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Federal Register

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Monday, October 1, 2001

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–26–AD; Amendment 39–12447; AD 2001–20–01]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada PT6A–25C and –114A Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Pratt & Whitney Canada (PWC) PT6A–25C and –114A turboprop engines. This amendment will require initial and repetitive visual inspections, and eventual replacement of the compressor bleed valve assembly, with a redesigned valve assembly for –114A and –25C engines. This amendment is prompted by reports of two occurrences of uncommanded engine power loss. The actions specified by this AD are intended to detect wear in the compressor bleed valve assembly which may cause valve orifice blockage, resulting in a loss of power, an inability to accelerate the engine, and an in-flight shutdown.

DATES: Effective date November 5, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 5, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G1A1. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Rosa, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7152; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to PWC PT6A–25C and –114A turboprop engines, was published in the **Federal Register** on September 20, 2000 (65 FR 56819). That action proposed to require initial and repetitive visual inspections, and eventual replacement of the compressor bleed valve assembly, with a redesigned valve assembly for –114A engines, and –25C engines.

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

Comments Received Regarding Terminating Action

Three commenters request that the FAA add PWC Service Bulletin (SB) PT6A–72–1581, Revision 1, dated February 1, 2000, as terminating action for the AD. The FAA agrees. The service bulletin referenced in the proposal, PWC SB PT6A–72–1588, and PWC SB PT6A–72–1581, Revision 1, introduce the same part, a new design of compressor bleed valve assembly that eliminates the unsafe condition. Therefore, either PWC SB PT6A–72–1581 or PWC SB PT6A–72–1588, dated February 18, 2000, will serve as terminating action for PT6A–114A to the inspection requirements of this AD.

Comment Regarding the Applicability of the AD

One comment notes that all of the referenced service bulletins apply to the PT6A–25C and PT6A–114A engines only if those engines have incorporated SB PT6A–72–1510. The comment, therefore, asks that the FAA limit the applicability of this AD to just those engines that have incorporated SB PT6A–72–1510.

The FAA agrees. Only those engines that were modified per SB PT6A–72–1510 should be affected by this AD, which has been changed accordingly.

Differences Between the NPRM and AD

Since the publication of the NPRM, Pratt and Whitey has published PWC SB PT6A–72–1589, dated November 1, 2000. This SB provides for inspection and replacement of compressor bleed valve assemblies installed on PT6A–25C series turboprop engines at the next shop visit, but no later than five years from the effective date of this AD. Replacement of the compressor bleed valve assembly is considered terminating action for the inspection requirements of this AD.

Economic Impact

There are about 504 engines of the affected design in the worldwide fleet. The FAA estimates that 353 engines installed on aircraft of U.S. registry would be affected by this AD, that it would take about two work hours per engine to accomplish the initial inspections, and one hour to accomplish the replacement of the valve, and that the average labor rate is $60 per work hour. Required parts would cost about $7,458.00 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,696,214.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the

Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–20–01 Pratt & Whitney Canada: Amendment 39–12447. Docket 2000–NE–26–AD.

Applicability

This airworthiness directive (AD) applies to PT6A–25C and –114A Series turboprop engines, that have incorporated P&WC S.B. 1510, which are installed on but not limited to Pilatus PC–7 and Cessna 208 Caravan airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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

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

To detect wear on the compressor bleed valve assembly cover, guide pin shaft, cotter pin, and to detect particles from diaphragm wear, which may cause valve orifice blockage, resulting in a loss of power, an inability to accelerate the engine, and an in-flight shutdown, do following:

Initial and Repetitive Inspections

(a) Perform an initial visual inspection of the compressor bleed valve assembly components within 150 flight hours after the effective date of this AD in accordance with Accomplishment Instructions, Section 3A through 3B of Pratt & Whitney Canada (PWC) Service Bulletin (SB) PT6A–72–1574, Revision 2, dated October 14, 1999.

(b) Thereafter, perform repetitive visual inspections of the compressor bleed valve assembly components within 600 flight hours after the last inspection in accordance with Accomplishment Instructions, Section 3A through 3B of PWC SB PT6A–72–1574, Revision 2, dated October 14, 1999.

Terminating Action

(c) For PT6A–114A series turboprop engines, replacement of compressor bleed valve assemblies at the next shop visit, with the redesigned valve assembly, in accordance with PWC SB PT6A–72–1588, dated February 18, 2000 or PWC SB PT6A–72–1581, Revision 1, dated February 1, 2000, is considered terminating action for the inspection requirements of this AD. This action must be done at the next shop visit but no later than five years from the effective date of this AD.

(d) For PT6A–25C series turboprop engines, replacement of compressor bleed valve assemblies with the redesigned valve assembly, at the next shop visit, in accordance with PWC SB PT6A–72–1589, dated November 1, 2000, is considered terminating action for the inspection requirements of this AD. This action must be done at the next shop visit but no later than five years from the effective date of this AD.

Definition

(e) For the purpose of this AD, a shop visit is defined as when the subassembly (i.e. module, accessories, components or build groups) is disassembled and access is available to the compressor bleed valve assembly.

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, Engine Certification Office (ECO). Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

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

Special Flight Permits

(g) 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.

Documents That Have Been Incorporated by Reference

(h) The inspections and replacement shall be done in accordance with the following Pratt & Whitney Canada service bulletins:

Document No.	Pages	Revision	Date
SB PT6A–72–1574 Total pages: 3	All	2	Oct. 14, 1999.
SB PT6A–72–1581 Total pages: 12	All	1	Feb. 1, 2000.
SB PT6A–72–1588 Total pages:12	All	Original	Feb. 18, 2000.
SB PT6A–72–1589 Total pages: 10	All	Original	Nov. 1, 2000.

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 Pratt & Whitney Canada, 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G1A1. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Transport Canada Airworthiness Directive CF–99–23, dated September 14, 1999.

Effective Date

(i) This amendment becomes effective on November 5, 2001.

Issued in Burlington, Massachusetts, on September 20, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–24270 Filed 9–28–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–25–AD; Amendment 39–12448; AD 2001–20–02]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Pratt & Whitney (PW) PW4000 series turbofan engines with 2nd stage high pressure turbine (HPT) air seal assembly part number (P/N) 50L976 or P/N 50L960 installed. This amendment requires operators to recalculate 2nd stage HPT air seal assembly cycles-in-service, based on flight hour-to-cycle ratio usage. This amendment also requires upon recalculation, initial and repetitive on-wing borescope inspections of 2nd stage HPT air seal assemblies for cracks based on the newly calculated service life. This amendment also requires the removal from service of any cracked seal assemblies, and the removal of seal assemblies at or before newly calculated service life limits. This amendment is prompted by reports that thirteen 2nd stage HPT air seal assemblies have been found cracked in the rim area. Although these thirteen air seals were operating in the hottest configuration design, which is no longer in service, the current design 2nd stage HPT air seal assemblies are still operating in a temperature environment that is hotter than anticipated. The actions specified by this AD are intended to prevent 2nd stage HPT air seal assembly fracture that could result in an uncontained engine failure.

DATES: Effective date November 5, 2001. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 5, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main Street, East Hartford, CT 06108. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington MA 01803–5299; telephone: (781) 238–7130, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to PW PW4000 series turbofan engines with 2nd stage HPT air seal assembly P/N 50L976 or P/N 50L960 installed was published in the **Federal Register** on December 27, 2000 (65 FR 81780). That action proposed to require operators to recalculate 2nd stage HPT air seal assembly cycles-in-service, based on flight hour-to-cycle ratio usage. That action also proposed to require upon recalculation, initial and repetitive on-wing borescope inspections of 2nd stage HPT air seal assemblies for cracks based on the newly calculated service life, in accordance with PW ASB No. PW4G–112–A72–233, dated August 25, 2000. Finally, that action proposed to require removal from service of any cracked seal assemblies, and the removal of seal assemblies at or before newly calculated service life limits.

Comments

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

Reference to Service Bulletin Revisions

One commenter requests that the AD reference Revision 1 of PW ASB PW4G–112–A72–233, dated January 18, 2001. That revision clarifies the procedures for mixed operation of ''long mission'' and ''short mission'' operation, and does not change the inspection requirements. The FAA agrees that Revision 1 of the ASB provides necessary clarification. However, since the publication of the NPRM, the manufacturer published several revisions to ASB PW4G–112–A72–233. The original issue of the ASB required a one-time borescope inspection for engines converted by SB PW4G–112–75–30 at the time of conversion. Revision 1, dated January 16, 2001, clarified mixed mission instructions and in-shop inspections. Revision 2, dated March 27, 2001, added a statement that if the conversion occurred before the requirement for the one-time inspection, the one-time inspection is performed within 250 cycles of the issue date of Revision 2. Revision 3, dated August 3, 2001, removes all reference to a one-time inspection. These revisions do not change the inspection requirements referenced by the AD. Therefore, the SB reference has been changed in the AD to PW ASB PW4G–112–A72–233, Revision 3. However, inspections done in accordance with the original SB or any of the revisions are considered to be in compliance with the AD.

Mixed Cycle Operator's Instructions

Two commenters request confirmation that for the Mixed-Cycle Operator's Instructions of the SB referenced by the NPRM, the hour-to-cycle ratio does not need to be calculated prior to August 25, 2000, the original publication date of the ASB. The commenters request confirmation that the monthly hour-to-cycle ratio monitoring is required only after the initial hour-to-cycle ratio is calculated.

The FAA agrees that there appears to be some ambiguity regarding when calculations for hour-to-cycle ratio must be performed in order to determine the initial inspection threshold. The ASB states that the determination of the total number of hours and cycles a 2nd stage air seal has accumulated is done ''up to this point.'' This means the calculation of the total number of cycles on the seals must be done in accordance with the SB for every month that the seal has been in service. Because the AD incorporates the instructions of the ASB by reference, the AD requires the calculation of equivalent cycles by the equation in paragraph 1. A. of the Mixed Cycle Operator's Instructions of the ASB on all the cycles that the seal has accumulated in service on the date that the calculation is performed. Paragraph (a) of the AD specifies that the initial inspection threshold must be determined within 30 days of the effective date of the AD. The wording of the AD does not need to be changed because the compliance is ''required as indicated, unless accomplished previously.'' If an operator made the determination of the initial inspection threshold utilizing the August 25, 2000 date, prior to the publication of this AD, this would be in compliance with the AD. The FAA agrees that the monthly hour-to-cycle ratio monitoring is required only after the initial hour-to-cycle ratio is calculated.

Air Seal Inspection in the Shop

One commenter requests clarification as to whether the ASB requirement for air seal inspection in the shop is included in the AD. The in-shop inspection requirements are not included in the AD. The NPRM

references the ''On-Wing'' inspection procedures of the ASB because the FAA determined by evaluation of risk assessment data that, at a minimum, the on-wing inspections are required to address the unsafe condition.

Applicable Engine Models

One commenter notes that Pratt & Whitney SB PW4G–112–A72–233, referenced in the NPRM, does not list PW4074D, and PW4090–3 as applicable engine models. However, the Boeing master change for B777 allows installation of these engine models. The commenter believes this AD and the SB should reflect the PW4074D and the PW4090–3 as applicable engine models. The FAA agrees. The Appliciability now reflects the PW4000 112 inch diameter series engine models: PW4074, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090–3, PW4074D, PW4090D, PW4098.

AD Requirements for Converted Engines

One commenter requests clarification of the AD requirements for engines that have been converted from Population 3 to Population 4 or from 90K–A to 90K–B prior to the initial inspection threshold. The AD does not require the one-time post-conversion inspection for engines that were converted per SB PW4G–112–75–30 or Special Instruction 134F–98 to population 4 or population 90K–B prior to the installed air seal accruing 1,500 cycles for ''long mission'' operators or 3,300 cycles for ''short mission'' operators.

Alternative Inspection Procedure

One commenter notes that the On-Wing inspection procedure described in the Accomplishment Instructions of PW ASB PW4G–112–A72–233 allows operators to follow Boeing AMM Chapter/Section 72–52–00 as an alternative. The commenter believes the AD should also allow operators to use the procedure in the Boeing AMM Chapter/Section 72–52–00. The FAA does not agree. The FAA has not reviewed and approved the Boeing AMM Chapter/Section 72–52–00 that is cross-referenced in the ASB. Therefore, the Boeing AMM is not incorporated by reference in this AD.

250 Flight Cycle Inspection Frequency

One commenter requests that the exception provided by PW ASB PW4G–112–A72–233 that allows operators to inspect every 250 cycles rather than track hour-to-cycle ratio be permitted in the AD. The commenter asks if the monthly hour-to-cycle ratio should be calculated from the first day to the last day of each month, or twelve nearly equally spaced increments in a given year. The FAA agrees. The 250 flight cycle inspection frequency, and a cycle limit of 8,000 cycles is a more conservative approach. The FAA agrees that this option should be allowed in the AD. In addition, the FAA agrees that twelve nearly equally spaced increments in a given year satisfies the intent of the term ''monthly.''

Complicated Control Mechanism

One commenter expresses concern that the control mechanism established in the ASB and AD is too complicated for an operator to manage. The commenter believes that this kind of complication can cause human error, which can result in non-compliance to the ASB. The FAA disagrees that this AD establishes a control mechanism that is too complicated for an operator to manage and is prone to human error. While human error can be introduced into any process, this is unlikely to occur when diligence in process management is afforded to issues that are subject to regulatory action.

Clarification of Discussion Statements Requested

One commenter requests a clarification of statements made in the Discussion section of the NPRM. The first sentence in the Discussion states, ''This proposal is prompted by reports that thirteen 2nd stage HPT air seal assemblies have been cracked in the rim area.'' The commenter requests that for clarification the following be added: ''These thirteen air seals were operating in the hottest configuration design, which is no longer in service.'' The subsequent sentence would then say: ''However, the current design 2nd stage HPT air seal assemblies are still operating in a temperature environment that is hotter than the manufacturer anticipated.'' The FAA agrees and this clarification has been added to the summary section of this amendment.

Replacement Cost Inaccuracy

One commenter notes an inaccuracy in the replacement cost used in the Economic Analysis. The cost of a new 2nd stage HPT air seal noted in the ASB is $213,990, whereas the cost stated in the NPRM is $235,950. The FAA agrees. Utilizing the $213,990 figure would decrease the overall estimated cost impact from $10,659,312 to $8,551,152, a reduction of $2,108,160.

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 with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Economic Analysis

There are approximately 233 Pratt & Whitney (PW) PW4000 series turbofan engines with 2nd stage high pressure turbine (HPT) air seal assembly part number (P/N) 50L976 or P/N 50L960 installed in the worldwide fleet. The FAA estimates that 96 engines installed on airplanes of U.S. registry will be affected by this AD. The FAA also estimates that it would take approximately 2.3 work hours per engine to accomplish the proposed on-wing borescope inspection, and that the average labor rate is $60 per work hour. The FAA estimates that approximately 47% of the certified life of the affected parts will be lost. Required parts would cost $213,990 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $8,551,152.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation

Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–20–02 Pratt & Whitney: Amendment 39–12448. Docket 2000–NE–25–AD.

Applicability

This airworthiness directive (AD) is applicable to Pratt & Whitney (PW): PW4074, PW4077, PW4077D, PW4084, PW4084D, PW4090, PW4090–3, PW4074D, PW4090D, and PW4098 turbofan engines with 2nd stage high pressure turbine (HPT) air seal assembly part number (P/N) 50L976 or P/N 50L960 installed. These engines are installed on but not limited to Boeing 777 series airplanes.

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

Compliance

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

To prevent 2nd stage HPT air seal assembly failure that could result in uncontained engine failure, accomplish the following:

Calculation of Service Limits

(a) Within 30 days of the effective date of this AD, and then each calendar month thereafter, determine the hour-to-cycle ratio of 2nd stage HPT air seal assemblies based on the hours and cycles accumulated in the previous month in accordance with Paragraph 1 of the Accomplishment Instructions for air seal management of PW Alert Service Bulletin (ASB) No. PW4G–112–A72–233, Revision 3, dated August 3, 2001.The original ASB or any of the revisions may also be used and are considered to be in compliance with the AD.

Borescope Inspections

(b) For 2nd stage HPT air seal assemblies, determine the initial inspection time and repetitive inspection interval in cycles, in accordance with Paragraph 2 of the Accomplishment Instructions for air seal management of PW ASB No. PW4G–112–A72–233; Revision 3, dated August 3, 2001. Perform borescope inspections of the 2nd stage HPT air seal assembly for cracks, and remove HPT air seal assemblies from service if cracked, in accordance with the On-Wing Procedure section of Accomplishment Instructions of PW ASB No. PW4G–112–A72–233, Revision 3, dated August 3, 2001. Inspections done in accordance with the original ASB or any of the revisions are considered to be in compliance with the AD.

New Cycle Limits

(c) Determine new cycle limits for 2nd stage HPT air seal assemblies in accordance with Paragraph 3 of the Accomplishment Instructions for air seal management of PW ASB No. PW4G–112–A72–233; Revision 3, dated August 3, 2001, and remove from service 2nd stage HPT air seal assemblies prior to exceeding those limits. Determinations made using the original ASB or any of the revisions are considered to be in compliance with the AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(e) 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.

Documents That Have Been Incorporated by Reference

(f) The inspections must be done in accordance Pratt & Whitney ASB PW4G–112A72–233, Revision 3, dated August 3, 2001. 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 Pratt & Whitney, 400 Main Street, East Hartford, CT 06108. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date of This AD

(g) This amendment becomes effective on November 5, 2001.

Issued in Burlington, Massachusetts, on September 21, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–24273 Filed 9–28–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

15 CFR Part 14

[Docket No. 980422101–1224–03]

RIN 0605–AA09

Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations

AGENCY: Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce (DoC).

ACTION: Final rule.

SUMMARY: This final rule amends the DoC interim final rule on grants administration which implements Office of Management and Budget (OMB) Circular A–110. This final rule allows recipients to transfer funds among direct cost categories for awards in which the Federal share of the project is $100,000 or less. Also, this rule makes a correction to the language concerning disclosure requirements under the Byrd Anti-Lobbying Amendment and it updates language and provisions as a result of changes to law.

EFFECTIVE DATE: This final rule is effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Elizabeth L. Dorfman, Office of Executive Assistance Management, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Room HCHB 6022, Washington, DC 20230, 202–482–4115, e-mail: EDorfman@doc.gov.

SUPPLEMENTARY INFORMATION: On September 4, 1998, DoC published an interim final rule (63 FR 47155) adopting the provisions of the Office of Management and Budget Circular A–110, ''Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations.'' Changes made by the interim final rule were not intended to deviate from the substance of Circular A–110. However, the interim final rule made minor changes to update the procedures, clarify the language, and make the language apply specifically to

DoC and its operating units. The interim final rule is codified at 15 CFR part 14.

This rule amends the interim final rule to incorporate a change requested through public notice and comment. This final rule is not subject to the rulemaking requirements of 5 U.S.C. 553 because it relates to public property, loans, grants, benefits, and contracts, 5 U.S.C. 553(c)(2), including the provision of prior notice and an opportunity for public comment and delayed effective date. No other law requires that notice and opportunity for comment be given for this rule. However, given the nature of OMB Circular A–110 as a common rule, the DoC accepted comments from interested parties in an effort to ensure consistency.

