

12. Section 63.1260 is amended by:

a. Adding paragraphs (e)(6) and (7);

b. Revising paragraph (g)(1)(ii);

c. Revising paragraph (g)(2)(vii);

d. Adding paragraph (g)(2)(viii);

e. Adding a new sentence after the first sentence in paragraph (h)(1) introductory text; and

f. Revising the reference ''§ 63.10(d)(4)(ii)'' to read ''§ 63.10(d)(5)(ii)'' in the last sentence in paragraph (i).

The revisions and additions read as follows:

§ 63.1260 Reporting requirements.

* * * * *

(e) * * *

(6) Data and other information supporting the determination of annual average concentrations by process simulation as required in § 63.1257(e)(1)(ii).

(7) Bench scale or pilot-scale test data and rationale used to determine annual average concentrations as required in § 63.1257(e)(1)(ii)(C).

* * * * *

(g) * * *

(1) * * *

(ii) Quarterly reports shall be submitted when the source experiences an exceedance of a temperature limit monitored according to the provisions of § 63.1258(b)(1)(iii) or an exceedance of the outlet concentration monitored according to the provisions of § 63.1258(b)(1)(x) or (b)(5). Once an affected source reports quarterly, the affected source shall follow a quarterly reporting format until a request to reduce reporting frequency is approved. If an owner or operator submits a request to reduce the frequency of reporting, the provisions in § 63.10(e)(3)(ii) and (iii) shall apply, except that the phrase ''excess emissions and continuous monitoring system performance report and/or summary report'' shall mean ''Periodic report'' for the purposes of this section.

* * * * *

(2) * * *

(vii) Each new operating scenario which has been operated since the time period covered by the last Periodic report. For each new operating scenario, the owner or operator shall provide verification that the operating conditions for any associated control or treatment device have not been exceeded, and that any required calculations and engineering analyses have been performed. For the initial Periodic report, each operating scenario for each process operated since the compliance date shall be submitted.

(viii) If the owner or operator elects to comply with the provisions of § 63.1253(b) or (c) by installing a floating roof, the owner or operator shall submit the information specified in § 63.122(d) through (f) as applicable. References to § 63.152 from § 63.122 shall not apply for the purposes of this subpart.

(h) * * *

(1) * * * For the purposes of this section, a process change means the startup of a new process, as defined in § 63.1251. * * *

* * * * *

13. Table 1 to subpart GGG is amended by:

a. Revising the entries ''63.5(b)(3),'' ''63.7(a)(1),'' ''63.9(a)–(d),'' ''63.9(e),'' ''63.9(g)(1),'' ''63.9(g)(3),'' ''63.9(h),'' ''63.9(j),'' ''63.10(a),'' ''63.10(b)(1),'' ''63.10(b)(3),'' and ''63.10(c)–(d)(2);''

b. Removing the entry ''63.7(a)(2)(I–ix)'' and adding the entry ''63.7(a)(2)(i)–(ix);''

c. Removing the entry ''63.8(b)(3)–(c)(3)'' and adding the entry ''63.8(b)(3)–(c)(4);''

d. Removing the entry ''63.8(c)(4–5)'' and adding the entry ''63.8(c)(5);''

e. Removing the entry ''63.8(c)(6–8)'' and adding the entry ''63.8(c)(6)–(8).''

The revisions and additions read as follows:

TABLE 1 TO SUBPART GGG.—GENERAL PROVISIONS APPLICABILITY TO SUBPART GGG

General provisions reference	Summary of requirements	Applies to subpart GGG	Comments
*	*	*	*
63.5(b)(3)	New construction/reconstruction	Yes	Except for changes and additions authorized under § 52.2454 of this title. However, the requirement to submit the Precompliance report at least 90 days before the compliance date still applies.
*	*	*	*
63.7(a)(1)	Performance testing requirements	Yes	Subpart GGG also specifies required testing and compliance procedures.
63.7(a)(2)(i)–(ix)		Yes	Except substitute ''150 days'' instead of ''180 days.''
*	*	*	*
63.8(b)(3)–(c)(4)	CMS requirements	Yes	§ 63.1259 also specifies recordkeeping for CMS.
63.8(c)(5)	COMS operation requirements	No.	
63.8 (c)(6)–(8)	CMS calibration and malfunction provisions	No	Calibration procedures are provided in § 63.1258.
*	*	*	*
63.9(a)–(d)	Notification requirements—Applicability and general information.	Yes	§ 63.1260 (b) also specifies initial notification requirement.
63.9(e)	Notification of performance test	Yes	§ 63.1260 (l) also specifies notification requirement for performance test.
*	*	*	*
63.9(g)(1)	Additional notification requirements for sources with CMS.	Yes	§ 63.1260 (d) also specifies notification requirement for performance evaluation.
*	*	*	*
63.9(g)(3)	Notification that criterion to continue use of alternative to relative accuracy testing has been exceeded.	Yes	§ 63.1260 (d) also specifies notification requirement for performance evaluation.
63.9(h)	Notification of compliance status	Yes	Specified in § 63.1260(f). Due 150 days after compliance date.
*	*	*	*
63.9(j)	Change in information provided	No	Subpart GGG specifies procedures for notification of changes.
*	*	*	*
63.10(a)	Recordkeeping requirements	Yes.	
63.10(b)(1)	Records retention	Yes	Also stated in § 63.1259.
*	*	*	*
63.10(b)(3)	Records retention for sources not subject to relevant standard.	Yes	Also stated in § 63.1259 (a)(2).
63.10(c)–(d)(2)	Other recordkeeping and reporting provisions	Yes	Also stated in § 63.1259 (a)(4).
*	*	*	*

14. Table 5 to subpart GGG is revised to read as follows:

TABLE 5 TO SUBPART GGG.—CONTROL REQUIREMENTS FOR ITEMS OF EQUIPMENT THAT MEET THE CRITERIA OF § 63.1252(F)

Item of equipment	Control requirement [a]
Drain or drain hub	(a) Tightly fitting solid cover (TFSC); or (b) TFSC with a vent to either a process or to a control device meeting the requirements of § 63.1256(h)(2); or (c) Water seal with submerged discharge or barrier to protect discharge from wind.
Manhole [b]	(a) TFSC; or (b) TSFC with a vent to either a process or to a control device meeting the requirements of § 63.1256(h)(2); or (c) If the item is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter.
Lift station	(a) TFSC; or (b) TFSC with a vent to either a process or to a control device meeting the requirements of § 63.1256(h)(2); or (c) If the lift station is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter. The lift station shall be level controlled to minimize changes in the liquid level.
Trench	(a) TFSC; or (b) TFSC with a vent to either a process or to a control device meeting the requirements of § 63.1256(h)(2); or (c) If the item is vented to the atmosphere, use a TFSC with a properly operating water seal at the entrance or exit to the item to restrict ventilation in the collection system. The vent pipe shall be at least 90 cm in length and not exceeding 10.2 cm in nominal inside diameter.
Pipe	Each pipe shall have no visible gaps in joints, seals, or other emission interfaces.
Oil/Water separator	(a) Equip with a fixed roof and route vapors to a process or equip with a closed-vent system that routes vapors to a control device meeting the requirements of § 63.1256(h)(2); or (b) Equip with a floating roof that meets the equipment specifications of § 60.693(a)(1)(i), (a)(1)(ii), (a)(2), (a)(3), and (a)(4).
Tank	Maintain a fixed roof and consider vents as process vents.[c]

[a] Where a tightly fitting solid cover is required, it shall be maintained with no visible gaps or openings, except during periods of sampling, inspection, or maintenance.
[b] Manhole includes sumps and other points of access to a conveyance system.
[c] A fixed roof may have openings necessary for proper venting of the tank, such as pressure/vacuum vent, j-pipe vent.

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Federal Register

Tuesday,
August 29, 2000

Part IV

Department of Education

Office of Special Education and Rehabilitative Services; Grant Applications Under Part D, Subpart 2 of the Individuals With Disabilities Education Act; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Grant Applications Under Part D, Subpart 2 of the Individuals with Disabilities Education Act

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for FY 2001 competitions under four programs authorized by the Individuals with Disabilities Education Act (IDEA), as amended. The four programs are: Special Education—Research and Innovation to Improve Services and Results for Children with Disabilities (seven priorities); Special Education—Technology and Media Services for Individuals with Disabilities (two priorities); Special Education—Training and Information for Parents of Children with Disabilities (one priority); and Special Education—Studies and Evaluations Program (one priority).

Goals 2000: Educate America Act

The Goals 2000: Education America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These priorities would address the first National Education Goal that all children in America will start school ready to learn by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice.

General Requirements

(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA).

(c) The projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

(d) In a single application, an applicant must address only one absolute priority in this notice.

(e) Part III of each application submitted under a priority in this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed under each applicable priority, using the following standards:

- A ''page'' is 8.5″ x 11″ (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters per inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject without consideration or evaluation any application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Research and Innovation To Improve Services and Results for Children With Disabilities (CFDA 84.324)

Purpose of Program

To produce, and advance the use of, knowledge to: (1) Improve services provided under IDEA, including the practices of professionals and others involved in providing those services to children with disabilities; and (2) improve educational and early intervention results for infants, toddlers, and children with disabilities.

Eligible Applicants

State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; and Indian tribes or tribal organizations.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for the priorities under this program that are drawn from the EDGAR general selection criteria menu. The specific selection criteria for each priority are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority

Under 34 CFR 75.105(c)(3), we consider only applications that meet one of the following priorities:

Absolute Priority 1—Postsecondary Education Programs for Individuals Who Are Deaf (84.324A)

This priority provides support for four regional centers on postsecondary education for individuals who are deaf, including individuals with a wide range of hearing loss. Each center would provide technical assistance to a range of postsecondary institutions, including academic, vocational, technical, continuing, and adult education programs, to expand the array of educational opportunities within the region that are available to students who are deaf. The centers must provide technical assistance to institutions currently not serving students who are deaf to assist them to develop services and to institutions currently serving students who are deaf to assist them in improving existing programs. In carrying out the objectives of this priority, projects must distribute technical assistance services and resources equitably, taking into account population and geographic size, within each State in its targeted geographic region.