DoC received comments from five colleges and universities concerning the DoC requirement for prior approval on any rebudgeting request that exceeds 10 percent of program costs for all awards, including those awards of $100,000 or less. Each of the institutions objected to the provision that recipients may not transfer funds among direct cost categories or programs, functions and activities for awards in which the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved. All comments received were considered in developing these final amendments.

As stipulated at 15 CFR 14.25(f), the DoC interim final rule requires prior approval on budget revisions exceeding 10 percent for all awards regardless of the amount of Federal funding. DoC continues to take steps toward improving its program delivery, policies and procedures, and to be more responsive to those whom it serves. This final rule revises 15 CFR 14.25(f) to require prior approval for awards in which the Federal share of the project exceeds $100,000. In addition, the final rule makes clear that the 10 percent threshold applies to the total Federal and non-Federal funds authorized by the Grants Officer at the time of the transfer request. This is the accumulated amount of Federal funding obligated by the Grants Officer along with any approved non-Federal share.

In addition to making changes requested by the public, this final rule updates language and provisions. The phrase ''small purchase threshold'' is changed to ''simplified acquisition threshold'' throughout the document in order to be consistent with section 4(11) of the Office of Federal Procurement Policy Act, 41 U.S.C. 403(11), as amended by section 4001 of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355. In addition, Appendix A is updated in accordance with the Federal Acquisition Streamlining Act of 1994, Public Law 103–355, which raised the threshold to $100,000 for the requirement to include the provision for compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333). Finally, Appendix A is corrected to reflect that the disclosure requirements under the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, apply to organizations that apply or bid for an award exceeding $100,000 (not $100,000 or more).

Executive Order 12866

This notice has been determined to be ''not significant'' for purposes of Executive Order 12866, ''Regulatory Planning and Review.''

Regulatory Flexibility Act

Because notice and comment are not required under 5 U.S.C. 553 or any other law for this rule relating to public property, loans, grants benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act. Reporting and recordkeeping requirements in 15 CFR Part 14 are those required by OMB Circular A–110 and have already been cleared by OMB.

Catalog of Federal Domestic Assistance

This rule affects all of the grant and cooperative agreement programs with institutions of higher education, hospitals, other non-profit, and commercial organizations administered by DoC.

List of Subjects in 15 CFR Part 14

Accounting, Administrative practice and procedure, Colleges and universities, Grants administration, Grant programs—economic development, Grant programs—oceans and atmosphere, Grant programs—minority businesses, Grant programs—technology, Grant programs—telecommunications, Grant programs—international, Hospitals, Nonprofit organizations, Reporting and recordkeeping requirements.

Approved: September 26, 2001.

Robert F. Kugelman,

Director, Office of Executive Budgeting and Assistance Management, Department of Commerce.

Accordingly, the interim final rule adding Part 14 of Title 15 of the Code of Federal Regulations, which was published at 63 FR 47155 on September 4, 1998, is adopted as final, with the following changes:

PART 14—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NON-PROFIT, AND COMMERCIAL ORGANIZATIONS

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

Authority: 5 U.S.C. 301; OMB Circular A–110 (64 FR 54926, October 8, 1999).

2. Part 14 is amended by removing the phrase ''small purchase threshold'' and adding ''simplified acquisition threshold'' in its place wherever it occurs.

3. Section 14.25 is amended by revising paragraph (f) to read as follows:

§ 14.25 Revision of budget and program plans.

* * * * *

(f) The recipient may not transfer funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds $100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total Federal and non-Federal funds authorized by the Grants Officer. This does not prohibit the recipient from requesting Grants Officer approval for revisions to the budget. No transfers are permitted that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation.

* * * * *

4. Appendix A to part 14 is amended by revising paragraphs 4 and 7 to read as follows:

Appendix A to Part 14—Contract Provisions

* * * * *

4. *Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333)*—Where applicable, all contracts awarded by recipients exceeding $100,000 for construction contracts and for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by

Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

* * * * *

7. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)*—Contractors who apply or bid for an award exceeding $100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

* * * * *

[FR Doc. 01–24514 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–FA–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 232

[Release Nos. 33–8007; 34–44834; 35–27443; 39–2393; IC–25168]

RIN 3235–AG96

Adoption of Updated EDGAR Filer Manual

AGENCY: Securities and Exchange Commission

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission (the Commission) is adopting revisions to the EDGAR Filer Manual to reflect updates to the EDGAR system made in EDGAR Release 8.0. The new release includes an updated version of EDGARLink (Release 8.0) that filers must now download and use. The new version includes various enhancements to the templates and software. The revisions to the Filer Manual reflect these changes. The updated manual will be incorporated by reference into the Code of Federal Regulations.

EFFECTIVE DATE: October 1, 2001. The incorporation by reference of the EDGAR Filer Manual is approved by the Director of the Federal Register as of October 1, 2001.

FOR FURTHER INFORMATION CONTACT: In the Office of Information Technology, Rick Heroux at (202) 942–8800; for questions concerning Investment Management company filings, Ruth Armfield Sanders, Senior Special Counsel, or Shaswat K. Das, Senior Counsel, Division of Investment Management, at (202) 942–0978; and for questions concerning Corporation Finance company filings, Herbert Scholl, Office Chief, EDGAR and Information Analysis, Division of Corporation Finance, at (202) 942–2940.

SUPPLEMENTARY INFORMATION: Today we are adopting an updated EDGAR Filer Manual (Filer Manual). The Filer Manual describes the technical formatting requirements for the preparation and submission of electronic filings through the Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system.[1] It also describes the requirements for filing using modernized EDGARLink.[2]

The Filer Manual contains all the technical specifications for filers to submit filings using the new modernized EDGAR system. Filers must comply with the applicable provisions of the Filer Manual in order to assure the timely acceptance and processing of filings made in electronic format.[3] Filers should consult the Filer Manual in conjunction with our rules governing mandated electronic filing when preparing documents for electronic submission.[4]

EDGAR Release 8.0, the most recent step in the Commission's modernization project, will be implemented on September 24, 2001. This release includes a new version of EDGARLink (Release 8.0), which makes certain enhancements to the templates and software. Filers must download and use the updated EDGARLink 8.0 software and templates to ensure their filings will be processed successfully. EDGAR will no longer support earlier versions of EDGARLink. Notice of the update has previously been provided on the EDGAR Filing Web Site, through return notices to filers, and on the Commission's public web site. The discrete updates are reflected on the filing web site, and in the updated Filer Manual.

One benefit of the new release is its update to the Internet Forms Viewer and the Java Runtime Environment software packages, which are incorporated into EDGARLink. This upgrade will make EDGARLink more compatible with newer versions of commercial and custom software already deployed and used by our customers.

Other enhancements facilitate the entry of data for fee-based filings. EDGARLink Release 8.0 contains two new fee pages within Templates 1 and 2: the Fee and Offering Information page and Fee Offset Information page. The Fee and Offering Information page contains fee-related fields: Payor CIK and Payor CCC, Method of Payment and the Fee Paid (if applicable). Also displayed is an Offering Table that replaces the Equity, Debt, Convertible and Other fields. Fee Paid is now required, if applicable to the particular form type, and a suspense error ''incorrect fee amount'' will be displayed if the amount in the Fee Paid field is less then the calculated fee amount.

The Fee Offset Information page allows the entry of multiple offsets for a single submission. Each offset information row contains the CIK, Form Type, File Number, Offset Filing Date and the Amount. There is also a new automatic fee estimating function within EDGARLink that calculates the fee, based upon data entered by the filer. This function will be kept current through the use of the Fee Rate Table file; this file will be updated by the Commission and will be available for

[1] We originally adopted the Filer Manual on April 1, 1993, with an effective date of April 26, 1993. Release No. 33–6986 (Apr. 1, 1993) [58 FR 18638]. We implemented the most recent update to the Filer Manual on July 30, 2001. *See* Release No. 33–7999 (August 7, 2001) [66 FR 42941].

[2] This is the filer assistance software we provide filers filing on the EDGAR system.

[3] *See* Rule 301 of Regulation S–T (17 CFR 232.301).

[4] *See* Release Nos. 33–6977 (Feb. 23, 1993) [58 FR 14628], IC–19284 (Feb. 23, 1993) [58 FR 14848], 35–25746 (Feb. 23, 1993) [58 FR 14999], and 33–6980 (Feb. 23, 1993) [58 FR 15009] in which we comprehensively discuss the rules we adopted to govern mandated electronic filing. *See also* Release No. 33–7122 (Dec. 19, 1994) [59 FR 67752], in which we made the EDGAR rules final and applicable to all domestic registrants; Release No. 33–7427 (July 1, 1997) [62 FR 36450], in which we adopted minor amendments to the EDGAR rules; Release No. 33–7472 (Oct. 24, 1997) [62 FR 58647], in which we announced that, as of January 1, 1998, we would not accept in paper filings that we require filers to submit electronically; Release No. 34–40934 (Jan. 12, 1999) [64 FR 2843], in which we made mandatory the electronic filing of Form 13F; Release No. 33–7684 (May 17, 1999) [64 FR 27888], in which we adopted amendments to implement the first stage of EDGAR modernization; Release No. 33–7855 (April 24, 2000) [65 FR 24788], in which we implemented EDGAR Release 7.0.

download by the filers through the EDGAR Filing Web site.

There also have been other enhancements to the EDGARLink Templates 1, 2 and 3. We have updated various fields on the template screens, such as a save icon, to make them clearer and easier to use. Several fields have been relocated to improve the fit of the templates on the filer's monitor. EDGAR now will automatically assign file numbers to new registrants on amendments, when ''new'' is typed in the File Number field of the new co-registrant. We have also removed fields that were incorrectly displaying for certain form types. Fields now required for particular form types, such as the new fee fields for fee bearing filings and the File Number field for the U–3A–2/A form, will be displayed. A number of form types will now only allow single registrants: 24F–2NT, all OPUR form types, N–6F, N–6F/A, N–54A, N–54A/A, N–54C and N–54C/A. Co-registrant fields for these form types will not be displayed. The form types N–6C9 and N–6C9/A have been removed from EDGAR.

Along with adoption of the Filer Manual, we are amending Rule 301 of Regulation S–T to provide for the incorporation by reference into the Code of Federal Regulations of today's revisions. 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.

You may obtain paper copies of the updated Filer Manual at the following address: Public Reference Room, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0102. We will post electronic format copies on the Commission's Web site; the address for the Filer Manual is <*http://www.sec.gov/info/edgar/filermanual.htm*>. You may also obtain copies from Thomson Financial Corp, the paper and microfiche contractor for the Commission, at (800) 638–8241.

Since the Filer Manual relates solely to agency procedures or practice, publication for notice and comment is not required under the Administrative Procedure Act (APA).[5] It follows that the requirements of the Regulatory Flexibility Act[6] do not apply.

The effective date for the updated Filer Manual and the rule amendments is October 1, 2001. In accordance with the APA,[7] we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The EDGAR system upgrade to Release 8.0 is scheduled to occur on September 24, 2001. The Commission believes that it is necessary to coordinate the effectiveness of the updated Filer Manual with the scheduled system upgrade.

Statutory Basis

We are adopting the amendments to Regulation S–T under Sections 6, 7, 8, 10, and 19(a) of the Securities Act,[8] Sections 3, 12, 13, 14, 15, 23, and 35A of the Securities Exchange Act of 1934,[9] Section 20 of the Public Utility Holding Company Act of 1935,[10] Section 319 of the Trust Indenture Act of 1939,[11] and Sections 8, 30, 31, and 38 of the Investment Company Act of 1940.[12]

List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

Text of the Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The authority citation for Part 232 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79t(a), 80a–8, 80a–29, 80a–30 and 80a–37.

2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets out the technical formatting requirements for electronic submissions. The requirements for filers using modernized EDGARLink are set forth in EDGAR Filer Manual (Release 8.0), Volume I—Modernized EDGARLink, dated September 2001. Additional provisions applicable to Form N–SAR filers are set forth in EDGAR Filer Manual (Release 7.0), Volume II—N–SAR Supplement, dated July 2001. All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. You must comply with these requirements in order for documents to be timely received and accepted. You can obtain paper copies of the EDGAR Filer Manual from the following address: Public Reference Room, U.S. Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549–0102 or by calling Thomson Financial Corp at (800) 638–8241. Electronic format copies are available on the Commission's Web Site. The address for the Filer Manual is <http://www.sec.gov/info/edgar/filerman.htm>. You can also photocopy the document at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Dated: September 24, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24328 Filed 9–28–01; 8:45 am]

BILLING CODE 8010–01–P

[5] 5 U.S.C. 553(b).

[6] 5 U.S.C.601–612.

[7] 5 U.S.C. 553(d)(3).

[8] 15 U.S.C. 77f, 77g, 77h, 77j and 77s(a).

[9] 15 U.S.C. 78c, 78*l*, 78m, 78n, 78o, 78w and 78*ll*.

[10] 15 U.S.C. 79t.

[11] 15 U.S.C. 77sss.

[12] 15 U.S.C. 80a–8, 80a–29, 80a–30 and 80a–37.

DEPARTMENT OF STATE

22 CFR Part 41

Visas: Documentation of nonimmigrants under the Immigration and Nationality Act, as amended

CFR Correction

In title 22 of the Code of Federal Regulations, parts 1 to 299, revised as of April 1, 2001, part 41 is amended on page 195 by removing the second § 41.57.

[FR Doc. 01–55531 Filed 9–28–01; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–7066–4]

Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendment.

SUMMARY: We are amending the current provisions in the standards of performance for industrial-commercial-institutional steam generating units which permit owners and operators of new steam generating units located at chemical manufacturing plants and petroleum refineries burning high-nitrogen byproduct/wastes to petition

the Administrator for a site specific nitrogen oxides (NO_X) emission limit. The amendment extends the provisions to owners and operators of new steam generating units located at pulp and paper mills.

DATES: This direct final rule will be effective on November 30, 2001 without further notice, unless significant adverse comments are received by October 31, 2001.

If significant material adverse comments are received by October 31, 2001, this direct final rule will be withdrawn and the comments addressed in a subsequent final rule based on the proposed rule. If no significant material adverse comments are received, no further action will be taken on the proposal and this direct final rule will become effective on November 30, 2001.

ADDRESSES: By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–2001–18, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–2001–18, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Combustion Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5251, e-mail: *porter.fred@epa.gov.*

SUPPLEMENTARY INFORMATION: Comments. We are publishing this direct final rule without prior proposal because we view this as a noncontroversial amendment and do not anticipate adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final 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 direct final rule. Any parties interested in commenting must do so at this time.

Docket. The docket is an organized and complete file of information compiled by EPA in developing this direct final rule. 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 docket contains the record in the case of judicial review. The docket number for this rulemaking is A–2001–18.

World Wide Web (WWW). In addition to being available in the docket, electronic copies of this action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page *http://www.epa.gov/ttn/caaa.* 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 categories and entities that potentially will be affected by this amendment include the following:

Category	NAICS codes	SIC codes	Examples of potentially regulated entities
Pulp and Paper	322	26	Pulp and Paper Mills.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 60.41b of the rule. If you have questions regarding the applicability of this action 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 Clean Air Act (CAA), judicial review of the action taken by this direct final rule is available only on the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 30, 2001. Under section 307(b)(2) of the CAA, the requirements that are subject to today's action may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under section 307(d)(7) of the CAA, only an objection to a rule or procedure raised with reasonable specificity during the period for public comment or public hearing may be raised during judicial review.

I. Background

On November 25, 1986 (51 FR 42768), we promulgated standards of performance to limit NO_X emissions from new industrial-commercial-institutional steam generating units. Within the chemical manufacturing industry and the petroleum refining industry, byproduct/waste gases or liquids are often co-fired with natural gas or oil in steam generating units. Although new steam generating units co-firing byproduct/wastes with natural gas or oil must comply with the same NO_X emission limits as units firing only natural gas or oil, in most cases, that presents no problems.

Nitrogen oxides emissions, however, are influenced by the presence of nitrogen in the materials burned, and as we discussed in the **Federal Register** notices proposing and promulgating the standards, co-firing high-nitrogen byproduct/wastes can lead to a significant increase in NO_X emission levels. As a result, to ensure that the NO_X emission limits were not unreasonable, we included provisions in the standards for petitioning the Administrator for a site specific NO_X emission limit for a new steam generating unit located at a chemical plant or petroleum refinery where it could be shown that co-firing specific byproduct/wastes containing nitrogen prevents compliance with the NO_X emission limits.

The provisions require that an owner or operator petitioning the Administrator present sufficient evidence to demonstrate that the unit is able to comply with the NO_X emission limits when firing natural gas or oil, but unable to comply when co-firing

byproduct/waste under the same conditions. Thus, the owner or operator must first measure NO_X emissions when firing only natural gas or oil and demonstrate compliance with the NO_X emission limits. Excess air levels and other operating conditions must be recorded, and the owner or operator must then measure NO_X emissions while co-firing the byproduct/waste with natural gas or oil under these same conditions.

Emissions measured when co-firing the byproduct/waste serve as the basis for establishing a site specific NO_X emission limit applicable only during those periods when byproduct/waste is co-fired in the steam generating unit. During periods when byproduct/waste is not co-fired, the unit must comply with the NO_X emission limits in the standards.

As mentioned, co-firing most byproduct/wastes does not present a problem with respect to compliance with the NO_X emission limits. As a result, in the 15 years since adoption of the standards, only three site specific NO_X emission limits have been proposed and promulgated for new steam generating units located at chemical plants or petroleum refineries.

On April 15, 1998 (63 FR 18504), we promulgated national emission standards for hazardous air pollutants (NESHAP) to limit emissions of hazardous air pollutants (HAP) from pulp and paper mills. The standards require control of HAP waste gases from certain pulp vents. One alternative to control the HAP waste gases is to co-fire them in a steam generating unit.

Recently, it has come to our attention that the most reasonable alternative at one pulp and paper mill subject to the NESHAP is to co-fire the HAP waste gases in a steam generating unit subject to the standards of performance for industrial-commercial-institutional steam generating units. The HAP waste gases, however, contain nitrogen compounds and, as a result, the steam generating unit may not comply with the emission limit for NO_X emissions.

Other alternatives, such as installing a dedicated incinerator to burn the HAP waste gases, are substantially more costly and, in addition, could result in greater NO_X emissions. If the steam generating unit were located at a chemical plant or a petroleum refinery, the owners and operators could petition the Administrator for a site specific NO_X emission limit. Because the steam generating unit is located at a pulp and paper mill, however, as the standards now exist, that is not possible.

In retrospect, the provisions to petition the Administrator for a site specific NO_X emission limit were included in the standards for steam generating units located at chemical plants or petroleum refineries only because those were the only two industries which demonstrated a need for that type of flexibility in the standards at the time they were developed. With development of the NESHAP for pulp and paper mills, as illustrated by the example outlined above, it is clear that the pulp and paper industry also needs that flexibility. Consequently, we are amending the standards of performance for industrial-commercial-institutional steam generating units to extend the provisions to petition the Administrator for a site specific NO_X emission limit to owners and operators of new steam generating units located at pulp and paper mills which co-fire byproduct/wastes.

II. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

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

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

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

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

It has been determined that this direct final rule does not qualify as a ''significant regulatory action'' under the terms of Executive Order 12866 and, therefore, is not subject to review by OMB.

B. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This direct final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13132, Federalism

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

Under section 6 of Executive Order 13132, we 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 we consult with State and local officials early in the process of developing the proposed regulation. Also, we may not issue a regulation that has federalism implications and that preempts State law, unless we consult with State and local officials early in the process of developing the proposed regulation.

This direct final 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. Thus, the requirements of section 6 of the Executive Order do not apply to this direct final rule.

D. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires us to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on

the distribution of power and responsibilities between the Federal government and Indian tribes.''

This direct final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this direct final rule.

E. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

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

We interpret 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 direct final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. Also, this direct final rule is not ''economically significant.''

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, we 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 a rule for which a written statement is needed, section 205 of the UMRA generally requires us 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 objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us 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 we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government agency plan under section 203 of the UMRA. 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this direct final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, this direct final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

We have also determined that this direct final rule contains no regulatory requirements that might significantly or uniquely affect small governments.

G. 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 this direct final rule on small entities, small entity is defined as (1) A small business in the regulated industry which has 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; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this direct final rule on small entities, we have concluded that this action will not have a significant economic impact on a substantial number of small entities. This direct final rule will not impose any requirements on small entities because it does not impose any additional regulatory requirements.

H. Paperwork Reduction Act

The Office of Management and Budget approved the information collection requirements contained in the standards under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, at the time the rules were promulgated on November 25, 1986.

The amendment contained in this direct final rule results in no changes to the information collection requirements of the standards or guidelines and will have no impact on the information collection estimate of project cost and hour burden made and approved by OMB during the development of the standards and guidelines. Therefore, the information collection requests have not been revised.

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 our regulations are listed in 40 CFR part 9 and 40 CFR chapter 15.

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, § 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This direct final rule amendment does not involve technical standards. Therefore, it is not subject to NTTAA.

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

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 20, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended to read as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

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

Subpart Db—[Amended]

2. Section 60.41b is amended by revising the definition of *Byproduct/waste* and adding a definition of *Pulp and paper mills* to read as follows:

§ 60.41b Definitions.

* * * * *

Byproduct/waste means any liquid or gaseous substance produced at chemical manufacturing plants, petroleum refineries, or pulp and paper mills (except natural gas, distillate oil, or residual oil) and combusted in a steam generating unit for heat recovery or for disposal. Gaseous substances with carbon dioxide levels greater than 50 percent or carbon monoxide levels greater than 10 percent are not byproduct/waste for the purpose of this subpart.

* * * * *

Pulp and paper mills means industrial plants which are classified by the Department of Commerce under North American Industry Classification System (NAICS) Code 322 or Standard Industrial Classification (SIC) Code 26.

* * * * *

[FR Doc. 01–24075 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[TX–128–1–7466a; FRL–7067–6]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Texas: Control of Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action approving the Texas 111(d) Plan submitted by the Governor of Texas on June 2, 2000, to implement and enforce the Emissions Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerators (HMIWI). The EG requires States to develop plans to reduce toxic air emissions from all HMIWIs. This action also corrects an error in the list of designated facilities in the identification of the Texas 111(d) plan.

DATES: This rule is effective on November 30, 2001 without further notice, unless EPA receives adverse comment by October 31, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

U.S. Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese at (214) 665–7253.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

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I. What Action Is Being Taken by EPA Today?

The EPA is approving the Texas State Plan, as submitted on June 2, 2000, for the control of air emissions from HMIWIs. When we developed our New Source Performance Standard (NSPS) for HMIWIs, we also developed EG to control air emissions from older HMIWIs. See 62 FR 48348–48391, September 15, 1997. The Texas Natural Resource Conservation Commission (TNRCC) developed a State Plan, as required by section 111(d) of the Federal Clean Air Act (the Act), to incorporate the EG requirements into its body of regulations, and we are acting today to approve the State's Plan.

II. Why Do We Need To Regulate HMIWI Emissions?

When burned, hospital waste and medical/infectious waste emit various air pollutants, including hydrochloric acid, dioxin/furan, and toxic metals (lead, cadmium, and mercury). Mercury is highly hazardous and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occurs mainly through the ingestion of fish. When inhaled, mercury vapor attacks the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucinations and impair consciousness. Long-term exposure to mercury in certain forms can affect the central nervous system and cause kidney damage.

Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing

respiratory and cardiovascular disease and increased risk of premature death.

Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.

Exposure to dioxin and furan can cause skin disorders, cancer, and reproductive effects such as endometriosis. These pollutants can also affect the immune system.

III. What Is a State Plan?

Section 111(d) of the Act requires that pollutants controlled under NSPS must also be controlled at older sources in the same source category. Once an NSPS is promulgated, we then publish an EG applicable to the control of the same pollutant from existing designated facilities. States with designated facilities must then develop a State Plan to adopt the EG into their body of regulations. States must also include in this State Plan other elements, such as inventories, legal authority, and public participation documentation, to demonstrate the ability to enforce it.

IV. What Does the Texas State Plan Contain?

The State added a control strategy entitled ''Plan for Control of Hospital and Medical/Infectious Waste Incinerators'' to its ''The Texas State Plan for the Control of Designated Facilities and Pollutants'' in order to implement the 1997 EG for HMIWI under 40 CFR part 60, subpart Ce. For the regulatory element of the plan, the TNRCC adopted, on May 17, 2000, revisions to Title 30 of the Texas Administrative Code, Chapter 113 (30 TAC 113) (Regulation III), Control of Air Pollution From Toxic Materials. These revisions amended Section 113.1, Definitions, and added to Subchapter D, Designated Facilities and Pollutants, a new Division 2, Hospital/Medical/Infectious Waste Incinerators, Sections 113.2070 to 113.2072 and 113.2074 to 113.2079. The State effective date of these rules was June 11, 2000. The Governor submitted the Plan to EPA on June 2, 2000.

The Texas State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;

2. State Regulations 30 TAC 113.1; 30 TAC 113.2070 to 113.2072; and 30 TAC 113.2074 to 113.2079 as the enforceable mechanism;

3. An inventory of approximately 101 operating designated facilities subject to the Chapter 113 emission standards, 24 units exempt from control requirements but subject to reporting, and 43 affected facilities which have elected to shut down. An updated inventory of facilities and emissions inventory along with estimates of their toxic air emissions are being collected and will be included in the AIRS database in the future by the State.

4. Emission limits that are as protective as the EG;

5. A compliance date no later than one year after we approve the Plan. See Section 113.2079 and 40 CFR 60.39e, as listed at 62 FR 48381, September 15, 1997.

6. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;

7. Records from the public hearing; and,

8. Provisions for progress reports to EPA.

The Texas State Plan was reviewed for approval against the following criteria: 40 CFR part 60, subpart B, Adoption and Submittal of State Plans for Designated Facilities; and 40 CFR part 60, subpart Ce, Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators. A detailed discussion of our evaluation of the Texas State Plan is included in our technical support document located in the official file for this action.

V. Is My HMIWI Subject to These Regulations?

The EG for existing HMIWIs affect any HMIWI built on or before June 20, 1996. If your facility meets this criterion, you are subject to these regulations.

VI. What Steps Do I Need To Take?

You must meet the requirements in 30 TAC 113 as set out above and summarized as follows:

1. Determine the size of your incinerator by establishing its maximum design capacity.

2. Each size category of HMIWI has certain emission limits established which your incinerator must meet. See Table 2 in Section 113.2072 to determine the specific emission limits which apply to you. The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events. See Section 113.2072.

3. There are provisions to address small-remote incinerators (Sections 113.2070(15)(G), 113.2072, 113.2074, 113.2075, 113.2076(b)).

4. You must meet a five percent opacity limit on your discharge, averaged over a six-minute period (Section 113.2072(b)(2)).

5. You must have a qualified HMIWI operator available to supervise the operation of your incinerator. This operator training and qualification requirements are given in Section 113.2078.

6. Your operator must be certified, as discussed in 5 above, no later than one year after we approve the Plan. See Section 113.2079 and 40 CFR 60.39e(e), as listed at 62 FR 48382, September 15, 1997.

7. You must develop and submit to TNRCC a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, ''An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, 1993,'' and must be submitted to TNRCC within 60 days after initial performance test. See Section 113.2077.

8. You must conduct an initial performance test to determine your incinerator's compliance with these emission limits (Section 113.2075).

9. You must install and maintain devices to monitor the parameters listed under Table 6 in Section 113.2075.

10. You must document and maintain information concerning pollutant concentrations, opacity measurements, charge rates, and other operational data. This information must be maintained for a period of five years. See Section 113.2076.

11. You must report to TNRCC the results of your initial performance test, the values for your site-specific operating parameters, and your waste management plan. This information must be reported within 60 days following your initial performance test, and must be signed by the facilities manager (Section 113.2076).

12. In general, you must comply with all the requirements of this State Plan within one year after we approve it. See Section 113.2079.

VII. Correction to Identification of Texas 111(d) Plan

On June 17, 1999 (64 FR 32427) we approved the Texas 111(d) plan for municipal solid waste landfills. We inadvertently failed to add municipal solid waste landfills to the list of Texas designated facilities listed in 40 CFR 62.10850(c). This action corrects this error by adding ''Municipal solid waste landfills'' to the list of designated facilities in 40 CFR 62.10850(c).

VIII. Final Action

The EPA is approving the Texas 111(d) plan for the control of air emissions from existing HMIWIs submitted by the Governor on June 2, 2000. This action also corrects an error in 40 CFR 62.10850(c) by adding ''Municipal solid waste landfills'' to the list of Texas designated facilities.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve this revision to the Texas 111(d) Plan if adverse comments are received. This rule will be effective on November 30, 2001 without further notice unless we receive adverse comment by October 31, 2001. If EPA receives adverse comments, 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.

IX. 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. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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 state plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state plan submission, to use VCS in place of a state plan submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 2001. 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) of the Act.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Hospital/medical/infectious waste incineration, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 19, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

Part 62, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

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

Subpart SS—Texas

2. Section 62.10850 is amended by adding paragraphs (b)(4) and (c)(3) and (c)(4) as follows:

§ 62.10850 Identification of plan.

* * * * *

(b) * * *

(4) Control of air emissions from designated hospital/medical/infectious waste incinerators submitted by the Governor in a letter dated June 2, 2000.

* * * * *

(c) * * *

(3) Municipal solid waste landfills

(4) Hospital/medical/infectious waste incinerators.

3. Subpart SS is amended by adding a new undesignated center heading and §§ 62.10910 and 62.10911 to read as follows:

Air Emissions From Hospital/Medical/Infectious Wastes Incinerators

§ 62.10910 Identification of Sources.

The plan applies to existing hospital/medical/infectious waste incinerators for which construction, reconstruction, or modification was commenced before June 20, 1996, as described in 40 CFR part 60, subpart Ce.

§ 62.10911 Effective date.

The effective date for the portion of the plan applicable to existing hospital/medical/infectious waste incinerators is November 30, 2001.

[FR Doc. 01–24215 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FL–T5–2001–02; FRL–7068–5]

Clean Air Act Final Full Approval of Operating Permit Program; State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: EPA is promulgating full approval of the operating permit program of the Florida Department of Environmental Protection (FDEP). Florida's program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On September 25, 1995, EPA granted interim approval to Florida's operating permit program. The State revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on July 2, 2001. EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the Florida operating permit program.

EFFECTIVE DATE: October 31, 2001.

ADDRESSES: Copies of Florida's submittals and other supporting documentation used in developing the final full approval are available for inspection during normal business hours at EPA, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Interested persons wanting to examine these documents, which are contained in EPA docket number FL–T5–2001–01, should make an appointment at least 48 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Ms. Gracy R. Danois, EPA Region 4, at (404) 562–9119 or *danois.gracy@epa.gov.*

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?
Why is EPA taking this action?
What is involved in this final action?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under the title V program include: ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of VOCs or NO_X.

Why Is EPA Taking This Action?

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because Florida's program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on September 25, 1995 (60 FR 49343). The interim approval notice described the conditions that had to be met in order for the State's program to receive full approval. Interim approval of Florida's program expires on December 1, 2001.

What Is Involved in This Final Action?

The Florida Department of Environmental Protection has fulfilled the conditions of the interim approval granted on September 25, 1995. On July 2, 2001, EPA published a document in the **Federal Register** (see 66 FR 34901) proposing full approval of Florida's title V operating permit program, and proposing approval of other program revisions. Since EPA did not receive any comments on the proposal, this action promulgates final full approval of the State of Florida program and final approval of the other program changes described in the proposal.

Administrative Requirements

A. Docket

Copies of the Florida's submittals and other supporting documentation used in developing the final full approval are contained in docket files maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this action. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. The docket files are available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

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

C. 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 action is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

This action does not have Federalism implications because 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, ''Federalism'' (64 FR 43255, August 10, 1999). This action merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the CAA.

E. Executive Order 13175

This action does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000).

F. Executive Order 13211

This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866.

G. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 action will not have a significant impact on a substantial number of small entities because operating permit program approvals under section 502 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because this 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.

H. Unfunded Mandates Reform Act

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

EPA has determined that the approval action proposed 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.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing 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.

In reviewing operating permit programs, EPA's role is to approve state choices, provided that they meet the criteria of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

J. Paperwork Reduction Act

This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned Office of Management and Budget (OMB) control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. 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.

K. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 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. section 804(2).

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 18, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended under the entry for Florida by adding paragraph (b) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Florida

* * * * *

(b) The Florida Department of Environmental Protection submitted program revisions on April 29, 1996, February 11, 1998, June 11, 1998, April 9, 1999 (two submittals), July 1, 1999, and October 1, 1999. The rule revisions contained in the April 29, 1996, February 11, 1998, June 11, 1998, April 9, 1999, July 1,1999, and October 1, 1999 submittals adequately addressed the conditions of the interim approval effective on October 25, 1995, and which would expire on December 1, 2001. The State's operating permits program is hereby granted final full approval effective on October 31, 2001.

* * * * *

[FR Doc. 01–24488 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–7068–9]

Clean Air Act Final Approval of Operating Permits Program; State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking final action to fully approve the Operating Permits Program of the State of Rhode Island. Rhode Island submitted its program for the purpose of complying with requirements for a State to develop a program to issue operating permits to all major stationary and certain other sources. EPA granted source category-limited interim approval to Rhode Island's operating permit program on May 6, 1996.

DATES: This direct final rule is effective on November 30, 2001 without further notice, unless EPA receives relevant adverse comment by October 31, 2001. If relevant adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA Region I, JFK Federal Building, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, (617) 918–1653.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?
How has Rhode Island addressed EPA's interim approval issue?
What changes to Rhode Island's program is EPA approving?
How has Rhode Island addressed EPA's questions about its environmental audit statute?
What is involved in this final action?

What Is the Operating Permits Program?

The Clean Air Act Amendments (CAA) of 1990 required all state and local permitting authorities to develop operating permit programs that meet certain Federal criteria. 42 U.S.C. 7661–7661e. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve compliance and enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how to determine compliance with those requirements.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. See 40 CFR 70.3. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include: those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM 10); those that emit 10 tons per year of any single hazardous air pollutant specifically listed under the CAA (HAP); or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' such as Rhode Island, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

How Has Rhode Island Addressed EPA's Interim Approval Issue?

Where an operating permit program substantially, but not fully, meets the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, and where a State requests source category-limited interim approval, EPA may grant the program interim approval. Because Rhode Island's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on May 6, 1996 (61 FR 20150). Normally, with interim approval, a state must submit a corrective program to receive full approval. But Rhode Island's program was fully approvable, with the exception that the State planned to issue permits within a five-year schedule, rather than the three year schedule provided for in section 503(c) of the Act. In its interim approval notice, EPA discussed the possibility that Rhode Island's program might automatically convert to a full approval. But EPA made that conversion contingent upon Rhode Island issuing permits in a timely fashion consistent with its five year transition plan. Since Rhode Island did not meet the five year schedule, we could not automatically convert their program to full approval.

We are granting full approval under our current Part 70 rules because the only issue that limited our 1996 approval of Rhode Island's program was the State's schedule for permit issuance. To date Rhode Island has made reasonable progress in issuing Title V permits to its sources. Although Rhode Island has only issued 28% of their permits, they have issued 80% of those in the last year. EPA believes that disapproving Rhode Island's program at this point would not result in permits being issued any more quickly. The State now has the organization in place to support its program, and having EPA take over permit issuance now would only disrupt a program that has gotten beyond the inertia of startup. It would

be counterproductive to disapprove a program that fully meets the requirements of part 70 only to force EPA to absorb the responsibility that Rhode Island is finally prepared to handle. However, failure to issue permits according to statutory and regulatory requirements is a deficiency in program implementation nationally. The Agency will be addressing this national permit issuance deficiency later this year.

What Changes to Rhode Island's Program Is EPA Approving?

Rhode Island made additional changes after the source category limited-interim approval was submitted to EPA on June 2, 1995. On October 1, 1996, Rhode Island submitted revisions to APC Regulation No. 29, Operating Permits, and APC Regulation No. 28, Operating Permit Fees that amended the definition of ''volatile organic compound'' (VOC). Acetone, paracholorobenzotrifluoride, and volatile methyl siloxanes are now included on the list of compounds that are exempted from the definition of VOC because of their negligible photochemical reactivity. Rhode Island's revisions to its VOC definition are consistent with revisions EPA has made to its definition of VOC.

On October 1, 1996 and October 26, 2000, Rhode Island submitted changes to APC Regulation No. 28, Operating Permit Fees, amending the due date for fees and the inventory year used in calculating the fees. This allows Rhode Island sufficient time to determine the prior year's carryover amounts to be included when billing a source for the upcoming year. The revisions also added an application fee for facilities receiving a general emissions cap designed to keep them out of Title V.

On January 1, 1999, Rhode Island submitted a revision that incorporated by reference the revised provisions of the Acid Rain Program in 40 CFR part 72. This allows the state to utilize the provisions of the revised federal regulation when drafting a facility's operating permit.

On October 26, 2000, the State submitted a revision to its list of insignificant activities that must be included in the operating permit application but are exempted from having to be fully described because of size, emission levels, or production rate. The application must contain enough information to show that the activity qualifies for the exemption. This change is consistent with the applicability thresholds in APC Regulation No. 9 for preconstruction permits, and includes changes with such minor emissions impacts that they are exempted even from Rhode Island's minor new source review program, for example a natural gas-burning device with a heat input capacity of less than ten million Btu per hour.

All these changes are consistent with EPA's operating permit program regulations.

How Has Rhode Island Addressed EPA's Questions About Its Environmental Audit Statute?