Each regional center must:

(a) Conduct an assessment to determine current technical assistance needs and priorities of postsecondary institutions related to recruiting; enrolling; retaining; instructing; addressing the varying communication needs and methods used by individuals who are deaf, including those from language minorities; and otherwise effectively serving students who are deaf;

(b) Provide consultation, in-service training, and planning and development

assistance to appropriate staff at postsecondary education institutions to (1) enhance access to programs and accommodation of individuals who are deaf and (2) as needed, improve their basic skills before matriculating in a postsecondary education environment, and individuals who need job specific skill development training;

(c) Provide technical assistance on the responsibilities of postsecondary education institutions under Federal statutes, including Section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act;

(d) Cooperate with participating secondary and postsecondary educational institutions within the region in developing outreach strategies and disseminating information to individuals who are deaf to enhance their awareness of available postsecondary opportunities, both within and outside the region;

(e) Disseminate information about resources (*e.g.* financial, support services) available to students who are deaf and to postsecondary institutions to help them accommodate these students;

(f) Through development or acquisition, make training materials available and disseminate information on proven models, components of models, and other exemplary practices, including innovative technology, to assist administrators, faculty and staff in implementing effective and cost-effective service-delivery systems that foster integration of students who are deaf with other students;

(g) Encourage the use of consortia of postsecondary education institutions and other cooperative arrangements to provide services and assistance to students who are deaf, including coordination of postsecondary education options with existing public and private community services that may address the educational, remedial, support service, transitional, independent living, and employment needs of individuals who are deaf;

(h) Coordinate technical assistance and dissemination activities with relevant information clearinghouses and organizations such as the National Clearinghouse on Postsecondary Education for Individuals with Disabilities (HEATH), National Information Center for Children and Youth with Disabilities, Secondary Education and Transition Technical Assistance Center, and Association of Higher Education and Disability;

(i) Evaluate the overall impact, effectiveness, and results of the postsecondary institutions within the region in accommodating students who are deaf;

(j) Work with the other three grantees under this program to operate a postsecondary education programs network to coordinate and collaborate on the development and establishment of needs-assessment activities, material development, technical assistance, outreach, information dissemination, and evaluation of the regional centers' activities for the purpose of avoiding overlap and duplication of efforts. Grantees must ensure that individuals who are deaf have information on postsecondary programs throughout the country, including information on the services they provide, and that information on proven models, components of models, and other exemplary practices, including innovative technology, is equally available in each of the four regions. This coordination must include carrying out collaborative activities and cross-regional initiatives, where appropriate; and

(k) Develop structured methods and processes for evaluating the impact and appropriateness of the assistance provided by the regional centers to staff at postsecondary education institutions related to enhancing access to programs and accommodating individuals who are deaf. In particular, consultation, in-service training, and planning and development should be evaluated.

Under this priority, we will fund four cooperative agreements, each with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards.

In deciding whether to continue this project for the fourth and fifth years, we will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of three experts whom we select. The review team will conduct its review during the last half of the project's second year, including a two-day site visit to the grantee. The results of the review team's review may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the projects are making a positive contribution to addressing the technical assistance needs of postsecondary institutions related to assisting them to increase and improve postsecondary opportunities for students who are deaf.

To ensure that all States benefit from these projects, we will support four projects that will be required to serve each State within one of the following geographic regions:

Northeast Region—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and Virgin Islands.

Southern Region—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

Midwest Region—Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

Western Region—Alaska, American Samoa, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Northern Mariana Islands, Oregon, Utah, Washington, and Wyoming.

Competitive Preference: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 60 months.

Maximum Award: The maximum award amount is $1,000,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 2—Student-Initiated Research Projects (84.324B)

This priority provides support for short-term (up to 12 months) postsecondary student-initiated research projects focusing on special education and related services for children with disabilities and early intervention services for infants and toddlers with disabilities, consistent with the purposes of the program, as described in Section 672 of the Act.

Projects must—

(a) Develop research skills in postsecondary students; and

(b) Include a principal investigator who serves as a mentor to the student researcher while the project is carried out by the student.

Project Period: Up to 12 months.

Maximum Award: The maximum award amount is $20,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 25 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 3—Field-Initiated Research Projects (84.324C)

This priority provides support for a wide range of field-initiated research projects that support innovation, development, exchange, and use of advancements in knowledge and practice as described in Section 672 of the Act including the improvement of early intervention, instruction, and learning for infants, toddlers, and children with disabilities.

Projects must—

(a) Prepare their procedures, findings, and conclusions in a manner that informs other interested researchers and is useful for advancing professional practice or improving programs and services to infants, toddlers, and children with disabilities and their families; and

(b) Disseminate project procedures, findings, and conclusions to appropriate research institutes and technical assistance providers.

Invitational Priorities: Within absolute priority 3 for FY 2001, we are particularly interested in applications that meet one or more of the following invitational priorities.

However, under 34 CFR 75.105(c)(1) we do not give to an application that meets one or more of these invitational priorities a competitive or absolute preference over other applications.

(a) Projects to address the specific problems of over-identification and under-identification of children with disabilities. (See section 672(a)(3) of the Act).

(b) Projects to develop and implement effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services. (See section 672(a)(4) of the Act).

(c) Projects studying and promoting improved alignment and compatibility of regular and special education reforms concerned with curriculum and instruction, evaluation and accountability, and administrative procedures. (See section 672(b)(2)(D) of the Act).

(d) Projects that advance knowledge about the coordination of education with health and social services. (See section 672(b)(2)(G) of the Act).

Competitive Preference: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, within this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: The majority of projects will be funded for up to 36 months. Only in exceptional circumstances—such as research questions that require repeated measurement within a longitudinal design—will projects be funded for more than 36 months, up to a maximum of 60 months.

Maximum Award: The maximum award amount is $180,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 4—Youth with Disabilities Leadership Development Project (84.324F)

Background: Recent legislation has increased the options and choices for postsecondary education, employment, and independent living. These include the Workforce Investment Act (WIA), including Title IV, which amended the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990 (ADA); and the Ticket to Work and Work Incentives Improvement Act of 1999.

A number of studies and reports have helped to document the difficulties youth with disabilities have transitioning from school to adult life. They report low levels of participation in postsecondary education and training programs, unemployment, underemployment, and dependence on public assistance programs. In addition, they indicate a number of issues that must be addressed in order for youth with disabilities to be more successful in achieving their goals for adult life. These include the need to (1) increase family and student involvement in transition planning; (2) increase access to work-based learning and contextual teaching; (3) improve participation in postsecondary education; (4) improve collaboration among multiple service systems; and (5) ensure better access to and utilization of health insurance and health care.

This priority represents a collaborative effort between the Department of Education—Office of Special Education and Rehabilitative Services; the Social Security Administration; the Department of Labor; the National Council on Disability; the Department of Health and Human Services—Maternal and Child Health, Centers for Disease Control and Prevention, and Administration on Developmental Disabilities; and the President's Committee on Employment of People with Disabilities. This group of Federal partners conducted annual National Leadership Conferences for Youth with Disabilities in fiscal years 1998, 1999, and 2000. These earlier conferences will help to inform the activities outlined in the priority including the requirement described in paragraph (g)(5).

Priority: The purpose of this priority is to support a project to advance and improve the knowledge base and the practice of youth and the professionals, parents, educators, employers, and other partners providing education, transition and related services to youth with disabilities consistent with the purposes of IDEA, Part D, Section 672. This will be accomplished by obtaining information on the perspectives of youth with disabilities regarding barriers to effective policy and practice for improving results for youth with disabilities and developing strategic actions for reducing those barriers.

The project funded under this priority must hold 5 annual National Leadership Conferences of Youth with Disabilities (NLCs) involving youth with disabilities ages 16 through 24. The project must:

(a) For each conference, include discussion topics related to—

(1) Equality of opportunity, full participation, and self-sufficiency;

(2) Disability history and culture, civil rights laws, and the ADA;

(3) Skills for effective leadership at State and local levels and mentoring;

(4) Self advocacy and self determination;

(5) Independent living; and

(6) Systems, such as education, vocational rehabilitation, workforce development, health, social security, housing, and transportation, including collaboration among these systems.

(b) Based on these discussions—

(1) Develop an update on the impact of barriers to successful adult life;

(2) Identify what works, such as promising practices; and

(3) Highlight actions that should be implemented at the national, State, and local levels as seen by youth with disabilities.

(c) Enhance the self-determination efforts of youth with disabilities.

(d) Be informed by transition research and what is currently known about promising practices.

(e) Involve youth with disabilities in—

(1) Ongoing follow-up activities designed to build on and enhance the leadership skills gained in the NLCs; and

(2) Planning and directing the Conferences.

(f) Document and disseminate information annually on the results of these Conferences. The project will be responsible for coordinating its dissemination efforts with other OSERS-funded technical assistance projects including the Secondary Education and Transition Technical Assistance Center.

(g) In collaboration with Federal partners, develop a process for selecting which youth with disabilities will be invited to participate in each annual Conference that—

(1) Includes at least one representative from each U.S. territory and State;

(2) Reflects the diverse cultural groups of our nation with a balance between males and females;

(3) Includes the participation of youth with a broad array of disabilities;

(4) Includes the participation of Federal partners in the selection process; and

(5) Provides for input from at least two NLC-experienced youth—youth that have served as past NLC representatives—who will participate actively and equally with others involved in the selection process. The youth must be provided training on the criteria used for reaching consensus on the selection of finalists.

(h) Design and carry out a strategic management plan, including project evaluation. This plan must be designed to provide information to guide necessary ongoing refinements to the structure and activities of the project that will improve its effectiveness. The plan must also include procedures for follow-up activities designed to measure the impact of NLC participation on experiences and outcomes for youth.

Under this priority, we will fund one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards.

In deciding whether to continue this project for the fourth and fifth years, we will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of three experts whom we select. The review team will conduct its review during the last half of the project's second year, including a two-day site visit to the grantee. The results of the review team's review may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's design and methodology demonstrates the potential for advancing significant new knowledge.

Competitive Preference: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 60 months.

Maximum Award: The maximum award amount is $300,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Note: Funding is contingent upon the availability of funds, including Federal interagency support for this project from the collaborating agencies mentioned in the background statement.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the

''General Requirements'' section of this notice.

Absolute Priority 5—Model Demonstration Projects for Children with Disabilities (84.324M).

This priority supports model demonstration projects that develop, implement, evaluate, and disseminate new or improved approaches for providing early intervention, special education, and related services to infants, toddlers, and children with disabilities, and students with disabilities who are pursuing post-school employment, postsecondary education, or independent living goals. Projects supported under this priority are expected to be major contributors of models or components of models for service providers and for outreach projects funded under IDEA.

Requirements for all Demonstration Projects: A model demonstration project must—

(a) Develop and implement the model with specific components or strategies that are based on theory, research, or evaluation data;

(b) Determine the effectiveness of the model and its components or strategies by using multiple measures of results; and

(c) Product detailed procedures and materials that would enable others to replicate the model.

Federal financial participation for a project funded under this priority will not exceed 90 percent of the total annual costs of development, implementation, evaluation, and dissemination of the project (see Section 661(f)(2)(A) of IDEA).

In addition to the annual two-day Project Directors' meeting in Washington, DC mentioned in the ''General Requirements'' section of this notice, projects must budget for another annual meeting in Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss model development, implementation, evaluation, and dissemination issues.

Competitive Preferences: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 48 months.

Maximum Award: The maximum award amount is $175,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limit: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 6—Initial Career Awards (84.324N)

Background: There is a need to enable individuals in the initial phases of their careers to initiate and develop promising lines of research that would improve early intervention services for infants and toddlers, and special education and related services for children with disabilities. Support for research activities among individuals in the initial phases of their careers is intended to develop the capacity of the early intervention and special education research community. This priority would address the additional need to provide support for a broad range of field-initiated research projects—focusing on the special education and related services for children with disabilities and early intervention for infants and toddlers—consistent with the purpose of the program as described in section 672 of the Act.

Priority: We will establish an absolute priority for the purpose of awarding grants to eligible applicants for the support of individuals in the initial phases of their careers to initiate and develop promising lines of research consistent with the purposes of the program. For purposes of this priority, the initial phase of an individual's career is considered to be the first three years after completing a doctoral program and graduating (i.e., for fiscal year 2001 awards, projects may support individuals who completed a doctoral program and graduated no earlier than the 1997–1998 academic year).

At least 50 percent of the initial career researcher's time must be devoted to the project.

Projects must—

(a) Pursue a line of research that is developed either from theory or a conceptual framework. The line of research must establish directions for designing future studies extending beyond the support of this award. The project is not intended to represent all inquiry related to the particular theory or conceptual framework; rather, it is expected to initiate a new line or advance an existing one;

(b) Include, in design and conduct, sustained involvement with one or more nationally recognized experts having substantive or methodological knowledge and expertise relevant to the proposed research. The experts do not have to be at the same institution or agency at which the project is located, but the interaction with the project must be sufficient to develop the capacity of the initial career researcher to effectively pursue the research into mid-career activities;

(c) Prepare procedures, findings, and conclusions in a manner that informs other interested researchers and is useful for advancing professional practice or improving programs and services to infants, toddlers, and children with disabilities and their families; and

(d) Disseminate project procedures, findings, and conclusions to appropriate research institutes and technical assistance providers.

Invitational Priority: Within absolute priority 6 for FY 2001, we are particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) we do not give to an application that meets the priority a competitive or absolute preference over other applications.

Projects that include in the design and conduct of the research project, a practicing teacher or clinician, in addition to the required involvement of nationally recognized experts.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $75,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional

funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 30 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 7—Outreach Projects for Children with Disabilities (84.324R)

This priority supports projects that will assist educational and other agencies in replicating proven models, components of models, and other exemplary practices that improve services for infants, toddlers, children with disabilities, and students with disabilities who are pursuing post-school employment, postsecondary education or independent living goals.

For the purposes of this priority, a ''proven model'' is a comprehensive description of a theory or system that, when applied, has been shown to be effective. ''Exemplary practices'' are effective strategies and methods used to deliver educational, related, or early intervention services. The models, components of models, or exemplary practices selected for outreach may include those developed for pre-service and in-service personnel preparation, and do not need to have been developed through projects funded under IDEA, or by the applicant.

Important elements of an outreach project include but are not limited to:

(a) Providing supporting data or other documentation in the application regarding the effectiveness of the model, components of a model, or exemplary practices selected for outreach;

(b) Selecting implementation sites in multiple regions within one State or multiple States and describing the criteria for their selection;

(c) Describing the expected costs, needed personnel, staff training, equipment, and sequence of implementation activities associated with the replication efforts, including a description of any modifications to the model or practice made by the sites;

(d) Including public awareness, product development and dissemination, training, and technical assistance activities as part of the implementation of the project; and

(e) Coordinating dissemination and replication activities conducted as part of outreach with dissemination projects, technical assistance providers, consumer and advocacy organizations, State and local educational agencies, and the lead agencies for Part C of IDEA, as appropriate.

Projects must prepare products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities. (See section 661(f)(2)(B) of IDEA).

Federal financial participation for a project funded under this priority will not exceed 90 percent of the total annual costs of development, operation, and evaluation of the project (see section 661(f)(2)(A) of IDEA).

In addition to the annual two-day Project Directors' meeting in Washington, D.C. mentioned in the ''General Requirements'' section of this notice, projects must budget annually for another annual meeting in Washington, D.C. to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss project implementation issues.

Competitive Preference: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $175,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Technology and Media Services for Individuals With Disabilities (CFDA 84.327)

Purpose of Program

The purpose of this program is to promote the development, demonstration, and utilization of technology and to support educational media activities designed to be of educational value to children with disabilities. This program also provides support for some captioning, video description, and cultural activities.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; (b) The selection criteria for the priorities under this program that are drawn from the EDGAR general selection criteria menu. The specific selection criteria for each priority are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Eligible Applicants

State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

Priority

Under section 687 of IDEA and 34 CFR 75.105(c)(3), we consider only applications that meet the following priority:

Absolute Priority 1—Steppingstones of Technology Innovation for Students With Disabilities (84.327A).

The purpose of this priority is to support projects that—

(a) Develop or select and describe a technology-based approach for achieving one or more of the following purposes for early intervention, preschool, elementary, middle school, or high school students with disabilities: (1) Improving the results of education or early intervention; (2) improving access to and participation in the general curriculum, or appropriate activities for preschool children; and (3)

improving accountability and participation in educational reform. The technology-based approach must be an innovative combination of a new technology and additional materials and methodologies that enable the technology to achieve educational purposes for students with disabilities;

(b) Justify the approach on the basis of research or theory that supports the effectiveness of the technology-based approach for achieving one or more of the purposes presented in paragraph (a);

(c) Clearly identify and conduct work in *ONE* of the following phases:

(1) *Phase 1—Development:* Projects funded under Phase 1 must develop and refine a technology-based approach, and test its feasibility for use with students with disabilities. Activities may include development, adaptation, and refinement of technology, curriculum materials, or instructional methodologies. Activities must include formative evaluation. The primary product of Phase 1 should be a promising technology-based approach that is suitable for field-based evaluation of effectiveness.

(2) *Phase 2—Research on Effectiveness:* Projects funded under Phase 2 must select a promising technology-based approach that has been developed in a manner consistent with Phase 1, and subject the approach to rigorous field-based research and evaluation to determine effectiveness and feasibility in educational or early intervention settings. Approaches studied in Phase 2 may have been developed with previous funding under this priority or with funding from other sources. Products of Phase 2 include a further refinement and description of the technology-based approach, and sound evidence that, in a defined range of real world contexts, the approach can be effective in achieving one or more of the purposes presented in paragraph (a).

(3) *Phase 3—Research on Implementation:* Projects funded under Phase 3 must select a technology-based approach that has been evaluated for effectiveness and feasibility in a manner consistent with Phase 2, and must study the implementation of the approach in multiple, complex settings to acquire an improved understanding of the range of contexts in which the approach can be used effectively, and the factors that determine the effectiveness and sustainability of the approach in this range of contexts. Approaches studied in Phase 3 may have been developed and tested with previous funding under this priority or with funding from other sources. Factors to be studied in Phase 3 include factors related to the technology, materials, and methodologies that constitute the technology-based approach. Also to be studied in Phase 3 are contextual factors associated with students, teacher attitudes and skills, physical setting, curricular and instructional or early intervention approaches, resources, professional development, policy supports, etc. Phases 2 and 3 can be contrasted as follows: Phase 2 studies the effectiveness the approach can have, while Phase 3 studies the effectiveness the approach is likely to have in sustained use in a range of typical educational settings. The primary product of Phase 3 should be a set of research findings that can be used to guide dissemination and utilization of the technology-based approach;

(d) In addition to the annual two-day Project Directors' meeting in Washington, D.C. mentioned in the ''General Requirements'' section of this notice, budget for another annual trip to Washington, D.C. to collaborate with the Federal project officer and the other projects funded under this priority, and to share information and discuss findings and methods of dissemination; and

(e) Prepare products from the project in formats that are useful for specific audiences as appropriate, including parents, administrators, teachers, early intervention personnel, related services personnel, researchers, and individuals with disabilities.