Following EPA's interim approval of Rhode Island's operating permit program, the State adopted the Rhode Island Environmental Compliance Incentive Act (ECIA), which provides certain incentives for facilities that conduct environmental compliance audits, voluntarily disclose violations found in an audit, and promptly bring themselves into compliance. R.I.G.L. section 42–17.8. The ECIA is not an interim approval issue, because it did not exist at the time EPA acted on Rhode Island's original program. But the Agency asked the State to clarify the operation of the statute to avoid any question whether Rhode Island retains adequate enforcement authority to support continued implementation of federal environmental programs. On July 25, 2001, the Rhode Island Attorney General provided EPA with a legal opinion concerning the State's criminal enforcement authority under the ECIA. EPA has determined that Rhode Island retains sufficient criminal enforcement authority under the ECIA to support implementation of federal environmental programs, including the Clean Air Act operating permit program.

What Is Involved in This Final Action?

EPA is taking final action to fully approve the State's operating permit program.[1] EPA is also taking action to approve program changes Rhode Island made on October 1, 1996, January 1, 1999 and October 26, 2000, since EPA granted the source category limited-interim approval. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to grant full approval should we receive relevant adverse comments. This action will be effective November 30, 2001 unless the Agency receives relevant adverse comments by October 31, 2001.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 30, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR

[1] EPA's action today granting full approval to this program may raise a question about the application deadline for existing facilities in Rhode Island. Section 29.4.2(a) of Rhode Island's program regulation requires all existing sources subject to the program to apply no later than 12 months after EPA's ''full approval'' of the program. Therefore, it might appear that EPA's full approval at this point triggers the 12-month deadline for applications. EPA relies on the Clean Air Act, not state program regulations, however, to enforce the application requirement for the title V program. Under section 503(c), all sources must apply for a title V permit no later than 12 months after becoming subject to the program. EPA has consistently interpreted section 503(c) to impose the 12-month deadline following an interim, as well as a full, approval. All sources existing when Rhode Island first submitted its program to EPA must have applied for a permit by the date 12 months following the effective date of EPA's interim approval of Rhode Island's program, or July 15, 1997.

67249, November 9, 2000). This rule also does not have Federalism implications because 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, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. 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 State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 November 30, 2001. Interested parties should comment in response to the rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the rule. 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 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 20, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraph (b) in the entry for Rhode Island to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Rhode Island

* * * * *

(b) The Rhode Island Department of Environmental Management submitted program revisions on October 1, 1996, January 21, 1999 and October 26, 2000. EPA is hereby granting Rhode Island full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–24254 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7068–1]

Missouri: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Missouri has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Missouri's changes to its hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on November 30, 2001 unless EPA receives adverse written comment by October 31, 2001. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Lisa V. Haugen, U.S. EPA Region 7, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas 66101. You can view and copy Missouri's application during normal business hours at the following addresses: Hazardous Waste Program, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102–0176, (573) 751–3176; and EPA Region 7

Library, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7877, Lisa Haugen.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen, (913) 551–7877. U.S. EPA Region 7, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas 66101.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Missouri's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Missouri final authorization to operate its hazardous waste program with the changes described in the authorization application. Missouri has responsibility for permitting Treatment, Storage, and Disposal Facilities within its borders (except in Indian Country and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA)). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Missouri, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Missouri subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Missouri has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports.
- Enforce RCRA requirements and suspend or revoke permits.

This action does not impose additional requirements on the regulated community because the regulations for which Missouri is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. For What Has Missouri Been Previously Authorized?

On November 20, 1985, EPA published a **Federal Register** notice announcing its decision to grant final authorization for the RCRA base program to the State of Missouri which became effective December 12, 1985 (50 FR 47740). Missouri received authorization for revisions to its program as follows: February 27, 1989, effective April 28, 1989 (54 FR 8190); January 11, 1993, effective March 12, 1993 (58 FR 3497); and on May 30, 1997, effective July 29, 1997 (62 FR 29301). On January 7, 1998, (63 FR 683) a correction was made to the May 30, 1997, (62 FR 29301) notice to correct the effective date of the rule to be consistent with sections 801 and 808 of the Congressional Review Act, enacted as part of the Small Business Regulatory Enforcement Fairness Act. Additionally, the State adopted and applied for interim authorization for the corrective action portion of the HSWA Codification Rule (July 15, 1985, 50 FR 28702). For a full discussion of the HSWA of the HSWA Codification Rule, the reader is referred to the **Federal Register** cited above. The State was granted interim authorization for the corrective action portion of the HSWA Codification Rule on February 23, 1994, effective April 25, 1994 (50 FR 8544). Final authorization for corrective action was granted on May 4, 1999, effective July 5, 1999 (64 FR 23740). Missouri received authorization for further revisions to its program on February 28, 2000, effective April 28, 2000 (65 FR 10405).

G. What Changes Are We Authorizing With Today's Action?

On March 22, 2001, Missouri submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Missouri's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Missouri final authorization for the following program changes:

Revisions to Missouri's regulations which specifically govern remediation waste management provisions for corrective action management units (CAMU) and temporary units (TU) at RCRA facilities, promulgated February 16, 1993 (58 FR 8658) (Federal Revision Checklist 121).

In addition, as a result of today's final authorization of Missouri for the February 16, 1993, CAMU rule, the State will be eligible for interim authorization-by-rule for the proposed amendments to the CAMU rule, which also proposed the interim authorization-by-rule process (see August 22, 2000, 65 FR 51080). Missouri will also become eligible for conditional authorization if

that alternative is chosen by EPA in the final CAMU amendments rule.

Description of federal requirement	*Federal Register* date and page	Analogous state authority [1]
Corrective action management units and temporary units-checklist 121.	58 FR 8658–8685, 2/16/93	10 CSR 25–3.260(1); 7.264(1); 7.265(1); 7.268(1); 7.270(1) (as amended effective January 30, 1999); and 260.370.3(1). 260.395.7 through 260.395.19, and 260.390 RSMo 2000.

H. Where Are the Revised State Rules Different From the Federal Rules?

In this authorization of the State of Missouri's program revisions for Federal Revision Checklist 121, there are no provisions that are more stringent or broader in scope. Broader in scope requirements are not part of the authorized program and EPA cannot enforce them.

I. Who Handles Permits After the Authorization Takes Effect?

Missouri will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Missouri is not yet authorized.

J. What Is Codification and Is EPA Codifying Missouri's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart AA for this authorization of Missouri's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes preexisting requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. This action 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 authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

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

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

List of Subjects in 40 CFR Part 271

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

Authority: This action is issued under the authority of sections 2002(a), 3006 and

7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: September 13, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 01–24194 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

45 CFR CH. V

Commission's Structures, Functions, Rules of Procedure, and Responsibilities

AGENCY: Foreign Claims Settlement Commission of the United States.

ACTION: Final rule.

SUMMARY: This rule revises and republishes the regulations of the Foreign Claims Settlement Commission of the United States (Commission), which describe the Commission's structure, functions, rules of procedure, and responsibilities under its authorizing statutes.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: David E. Bradley, Chief Counsel, Foreign Claims Settlement Commission, U.S. Department of Justice, Washington, DC 20579, (202) 616–6975.

SUPPLEMENTARY INFORMATION: The regulations of the Foreign Claims Settlement Commission of the United States are being revised and republished in order to improve their readability, update some of the information in them, and remove portions that are redundant or outdated.

Administrative Procedure Act

This rule relates to matters of agency management and personnel and, therefore, is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2).

Regulatory Flexibility Act

The Chairman of the Commission, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Commission. Further, a Regulatory Flexibility Analysis was not required to be prepared for this final rule because the Commission was not required to publish a general notice of proposed rulemaking for this matter.

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management and personnel as described by Executive Order 12866 section (3)(d)(3) and, therefore, is not a ''regulation'' or ''rule'' as defined by that Executive Order. Accordingly, this rule has not been reviewed by the Office of Management and Budget.

Executive Order 13132

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. Therefore, in accordance with Executive Order 13132, Federalism, the Commission has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

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 or more in any one 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, 2 U.S.C. 1501.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. 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 the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a ''rule'' for purposes of the reporting requirement of 5 U.S.C. 801.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Commission Chief Counsel David E. Bradley at the address and telephone number listed above.

List of Subjects in 45 CFR Ch. V (Parts 500–509)

Administrative practice and procedure, Conflict of interests, Foreign claims, Freedom of information, Lawyers, Organization and functions (Government agencies), Prisoners of war, Privacy, Sunshine Act, Vietnam, War claims.

Accordingly, by virtue of the authority vested in me as Chairman of the Commission under 22 U.S.C. 1622e, Chapter V, consisting of parts 500–509, of Title 45 of the Code of Federal Regulations is revised to read as follows:

Subchapter A—Rules of Practice

PART 500—APPEARANCE AND PRACTICE

Sec.
500.1 Appearance and representation.
500.2 Notice of entry or withdrawal of counsel in claims.
500.3 Fees.
500.4 Suspension of attorneys.
500.5 Standards of Conduct.
500.6 Disqualification of former employees.

Authority: Sec. 2, Pub. L. 896, 80th Cong., 62 Stat. 1240, as amended (50 U.S.C. App. 2001); sec. 3, Pub. L. 455, 81st Cong., 64 Stat. 12, as amended (22 U.S.C. 1622); 18 U.S.C. 207.

§ 500.1 Appearance and representation.

(a) An individual may appear in his or her own behalf, or may be represented by an attorney at law admitted to practice in any State or Territory of the United States, or the District of Columbia.

(b) A member of a partnership may represent the partnership.

(c) A bona fide officer of a corporation, trust or association may represent the corporation, trust or association.

(d) An officer or employee of the United States Department of Justice, when designated by the Attorney General of the United States, may represent the United States in a claim proceeding.

(e) In cases falling within the purview of subchapter B of this chapter, persons designated by veterans', service, and other organizations to appear before the Commission in a representative capacity on behalf of claimants will be deemed duly authorized to practice before the Commission if the designating organization has received a letter of accreditation from the Commission. Petitions for accreditation must be in writing, executed by duly authorized officer or officers, and addressed to the Foreign Claims Settlement Commission of the United States, Washington, DC 20579. Upon receipt of a petition setting forth pertinent facts as to the organization's history, purpose, number of posts or chapters and their locations, approximate number of paid-up memberships, statements that the organization will not charge any fee for services rendered by its designees in behalf of claimants and that it will not refuse on the grounds of non-membership to represent any claimant who applies for representation if the claimant has an apparently valid claim, accompanied by a copy of the organization's constitution, or charter, by-laws, and its latest financial statement, the Commission in its discretion will consider and in appropriate cases issue or deny letters of accreditation.

(f) A claimant may not be represented before the Commission except as authorized in paragraphs (a) through (e) of this section.

§ 500.2 Notice of entry or withdrawal of counsel in claims.

(a) Counsel entering an appearance in a claim originally filed by a claimant in the claimant's own behalf, or upon request for a substitution of attorneys, will be required to file an authorization signed by the claimant.

(b) When counsel seeks to withdraw from the prosecution of a claim, he or she will be required to demonstrate that the client (claimant) has been duly notified.

(c) When a claimant advises the Commission that counsel no longer represents that claimant, a copy of the Commission's acknowledgment will be forwarded to that counsel.

§ 500.3 Fees.

(a) The amount of attorney's fees that may be charged in connection with claims falling within the purview of title I of the International Claims Settlement Act of 1949, as amended (22 U.S.C. § 1621–1627), is governed by the provisions of 22 U.S.C.1623(f).

(b) The amount of attorney's fees that may be charged in connection with claims falling within the purview of subchapter B of this chapter is governed by the provisions of section 10 of the War Claims Act of 1948, as amended (50 U.S.C. App. 2009).

§ 500.4 Suspension of attorneys.

(a) The Commission may disqualify, or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found after a hearing in the matter—

(1) Not to possess the requisite qualifications to represent others before the Commission; or

(2) To be lacking in character or integrity or to have engaged in unethical or improper professional conduct; or

(3) To have violated sections 10 and 214 of the War Claims Act of 1948, as amended, or section 4(f) of the International Claims Settlement Act of 1949, as amended.

(b) Contemptuous or contumacious conduct at any hearing will be ground for exclusion from that hearing and for summary suspension without a hearing for the duration of the hearing.

§ 500.5 Standards of Conduct.

The conduct of the members, officers and employees of the Commission, including its special Government employees, is governed by the *Standards of Ethical Conduct for Employees of the Executive Branch* set forth in 5 CFR part 2635 and the *Supplemental Standards of Conduct for Employees of the Department of Justice* set forth in 5 CFR part 3801.

§ 500.6 Disqualification of former employees.

The provisions of 18 U.S.C. 207 shall govern the post-employment appearance of former Commission members, officers, and employees, including special Government employees, in the capacity of agent, attorney or representative on behalf of claimants before the Commission.

PART 501—SUBPOENAS, DEPOSITIONS, AND OATHS

Sec.

501.1 Extent of authority.
501.2 Subpoenas.
501.3 Service of process.
501.4 Witnesses.
501.5 Depositions.
501.6 Documentary evidence.
501.7 Time.

Authority: Sec. 2, Pub. L. 896, 80th Cong., 62 Stat. 1240, as amended (50 U.S.C. App. 2001); sec. 3, Pub. L. 455, 81st Cong., 64 Stat. 12, as amended (22 U.S.C. 1622).

§ 501.1 Extent of authority.

(a) *Subpoenas, oaths and affirmations.* The issuance of subpoenas, the administration of oaths and affirmations, the taking of affidavits, the conduct of investigations, and the examination of witnesses by the Commission and its members, officers and employees is governed by the provisions of 22 U.S.C. 1623(c) and 50 U.S.C. App. 2001(c).

(b) *Certification.* The Commission or any member thereof may, for the purpose of a hearing, examination, or investigation, certify the correctness of any papers, documents, and other matters pertaining to the administration of any laws relating to the functions of the Commission.

§ 501.2 Subpoenas.

(a) *Issuance.* A member of the Commission or a designated employee may, on the member or employee's own volition or upon written application by any party and upon a showing of general relevance and reasonable scope of the evidence sought, issue subpoenas requiring persons to appear and testify or to appear and produce documents. Applications for issuance of subpoenas for production of documents shall specify the books, records, correspondence, or other documents sought. The subpoena will show on its face the name and address of the party at whose request the subpoena was issued.

(b) *Deposit for costs.* The Commission or designated employee, before issuing any subpoena in response to any application by an interested party, may require a deposit in an amount adequate to cover fees and mileage involved.

(c) *Motion to quash.* If any person subpoenaed does not intend to comply with the subpoena, that person must, within 15 days after the date of service of the subpoena, petition in writing to quash the subpoena. The basis for the motion must be stated in detail. Any party desiring to file an answer to a motion to quash must file the answer not later than 15 days after the filing of the motion. The Commission will rule on the motion to quash, duly recognizing any answer thereto filed. The motion, answer, and any ruling thereon will become part of the official record.

(d) *Appeal from interlocutory order.* An appeal may be taken to the Commission by the interested parties from the denial of a motion to quash or from the refusal to issue a subpoena for the production of documentary evidence.

(e) *Order of court upon failure to comply.* Upon the failure or refusal of any person to comply with a subpoena, the Commission may invoke the aid of the United States District Court within

the jurisdiction of which the hearing, examination or investigation is being conducted, or wherein that person resides or transacts business, as provided in 22 U.S.C. 1623(c).

§ 501.3 Service of process.

(a) *By whom served.* The Commission will serve all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve.

(b) *Kinds of service.* Subpoenas, orders, rulings, and other processes of the Commission may be served by delivering in person, by registered or certified mail, by overnight express delivery service, by first class mail, by telegraph, or by publication.

(c) *Personal service.* Service by delivering in person may be accomplished by:

(1) Delivering a copy of the document to the person to be served, to a member of the partnership to be served, to an executive officer or a director of the corporation to be served, or to a person competent to accept service; or

(2) By leaving a copy thereof at the residence, principal office or place of business of the person, partnership, or corporation.

(3) Proof of service. The return receipt for the order, other process or supporting papers, or the verification by the person serving, setting forth the manner of service, will be proof of the service of the document.

(4) Service upon attorney or agent. When any party has appeared by an authorized attorney or agent, service upon the party's attorney or agent will be deemed service upon the party.

(d) *Service by registered mail or certified mail.* Service by registered mail or certified mail will be regarded as complete on the date the return post office receipt for the orders, notices and other papers is received by the Commission.

(e) *Service by overnight express delivery service or by first class mail.* Service by overnight express delivery service or first class mail will be regarded as complete upon deposit, respectively, in the delivery service's package receptacle or in the United States mail properly stamped and addressed.

(f) *Service by telegraph.* Service by telegraph will be regarded as complete when deposited with a telegraph company properly addressed and with charges prepaid.

(g) *Service by publication.* Service by publication is completed when due notice has been given in the publication for the time and in the manner provided by law or rule.

(h) *Date of service.* The date of service is the day upon which the document is deposited in the United States mail or delivered in person, as the case may be.

(i) *Filing with Commission.* Papers required to be filed with the Commission will be deemed filed upon actual receipt by the Commission accompanied by proof of service upon parties required to be served. Upon the actual receipt, the filing will be deemed complete as of the date of deposit in the mail or with the telegraph company as provided in paragraphs (e) and (f) of this section.

§ 501.4 Witnesses.

(a) *Examination of witnesses.* Witnesses must appear in person and be examined orally under oath, except that for good cause shown, testimony may be taken by deposition.

(b) *Witness fees and mileage.* Witnesses summoned by the Commission on its own behalf or on behalf of a claimant or interested party will be paid the same fees and mileage that are allowed and paid witnesses in the District Courts of the United States. Witness fees and mileage will be paid by the Commission or by the party at whose request the witness appears.

(c) *Transcript of testimony.* Every person required to attend and testify will be entitled, upon payment of prescribed costs, to receive a copy of the recording of the testimony or a transcript of the recording. Every person required to submit documents or other evidence will be entitled to retain a copy thereof.

§ 501.5 Depositions.

(a) *Application to take.* (1) An application to take a deposition must be in writing setting forth the reason why the deposition should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken. If the deposition is being offered in connection with a hearing or examination, the application for deposition must be made to the Commission at least 15 days prior to the proposed date of such hearing or examination.

(2) Application to take a deposition may be made during a hearing or examination, or subsequent to a hearing or examination, only where it is shown for good cause that the facts as set forth in the application to take the deposition were not within the knowledge of the person signing the application prior to the time of the hearing or examination.

(3) The Commission or its representative will, upon receipt of the application and a showing of good cause, make and cause to be served upon the parties an order which will specify the name of the witness whose deposition is to be taken, the time, the place, and where practicable the designation of the officer before whom the witness is to testify. The officer may or may not be the one specified in the application. The order will be served upon all parties at least 10 days prior to the date of the taking of the deposition.

(b) *Who may take.* The deposition may be taken before the designated officer or, if none is designated, before any officer authorized to administer oaths by the laws of the United States. If the examination is held in a foreign country, it may be taken before a secretary of an embassy or legation, consul-general, consul, vice consul, or consular agent of the United States.