Projects for Children from Birth to 3: We intend to fund at least two projects focusing on technology-based approaches for children with disabilities, ages birth to 3.

Competitive Preference: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: We intend to fund at least three projects in each phase. Projects funded under Phase 1 will be funded for up to 24 months. Projects funded under Phase 2 will be funded for up to 24 months. Projects funded under Phase 3 will be funded for up to 36 months. During the final year of projects funded under Phase 3, we will determine whether or not to fund an optional six-month period for additional dissemination activities.

Maximum Award: The maximum award amount is $200,000 for projects in Phases 1 and 2, and $300,000 for projects in Phase 3. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 50 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 2—Accessible Media for Students with Visual Impairments and Print Disabilities (84.327K)

Background: According to the U.S. Department of Education's 1999 21st Annual Report to Congress, there were approximately 5.4 million students with disabilities aged 6 through 21 served by the Individuals with Disabilities Education Act (IDEA) in school year 1997–1998, including 26,070 students who are blind or visually impaired. We currently support one cooperative agreement to provide textbooks and other educational materials in accessible formats by recording, producing, duplicating, and distributing tapes of printed textbooks. In addition, we will also support one cooperative agreement to apply new technology for producing and distributing educational materials. In an effort to continue to meet the needs of these special populations, we must continue to move forward and capitalize on advanced technology to serve visually impaired and other print disabled students in elementary, secondary, postsecondary and graduate schools.

Priority: The purpose of this priority is to promote the utilization of advanced technology to support the translation of printed educational media to alternative

formats for use by students with visual impairments and print disabilities. This priority supports the distribution of free educational materials through mediums such as CD-ROMs, the Internet, and audio tapes, using technology such as electronic text and digital audio synchronization.

To be considered for funding under this priority, the project must—

(a) Handle requests for educational materials, from students who are visually or print disabled at all educational levels without charging for materials or memberships fees.

(b) Obtain statements of eligibility by disability for each requestor.

(c) Coordinate and collaborate with publishers, software developers, and manufacturers of accessible materials for individuals who are visually impaired or otherwise print disabled to utilize technology to allow access to textbooks and other educational materials via the Internet, CD-Roms, and audio tapes, using technology such as electronic text and digital audio synchronization.

(d) Apply new technology for producing and distributing educational materials in accessible formats for individuals who are blind or otherwise print disabled.

(e) Coordinate with disability and educational organizations, and government agencies to ensure effective coordination and nonduplication of effort.

(f) Ensure the project activities are conducted in compliance with section 121 of the Copyright Act, as amended.

(g) Ensure that publishers have the rights to copies of the materials distributed at no charge and rights to market those materials.

(h) To the extent that funds are not sufficient to meet the demand for free materials, place a priority on providing free materials that are not otherwise required to be provided by educational agencies or institutions.

(i) Identify outreach activities that will be conducted.

(j) Establish an advisory group consisting of parents of students who are visually impaired or print disabled, consumers who are visually impaired or print disabled, and schools or other institutions where accessible products are used to provide input on the impact of program activities and services and project goals and objectives.

Competitive Preference: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $6,000,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

SPECIAL EDUCATION—TRAINING AND INFORMATION FOR PARENTS OF CHILDREN WITH DISABILITIES [CFDA No. 84.328]

Purpose of Program

The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Eligible Applicants

Eligible applicants are local parent organizations. According to section 682(g), a parent organization is a private nonprofit organization (other than an institution of higher education) that:

(a) Has a board of directors—

(1) The parent and professional members of which are broadly representative of the population to be served;

(2) The majority of whom are parents of children with disabilities; and

(3) That includes individuals with disabilities and individuals working in the fields of special education, related services, and early intervention; or

(b) Has a membership that represents the interests of individuals with disabilities and has established a special governing committee meeting the requirements for a board of directors in paragraph (a) and has a memorandum of understanding between this special governing committee and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decision making responsibilities and authority of each.

According to section 683(c), local parent organizations are parent organizations that must meet one of the following criteria—

(a) Have a board of directors the majority of whom are from the community to be served; or

(b) Have, as part of their mission, serving the interests of individuals with disabilities from those community; and have a special governing committee to administer the project, a majority of the members of which are individuals from those community.

Examples of administrative responsibilities include controlling the use of the project funds, and hiring and managing project personnel.

Applicable Regulations

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 97, 98, and 99; and (b) The selection criteria for this priority that are drawn from the EDGAR general selection criteria menu. The specific selection criteria for this priority are included in the funding application packet for this competition.

Priority

Under sections 661(e)(2) and 683 of the Act, and 34 CFR 75.105(c)(3), we will give an absolute preference to applications that meet this absolute priority:

Absolute Priority—Community Parent Resource Centers (84.328C)

The purpose of this priority is to support local parent training and information centers that will help ensure that underserved parents of children with disabilities, including low-income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information they need to enable them to participate effectively in helping their children with disabilities to—

(a) Meet developmental goals and, to the maximum extent possible, those

challenging standards that have been established for all children; and

(b) Be prepared to lead productive independent adult lives, to the maximum extent possible.

Each community parent training and information center supported under this priority must —

(a) Provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the project;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under Section 615 of the Act, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in the Act;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities by assisting parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decision-making processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Understand the provisions of the Act for the education of, and the provision of early intervention services to, children with disabilities; and

(6) Participate in school reform activities;

(d) Contract with the State educational agencies, if the State elects to contract with the community parent resource centers, for the purpose of meeting with parents who choose not to use the mediation process to encourage the use and explain the benefits of mediation, consistent with sections 615(e)(2)(B) and (D) of the Act;

(e) In order to serve parents and families of children with the full range of disabilities, network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of the Act, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies;

(f) Establish cooperative partnerships with the parent training and information centers funded under section 682 of the Act;

(g) Be designed to meet the specific needs of families who experience significant isolation from available sources of information and support; and

(h) Annually report to the Assistant Secretary on—

(1) The number of parents to whom it provided information and training in the most recently concluded fiscal year; and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities.

We intend to fund a maximum of fifteen awards.

Competitive Preferences: Within this absolute priority, we will give competitive preference to applications under 34 CFR 75.105(c)(2)(i) that meet one or more of the following priorities:

(1) We will award 20 points to an application submitted by a local parent organization that has a board of directors, the majority of whom are parents of children with disabilities, from the community to be served.

(2) We will award 5 points to an application that proposes to provide services to one or more Empowerment Zones or Enterprise Communities that are designated within the areas served by projects. To meet this priority an applicant must indicate that it will:

(a)(i) Design a program that includes special activities focused on the unique needs of one or more Empowerment Zones or Enterprise Communities; or

(ii) Devote a substantial portion of program resources to providing services within, or meeting the needs of residents of these zones and communities.

(b) As appropriate, contribute to the strategic plan of the Empowerment Zones or Enterprise Communities and become an integral component of the Empowerment Zone or Enterprise Community activities.

A list of areas that have been selected as Empowerment Zones or Enterprise Communities is included in the application package.

(3) We will award up to five (5) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the General Requirements section of this notice (Section 606 of IDEA). In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of these competitive preferences, applicants can be awarded up to a total of 30 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting all of these competitive preferences could earn a maximum total of 130 points.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $100,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 30 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Special Education Studies and Evaluations [CFDA 84.329]

Purpose of Program

To assess progress in implementing IDEA, including State and local efforts to provide free appropriate public education to children with disabilities, and early intervention services to infants and toddlers with disabilities.

Applicable Regulatioins

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; and (b) The selection criteria for the priority under this program that are drawn from the EDGAR general selection menu. The specific selection criteria for this priority are included in the funding application packet for the applicable competition.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Eligible Applicants

State and local educational agencies; institutions of higher education; other public agencies; for-profit organizations; private nonprofit organizations; outlying areas; freely associated States; and Indian tribes or tribal organizations.

Priority

Under section 674 of IDEA and 34 CFR 75.105(c)(3), we consider only applications that meet the following priority:

Absolute Priority—National Early Intervention Longitudinal Study (NEILS) (CFDA 84.329E)

Background: In 1995, the Office of Special Education Programs (OSEP) determined that there was a critical need to discern the immediate and long-term effects of Part H, now called Part C, of the Individuals with Disabilities Education Act on infants and toddlers and their families, as well as on service providers. That program, provides early intervention services for children under three years of age and their families. In order to obtain that information, OSEP funded a cooperative agreement with SRI International for SRI to conduct a longitudinal study of a cohort of entrants into Part C. The main study questions are as follows:

(a) Who are the children and families receiving early intervention services?

(b) What early intervention services do participating children and families receive and how are these services delivered?

(c) What outcomes do participating children and families experience?

(d) How do outcomes relate to variations in child and family characteristics and services provided?

The study will follow a group of more than 3,300 children between ages 0 through 2 at the time of recruitment (1997—1998) through the time that each child completes kindergarten. The sample is now approximately 3, 4 and 5 years of age. The original five-year grant is not long enough to follow all the children until they complete kindergarten.

Priority: We will establish an absolute priority for a project to continue the National Early Intervention Longitudinal Study (NEILS) until each of the children in that study has completed kindergarten. The project must analyze the data and present a plan for a future study to examine a new cohort of entrants into the Part C program. The project officer will provide the awarded project with a copy of the questionnaires to be used in the project. The project must:

(a) Plan for and direct the smooth transition of projected-related resources from SRI International;

(b) Compare and evaluate different patterns of child development related to long-term results for children and their families through longitudinal analyses;

(c) Assess the effects of socioeconomic, demographic and health-related variables on long-term developmental and behavioral characteristics of the children;

(d) Incorporate factors related to body structure, body function, personal functioning, and the interaction with the environment with these variables that could result in a disadvantage limiting or preventing the fulfillment of an age-appropriate role;

(e) Isolate and explain the long-term effects of intervention on children and their families; and

(f) Present a comprehensive plan for assessing a new cohort of infants and toddlers served under Part C.

In addition to the annual two-day Research Project Directors' meeting in Washington, D.C. mentioned in the ''General Requirements'' section of this notice, the project must budget for four additional annual meetings in Washington, D.C. for: (1) An Early Childhood Project Directors' Meeting; (2) a Part C Directors' meeting; and (3) an additional two meetings, to meet and collaborate with the project officer from the Office of Special Education programs (OSEP) and with representatives from other relevant OSEP funded projects.

Project Period: Under this award, we will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards.

Competitive Preference: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Maximum Award: The maximum award amount is $1,100,000 for fiscal year 2001, $1,200,000 for fiscal year 2002, $1,300,000 for fiscal year 2003, and $400,000 per year for fiscal years 2004 and 2005. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applicants must meet the required page limits that are described in the ''General Requirements'' section of this notice.

For Applications Contact

Education Publications Center (ED Pubs), PO Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED–Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

FOR FURTHER INFORMATION CONTACT

Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, S.W., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 260–9182.

If you use a 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 persons listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Intergovernmental Review

All programs in this notice (except for the Research and Innovation to Improve Services and Results for Children with Disabilities Program) are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early

notification of the Department's specific plans and actions for those programs.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

[Application Notice for Fiscal Year 2001]

CFDA number and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year)*	Project period	Page limit**	Estimated number of awards
84.324A Postsecondary Education Programs for Individuals who are Deaf.	09/06/00	12/15/00	02/14/01	$1,000,000	Up to 60 mos.	50	4
84.324B Student Initiated Research Projects	09/06/00	02/09/01	04/11/01	20,000	Up to12 mos.	25	12
84.324C Field Initiated Research Projects	09/06/00	01/05/01	03/06/01	180,000	Up to 60 mos.***	50	14
84.324F Youth Leadership Development Project.	09/06/00	10/13/00	12/12/00	300,000	Up to 60 mos.	50	1
84.324M Model Demonstration Projects for Children with Disabilities.	09/06/00	12/15/00	02/12/01	175,000	Up to 48 mos.	50	14
84.324N Initial Career Awards	09/06/00	10/27/00	12/16/00	75,000	Up to 36 mos.	30	4
84.324R Outreach Projects for Children with Disabilities.	09/06/00	12/01/00	01/31/01	175,000	Up to 36 mos.	50	14
84.327A Steppingstones of Technology Innovation for Students with Disabilities.	09/06/00	12/08/00	02/05/01				11
Phase 1 and 2				200,000	Up to 24 mos.	50	
Phase 3				300,000	Up to 36 mos.	50	
84.327K Accessible Media for Students with Visual Impairments and Print Disabilities.	09/06/00	10/13/00	12/12/00	6,000,000	Up to 36 mos.	70	1
84.328C Community Parent Resource Centers	09/06/00	11/03/00	01/02/01	100,000	Up to 36 mos.	30	15
84.329E National Early Intervention Longitudinal Study.	09/06/00	10/13/00	12/12/00		Up to 60 mos.	70	1
FY 2001				1,100,000			
FY 2002				1,200,000			
FY 2003				1,300,000			
FY 2004				400,000			
FY 2005				400,000			

*Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

**Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the ''Page Limit'' requirements and the page limit standards described in the ''General Requirements'' section included under each priority description. We will reject and will not consider an application that does not adhere to this requirement.

***The majority of projects will be funded for up to 36 months. Only in exceptional circumstances will projects be funded for more than 36 months, up to a maximum of 60 months.

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Program Authority: 20 U.S.C. 1405, 1461, 1472, 1474, and 1487.

Dated: August 24, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–22060 Filed 8–28–00; 8:45 am]

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Federal Register

Tuesday,
August 29, 2000

Part V

Department of Education

Office of Special Education and Rehabilitative Services; Grant Applications Under the Special Education—Personnel Preparation To Improve Services and Results for Children With Disabilities Program; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Grant Applications Under the Special Education—Personnel Preparation To Improve Services and Results for Children with Disabilities Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for FY 2001 competitions under one program authorized by the Individuals with Disabilities Education Act (IDEA), as amended. The program is: Special Education—Personnel Preparation to Improve Services and Results for Children with Disabilities (six priorities).

Goals 2000: Educate America Act

The Goals 2000: Education America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These priorities would address the first National Education Goal that all children in America will start school ready to learn by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice.

General Requirements

(a) The projects funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see Section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see Section 661(f)(1)(A) of IDEA).

(c) Applicants and grant recipients funded under this notice that are not local educational agencies or State educational agencies must include information demonstrating to our satisfaction that the applicant and one or more State educational agencies have engaged in a cooperative effort to plan the project to which the application pertains and will cooperate in carrying out and monitoring the project.

(d) The projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, D.C. during each year of the project.

(e) In a single application, an applicant must address only one absolute priority in this notice.

(f) Part III of each application submitted under a priority in this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed under each applicable priority, using the following standards:

• A ''page'' is 8.5″ x 11″ (on one side only) with one-inch margins (top, bottom, and sides).

• Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.

• If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters per inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject without consideration or evaluation any application if—

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

Special Education—Personnel Preparation To Improve Services and Results for Children With Disabilities [CFDA 84.325]

Purpose of Program: The purposes of this program are to (1) help address State-identified needs for qualified personnel in special education, related services, early intervention, and regular education, to work with children with disabilities; and (2) to ensure that those personnel have the skills and knowledge, derived from practices that have been determined through research and experience to be successful, that are needed to serve those children.

Eligible Applicants: Institutions of higher education are eligible applicants for Absolute Priorities 1–4 under this program. Eligible applicants for Absolute Priority 5, Projects of National Significance, are: State and local educational agencies; institutions of higher education; other public agencies; private nonprofit organizations; outlying areas; freely associated States; and Indian tribes or tribal organizations.

Applicable Regulations: (a) Program regulations in 34 CFR Part 304; (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; (c) The selection criteria for the priorities under this program that are drawn from the EDGAR general selection menu. The specific selection criteria for each priority are included in the funding application packet for the applicable competition.

Additional Requirement for All Personnel Preparation Program Priorities

Student financial assistance is authorized only for the preservice preparation of special education and related services personnel who serve children ages 3 through 21, early intervention personnel who serve infants and toddlers, and leadership personnel who work in these areas.

Priority

Under section 673 of the Act and 34 CFR 75.105 (c)(3) we consider only applications that meet one of the following priorities:

Absolute Priority 1—Preparation of Special Education, Related Services, and Early Intervention Personnel to Serve Infants, Toddlers, and Children with Low-Incidence Disabilities (84.325A)

Background

The national demand for educational, related services, and early intervention personnel to serve infants, toddlers, and children with low-incidence disabilities exceeds available supply. However, because of the small number of these personnel needed in each State, institutions of higher education and individual States have not given priority to programs that train personnel to work with those with low-incidence disabilities. Moreover, of the programs that do exist, many are not producing graduates with the prerequisite skills

needed to meet the needs of the low-incidence disability population. Thus, Federal support is required to ensure an adequate supply of personnel to serve children with low-incidence disabilities and to improve the quality of appropriate training programs so that graduates possess necessary prerequisite skills.

Priority: This priority supports projects that increase the number and quality of personnel to serve children with low-incidence disabilities by providing preservice preparation of special educators, early intervention personnel, and related services personnel at the associate, baccalaureate, master's, or specialist level.

A preservice program is a program that leads to a degree, certification, professional license or endorsement (or its equivalent), and may be supported at the associate, baccalaureate, master's, or specialist level. A preservice program may include the preparation of currently employed personnel who are seeking additional degrees, certifications, endorsements, or licenses.

The term ''low-incidence disability'' means a visual or hearing impairment, or simultaneous visual and hearing impairments, a significant cognitive impairment, or any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education (IDEA, section 673(b)(3)). Training for personnel to serve children with mild-moderate mental retardation, specific learning disabilities, speech or language disorders, or emotional and behavioral disabilities is addressed under the priority for the preparation of personnel to serve children with high-incidence disabilities (84.325H), and, therefore, is not supported under this priority.

Applicants may propose to prepare one or more of the following types of personnel:

(a) Early intervention personnel who serve children birth through age 2 (until the third birthday) with low-incidence disabilities and their families. For the purpose of this priority, all children who require early intervention services are considered to have a low-incidence disability. Early intervention personnel include persons who train, or serve as consultants to, service providers and service coordinators;

(b) Special educators, including early childhood, speech and language, adapted physical education, and assistive technology, and paraprofessional personnel who work with children with low-incidence disabilities; or

(c) Related services personnel who provide developmental, corrective, and other support services (such as school psychologists, occupational or physical therapists, and recreational therapists) that assist children with low-incidence disabilities to benefit from special education. Both comprehensive programs, and specialty components within a broader discipline, that prepare personnel for work with the low-incidence population may be supported. For the purpose of this priority, eligible related services providers do not include physicians.

We particularly encourage projects that address the needs of more than one State, provide multi-disciplinary training, and provide for collaboration among several training institutions and between training institutions and public schools. In addition, we encourage projects that foster successful coordination between special education and regular education professional development programs to meet the needs of children with low-incidence disabilities in inclusive settings.

Each project funded under this absolute priority must—

(a) Use research-based curriculum and pedagogy to prepare personnel who are able to improve outcomes for students with low-incidence disabilities and to foster appropriate access to and achievement in the general education curriculum whenever appropriate;

(b) Offer integrated training and practice opportunities that will enhance the collaborative skills of appropriate personnel who share responsibility for providing effective services for children with the disabilities;

(c) Prepare personnel to address the specialized needs of children with low-incidence disabilities from diverse cultural and language backgrounds by;

(1) Determining the additional competencies needed for personnel to understand and work with culturally and linguistically diverse populations; and

(2) Infusing those competencies into early intervention, special education, and related services training programs, as appropriate.