(c) *Examination and certification of testimony.* At the time and place specified in the Commission's order, the officer taking the deposition will permit the witness to be examined and cross-examined under oath by all parties appearing, and the testimony will be reduced to writing by, or under the direction of, the presiding officer. All objections to questions or evidence will be deemed waived unless made in accordance with paragraph (d) of this section. The officer will not have power to rule upon any objections but will note them upon the deposition. The testimony must be subscribed by the witness in the presence of the officer who will attach a certificate stating that the witness was duly sworn, that the deposition is a true record of the testimony and exhibits given by the witness and that the officer is not counsel or attorney to any of the interested parties. The officer will immediately seal and deliver an original and two copies of the transcript, together with the officer's certificate, by registered mail to the Foreign Claims Settlement Commission, Washington, DC 20579 or, if applicable, to the designated Commission field office.

(d) *Admissibility in evidence.* The deposition will be admissible in evidence, subject to such objections to the questions and answers as were noted at the time of taking the deposition, or within ten (10) days after the return thereof, and would be valid were the witness personally present at the hearing.

(e) *Errors and irregularities.* All errors or irregularities occurring will be deemed waived unless a motion to

suppress the deposition or some part thereof is made with reasonable promptness after the defect is, or with due diligence might have been, ascertained.

(f) *Scope of use.* The deposition of a witness, if relevant, may be used if the Commission finds:

(1) That the witness has died since the deposition was taken; or

(2) That the witness is at a distance greater than 100 miles radius of Washington, DC, the designated field office or the designated place of the hearing; or

(3) That the witness is unable to attend because of other good cause shown.

(g) *Interrogatories and cross-interrogatories.* Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon interrogatories and cross-interrogatories, none of the parties may be present or represented, and no person, other than the witness, the person's representative or attorney, a stenographic reporter and the presiding officer, may be present at the examination of the witness, which fact will be certified by the officer, who will read the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness's own words.

(h) *Fees.* A witness whose deposition is taken pursuant to the regulations in this part, and the officer taking the deposition, will be entitled to the same fees and mileage allowed and paid for like service in the United States District Court for the district in which the deposition is taken. Such fees will be paid by the Commission or by the party at whose request the deposition is being taken.

§ 501.6 Documentary evidence.

Documentary evidence may consist of books, records, correspondence or other documents pertinent to any hearing, examination, or investigation within the jurisdiction of the Commission. The application for the issuance of subpoenas for production of documents must specify the books, records, correspondence or other documents sought. The production of documentary evidence will not be required at any place other than the witness's place of business. The production of such documents will not be required at any place if, prior to the return date specified in the subpoena, the person either has furnished the issuer of the subpoena with a properly certified copy of the documents or has entered into a stipulation as to the information contained in the documents.

§ 501.7 Time.

(a) *Computation.* In computing any period of time prescribed or allowed by the regulations, by order of the Commission, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and holidays will be excluded in the computation.

(b) *Enlargement.* When by the regulations in this chapter, or by a notice given thereunder or by order of the Commission, an act is required or allowed to be done at or within a specific time, the Commission for good cause shown may, at any time in its discretion:

(1) With or without motion, notice, or previous order or

(2) Upon motion, permit the act to be done after the expiration of the specified period.

PART 502—PUBLIC INFORMATION-FREEDOM OF INFORMATION ACT

Sec.

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Authority: 5 U.S.C. 552.

§ 502.1 Organization and authority—Foreign Claims Settlement Commission.

(a) The Foreign Claims Settlement Commission of the United States (''the Commission'') is an independent agency of the Federal Government created by Reorganization Plan No. 1 of 1954 (68 Stat. 1279) effective July 1, 1954. The Commission was transferred to the Department of Justice as an independent agency within that department as of October 1, 1980, under the terms of Public Law 96–209, approved March 14, 1980 (94 Stat. 96, 22 U.S.C. 1622a). Its duties and authority are defined in the International Claims Settlement Act of 1949, as amended (64 Stat. 12, 22 U.S.C. 1621–1645o) and the War Claims Act of 1948 (62 Stat. 1240, 50 U.S.C. App. 2001–2017p).

(b) The Commission has jurisdiction to determine the validity and amount of claims of United States nationals against foreign governments for compensation for losses and injuries sustained by those nationals, pursuant to programs authorized under either of the cited Acts. Funds for payment of claims are derived from international settlement agreements or through liquidation of foreign assets in the United States by the Department of Justice or Treasury, or from public funds when provided by the Congress.

(c) The Chair and the two part-time members of the Commission are appointed by the President with the advice and consent of the Senate to serve for 3-year terms of office as provided in 22 U.S.C. 1622c(c).

(d) All functions of the Commission are vested in the Chair with respect to the internal management of the affairs of the Commission, including but not limited to:

(1) The appointment of Commission employees;

(2) The direction of Commission employees and the supervision of their official duties;

(3) The distribution of business among employees and organizational units within the Commission;

(4) The preparation of budget estimates; and

(5) The use and expenditures of Commission funds appropriated for expenses of administration.

(e) Requests for records must be made in writing by mail or presented in person to the Administrative Officer, Foreign Claims Settlement Commission, Washington, DC 20579.

(f) The offices of the Commission are located at 600 E Street NW (Bicentennial Building), Room 6002, Washington, DC.

§ 502.2 Material to be published in the Federal Register pursuant to the Freedom of Information Act.

The Commission will separately state and concurrently publish the following materials in the **Federal Register** for the guidance of the public:

(a) Descriptions of its central and field organization and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions.

(b) Statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency.

(e) Every amendment, revision, or repeal of the foregoing.

§ 502.3 Effect of nonpublication.

Except to the extent that a person has actual and timely notice of the terms thereof, no person will in any manner be required to resort to, or be adversely affected by, any matter required to be published in the **Federal Register** and not so published.

§ 502.4 Incorporation by reference.

For purposes of this part, matter which is reasonably available to the class of persons affected thereby will be deemed published in the **Federal Register** when incorporated by reference therein with the approval of the Director of the Federal Register.

§ 502.5 Records generally available.

The Commission will make promptly available to any member of the public the following documents:

(a) Proposed and Final Decisions (including dissenting opinions) and all orders made with respect thereto, except when exempted from public disclosure by statute;

(b) Statements of policy and interpretations which have been adopted by the Commission which have not been published in the **Federal Register**; and

(c) A current index, which will be updated at least quarterly, covering the foregoing material adopted, issued or promulgated after July 4, 1967. Publication of an index is deemed both unnecessary and impractical. However, copies of the index are available upon request for a fee of the direct cost of duplication.

§ 502.6 Current index.

The Commission will maintain and make available for public inspection and copying, current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, as required by 5 U.S.C. 552(a)(2).

§ 502.7 Additional documents and records generally available for inspection and copying.

The following types of documents are also available for inspection and copying in the offices of the Commission:

(a) Rules of practice and procedure.

(b) Annual report of the Commission to the Congress of the United States.

(c) Bound volumes of Commission decisions.

(d) International Claims Settlement Act of 1949, with amendments; the War Claims Act of 1948, with amendments; and related Acts.

(e) Claims agreements with foreign governments effecting the settlement of claims under the jurisdiction of the Commission.

(f) Press releases and other miscellaneous material concerning Commission operations.

(g) Indexes of claims filed in the various claims programs administered by the Commission.

§ 502.8 Documents on-line.

Commission documents available in electronic format may be accessed via the Commission's World Wide Web site, the address of which is *http://www.usdoj.gov/fcsc.*

§ 502.9 Effect of non-compliance.

No decision, statement of policy, interpretation, or staff manual or instruction that affects any member of the public will be relied upon, used, or cited as precedent by the Commission against any private party unless it has been indexed and either made available or published as provided by this part, or unless that private party has actual and timely notice of the terms thereof.

§ 502.10 Availability of records.

(a) Each person desiring access to a record covered by this part must comply with the following provisions:

(1) A written request must be made for the record.

(2) Such request must indicate that it is being made under the Freedom of Information Act.

(3) The envelope in which the request is sent must be prominently marked with the letters ''FOIA.''

(4) The request must be addressed to the appropriate official or employee of the Commission as set forth in paragraph (c) of this section.

(5) The foregoing requirements must be complied with whether the request is mailed or hand-delivered to the Commission.

(b) If the requirements of paragraph (a) of this section are not met, the twenty-day time limit described in § 502.10(a) will not begin to run until the request has been identified by an official or employee of the Commission as a request under the Freedom of Information Act and has been received by the appropriate official or employee of the Commission.

(c) Each person desiring access to a record covered in this part that is located in the Commission, or to obtain a copy of such a record, must make a written request to the Administrative Officer, Foreign Claims Settlement Commission, 600 E Street NW, Room 6002, Washington, DC 20579.

(d) Each request should reasonably describe the particular record requested. The request should specify the subject matter, the date when it was made and the person or office that made it. If the description is insufficient, the official or employee handling the request may notify the person making the request and, to the extent possible, indicate the additional data required.

(e) Each record made available under this section is available for inspection and copying during regular working hours. Original documents may be copied but may not be released from custody.

(f) Authority to administer this part in connection with Commission records is delegated to the Administrative Officer or the Commission employee acting in that official's capacity.

§ 502.11 Actions on requests.

(a) The Administrative Officer or any employee acting in that official's capacity will determine within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any a request whether to comply with the request. Upon receipt of a request for a Commission record which is available, the Administrative Officer or other employee will notify the requester as to the time the record is available, and will promptly make the record available after advising the requester of the applicable fees under § 502.13. The person making the request will be notified immediately after any adverse determination, the reasons for making the adverse determination and the right of the person to appeal.

(b) Any denial of a request for a record will be written and signed by the Administrative Officer or other employee, including a statement of the reason for denial. That statement will contain, as applicable:

(1) A reference to the specific exemption under the Freedom of Information Act authorizing the withholding of a record, and to the extent consistent with the purpose of the exemption, an explanation of how

the exemption applies to the record withheld.

(2) If a record requested does not exist, or has been legally disposed of, the requester will be so notified.

(c) In unusual circumstances, the time limit prescribed in paragraph (a) of this section may be extended by written notice to the person making the request setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No extension notice will specify a date that would result in an extension for more than twenty working days. As used in this paragraph, ''unusual circumstances'' means, but only to the extent reasonably necessary to the proper processing of the particular request—

(1) The need to search for and collect the requested records from other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

§ 502.12 Appeals.

(a) Any person to whom a record has not been made available within the time limits established by paragraph (b) of § 502.11, and any person who has been given an adverse determination pursuant to paragraph (b) of § 503.10 of this chapter, that a requested record will not be disclosed, may apply to the Office of Information and Privacy, U.S. Department of Justice, Washington, DC 20530, for reconsideration of the request. The person making such a request will also be notified of the provisions for judicial review provided in 5 U.S.C. 552(a)(4).

(b) Each application for reconsideration must be made in writing within sixty days from the date of receipt of the original denial and must include all information and arguments relied upon by the person making the request. The application must indicate that it is an appeal from a denial of a request made under the Freedom of Information Act. The envelope in which the application is sent must be prominently marked with the letters ''FOIA.'' If these requirements are not met, the twenty day limit described in § 502.10 will not begin to run until the application has been identified as an application under the Freedom of Information Act and has been received by the Office of Information and Privacy of the Department of Justice.

(c) Whenever it is to be determined necessary, the person making the request may be required to furnish additional information, or proof of factual allegations and other proceedings appropriate in the circumstances may be ordered.

(d) The decision not to disclose a record under this part is considered to be a withholding for the purposes of 5 U.S.C. 552(a)(3).

§ 502.13 Exemptions.

In the event any document or record requested hereunder should contain material which is exempt from disclosure under this section, any reasonably segregable portion of the record will, notwithstanding that fact, and to the extent feasible, be provided to any person requesting it, after deletion of the portions which are exempt under this section. Documents or records determined to be exempt from disclosure hereunder may nonetheless be provided upon request in the event it is determined that the provision of the document would not violate the public interest or the right of any person to whom the information may pertain, and the disclosure is not prohibited by law or Executive Order. The following categories of records are exempt from disclosure under the provisions of 5 U.S.C. 552(b):

(a) Records which are specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order. This exception may apply to records in the custody of the Commission which have been transmitted to the Commission by another agency which has designated the record as nonpublic under Executive Order.

(b) Records related solely to the internal personnel rules and practices of the Commission.

(c) Records specifically exempted from disclosure by statute.

(d) Information given in confidence. This includes information obtained by or given to the Commission which constitutes confidential commercial or financial information, privileged information, or other information which was given to the Commission in confidence or would not customarily be released by the person from whom it was obtained.

(e) Inter-agency or intra-agency memoranda or letters which would not be available by law to a private party in litigation with the Commission. Such communications include inter-agency memoranda, drafts, staff memoranda transmitted to the Commission, written communications between the Commission and its staff regarding the preparation of Commission decisions, other documents received or generated in the process of issuing a decision or regulation, and reports and other work papers of staff attorneys, accountants, and investigators.

(f) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(g) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to a fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source, including a state, local or foreign agency or authority or any private institution which furnished information on a confidential basis and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques and procedures for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

§ 502.14 Fees for services.

The following provisions shall apply in the assessment and collection of fees for services rendered in processing requests for disclosure of Commission records under this part.

(a) *Fee for duplication of records:* $0.15 per page.

(b) *Search and review fees:*

(1) Searches for records by clerical personnel—$3.00 per quarter hour, including time spent searching for and copying any record.

(2) Search for and review of records by professional and supervisory personnel—$6.00 per quarter hour spent searching for any record or reviewing a record to determine whether it may be

disclosed, including time spent in copying any record.

(c) *Certification and validation fee:* $1.00 for each certification, validation or authentication of a copy of any record.

(d) *Imposition of fees:*

(1) Commercial use requests—Where a request appears to seek disclosure of records for a commercial use, the requester shall be charged for the time spent by Commission personnel in searching for the requested record and in reviewing the record to determine whether it should be disclosed, and for the cost of each page of duplication. *Commercial use* is defined as a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made. The request also must reasonably identify the records sought.

(2) Requests from representatives of news media—Where a request seeks disclosure of records to a representative of the news media, the requester shall be charged only for the actual duplication cost of the records and only to the extent that the number of duplications exceeds 100 pages; provided, however, that the request must reasonably describe the records sought, and it must appear that the records are for use by the requester in such person's capacity as a news media representative. ''Representative of the news media'' refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. A ''freelance'' journalist not actually employed by a news organization shall be eligible for inclusion under this category if the person can demonstrate a solid basis for expecting publication by a news organization.

(3) Requests from educational and non-commercial scientific institutions—Where a request seeks disclosure of records to an educational or non-commercial scientific institution, the requester shall be charged only for the actual duplication cost of the records and only to the extent that the number of duplications exceeds 100 pages; provided, however, that the request must reasonably describe the records sought and it must appear that the records are to be used by the requester in furtherance of its educational or non-commercial scientific research programs. ''Educational institution'' refers to a preschool, a public or private elementary or secondary school, or an institution of undergraduate, graduate, professional or vocational education, which operates a program or programs of scholarly research. ''Non-commercial scientific institution'' refers to an institution that is not operated on a ''commercial'' basis, within the meaning of paragraph (d)(1) of this section and which is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(4) All other requests—Where a request seeks disclosure of records to a person or entity other than one coming within paragraphs (d) (1), (2) and (3) of this section, the requester shall be charged the full cost of search and duplication. However, the first two hours of search time and the first 100 pages of duplication shall be furnished without charge.

(e) *Aggregating of requests.* If there exists a solid basis for concluding that a requester or group of requesters has submitted a series of partial requests for disclosure of records in an attempt to evade assessment of fees, the requests may be aggregated so as to constitute a single request, with fees charged accordingly.

(f) *Unsuccessful searches.* Except as provided in paragraph (d) of this section, the cost of searching for a requested record shall be charged even if the search fails to locate the record or it is determined that the record is exempt from disclosure.

(g) *Interest.* In the event a requester fails to remit payment of fees charged for processing a request under this part within 30 days from the date those fees were billed, interest on the fees may be assessed beginning on the 31st day after the billing date, to be calculated at the rate prescribed in 31 U.S.C. 3717.

(h) *Advance payments.*

(1) If, but only if, it is estimated or determined that processing of a request for disclosure of records will result in a charge of fees of more than $250.00, the requester may be required to pay the fees in advance in order to obtain completion of the processing.

(2) If a requester has previously failed to make timely payment (i.e., within 30 days of billing date) of fees charged under this part, the requester may be required to pay those fees and interest accrued thereon, and to make an advance payment of the full amount of estimated fees chargeable in connection with any pending or new request, in order to obtain processing of the pending or new request.

(3) With regard to any request coming within paragraphs (h) (1) and (2) of this section, the administrative time limits set forth in §§ 502.11 and 502.12 of this part will begin to run only after the requisite fee payments have been received.

(i) *Non-payment.* In the event of non-payment of billed charges for disclosure of records, the provisions of the Debt Collection Act of 1982 (Pub. L. 97–365), including disclosure to consumer credit reporting agencies and referral to collection agencies, may be utilized to obtain payment.

(j) *Waiver or reduction of charges.* Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where—

(1) It is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester; or

(2) It is determined that the cost of collection would be equal to or exceed the amount of those fees. No charges shall be assessed if the fees amount to $8.00 or less.

PART 503—PRIVACY ACT AND GOVERNMENT IN THE SUNSHINE REGULATIONS

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Subpart A—Privacy Act Regulations

Authority: 5 U.S.C. 552a(f).

§ 503.1 Definitions—Privacy Act.

For the purpose of this part:

Agency includes any executive department, military department, government corporation, government

controlled corporation, or other establishment in the executive branch of the government (including the Executive Office of the President) or any independent regulatory agency. The Foreign Claims Settlement Commission (''Commission'') is an *agency* within the meaning of the term.

Individual means a citizen of the United States or an alien lawfully admitted for permanent residence.

Maintain includes maintain, collect, use or disseminate.

Record means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, an individual's education, financial transactions, medical history, and criminal or employment history, and that contains an individual's name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

Routine use means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected.

Statistical record means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual except as provided by section 13 U.S.C. 8.

System of records means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

§ 503.2 General policies—Privacy Act.

The Commission will protect the privacy of an individual identified in any information or record systems which it maintains. Accordingly, its officials and employees, except as otherwise provided by law or regulation, will:

(a) Permit an individual to determine what records pertaining to that individual are collected, maintained, used or disseminated by the Commission.

(b) Permit an individual to prevent a record pertaining to that individual obtained by the Commission for a particular purpose from being used or made available for another purpose without the individual's consent.

(c) Permit an individual to gain access to information pertaining to that individual in Commission records, to have a copy made of all or any portion thereof, and to correct or amend those records.

(d) Collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that the Commission's action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of the information.

(e) Permit exemptions from record requirements provided under the Privacy Act only where an important public policy use for the exemption has been determined in accordance with specific statutory authority.

§ 503.3 Conditions of disclosure.