(d) Develop or improve and implement mutually beneficial partnerships between training programs and schools where children are served to promote continuous improvement in preparation programs and in service delivery;

(e) If field-based training is provided, include field-based training opportunities for students in schools and settings reflecting wide contextual and student diversity, including schools and settings in high poverty communities;

(f) If the project prepares personnel to provide services to visually impaired or blind children that can be appropriately provided in Braille, prepare those individuals to provide those services in Braille.

To be considered for an award, an applicant must satisfy the following requirements contained in section 673(f)–(i) of the Act and 34 CFR part 304—

(a) Demonstrate, with letters from one or more States that the project proposes to serve, that States need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under Part B or C of the Act;

(b) Demonstrate that it has engaged in a cooperative effort with one or more State educational agencies or, if appropriate, lead agencies for providing early intervention services, to plan, carry out, and monitor the project;

(c) Provide letters from one or more States stating that they intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards for serving children with disabilities or serving infants and toddlers with disabilities;

(d) Meet State and professionally-recognized standards for the preparation of special education, related services, or early intervention personnel;

(e) Ensure that individuals who receive financial assistance under the proposed project will meet the service obligation requirements, or repay all or part of the cost of that assistance, in accordance with section 673(h)(1) of the Act and the regulations in 34 CFR part 304. Applicants must describe how they will inform scholarship recipients of this service obligation requirement; and

(f) In accordance with section 673(i) of the Act and § 304.20 of the regulations, use at least 55 percent of the total requested budget for student scholarships or provide sufficient justification for any designation less than 55 percent of the total requested budget for student scholarships.

Under this absolute priority, we plan to award approximately:

- 60 percent of the available funds for projects that support careers in special education, including early childhood educators;
- 10 percent of the available funds for projects that support careers in educational interpreter services for hearing impaired individuals;

• 15 percent of the available funds for projects that support careers in related services, other than educational interpreter services; and

• 15 percent of the available funds for projects that support careers in early intervention.

Competitive Preferences: Within this absolute priority, we will give the following competitive preference under section 673(g)(2)(B) of IDEA and 34 CFR 75.105(c)(2)(i) to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the extent to which institutions of higher education are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

In addition, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i) to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of these competitive preferences, applicants can be awarded up to a total of 20 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting these competitive preferences could earn a maximum total of 120 points.

Project Period: Up to 60 months.

Maximum Award: The maximum award amount is $300,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 40 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 2—Preparation of Leadership Personnel (84.325D)

This priority supports projects that conduct the following preparation activities for leadership personnel:

(a) Preparing personnel at the doctoral, and postdoctoral levels of training to administer, enhance, or to provide special education, related services, or early intervention services for children with disabilities; or

(b) Master's and specialist level programs in special education administration.

Projects funded under this absolute priority must—

(a) Prepare personnel to work with culturally and linguistically diverse populations by;

(i) Determining the additional competencies for personnel needed to understand and work with culturally diverse populations; and

(ii) Infusing those competencies into early intervention, special education and related services training programs.

(b) Include coursework reflecting current research and pedagogy on: (1) Participation and achievement in the general education curriculum and improved outcomes for children with disabilities; or (2) the provision of coordinated services in natural environments to improve outcomes for infants and toddlers with disabilities and their families.

(c) Offer integrated training and practice opportunities that will enhance the collaborative skills of appropriate personnel who share responsibility for providing effective services for children with disabilities.

To be considered for an award, an applicant must satisfy the following requirements contained in section 673(f)–(i) of the Act and 34 CFR part 304—

(a) Demonstrate, with letters from one or more States that the project proposes to serve, that States need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under Part B or C of the Act;

(b) Demonstrate that it has engaged in a cooperative effort with one or more State educational agencies or, if appropriate, lead agencies for providing early intervention services, to plan, carry out, and monitor the project;

(c) Meet State and professionally-recognized standards for the preparation of leadership personnel in special education, related services, or early intervention fields; and

(d) Ensure that individuals who receive financial assistance under the proposed project will meet the service obligation requirements, or repay all or part of the cost of that assistance, in accordance with section 673(h)(2) of the Act and the regulations in 34 CFR part 304. Applicants must describe how they will inform scholarship recipients of this service obligation requirement; and

(e) In accordance with section 673(i) of the Act and § 304.20 of the regulations, use at least 65 percent of the total requested budget for student scholarships or provide sufficient justification for any designation less than 65 percent of the total requested budget for student scholarships.

Competitive Preferences

Within this absolute priority, we will give the following competitive preference under section 673(g)(2)(B) of IDEA and 34 CFR 75.105(c)(2)(i) to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the extent to which institutions of higher education are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

In addition, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i) to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of these competitive preferences, applicants can be awarded up to a total of 20 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting these competitive preferences could earn a maximum total of 120 points.

Project Period: Up to 48 months.

Maximum Award: The maximum award amount is $200,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to

be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 40 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 3—National IHE Faculty Enhancement Center To Improve Results for Children With Disabilities in Schools (84.325F)

Children with disabilities are, in growing numbers, joining their nondisabled peers in schools and in classrooms to receive instruction in the general education curriculum with appropriate supports and services. The intent of the standards based reform movement is for all students to have access to and to enjoy meaningful participation and progress in curricular offerings that will enable them to achieve to high standards. As schools seek to ensure appropriate access to and participation of students with disabilities in the daily life of the regular school and in the general education curriculum within the standards based reform movement, many school administrative, general instructional, and support personnel are finding themselves ill-prepared to effectively carry out their new and emerging roles and responsibilities. Unless a major initiative is mounted at the preservice training level, incoming personnel will continue to face these challenges ill-prepared.

The purpose of this priority is to support a National Center to enhance the knowledge and skills of IHE faculty in school administration, regular education teacher training (including bilingual teacher training), school counseling, and school nursing, to improve the preservice training of personnel who share responsibility with special educators for providing effective services and ensuring improved results for children with disabilities in our schools. The Center must:

(a) *Identify needs.* Identify knowledge and skill enhancement needs of IHE faculty in each of the targeted training programs (*i.e.*, school administration; regular education teacher training; school counseling; and school nursing) that are most critical to ensuring that trainees in these programs are well prepared to carry out their respective roles and responsibilities in serving children with disabilities in school settings. This need identification process must be guided by a comprehensive review of the extant literature base and supplemented with methodologically sound investigative activities to enhance the current knowledge base where gaps are identified. Informants to this process must include recent program graduates and parents of children with disabilities.

(b) *Identify appropriate existing resources.* Identify existing resources, including those that have been developed with IDEA discretionary grant or contract support, that represent state of the art, research-based knowledge and practice that address the critical needs identified in paragraph (a) and that can be appropriately integrated into training modules under paragraph (c). Products developed by the IDEA Partnerships Technical Assistance projects currently supported by OSEP must be reviewed and considered for incorporation into proposed training modules.

(c) *Develop training modules.* Develop content-rich training modules that address the critical knowledge and skill enhancement needs identified in paragraph (a), that integrate existing resources identified in paragraph (b), and that are designed for ease of integration into existing curricular courses and experiential opportunities in the targeted IHE training programs. Modules must be structured to incorporate state of the art technology that will serve to enhance dissemination and use.

(d) *Disseminate training modules.* Develop and implement mechanisms that will result in broad, effective dissemination and use of training modules developed in paragraph (c).

(e) *Conduct comprehensive evaluation.* Design and conduct a comprehensive evaluation of the work, accomplishments, outcomes, impact, and effectiveness of the Center. This evaluation must be designed to provide information to guide necessary, ongoing, refinements to the structure, activities, workflow, and products that will improve the ultimate impact and effectiveness of the Center. This comprehensive evaluation must also be designed to measure the impact of this National Center on the primary goal of enhancing the knowledge and skills of IHE faculty in school administration, regular education teacher training, school counseling, and school nursing to improve the preservice training of personnel who share responsibility for providing effective services and ensuring improved results for children with disabilities in our public schools.

In designing and carrying out the required activities of this National Center, the project must collaborate with individuals and groups of individuals such as deans, IHE faculty, practicing professionals in the targeted training fields and in special education, module design technology experts, dissemination and training entities, and evaluation experts. Collaborators must include appropriate professional organizations and associations, federally supported technical assistance providers, and federally supported higher education projects, as appropriate.

In addition to the annual two-day Project Directors' meeting in Washington, DC mentioned in the ''General Requirements'' section of this notice, projects must budget for two additional meetings in Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, to share information and discuss model development, evaluation, and project implementation issues.

Project Period: Under this priority, we will make one award for a cooperative agreement with a project period of up to 60 months subject to the requirements of 34 CFR 75.253(a) for continuation awards. During the second year of the project, we will determine whether to continue the Center for the fourth and fifth years of the project period and will consider in addition to the requirements of 34 CFR 75.253(a):

(a) The recommendation of a review team consisting of three experts whom we select. The services of the review team, including a two-day site visit to the project, are to be performed during the last half of the project's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the project's budget for year two. These costs are estimated to be approximately $6,000;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's design and technical strategies demonstrate the potential for disseminating significant new knowledge.

Competitive Preferences

Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in

employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

For purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Maximum Award: The maximum award amount is $850,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 70 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 4—Preparation of Personnel in Minority Institutions (84.325E)

This priority supports awards to institutions of higher education with minority student enrollments of at least 25 percent, including Historically Black Colleges and Universities, for the purpose of preparing personnel to work with children with disabilities.

This priority supports projects that provide preservice preparation of special educators, early intervention personnel, and related services personnel at the associate, baccalaureate, master's, specialist, doctoral, or post-doctoral level.