The Commission will not disclose any record contained in a system of records by any means of communication to any person or any other agency except by written request of or prior written consent of the individual to whom the record pertains unless the disclosure is:

(a) To those officers and employees of the Commission who have a need for the record in the performance of their duties;

(b) Required under the Freedom of Information Act, 5 U.S.C. 552;

(c) For a routine use;

(d) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity under the provisions of Title 13, United States Code;

(e) To a recipient who has provided the Commission with adequate advance assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government or for evaluation to determine whether the record has that value;

(g) To another agency or to an instrumentality of any government jurisdiction within or under control of the United States for a civil or criminal law enforcement activity authorized by law, provided the head of the agency or instrumentality has made a prior written request to the Commission, specifying the particular record and the law enforcement activity for which it is sought;

(h) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if, upon disclosure, notification is transmitted to the last known address of the individual;

(i) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of the joint committee;

(j) To the Comptroller General, or any of that official's authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(k) Pursuant to the order of a court of competent jurisdiction.

§ 503.4 Accounting of certain disclosures.

(a) Except for disclosures under § 503.3(a) and (b) of this part, the Administrative Officer will keep an accurate accounting of each disclosure of a record to any person or to another agency made under § 503.3(c), (d), (e), (f), (g), (h), (i), (j), and (k) of this part.

(b) Except for a disclosure made to another agency or to an instrumentality of any governmental jurisdiction under § 503.3(g) of this part, the Administrative Officer will make the accounting as required under paragraph (a) of this section available to any individual upon written request made in accordance with § 503.5.

(c) The Administrative Officer will inform any person or other agency about any correction or notation of dispute made in accordance with § 503.7 of this part of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) An accounting of disclosures of records within this section will consist of the date, nature, the purpose of each disclosure of a record to any person or to another agency, and the name and address of the person or agency to whom the disclosure is made.

(e) This accounting shall be retained for 5 years or the life of the record, whichever is longer, after the disclosure for which the accounting is made.

§ 503.5 Access to records or information.

(a) Upon request in person or by mail, any individual will be informed whether or not a system of records maintained by the Commission contains a record or information pertaining to that individual.

(b) Any individual requesting access to a record or information in person must appear in person at the offices of the Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC, between the hours of 9 a.m. and 5:30 p.m., Monday through Friday, and

(1) Provide information sufficient to identify the record, *e.g.,* the individual's own name, claim and decision number, date and place of birth, etc.;

(2) Provide identification sufficient to verify the individual's identity, *e.g.,* driver's license, identification or Medicare card; and

(3) Any individual requesting access to records or information pertaining to himself or herself may be accompanied by a person of the individual's own choosing while reviewing the records or information. If an individual elects to be so accompanied, advance notification of the election will be required along with a written statement authorizing disclosure and discussion of the record in the presence of the accompanying person at any time, including the time access is granted.

(c) Any individual making a request for access to records or information pertaining to himself or herself by mail must address the request to the Administrative Officer (Privacy Officer), Foreign Claims Settlement Commission, 600 E Street, NW., Room 6002, Washington, DC 20579, and must provide information acceptable to the Administrative Officer to verify the individual's identity.

(d) Responses to requests under this section normally will be made within ten (10) days of receipt (excluding Saturdays, Sundays, and legal holidays). If it is not possible to respond to requests within that period, an acknowledgment will be sent to the individual within ten (10) days of receipt of the request (excluding Saturdays, Sundays, and legal holidays).

§ 503.6 Determination of requests for access to records.

(a) Upon request made in accordance with § 503.5, the Administrative Officer will:

(1) Determine whether or not the request will be granted;

(2) Make that determination and provide notification within a reasonable period of time after receipt of the request.

(b) If access to a record is denied because information has been compiled by the Commission in reasonable anticipation of a civil or criminal action or proceeding, the Administrative Officer will notify the individual of that determination and the reason therefor.

(c) If access to the record is granted, the individual making the request must notify the Administrative Officer whether the record requested is to be copied and mailed to the individual.

(d) If a record is to be made available for personal inspection, the individual must arrange with the Administrative Officer a mutually agreeable time and place for inspection of the record.

§ 503.7 Amendment of a record.

(a) Any individual may request amendment of a record pertaining to himself or herself according to the procedure in paragraph (b) of this section, except in the case of records described under paragraph (d) of this section.

(b) After inspection by an individual of a record pertaining to himself or herself, the individual may file a written request, presented in person or by mail, with the Administrative Officer, for an amendment to a record. The request must specify the particular portions of the record to be amended, the desired amendments and the reasons therefor.

(c) Not later than ten (10) days (excluding Saturdays, Sundays, and legal holidays) after the receipt of a request made in accordance with this section to amend a record in whole or in part, the Administrative Officer will:

(1) Make any correction of any portion of the record which the individual believes is not accurate, relevant, timely or complete and thereafter inform the individual of such correction; or

(2) Inform the individual, by certified mail return receipt requested, of the refusal to amend the record, setting forth the reasons therefor, and notify the individual of the right to appeal that determination as provided under Sec. 503.8 of this part.

(d) The provisions for amending records do not apply to evidence presented in the course of Commission proceedings in the adjudication of claims, nor do they permit collateral attack upon what has already been subject to final agency action in the adjudication of claims in programs previously completed by the Commission pursuant to statutory time limitations.

§ 503.8 Appeals from denial of requests for amendment to records.

(a) An individual whose request for amendment of a record pertaining to the individual is denied may request a review of that determination. The request must be addressed to the Chair of the Commission, and must specify the reasons for which the refusal to amend is challenged.

(b) If on appeal the refusal to amend the record is upheld, the Commission will permit the individual to file a statement setting forth the reasons for disagreement with the determination. The statement must also be submitted within 30 days of receipt of the denial. The statement will be included in the system of records in which the disputed record is maintained and will be marked so as to indicate:

(1) That a statement of disagreement has been filed, and

(2) Where in the system of records the statement may be found.

§ 503.9 Fees.

Fees to be charged, if any, to any individual for making copies of that individual's record excluding the cost of any search for and review of the record will be as follows:

(a) Photocopy reproductions: each copy $0.15.

(b) Where the Commission undertakes to perform for a requester, or any other person, services which are clearly not required to be performed under the Privacy Act, either voluntarily or because those services are required by some other law, the question of charging fees for those services will be determined by the official or designee authorized to release the information, under the Federal user charge statute, 31 U.S.C. 583a, any other applicable law, and the provisions of § 502.13 of part 502 of this chapter.

§ 503.10 Exemptions.

No system of records maintained by the Foreign Claims Settlement Commission is exempt from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a(j) and (k). However, the Chair of the Commission reserves the right to promulgate rules in accordance with the requirements of 5 U.S.C. 553(b)(1), (2) and (3), and 5 U.S.C. 553(c) and (e) to exempt any system of records maintained by the Commission in accordance with the provisions of 5 U.S.C. 552a(k).

§ 503.11 Reports.

(a) The Administrative Officer or designee will provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any Commission system of records, as required by 5 U.S.C. 552a(o).

(b) If at any time a system of records maintained by the Commission is determined to be exempt from the application of 5 U.S.C. 552a in accordance with the provisions of 5 U.S.C. 552a(j) and (k), the number of records contained in such system will be separately listed and reported to the Office of Management and Budget.

§ 503.12 Notices.

The Commission will publish in the **Federal Register** at least annually a notice of the existence and character of the systems of records which it maintains. Such notice will include:

(a) The name and location of each system;

(b) The categories of individuals on whom the records are maintained in each system;

(c) The categories of records maintained in each system;

(d) Each routine use of the records contained in each system including the categories of users and the purpose of each use;

(e) The policies and practices of the Commission regarding storage, retrievability, access controls, retention, and disposal of the records;

(f) The title and business address of the agency official who is responsible for each system of records;

(g) Commission procedures whereby an individual can be notified if a system of records contains a record pertaining to that individual;

(h) Commission procedures whereby an individual can be notified how to gain access to any record pertaining to that individual contained in a system of records, and how to contest its content, and

(i) The categories of sources of records in each system.

Subpart B—Government in the Sunshine Regulations

Authority: 5 U.S.C. 552b.

§ 503.20 Definitions.

For purposes of this part: *Closed meeting* and *closed portion of a meeting* mean, respectively, a meeting or that part of a meeting designated as provided in § 503.27 as closed to the public by reason of one or more of the closure provisions listed in § 503.24.

Commission means the Foreign Claims Settlement Commission, which is a collegial body that functions as a unit composed of three individual members, appointed by the President with the advice and consent of the Senate.

Meeting means the deliberations of at least two (quorum) members of the Commission where such deliberations determine or result in joint conduct or disposition of official Commission business.

Member means any one of the three members of the Commission.

Open meeting means a meeting or portion of a meeting which is not a closed meeting or a closed portion of a meeting.

Public observation means the right of any member of the public to attend and observe, but not participate or interfere in any way, in an open meeting of the Commission within the limits of reasonable and comfortable accommodations made available for such purpose by the Commission.

§ 503.21 Notice of public observation.

(a) A member of the public is not required to give advance notice of an intention to exercise the right of public observation of an open meeting of the Commission. However, in order to permit the Commission to determine the amount of space and number of seats which must be made available to accommodate individuals who desire to exercise the right of public observation, those individuals are requested to give notice to the Commission at least two business days before the start of the open meeting of the intention to exercise that right.

(b) Notice of intention to exercise the right of public observation may be given in writing, in person, or by telephone to the official designated in § 503.29.

(c) Individuals who have not given advance notice of intention to exercise the right of public observation will not be permitted to attend and observe the open meeting of the Commission if the available space and seating are necessary to accommodate individuals who gave advance notice of such intention.

§ 503.22 Scope of application.

The provisions of this part 503, §§ 503.20 through 503.29, apply to meetings of the Commission, and do not apply to conferences or other gatherings of employees of the Commission who meet or join with others, except at meetings of the Commission to deliberate on or conduct official agency business.

§ 503.23 Open meetings.

Every meeting of the Commission will be open to public observation except as provided in § 503.24.

§ 503.24 Grounds for closing a meeting.

(a) Except in a case where the Commission determines otherwise, a meeting or portion of a meeting may be closed to public observation where the Commission determines that the meeting or portion of the meeting is likely to:

(1) Disclose matters that are:

(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and

(ii) In fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552) provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of the records or information would:

(i) Interfere with enforcement proceedings,

(ii) Deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Constitute an unwarranted invasion of personal privacy,

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source,

(v) Disclose investigative techniques and procedures, or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Commission;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action of the Commission, provided the Commission has not already disclosed to the public the content or nature of its proposed action, or is not required by law to make the disclosure on its own initiative prior to taking final action on the proposal; or

(10) Specifically concern the Commission's issuance of a subpoena or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the Commission of a particular case of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554, or otherwise involve a determination on the record after opportunity for a hearing.

(b) If the Commission determines that the public interest would require that a meeting to be open, it may nevertheless so hold.

§ 503.25 Announcement of meetings.

(a) The Commission meets in its offices at 600 E Street, NW, Washington, DC, from time to time as announced by timely notice published in the **Federal Register**.

(b) At the earliest practicable time, which is estimated to be not later than eight days before the beginning of a meeting of the Commission, the Commission will make available for public inspection in its offices, and, if requested, will furnish by telephone or in writing, a notice of the subject matter of the meeting, except to the extent that the information is exempt from disclosure under the provisions of § 503.24.

§ 503.26 Procedures for closing of meetings.

(a) The closing of a meeting will occur when:

(1) A majority of the membership of the Commission votes to take that action. A separate vote of the Commission members will be taken with respect to each Commission meeting, a portion or portions of which are proposed to be closed to the public pursuant to § 503.24, or with respect to any information which is proposed withheld under § 503.24. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning that series of meetings, so long as each meeting in the series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in the series. The vote of each Commission member participating in the voting will be recorded and no proxies will be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Commission close that portion to the public for any of the reasons referred to in § 503.24(e), (f), or (g), the Commission, upon request of any one of its Commission members, will take a recorded vote, whether to close that portion of the meeting.

(b) Within one day of any vote taken, the Commission will make publicly available a written copy of the voting reflecting the vote of each member on the question and a full written explanation of its action closing the entire or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation.

(c) The Commission will announce the time, place and subject matter of the meeting at least eight days before the meeting.

(d) For every closed meeting, before the meeting is closed, the Commission's Chair will publicly certify that the meeting may be closed to the public, and will state each relevant closure provision. A copy of the certification, together with a statement setting forth the time and place of the meeting, and the persons present, will be retained by the Commission.

§ 503.27 Reconsideration of opening or closing, or rescheduling a meeting.

The time or place of a Commission meeting may be changed following the public announcement only if the Commission publicly announces such changes at the earliest practicable time. The subject matter of a meeting, or the determination of the Commission to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement only if a majority of the Commission members determines by a recorded vote that Commission business so requires and that no earlier announcement of the changes was possible, and the Commission publicly announces the changes and the vote of each member upon the changes at the earliest practicable time.

§ 503.28 Record of closed meetings, or closed portion of a meeting.

(a) The Commission will maintain a complete transcript or electronic recording adequate to record fully the proceedings of each closed meeting or closed portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public pursuant to § 503.24(d), (h), or (j), the Commission will maintain either a transcript or recording, or a detailed set of minutes.

(b) Any minutes so maintained will fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote. All documents considered in connection with any action will be identified in the minutes.

(c) The Commission will promptly make available to the public, in its offices, the transcript, electronic recording, or minutes, of the discussion of any item on the agenda of a closed meeting, or closed portion of a meeting, except for the item or items of discussion which the Commission determines to contain information which may be withheld under § 503.24. Copies of the transcript or minutes, or a transcription of the recording, disclosing the identity of each speaker, will be furnished to any person at the actual cost of duplication or transcription.

(d) The Commission will maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each closed meeting or closed portion of a meeting for a period of two years after the date of the closed meeting or closed portion of a meeting.

(e) All actions required or permitted by this section to be undertaken by the Commission will be by or under the authority of the Chair of the Commission.

§ 503.29 Requests for information.

Requests to the Commission for information about the time, place, and subject matter of a meeting, whether it or any portions thereof are closed to the public, and any requests for copies of the transcript or minutes or of a transcript of an electronic recording of a closed meeting, or closed portion of a meeting, to the extent not exempt from disclosure by the provisions of § 503.24, must be addressed to the Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW, Room 6002, Washington, DC 20579, telephone (202) 616–6975.

SUBCHAPTER B—RECEIPT, ADMINISTRATION, AND PAYMENT OF CLAIMS UNDER TITLE I OF THE WAR CLAIMS ACT OF 1948, AS AMENDED

PART 504—FILING OF CLAIMS AND PROCEDURES THEREFOR

Sec.
504.1 Claim defined.
504.2 Time within which claims may be filed.
504.3 Official claim forms.
504.4 Place of filing claims.
504.5 Documents to accompany forms.
504.6 Receipt of claims.

Authority: Sec. 2, Pub. L. 896, 80th Cong., as amended (50 U.S.C. App. 2001).

§ 504.1 Claim defined.

(a) This subchapter is included solely in order to provide for the adjudication of any additional claims that may arise on behalf of survivors of deceased civilians and military veterans who had been listed as missing during the Vietnam conflict but were subsequently determined to have been interned, in hiding, or captured by a hostile force in Southeast Asia (see § 504.2(a)(3) and (b)(3)). The Commission no longer has authority to receive or consider any

other types of claims based on the internment of civilians or the maltreatment of military servicemen held as prisoners of war by forces hostile to the United States.

(b) A properly completed and executed application made on an official form provided by the Foreign Claims Settlement Commission for such purpose constitutes a claim and will be processed under the laws administered by the Commission.

(c) Any communication, letter, note, or memorandum from a claimant, or the claimant's duly authorized representative, or a person acting as next friend of a claimant who is not legally competent, setting forth sufficient facts to apprise the Commission of an interest to apply under the provisions of sections 5(i) and 6(f) of the Act, will be deemed to be an informal claim. Where an informal claim is received and an official form is forwarded for completion and execution by the applicant, that official form will be considered as evidence necessary to complete the initial claim, and unless that official form is received within thirty (30) days from the date it was transmitted for execution, if the claimant resides in the continental United States, or forty-five (45) days if outside the continental United States, the claim may be disallowed.

§ 504.2 Time within which claims may be filed.

(a) Claims of individuals entitled to benefits under section 5(i) of the War Claims Act of 1948, as added by Public Law 91–289, will be accepted by the Commission during the period beginning June 24, 1970, and ending:

(1) June 24, 1973, inclusive;

(2) 3 years from the date the civilian American citizen by whom the claim is filed returned to the jurisdiction of the United States; or

(3) 3 years from the date upon which the Commission, at the request of a potentially eligible survivor, makes a determination that the civilian American citizen has actually died or may be presumed to be dead, in the case of any civilian American citizen who has not returned to the jurisdiction of the United States, whichever of the preceding dates last occurs.

(b) Claims of individuals entitled to benefits under section 6(f) of the War Claims Act of 1948, as added by Public Law 91–289, will be accepted by the Commission during the period beginning June 24, 1970, and ending:

(1) June 24, 1973, inclusive;

(2) 3 years from the date the prisoner of war by whom the claim is filed returned to the jurisdiction of the Armed Forces of the United States; or

(3) 3 years from the date the Department of Defense makes a determination that the prisoner of war has actually died or is presumed to be dead, in the case of any prisoner of war who has not returned to the jurisdiction of the Armed Forces of the United States, whichever of the preceding dates last occurs.

§ 504.3 Official claim forms.

Official forms are provided for use in the preparation of claims for submission to the Commission for processing. Claim forms are available at the Washington offices of the Commission and through other offices as the Commission may designate. The official claim form for all claims under section 5(i) and 6(f) has been designated FCSC Form 289, ''Application for Compensation for Members of the Armed Forces of the United States Held as Prisoner of War in Vietnam; for Persons Assigned to Duty on board the 'U.S.S. Pueblo' Captured by Military Forces of North Korea; for Civilian American Citizens Captured or Who Went into Hiding to Avoid Capture or Internment in Southeast Asia During the Vietnam Conflict and, in Case of Death of any Such Person, for Their Survivors.''

§ 504.4 Place of filing claims.

Claims must be mailed or delivered in person to the Foreign Claims Settlement Commission, 600 E Street, NW, Room 6002, Washington, DC 20579.

§ 504.5 Documents to accompany forms.

All claims filed pursuant to sections 5(a) and 6(f) of the Act must be accompanied by evidentiary documents, instruments, and records as outlined in the instruction sheet attached to the claim form.

§ 504.6 Receipt of claims.

(a) *Claims deemed received.* A claim will be deemed to have been received by the Commission on the date postmarked, if mailed, or if delivery is made in person, on the date of delivery at the offices of the Commission in Washington, DC.

(b) *Claims developed.* In the event that a claim has been insufficiently prepared so as to preclude processing thereof, the Commission may request the claimant to furnish whatever supplemental evidence, including the completion and execution of an official claim form, as may be essential to the processing of the claim. In case the evidence or official claim form requested is not returned within the time which may be designated by the Commission, the claim may be deemed to have been abandoned and may be disallowed.

PART 505—PROVISIONS OF GENERAL APPLICATION

Sec.
505.1 Persons eligible to file claims.
505.2 Persons under legal disability.
505.3 Definitions applicable under the Act.