A preservice program is a program that leads toward a degree, certification, professional license or endorsement (or its equivalent), and may include the preparation of currently employed personnel who are seeking additional degrees, certifications, endorsements, or licenses.

Applicants may propose to prepare one or more of the following types of personnel:

(a) Special educators, including early childhood, speech and language, adapted physical education, and assistive technology, and paraprofessional personnel who work with children with disabilities;

(b) Related services personnel who provide developmental, corrective, and other support services (such as school psychologists, occupational or physical therapists, recreational therapists) that assist children with disabilities to benefit from special education. Both comprehensive programs, and specialty components within a broader discipline, that prepare personnel for work with children with disabilities may be supported. For the purpose of this priority, eligible related services providers do not include physicians; or

(c) Early intervention personnel who serve children birth through age 2 (until the third birthday) and their families. Early intervention personnel include persons who train, or serve as consultants to service providers and service coordinators.

Projects funded under this absolute priority must—

(a) Use research-based curriculum and pedagogy to prepare personnel who are able to improve outcomes for students with disabilities and to foster appropriate access to and achievement in the general education curriculum where appropriate;

(b) Offer integrated training and practice opportunities that will enhance the collaborative skills of appropriate personnel who share responsibility for providing effective services for children with the disabilities;

(c) Prepare personnel to address the specialized needs of children with disabilities from diverse cultural and language backgrounds by:

(1) Determining the additional competencies needed for personnel to understand and work with culturally and linguistically diverse populations; and

(2) Infusing those competencies into early intervention, special education, and related services training programs, as appropriate.

(d) Develop or improve and implement mutually beneficial partnerships between training programs and schools where children are served to promote continuous improvement in preparation programs and in service delivery;

(e) If field-based training is provided, include field-based training opportunities for students in schools and settings reflecting wide contextual and student diversity, including schools and settings in high poverty communities;

(f) Employ effective strategies for recruiting students from culturally and linguistically diverse populations; and

(g) Provide student support systems (including tutors, mentors, and other innovative practices) to enhance student retention and success in the program.

To be considered for an award, an applicant must satisfy the following requirements contained in section 673(f)-(i) of the Act and 34 CFR part 304–

(a) Demonstrate, with letters from one or more States that the project proposes to serve, that States need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under Part B or C of the Act;

(b) Demonstrate that it has engaged in a cooperative effort with one or more State educational agencies or, if appropriate, lead agencies for providing early intervention services, to plan, carry out, and monitor the project;

(c) Provide letters from one or more States stating that they intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards for serving children with disabilities or serving infants and toddlers with disabilities;

(d) Meet State and professionally-recognized standards for the preparation of special education, related services, or early intervention personnel, if the purpose of the project is to assist personnel in obtaining degrees;

(e) Ensure that individuals who receive financial assistance under the proposed project will meet the service obligation requirements, or repay all or part of the cost of that assistance, in accordance with section 673(h)(1) of the Act and the regulations in 34 CFR part 304. Applicants must describe how they will inform scholarship recipients of this service obligation requirement; and

(f) In accordance with section 673(i) of the Act and § 304.20 of the regulations, use at least 55 percent of the total requested budget for student scholarships or provide sufficient justification for any designation less than 55 percent of the total requested budget for student scholarships.

Sufficient justification for proposing less than 65 percent of the budget for student support would include activities such as program development, expansion of a program, or the addition of a new emphasis area. Examples include:

- A project that is starting a new program may request up to a year for program development and capacity building. In the initial project year, no student support would be required. Instead, a project could hire a new faculty member, or a consultant to assist in program development;

• A project that is proposing to build capacity may hire a field supervisor so that additional students can be trained; and

• A project that is expanding or adding a new emphasis area to the program may initially need additional faculty or other resources such as expert consultants, additional training supplies or equipment that would enhance the program.

Projects that are funded to develop, expand, or to add a new emphasis area to special education or related services programs must provide information on how these new areas will be institutionalized once Federal funding ends.

Competitive Preferences: Within this absolute priority, we will give the following competitive preference under section 673(g)(2)(B) of IDEA and 34 CFR 75.105(c)(2)(i) to applicant institutions that are otherwise eligible for funding under this priority:

(a) Up to ten (10) points based on the extent to which institutions of higher education are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

(b) Up to ten (10) points to applicant institutions that have not received a FY 2000 or FY 2001 award under the IDEA personnel preparation program.

In addition, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i), to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of these competitive preferences applicants can be awarded up to a total of 30 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting all of these competitive preferences could earn a maximum total of 130 points.

Project Period: Up to 48 months.

Maximum Award: The maximum award amount is $200,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 40 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 4—Improving the Preparation of Personnel to Serve Children with High-Incidence Disabilities (84.325H)

Background

State agencies, university training programs, local schools, and other community-based agencies and organizations confirm both the importance and the challenge of improving training programs for personnel to serve children with high-incidence disabilities and of meeting the staffing needs of localities experiencing chronic shortages of these personnel.

This priority is intended to improve personnel preparation programs throughout the nation and help meet shortages in particular areas. A number of important factors that are common to effective personnel preparation programs are:

(a) Collaboration among governmental, educational and community-based organizations on the Federal, State, and local levels in meeting personnel needs;

(b) Field-based training opportunities for students to use acquired knowledge and skills in demographically diverse schools;

(c) Multi-disciplinary training of teachers, including regular and special education teachers, and related services personnel;

(d) Coordinating personnel preparation programs aimed at addressing chronic personnel shortages with State practices for addressing those needs;

(e) Addressing shortages of teachers in particular geographic and content areas;

(f) Integration of research-based curriculum and pedagogical knowledge and practices; and

(g) Meeting the needs of trainees, and of children with disabilities, from diverse backgrounds.

Priority

Consistent with section 673(e) of the Act, the purpose of this priority is to develop or improve, and implement, programs that provide preservice preparation for special and regular education teachers and related services personnel in order to meet the diverse needs of children with high incidence disabilities and to enhance the supply of well-trained personnel to serve these children in areas of chronic shortage. For the purpose of this priority, high-incidence disabilities include mild or moderate mental retardation, speech or language impairments, emotional disturbance, or specific learning disability. Training of early intervention personnel is addressed under the priority for the preparation of personnel to serve children with low-incidence disabilities (84.325A), and, therefore, is not included as part of this priority).

A preservice program is a program that leads to a degree, certification, professional license or endorsement (or its equivalent), and may be supported at the associate, baccalaureate, master's, or specialist level. A preservice program may include the preparation of currently employed personnel who are seeking additional degrees, certifications, endorsements, or licenses.

Applicants may propose to prepare one or more of the following types of personnel:

(a) Special educators, including early childhood, speech and language, adapted physical education, assistive technology, and paraprofessional personnel who work with children with high-incidence disabilities.

(b) Related services personnel, who provide developmental, corrective, and other support services (such as school psychologists, occupational or physical therapists, recreational therapists) that assist children with high-incidence disabilities to benefit from special education. For the purpose of this priority, eligible related service providers do not include physicians. Both comprehensive programs, and specialty components within a broader discipline that prepare personnel for work with the high incidence population, may be supported.

Projects funded under this priority must—

(a) Use research-based curriculum and pedagogy to prepare personnel who are able to assist students with disabilities in achieving in the general education curricula and to improve student outcomes;

(b) Offer integrated training and practice opportunities that will enhance the collaborative skills of appropriate personnel who share responsibility for providing effective services for children with high-incidence disabilities;

(c) Prepare personnel to work with culturally and linguistically diverse populations by:

(1) Determining the additional competencies needed for personnel to understand and work with culturally and linguistically diverse students with high-incidence disabilities; and

(2) Infusing those competencies into special education or related services training;

(d) Develop or improve and implement partnerships that are mutually beneficial to grantees and LEAs in order to promote continuous improvement of preparation programs; and

(e) Include field-based training opportunities for students in schools reflecting wide contextual and student diversity, including high poverty schools;

An applicant must satisfy the following requirements contained in section 673(f)-(i) of the Act and 34 CFR part 304:

(a) Demonstrate, with letters from one or more States that the project proposes to serve, that States need personnel in the area or areas in which the applicant proposes to provide preparation, as identified in the States' comprehensive systems of personnel development under Part B of the Act;

(b) Demonstrate that it has engaged in a cooperative effort with one or more State educational agencies to plan, carry out, and monitor the project;

(c) Provide letters from one or more States stating that they intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards for serving children with disabilities;

(d) Meet State and professionally-recognized standards for the preparation of special education and related services personnel;

(e) Ensure that individuals who receive financial assistance under the proposed project will meet the service obligation requirements, or repay all or part of the cost of that assistance, in accordance with section 673(h)(1) of the Act and the regulations in 34 CFR part 304. Applicants must describe how they will inform scholarship recipients of this service obligation requirement; and

(f) In accordance with section 673(i) of the Act and § 304.20 of the regulations, use at least 65 percent of the total requested budget for student scholarships or provide sufficient justification for any designation less than 65 percent of the total requested budget for student scholarships.

Competitive Preferences: Within this absolute priority we will give the following competitive preferences under section 673(g)(2)(B) of IDEA and 34 CFR 75.105(c)(2)(i) to applications that are otherwise eligible for funding under this priority.

Up to ten (10) points based on the extent to which institutions of higher education are successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which they are preparing individuals.

In addition, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i) to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of these competitive preferences applicants can be awarded up to a total of 20 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting each of these competitive preferences could earn a maximum total of 120 points.

Project Period: The maximum funding period for awards is 48 months.

Maximum Award: The maximum award amount is $200,000.

Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 40 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

Absolute Priority 5—Projects of National Significance (84.325N)

We establish an absolute priority to support projects that address issues of national significance and have broad applicability. Projects supported under this priority must develop, evaluate, and disseminate innovative models. These models must be designed to serve as blueprints for systemic improvement in the recruitment, preparation, induction, retention, or ongoing professional development of personnel who have responsibility for ensuring that children with disabilities achieve to high standards and become independent, productive citizens. These personnel include early intervention personnel, regular and special education teachers, administrators, related service personnel, and paraprofessionals. If the project maintains a web site, it must include relevant information and documents in an accessible form.

Projects must (1) use current research-validated practices and materials and (2) communicate appropriately with target audiences.

Applicants must note that:

(a) The purpose of this priority is model development. Thus, we do not expect that student scholarships will be supported. However, release time for staff for development activities is appropriate; and

(b) We expect that projects funded under this priority will incorporate a systemic approach to dissemination to relevant training and technical assistance entities.

Invitational Priorities

Within this absolute priority, we are particularly interested in applications that meet one or more of the following priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

(a) Projects that are designed to reduce personnel shortages by developing innovative models for promoting the transferability, across State and local jurisdictions, of licensure and certification of personnel serving infants, toddlers, and children with disabilities;

(b) Projects that are designed to increase the quantity, quality, and diversity of personnel who serve infants, toddlers, or children with disabilities by developing innovative, proactive models for recruiting personnel into training programs or professional positions;

(c) Projects that are designed to increase the retention of new personnel by developing innovative, multi-year, developmental induction models;

(d) Projects that are designed to improve the learning of children with disabilities in the general education curricula by developing innovative models for collaborative training of regular and special education personnel, including paraprofessionals;

(e) Projects that are designed to enhance professional development curricula for personnel serving infants, toddlers, or children with disabilities by developing case or problem-based training modules that can be integrated into training curricula. We expect that these projects would incorporate state of the art technology in the design and dissemination of the modules;

(f) Projects that are designed to enhance teaching and learning through the development of innovative training models that incorporate state of the art assistive, instructional and communicative technology knowledge and use; and

(g) Projects that are designed to enhance professional development curricula for teachers and administrators serving infants, toddlers, or children with disabilities by developing modules for individualized education program (IEP) decisionmaking, particularly with regard to a child's participation in assessments.

Competitive Preference: Within this absolute priority, we will give the following competitive preference under section 606 of IDEA and 34 CFR 75.105(c)(2)(i) to applications that are otherwise eligible for funding under this priority:

Up to ten (10) points based on the effectiveness of the applicant's strategies for employing and advancing in employment qualified individuals with disabilities in project activities as required under paragraph (a) of the ''General Requirements'' section of this notice. In determining the effectiveness of those strategies, we may consider the applicant's past success in pursuit of this goal.

Therefore, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for this priority. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

Project Period: Up to 36 months.

Maximum Award: The maximum award amount is $200,000. Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities.

Page Limits: The maximum page limit for this priority is 40 double-spaced pages.

Note: Applications must meet the required page limit standards that are described in the ''General Requirements'' section of this notice.

For Applications Contact: Education Publications Center (ED Pubs), PO Box 1398, Jessup, Maryland 20794–1398. Telephone (toll free): 1–877–4ED–Pubs (1–877–433–7827). FAX: 301–470–1244. Individuals who use a telecommunications device for the deaf (TDD) may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (edpubs@inet.ed.gov).

FOR FURTHER INFORMATION CONTACT: Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 260–9182.

If you use a 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 persons listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Intergovernmental Review

All programs in this notice are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for those programs.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—APPLICATION NOTICE FOR FISCAL YEAR 2001

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year)*	Project period	Page limit**	Estimated number of awards
84.325A Preparation of Special Education, Related Services, and Early Intervention Personnel to Serve Infants, Toddlers, and Children with Low-Incidence Disabilities	09/06/00	10/20/00	12/19/00	$300,000	Up to 60 mos	40	33
84.325D Preparation of Leadership Personnel	09/06/00	10/13/00	12/12/00	200,000	Up to 48 mos	40	13
84.325E Preparation of Personnel in Minority Institutions	09/06/00	01/26/01	03/27/01	200,000	Up to 48 mos	40	16
84.325F National IHE Faculty Enhancement Center to Improve Results for Children with Disabilities in School	09/06/00	10/27/00	12/26/00	850,000	Up to 60 mos	70	1

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—APPLICATION NOTICE FOR FISCAL YEAR 2001—Continued

CFDA No. and name	Applications available	Application deadline date	Deadline for intergovernmental review	Maximum award (per year)*	Project period	Page limit**	Estimated number of awards
84.325H Improving the Preparation of Personnel to Serve Children with High-Incidence Disabilities.	09/06/00	11/17/00	01/16/01	200,000	Up to 48 mos	40	31
84.325N Projects of National Significance.	09/06/00	12/08/00	01/30/01	200,000	Up to 36 mos	40	12

*Consistent with EDGAR 34 CFR 75.104(b), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year. We will consider, and may fund, requests for additional funding as an addendum to an application to reflect the costs of reasonable accommodations necessary to allow individuals with disabilities to be employed on the project as personnel on project activities. ** Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the ''Page Limit'' requirements included under each priority in this notice. The Assistant Secretary rejects and does not consider an application that does not adhere to this requirement.

Electronic Access to This Document

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Authority: 20 U.S.C. 1473.

Dated: August 24, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–22061 Filed 8–28–00; 8:45 am]

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FEDERAL REGISTER PAGES AND DATE, AUGUST

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT AUGUST 29, 2000

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:
- Pharmaceuticals production; published 8-29-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Biological products:
- Biological license implementation; establishment and product licenses elimination; technical amendment; published 8-29-00

Color additives:
- D&C Violet No. 2 in absorbable sutures; published 7-28-00

STATE DEPARTMENT

Visas; nonimmigrant documentation:
- Passport and visa waivers—
  - Members of observer missions to the United Nations; published 8-29-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Aircraft registration:
- Court of competent jurisdiction; interpretive rule; published 8-29-00

Airworthiness directives:
- Bell; published 7-25-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

National Organic Program:
- Reasonable security provision; comments due by 9-8-00; published 8-9-00

Pears (Bartlett) grown in—
- Oregon and Washington; comments due by 9-5-00; published 7-6-00

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Animal welfare:
- Pain and distress; definitions and reporting; comments due by 9-8-00; published 7-10-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Marine mammals:
- Subsistence taking; harvest estimates—
  - Northern fur seals; comments due by 9-8-00; published 8-9-00

DEFENSE DEPARTMENT

Defense Contract Audit Agency

Privacy Act; implementation; comments due by 9-6-00; published 8-7-00

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 9-8-00; published 8-9-00

Solid waste:
- U.S. Filter Recovery Services; generators and transporters of USFRS XL waste; comments due by 9-7-00; published 8-17-00

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; comments due by 9-6-00; published 8-7-00
  - National priorities list update; comments due by 9-6-00; published 8-7-00

Water pollution; effluent guidelines for point source categories:
- Coal mining; comments due by 9-8-00; published 7-6-00

Water supply:
- Underground injection control program—
  - Class I municipal wells in Florida; comments due by 9-5-00; published 7-7-00

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Tariffs—
  - National Exchange Carrier Association, Inc.; access tariffs participation changes; notice period shortened; comments due by 9-8-00; published 8-24-00

Digital television stations; table of assignments:
- Florida; comments due by 9-5-00; published 7-17-00
- Texas; comments due by 9-5-00; published 7-17-00

Radio stations; table of assignments:
- Oregon; comments due by 9-5-00; published 7-25-00

Television broadcasting:
- Cable television systems—
  - Cable Operations and Licensing Systems; electronic filing; comments due by 9-6-00; published 8-7-00

FEDERAL RESERVE SYSTEM

Bank holding companies and change in bank control (Regulation Y):
- Financial holding companies, permissible activities; acting as finder; comments due by 9-5-00; published 8-3-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:
- Sunscreen products (OTC); final monograph; comments due by 9-6-00; published 6-8-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare:
- Hospital outpatient services; prospective payment services
  - New or innovative medical devices, drugs, and biologicals; criteria revisions for pass-through payments, etc.; comments due by 9-5-00; published 8-3-00

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Freedom of Information Act regulations; revision; comments due by 9-8-00; published 7-10-00

Low income housing:
- Housing assistance payments (Section 8)—
  - Tenant-based certificate and voucher programs merger into Housing Choice Voucher Program; comments due by 9-8-00; published 7-10-00

Mortgage and loan insurance programs:
- Multifamily projects; prohibited purchasers in foreclosure sales; comments due by 9-5-00; published 7-5-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
- Critical habitat designations—
  - Piping plover; Great Lakes breeding population; comments due by 9-5-00; published 7-6-00
  - Piping plover; wintering populations along Gulf and Atlantic coasts; comments due by 9-5-00; published 7-6-00
- Findings on petitions, etc.—
  - Cape Sable seaside sparrow; comments due by 9-8-00; published 7-10-00

Migratory bird hunting:
- Seasons, limits, and shooting hours; establishment, etc.; comments due by 9-8-00; published 8-22-00

LABOR DEPARTMENT

Mine Safety and Health Administration

Coal mine safety and health:
- Respirable coal mine dust; concentration determination; and underground coal mine operators' dust control plans and compliance sampling for respirable dust; comments due by 9-8-00; published 8-11-00

PERSONNEL MANAGEMENT OFFICE

Prevailing rate systems; comments due by 9-8-00; published 8-9-00

POSTAL SERVICE

International Mail Manual:
- Express Mail Service; five percent discount; comments due by 9-6-00; published 8-7-00

SOCIAL SECURITY ADMINISTRATION

Social security benefits and supplemental security income:
- Federal old age, survivors, and disability insurance and aged, blind, and disabled—

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 3519/P.L. 106–264

Global AIDS and Tuberculosis Relief Act of 2000 (Aug. 19, 2000; 114 Stat. 748)

Last List August 22, 2000

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