Authority: Sec. 2, Pub. L. 896, 80th Cong., as amended (50 U.S.C. App. 2001).

§ 505.1 Persons eligible to file claims.

Persons eligible to file claims with the Commission under the provisions of sections 5(i) and 6(f) of the War Claims Act of 1948, as amended, are:

(a) Civilian American citizens captured and held in Southeast Asia or their eligible survivors, under the provisions of section 5(i) of the Act; and

(b) Members of the Armed Forces of the United States held as prisoners of war during the Vietnam conflict or their eligible survivors, under section 6(f) of the Act.

§ 505.2 Persons under legal disability.

(a) Claims may be submitted on behalf of persons who, being otherwise eligible to make claims under the provisions of sections 5(i) and 6(f), are incompetent or otherwise under any legal disability, by the natural or legal guardian, committee, conservator, curator, or any other person, including the spouse of the claimant, whom the Commission determines is charged with the care of the claimant.

(b) Upon the death of any individual for whom an award has been made, the Commission may consider the initial application filed by or in behalf of the decedent as a formal claim for the purpose of reissuing the award to the next eligible survivor in the order of preference as set forth under sections 5(i) and 6(d)(4) of the Act.

§ 505.3 Definitions applicable under the Act.

Child means:

(1) A natural or adopted son or daughter of a deceased prisoner of war or a deceased civilian prisoner of war or a deceased American citizen including any posthumous son or daughter of such deceased person.

(2) Any son or daughter of a deceased person born out of wedlock will be deemed to be a child of the deceased for the purpose of this Act, if:

(i) Legitimated by a subsequent marriage of the parents,

(ii) Recognized as a child of the deceased by his or her admission, or

(iii) So declared by an order or decree of any court of competent jurisdiction.

Husband means the surviving male spouse of a deceased prisoner of war or of a deceased civilian American citizen who was married to the deceased at the time of her death by a marriage valid under the applicable law of the place entered into.

Natural guardian means father and mother who shall be deemed to be the natural guardians of the person of their minor children. If either dies or is incapable of action, the natural guardianship of the person shall devolve upon the other. In the event of death or incapacity of both parents, then the blood relative, paternal or maternal, standing in loco parentis to the minor shall be deemed the natural guardian.

Parent means:

(1)(i) The natural or adoptive father or mother of a deceased prisoner of war, or any other individual standing in loco parentis to the deceased person for a period of not less than 1 year immediately preceding the date of that person's entry into active service and during at least 1 year of the person's minority. Not more than one mother or one father as defined shall be recognized in any case. An individual will not be recognized as standing in loco parentis if the natural parents or adoptive parents are living, unless there is affirmative evidence of abandonment and renunciation of parental duties and obligations by the natural or adoptive parent or parents prior to entry into active service by the deceased prisoner or war;

(ii) An award in the full amount allowable had the deceased prisoner of war survived may be made to only one parent when it is shown that the other parent has died or if there is affirmative evidence of abandonment and renunciation of parental duties and obligations by the other parent.

(2) The father of an illegitimate child will not be recognized as such for purposes of the Act unless evidence establishes that:

(i) He has legitimated the child by subsequent marriage with the mother;

(ii) Recognized the child as his by written admission prior to enlistment of the deceased in the armed forces or entry into an overseas duty status; or

(iii) Prior to death of the child he has been declared by decree of a court of competent jurisdiction to be the father.

Widow means the surviving female spouse of a deceased prisoner of war or a deceased civilian American citizen who was married to the deceased at the time of his death by marriage valid under the applicable law of the place where entered into.

PART 506—ELIGIBILITY REQUIREMENTS FOR COMPENSATION

Subpart A—Civilian American Citizens

Sec.
506.1 ''Civilian American citizen'' defined.
506.2 Other definitions.
506.3 Rate of benefits payable.
506.4 Survivors entitled to award of detention benefits.
506.5 Persons not eligible to award of civilian detention benefits.

Subpart B—Prisoners of War

506.10 ''Vietnam conflict'' defined.
506.11 ''Prisoner of war'' defined.
506.12 Membership in the Armed Forces of the United States; establishment of.
506.13 ''Armed Forces of the United States'' defined.
506.14 ''Force hostile to the United States'' defined.
506.15 Geneva Convention of August 12, 1949.
506.16 Failure to meet the conditions and requirements prescribed under the Geneva Convention of August 12, 1949.
506.17 Rate of and basis for award of compensation.
506.18 Entitlement of survivors to award in case of death of prisoner of war.
506.19 Members of the Armed Forces of the United States precluded from receiving award of compensation.

Authority: Sec. 2, Pub. L. 896, 80th Cong., as amended (50 U.S.C. App. 2001).

Subpart A—Civilian American Citizens

§ 506.1 ''Civilian American citizen'' defined.

Civilian American citizen means any person who, being then a citizen of the United States, was captured in Southeast Asia during the Vietnam conflict by any force hostile to the United States, or who went into hiding in Southeast Asia in order to avoid capture or internment by any such hostile force.

§ 506.2 Other definitions.

Calendar month means the period of time between a designated day of any given month and the date preceding a similarly designated day of the following month.

Citizen of the United States means a person who under applicable law acquired citizenship of the United States by birth, by naturalization, or by derivation.

Dependent husband means the surviving male spouse of a deceased civilian American citizen who was married to the deceased at the time of her death by a marriage valid under the applicable law of the place where entered into.

Force hostile to the United States means any organization or force in Southeast Asia, or any agent or employee thereof, engaged in any military or civil activities designed to further the prosecution of its armed conflict against the Armed Forces of the United States during the Vietnam conflict.

Southeast Asia means, but is not necessarily restricted to, the areas of Vietnam, Laos, and Cambodia.

Went into hiding means the action taken by a civilian American citizen when that person initiated a course of conduct consistent with an intention to evade capture or detention by a hostile force in Southeast Asia.

§ 506.3 Rate of benefits payable.

Detention benefits awarded to a civilian American citizen will be paid at the rate of $150 for each calendar month of internment or during the period in which that civilian American citizen went into hiding to avoid capture and internment by a hostile force. Awards shall take account of fractional parts of a calendar month.

§ 506.4 Survivors entitled to award of detention benefits.

In case of death of a civilian American citizen who would have been entitled to detention benefits under the War Claims Act of 1948, as amended, benefits will be awarded, if claim is made, only to the following persons:

(a) Widow or husband if there is no child or children of the deceased;

(b) Widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares;

(c) The child or children of the deceased in equal shares if there is no widow or dependent husband, if otherwise qualified.

§ 506.5 Persons not eligible to award of civilian detention benefits.

An individual is disqualified as a ''civilian American citizen'' under the Act, and thus is precluded from receiving an award of detention benefits, if that person:

(a) Voluntarily, knowingly, and without duress, gave aid to or collaborated with or in any manner served the detaining hostile force; or

(b) While detained, was a regularly appointed, enrolled, enlisted, or inducted member of the Armed Forces of the United States.

Subpart B—Prisoners of War

§ 506.10 ''Vietnam conflict'' defined.

Vietnam conflict refers to the period beginning February 28, 1961, and ending on a date to be determined by

Presidential proclamation or concurrent resolution of the Congress. (For purposes of determining eligibility for certain veterans' benefits, the President has proclaimed the date of May 7, 1975, to be the ending date of the ''Vietnam era'' (Presidential Proclamation No. 4373, 38 U.S.C. 101 note). In addition, Congress has set May 7, 1975, as the ending date of the ''Vietnam conflict'' for purposes of payment of interest on missing military service members' deposits in the United States Treasury under 10 U.S.C. 1035. However, neither the President nor the Congress has set an ending date for the Vietnam conflict for purposes of determining eligibility for compensation under 50 U.S.C. App. 2004 and 2005.)

§ 506.11 ''Prisoner of war'' defined.

Prisoner of war means any regularly appointed, enrolled, enlisted or inducted member of the Armed Forces of the United States who was held by any force hostile to the United States for any period of time during the Vietnam conflict.

§ 506.12 Membership in the Armed Forces of the United States; establishment of.

Regular appointment, enrollment, enlistment or induction in the Armed Forces of the United States must be established by certification obtained from the Department of Defense.

§ 506.13 ''Armed Forces of the United States'' defined.

Armed Forces of the United States means the United States Air Force, Army, Navy, Marine Corps and Coast Guard, and commissioned officers of the U.S. Public Health Service who were detailed for active duty with the Armed Forces of the United States.

§ 506.14 ''Force hostile to the United States'' defined.

Force hostile to the United States means any organization or force in Southeast Asia, or any agent or employee thereof, engaged in any military or civil activities designed to further the prosecution of its armed conflict against the Armed Forces of the United States during the Vietnam conflict.

§ 506.15 Geneva Convention of August 12, 1949.

The Geneva Convention of August 12, 1949, as identified in section 6(f) of the War Claims Act of 1948, as amended, is the ''Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949'' which is included under the ''Geneva Convention of August 12, 1949, for the Protection of War Victims,'' entered into by the United States and other governments, including the former government in North Vietnam which acceded to it on June 28, 1957.

§ 506.16 Failure to meet the conditions and requirements prescribed under the Geneva Convention of August 12, 1949.

For the purpose of this part, obligations under the Geneva Convention of August 12, 1949, consist of the responsibility assumed by the contracting parties thereto with respect to prisoners of war within the meaning of the Convention, to comply with and to fully observe the provisions of the Convention, and particularly those articles relating to food rations of prisoners of war, humane treatment, protection, and labor of prisoners of war, and the failure to abide by the conditions and requirements established in such Convention by any hostile force with which the Armed Forces of the United States were engaged in armed conflict.

§ 506.17 Rate of and basis for award of compensation.

(a) Compensation allowed a prisoner of war during the Vietnam conflict under section 6(f)(2) of the War Claims Act of 1948, as amended, will be paid at the rate of $2 per day for each day on which that person was held as prisoner of war and on which the hostile force, or its agents, failed to furnish the quantity and quality of food prescribed for prisoners of war under the Geneva Convention of August 12, 1949.

(b) Compensation allowed a prisoner of war during the Vietnam conflict under section 6(f)(3) of the Act, will be paid at the rate of $3 per day for each day on which that person was held as a prisoner of war and on which the hostile force failed to meet the conditions and requirements under the provisions of the Geneva Convention of August 12, 1949 relating to labor of prisoners of war or for inhumane treatment by the hostile force by which such person was held.

(c) Compensation under paragraphs (a) and (b) of this section will be paid to the prisoner of war or qualified applicant on a lump-sum basis at a total rate of $5 per day for each day the prisoner of war was entitled to compensation. § 506.18 Entitlement of survivors to award in case of death of prisoner of war.

In case of death of a prisoner of war who would have been entitled to an award of compensation under section 6(f) (2) and (3) of the War Claims Act of 1948, as amended, the compensation will be awarded, if claim is made, only to the following persons:

(a) Widow or husband if there is no child or children of the deceased;

(b) Widow or husband and child or children of the deceased, one-half to the widow or husband and the other half to the child or children of the deceased in equal shares;

(c) Child or children of the deceased (in equal shares) if there is no widow or husband; and

(d) Parents (in equal shares) if there is no widow, husband or child.

§ 506.19 Members of the Armed Forces of the United States precluded from receiving award of compensation.

Any member of the Armed Forces of the United States, who at any time, voluntarily, knowingly, and without duress gave aid to or collaborated with, or in any manner served any force hostile to the United States, is precluded from receiving an award of compensation based on that member's capture and internment.

PART 507—PAYMENT

Sec.
507.1 Payments under the War Claims Act of 1948, as amended by Pub. L. 91–289.
507.2 Payments to persons under legal disability.
507.3 Reissuance of awards.

Authority: Sec. 2, Pub. L. 80–896, as amended (50 U.S.C. App. 2001).

§ 507.1 Payments under the War Claims Act of 1948, as amended by Public Law 91–289.

(a) Upon a determination by the Commission as to the amount and validity of each claim filed pursuant to section 5(i) and 6(f) of the War Claims Act of 1948, as amended, any award made thereunder will be certified by the Commission to the Secretary of the Treasury for payment out of funds appropriated for this purpose, in favor of the civilian internee or prisoner of war found entitled thereto.

(b) Awards made to survivors of deceased civilian internees or prisoners of war will be certified to the Secretary of the Treasury for payment to the individual member or members of the class or classes of survivors entitled to receive compensation in the full amount of the share to which each survivor is entitled, and if applicable, under the procedure set forth in § 507.3, except that as to persons under legal disability, payment will be made as specified in § 507.2.

§ 507.2 Payments to persons under legal disability.

Any awards or any part of an award payable under sections 5(i) and 6(f) of the Act to any person under legal disability may, in the discretion of the

Commission, be certified for payment for the use of the claimant, to the natural or legal guardian, committee, conservator or curator, or if there is no natural or legal guardian, committee, conservator or curator, then, in the discretion of the Commission, to any person, including the spouse of such person, or the Chief Officer of the hospital in which the claimant may be a patient, whom the Commission may determine is charged with the care of the claimant. In the case of a minor, any part of the amount payable may, in the discretion of the Commission, be certified for payment to that minor.

§ 507.3 Reissuance of awards.

Upon the death of any claimant entitled to payment of an award, the Commission will cause the award to be canceled and the amount of the award will be redistributed to the survivors of the same class or to members of the next class of eligible survivors, if appropriate, in the order of preference as set forth under the Act.

PART 508—HEARINGS

Sec.
508.1 Basis for hearing.
508.2 Request for hearing.
508.3 Notification to claimant.
508.4 Failure to file request for hearing.
508.5 Purpose of hearing.
508.6 Resume of hearing, preparation of.
508.7 Action by the Commission.
508.8 Application of other regulations.

Authority: Sec. 2, Pub. L. 896, 80th Cong., as amended (50 U.S.C. App. 2001).

§ 508.1 Basis for hearing.

Any claimant whose application is denied or is approved for less than the full allowable amount of his or her claim will be entitled to a hearing before the Commission or its representative with respect to that claim. Hearings may also be held on the Commission's own motion.

§ 508.2 Request for hearing.

Within 30 days after the Commission's notice of denial of a claim, or approval for a lesser amount than claimed, has been posted by the Commission, the claimant, if a hearing is desired, must notify the Commission in writing, and must set forth in full the reasons for requesting the hearing, including any statement of law or facts upon which the claimant relies.

§ 508.3 Notification to claimant.

Upon receipt of such a request, the Commission will schedule a hearing and notify the claimant as to the date and place the hearing is to be held. No later than 10 days prior to the scheduled hearing date, the claimant must submit all documents, briefs, or other additional evidence relevant to his or her appeal.

§ 508.4 Failure to file request for hearing.

The failure to file a request for a hearing within the period specified in § 509.2 of this chapter will be deemed to constitute a waiver of right to a hearing and the decision of the Commission will constitute a full and final disposition of the case.

§ 508.5 Purpose of hearing.

(a) Hearings will be conducted by the Commission, its designee or designees. Oral testimony and documentary evidence, including depositions that may have been taken as provided by statute and the rules of practice, may be offered in evidence on claimant's behalf or by counsel for the Commission designated by it to represent the public interest opposed to the allowance of an unjust or unfounded claim or portion thereof, and either may cross-examine as to evidence offered through witnesses on behalf of the other. Objections to the admission of any such evidence will be ruled upon by the presiding officer.

(b) Hearings may be stenographically recorded either at the request of the claimant or at the discretion of the Commission. A claimant making such a request must notify the Commission at least 10 days prior to the hearing date. When a stenographic record of a hearing is ordered at the claimant's request, the cost of such reporting and transcription may be charged to the claimant.

(c) Such hearings will be open to the public.

§ 508.6 Résumé of hearing, preparation of.

Following each hearing, the hearing officer will prepare a résumé of the hearing, specifying the issues on which the hearing was based, and including a list of documents and contents and other items relative to the issues that were introduced as evidence. A brief analysis of oral testimony will also be prepared and included in the résumé of each hearing not stenographically reported.

§ 508.7 Action by the Commission.

After the conclusion of the hearing and a review of the résumé, the Commission may affirm, modify, or reverse its former action with respect to the claim, including a denial or reduction in the amount of the award theretofore approved. All findings of the Commission concerning the persons to whom compensation is payable, and the amounts thereof, are conclusive and not reviewable by any court.

§ 508.8 Application of other regulations.

To the extent they are not inconsistent with the regulations set forth under provisions of this subchapter, the other regulations of the Commission will also be applicable to the claims filed hereunder.

SUBCHAPTER C—RECEIPT, ADMINISTRATION, AND PAYMENT OF CLAIMS UNDER THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949, AS AMENDED, AND RELATED ACTS

PART 509—FILING OF CLAIMS AND PROCEDURES THEREFOR

Sec.
509.1 Time for filing.
509.2 Form, content and filing of claims.
509.3 Exhibits and documents in support of claim.
509.4 Acknowledgment and numbering.
509.5 Procedure for determination of claims.
509.6 Hearings.
509.7 Presettlement conference.

Authority: Sec. 3, Pub. L. 455, 81st Cong., as amended (22 U.S.C. 1622).

§ 509.1 Time for filing.

Claims must be filed as specified by the Commission by duly promulgated notice published in the **Federal Register**, or as specified in legislation passed by Congress, as applicable.

§ 509.2 Form, content and filing of claims.

(a) Unless otherwise specified by law, or by regulations published in the **Federal Register**, claims must be filed on official forms, which will be provided by the Commission upon request in writing addressed to the Commission at its office at 600 E Street, NW, Suite 6002, Washington, DC 20579. Each form must include all of the information called for in it and must be completed and signed in accordance with the instructions accompanying the form.

(b) Notice to the Foreign Claims Settlement Commission, the Department of State, or any other governmental office or agency of an intention to file a claim against a foreign government, prior to the enactment of the statute authorizing a claims program, prior to a referral of claims to the Commission by the Secretary for pre-adjudication, or prior to the effective date of a lump-sum claims settlement agreement, will *not* be considered as a timely filing of a claim under the statute, referral, or agreement.

(c) Any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof will be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period.

§ 509.3 Exhibits and documents in support of claim.

(a) *Original documents.* If available, all exhibits and documents must be filed with and at the same time as the claim, and must, wherever possible, be in the form of original documents, or copies or originals certified as such by their public or other official custodian.

(b) *Documents in a foreign language.* Each copy of a document, exhibit or paper filed, which is written or printed in a language other than English, must be accompanied by an English translation thereof duly verified under oath by its translator to be a true and accurate translation thereof, together with the name and address of the translator.

(c) *Preparation of papers.* All claims, briefs, and memoranda filed shall be typewritten or printed and, if typewritten, must be on business letter (8½″ × 11″) size paper.

§ 509.4 Acknowledgment and numbering.

The Commission will acknowledge the receipt of a claim in writing and will notify the claimant of the claim number assigned to it, which number must be used on all further correspondence and papers filed with regard to the claim.

§ 509.5 Procedure for determination of claims.

(a) The Commission may on its own motion order a hearing upon any claim, specifying the questions to which the hearing shall be limited.

(b) Without previous hearing, the Commission or a designated member of the staff may issue a Proposed Decision in determination of a claim. This Proposed Decision will set forth findings of fact and conclusions of law on the relevant elements of the claim, to the extent that evidence and information relevant to such elements is before the Commission. The claimant will have the burden of proof in submitting evidence and information sufficient to establish the elements necessary for a determination of the validity and amount of his or her claim.

(c) The Proposed Decision will be delivered to the claimant or the claimant's attorney of record in person or by mail. Delivery by mail will be deemed completed 5 days after the mailing of the Proposed Decision addressed to the last known address of the claimant or the claimant's attorney of record. A copy of the Proposed Decision will be available for public inspection at the offices of the Commission, except in cases where public disclosure of the names of claimants is barred by statute.

(d) It will be the policy of the Commission to post on a bulletin board and on its World Wide Web site (*http://www.usdoj.gov/fcsc*), any information of general interest to claimants before the Commission.

(e) When the Proposed Decision denies a claim in whole or in part, the claimant may file notice of objection to the denial within 15 days of delivery of the decision. If the claimant wishes to appear at an oral hearing before the Commission to present his or her objection, the claimant must request the oral hearing at the time of submission of his or her objection, stating the reasons for objection, and may request a hearing on the claim, specifying whether for the taking of evidence or for oral argument on the legal issues which are the subject of the objection.

(f) Copies of objections to or requests for hearings on Proposed Decisions will be available for public inspection at the Commission's offices.

(g) Upon the expiration of 30 days after delivery to the claimant or claimant's attorney, if no objection under this section has in the meantime been filed, a staff Proposed Decision, upon approval by the Commission, will become the Commission's final determination and decision on the claim. A Proposed Decision issued by the Commission will become final 30 days after delivery to the claimant or the claimant's attorney without further order or decision by the Commission.

(h) If an objection has in the meantime been filed, but no hearing requested, the Commission may, after due consideration thereof:

(1) Issue a Final Decision affirming or modifying its Proposed Decision,

(2) Issue an Amended Proposed Decision, or

(3) On its own motion order hearing thereon, indicating whether for the taking of evidence on specified questions or for the hearing of oral arguments.

(i) After the conclusion of a hearing, upon the expiration of any time allowed by the Commission for further submissions, the Commission may proceed to issue a Final Decision in determination of the claim.

(j)(1) In case an individual claimant dies prior to the issuance of the Final Decision, that person's legal representative will be substituted as party claimant. However, upon failure of a representative to qualify for substitution, the Commission may issue its decision in the name of the estate of the deceased and, in case of an award, certify the award in the same manner to the Secretary of the Treasury for payment, if the payment of the award is provided for by statute.

(2) Notice of the Commission's action under this paragraph will be forwarded to the claimant's attorney of record, or if the claimant is not represented by an attorney, the notice will be addressed to the estate of the claimant at the last known place of residence.

(3) The term *legal representative* as applied in this paragraph means, in general, the administrator or executor, heir(s), next of kin, or descendant(s).

(k) After the date of filing with the Commission no claim may be amended to reflect the assignment thereof by the claimant to any other person or entity except as otherwise provided by statute.

(l) At any time after a final Decision has been issued on a claim, or a Proposed Decision has been entered as the Final Decision on a claim, but not later than 60 days before the completion date of the Commission's affairs in connection with the program under which such claim is filed, a petition to reopen on the ground of newly discovered evidence may be filed. No such petition will be entertained unless it appears therein that the newly discovered evidence came to the knowledge of the party filing the petition subsequent to the date of issuance of the Final Decision or the date on which the Proposed Decision was entered as the Final Decision; that it was not for want of due diligence that the evidence did not come sooner to the claimant's knowledge; and that the evidence is material, and not merely cumulative, and that reconsideration of the matter on the basis of that evidence would produce a different decision. The petition must include a statement of the facts which the petitioner expects to prove, the name and address of each witness, the identity of documents, and the reasons for failure to make earlier submission of the evidence.

§ 509.6 Hearings.

(a) Hearings, whether upon the Commission's own motion or upon request of claimant, will be held upon not less than fifteen days' notice of the time and place thereof.

(b) The hearings will be open to the public unless otherwise requested by claimant and ordered by the Commission, or when required by law.

(c) The hearings will be conducted by the Commission, its designee or designees. Oral testimony and documentary evidence, including depositions that may have been taken as provided by statute and the rules of practices, may be offered in evidence on the claimant's behalf or by counsel for the Commission designated by it to

represent the public interest opposed to the allowance of any unjust or unfounded claim or portion thereof; and either may cross-examine as to evidence offered through witnesses on behalf of the other. Objections to the admission of any such evidence will be ruled upon by the presiding officer.

(d) The hearings will be conducted as non-adversarial proceedings. However, the claimant will be the moving party, and will have the burden of proof on all issues involved in the determination of his or her claim.

(e) Hearings may be stenographically reported or electronically recorded, either at the request of the claimant or upon the discretion of the Commission. A claimant making such a request must notify the Commission at least ten (10) days prior to the hearing date. When a stenographic record or transcript of a hearing is ordered at the claimant's request, the cost of the reporting and transcription will be charged to the claimant.

(f) The following rules of procedure will apply in the conduct of hearings held by the Commission for presentation of objections to Proposed Decisions:

(1) *Presentation of Objections to Proposed Decisions*

(i) Objections should focus either on the presentation of new evidence, or on the presentation of arguments demonstrating that, in the claimant's view, the Commission erred in considering the evidence previously submitted. Restatements of facts, evidence or materials already established in the record should be avoided.

(ii) The Chief Counsel of the Commission or designated staff attorney will first introduce the objecting claimant and any witnesses to the Commission, and will then present a brief summary of the case, together with reasons supporting the decision as issued.

(iii) The objecting claimant and all witnesses will be sworn.

(iv) The objecting claimant, or the claimant's attorney, will then present the claimant's objections to the Commission, specifically setting forth the basis for the claimant's disagreement with the Proposed Decision, and the reasons supporting the claimant's contention that a more favorable decision should be rendered. Claimants will normally be limited to fifteen (15) minutes for their presentation of objections, but may request additional time if needed.

(v) Following presentation of the claimant's objection, the Chief Counsel or designated staff attorney will be allotted an equivalent amount of time to question the claimant and the claimant's witnesses with respect to the testimony and other evidence presented in support of the objection.

(vi) The objecting claimant or the claimant's attorney, and the Chief Counsel or designated staff attorney, will then be allotted up to five (5) minutes each for follow-up or rebuttal.

(vii) The Chair and Commissioners may direct questions to the objecting claimant and the claimant's attorney, and to the Chief Counsel or designated staff attorney, at any time during the proceedings described in the foregoing.

(viii) The foregoing provisions may be modified at the discretion of the Chair as circumstances may require.

(ix) At the conclusion, the Chair will inform the participants that the Commission will take the matter under advisement, and that a written Final Decision disposing of the objection will issue in due course.

(2) *Submission to Questioning/ Conduct of Proceedings*

(i) Presentation of the claimant's objection by the objecting claimant or the claimant's attorney, and of follow-up and rebuttal by the claimant or the claimant's attorney and by the Chief Counsel or designated staff attorney, must be directed to the Commission. Verbal exchanges between the objecting claimant or the claimant's attorney, and the Chief Counsel or designated staff attorney, will be limited to questions and answers during the questioning phase of the proceeding described in paragraph (f)(1)(v) of this section, unless otherwise necessary for clarification or exchange of documents.

(ii) Professional conduct and courtesies of the kind normally accorded in appellate judicial proceedings must be observed in all appearances and proceedings before the Commission.

§ 509.7 Presettlement conference.

The Commission on its own motion or initiative, or upon the application of a claimant for good cause shown, may direct that a presettlement conference be held with respect to any issue involved in a claim.

John R. Lacey,

Chairman.

[FR Doc. 01–24399 Filed 9–28–01; 8:45 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF DEFENSE

48 CFR Parts 202, 204, 211, 212, 219, 236, 237, 242, 245, 252, and Appendices F and G to Chapter 2

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement to delete obsolete text and update activity names and addresses, titles, reference numbers, and paragraph designations.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

List of Subjects in 48 CFR Parts 202, 204, 211, 212, 219, 236, 237, 242, 245, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 202, 204, 211, 212, 219, 236, 237, 242, 245, 252, and Appendices F and G to Chapter 2 are amended as follows:

1. The authority citation for 48 CFR parts 202, 204, 211, 212, 219, 236, 237, 242, 252, and Appendices F and G to subchapter I continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

202.101 [Amended]

2. Section 202.101 is amended in the definition of ''Contracting activity'' as follows:

a. Under the heading ''AIR FORCE'', by adding as the first entry, ''Office of the Assistant Secretary of the Air Force (Acquisition)''; and

b. Under the heading ''DEFENSE LOGISTICS AGENCY'', in the first entry, by removing ''Procurement Management, Defense Logistics Support Command'' and adding it its place ''Logistics Policy and Acquisition Management''.

PART 204—ADMINISTRATIVE MATTERS

204.7205 [Amended]

3. Section 204.7205 is amended as follows:

a. In paragraph (a) by adding, immediately before the period, the parenthetical ''(transferor)''; and

b. In paragraph (b) by revising the last parenthetical to read ''(transferee)''.

PART 211—DESCRIBING AGENCY NEEDS

211.504 [Redesignated as 211.503]

4. Section 211.504 is redesignated as section 211.503.

PART 212—ACQUISITION ON COMMERCIAL ITEMS

212.301 [Amended]

5. Section 212.301 is amended in paragraph (f)(iii) by removing the parenthetical ''(b)'' and adding in its place ''(a)''.

PART 219—SMALL BUSINESS PROGRAMS

219.1005 [Amended]

6. Section 219.1005 is amended as follows:

a. By redesignating paragraphs (a)(3)(A), (a)(3)(A)*(1)* through *(4),* and (a)(3)(B) as paragraphs (a)(i), (a)(i)(A) through (D), and (a)(ii), respectively; and

b. In newly designated paragraph (a)(ii) by removing ''at FAR 19.1005(a)(3)'' and adding in its place ''in FAR subpart 19.10''.

PART 236—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

7. Section 236.201 is amended by revising paragraphs (c)(1)(A)(*(1)* and (c)(1)(B) to read as follows:

236.201 Evaluation of contractor performance.

* * * * *

(c) * * *

(1) * * *

(A) * * *

(1) Is operated by—U.S. Army Corps of Engineers, Portland District, ATTN: CENWP–CT–I, PO Box 2946, Portland, OR 97208–2946, Telephone: (503) 808–4590.

* * * * *

(B) For computer access to the files, contact the Portland District for user log-on and procedures.

* * * * *

236.206 [Amended]

8. Section 236.206 is amended by removing ''212.204'' and adding in its place ''211.503''.

236.274 [Amended]

9. Section 236.274 is amended in paragraph (a) introductory text by adding, after ''Pub. L. 105–45'', the phrase ''and similar sections in subsequent military construction appropriations acts''.

PART 237—SERVICE CONTRACTING

10. Section 237.201 is amended by revising the section heading and the introductory text to read as follows:

237.210 Definition.

''Advisory and assistance services,'' as used in this subpart, means services in the following three major categories when provided by nongovernmental sources (10 U.S.C. 2212):

* * * * *

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

242.202 [Amended]

11. Section 242.202 is amended in paragraph (e)(1)(A) in the first sentence, in the parenthetical, by removing ''dcmc.hq.dla'' and adding in its place ''dcma''.

242.302 [Amended]

12. Section 242.302 is amended in paragraph (a)(13)(B)*(1)* in the last parenthetical by removing ''dcmc.hq.dla'' and adding in its place ''dcma.''

PART 245—GOVERNMENT PROPERTY

245.302–1 [Amended]

13. Section 245.302–1 is amended in paragraph (a)(4)(C)*(2)* in the last sentence by removing ''Fiscal Year 19__,'' and adding in its place ''FY__''; and by removing ''which'' and adding in its place ''that''.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

14. Section 252.211–7005 is amended by revising the clause date and the last sentence of paragraph (b) to read as follows:

252.211–7005 Substitutions for Military or Federal Specifications and Standards.

* * * * *

Substitutions for Military or Federal Specifications and Standards (OCT 2001)

* * * * *

(b) * * * A listing of SPI processes accepted at specific facilities is available via the Internet in Excel format at http://www.dcma.mil/onebook/0.0/0.2/reports/modified/xls.

* * * * *

252.227–7005 [Amended]

15. Section 252.227–7005 is amended as follows:

a. After the title ''LICENSE TERM'' by removing ''(AUG 1984)'' and adding in its place ''(OCT 2001)'';

b. In Alternate II by removing ''(AUG 1984)'' and adding in its place ''(OCT 2001)''; and

c. In Alternate II by removing ''_____19____'' and adding in its place ''_____, ____''.

252.237–7000 [Amended]

16. 252.237–7000 is amended in the introductory text by removing ''237.203–70'' and adding in its place ''237.270''.

252.239–7000 [Amended]

17. Section 252.239–7000 is amended in the introductory text by removing the parenthetical ''(a)''.

252.247–7011 [Amended]

18. Section 252.247–7011 is amended as follows:

a. By revising the clause date to read ''(OCT 2001)''; and

b. In paragraph (a) in the first sentence by removing ''19__'' both places it appears and adding in its place ''____''.

Appendix F—Material Inspection and Receiving Report

F–105 [Removed]

19. In Appendix F to Chapter 2, Section F–105 is removed.

Appendix G—Activity Address Numbers

20. Appendix G to Chapter 2 is amended in Part 4 by adding, in alpha-numerical order, a new entry ''M62974'' to read as follows:

Part 4—Marine Corps Activity Address Numbers

* * * * *

M62974 .. Marine Corps Air Station, PO Box 99133, Station S–4/3KG, Yuma, AZ 85369–9133

* * * * *

1. Appendix G to Chapter 2 is amended in Part 5 as follows:

a. By revising entry ''F33615'';

b. By adding, in alpha-numerical order, a new entry ''F33660'';

c. In the entry ''FA0021'' by removing ''PKMZ'' and adding in its place ''LGCQ''; and

d. By adding, in alpha-numerical order, a new entry ''FA7046'' to read as follows:

PART 5—AIR FORCE ACTIVITY ADDRESS NUMBERS

* * * * *

F33615SG	Det 1 AFRL/PK, Building 167, 2310 8th Street, Wright Patterson AFB, OH 45433–7801

* * * * *

F33660, FY2333.	AFMETCAL Det 1/MLK, 813 Irving Wick Drive West, Building 2, Heath, OH 43056–6116

* * * * *

FA7046	Air Force Operational Test and Evaluation Center, 8500 Gibson Boulevard SE, Kirtland AFB, NM 87117–5558

* * * * *

[FR Doc. 01–24391 Filed 9–28–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 212, 225, and 252

[DFARS Case 2000–D301]

Defense Federal Acquisition Regulation Supplement; Domestic Source Restrictions—Ball and Roller Bearings and Vessel Propellers

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is adopting as final, without change, an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8064 of the DoD Appropriations Act for Fiscal Year 2001 and Section 805 of the DoD Authorization Act for Fiscal Year 2001. These laws place restrictions on the acquisition of vessel propellers and ball and roller bearings from foreign sources.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0288; facsimile (703) 602–0350. Please cite DFARS Case 2000–D301.

SUPPLEMENTARY INFORMATION:

A. Background

DoD published an interim rule at 65 FR 77827 on December 13, 2000. The rule amended the DFARS to implement Section 8064 of the DoD Appropriations Act for Fiscal Year 2001 (Public Law 106–259) and Section 805 of the DoD Authorization Act for Fiscal Year 2001 (Public Law 106–398). Section 8064 of Public Law 106–259 restricts the acquisition of ball and roller bearings and vessel propellers to those produced by a domestic source and of domestic origin. The restriction does not apply to the purchase of commercial items, except ball or roller bearings purchased as end items. Section 805 of Public Law 106–398 extends the restriction on acquisition of ball and roller bearings at 10 U.S.C. 2534 through fiscal year 2005.

Three sources submitted comments on the interim rule. DoD considered all comments in the decision to convert the interim rule to a final rule without change.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD has prepared a final regulatory flexibility analysis for this rule. Interested parties may obtain a copy of the analysis from the point of contact specified herein. The analysis is summarized as follows: The objective of the rule is to protect the domestic industrial base for ball and roller bearings and vessel propellers as required by statute. By restricting foreign competition, the rule will benefit domestic small business concerns that manufacture ball or roller bearings, bearing components, vessel propellers, or vessel propeller casings. DoD received no public comments that addressed the initial regulatory flexibility analysis.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 212, 225, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 212, 225, and 252, which was published at 65 FR 77827 on December 13, 2000, is adopted as a final rule without change.

[FR Doc. 01–24386 Filed 9–28–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 215 and 253

[DFARS Case 2000–D026]

Defense Federal Acquisition Regulation Supplement; Cost or Pricing Data Threshold

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to reflect the increase in the cost or pricing data threshold specified in the Federal Acquisition Regulation (FAR).

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2000–D026.

SUPPLEMENTARY INFORMATION:

A. Background

FAR 15.403–4 specifies the dollar threshold at which contracting officers obtain cost or pricing data in negotiated acquisitions. On October 11, 2000 (65 FR 60553), this threshold was increased from $500,000 to $550,000.

This final rule amends DFARS 215.404 and 253.215–70 to remove references to the $500,000 threshold. Since 10 U.S.C. 2306a(a)(7) and 41 U.S.C. 254b(a)(7) require review of the cost or pricing data threshold every 5 years, this rule replaces the figure ''$500,000'' with the phrase ''cost or pricing data threshold'' to minimize the need for future DFARS changes.

This rule was not subject to Office of Management and Budget review under

Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2000–D026.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 215 and 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 215 and 253 are amended as follows:

1. The authority citation for 48 CFR parts 215 and 253 continues to read as follows:

PART 215—CONTRACTING BY NEGOTIATIONS

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 215.404–4 is amended by revising paragraph (c)(2)(C)*(1)(i)* to read as follows:

215.404–4 Profit.

* * * * *

(c) * * *

(2) * * *

(C) * * *

(1) * * *

(i) At or below the cost or pricing data threshold (see FAR 15.403–4(a)(1));

* * * * *

3. Section 215.404–76 is amended by revising paragraphs (a) and (c) to read as follows:

215.404–76 Reporting profit and fee statistics.

(a) Contracting officers in contracting offices that participate in the management information system for profit and fee statistics must send completed DD Forms 1547 on actions that exceed the cost or pricing data threshold, where the contracting officer used the weighted guidelines method, an alternate structured approach, or the modified weighted guidelines method, to their designated office within 30 days after contract award.

* * * * *

(c) When the contracting officer delegates negotiation of a contract action that exceeds the cost or pricing data threshold to another agency (e.g., to an ACO), that agency must ensure that a copy of the DD Form 1547 is provided to the delegating office for reporting purposes within 30 days after negotiation of the contract action.

* * * * *

PART 253—FORMS

4. Section 253.215–70 is amended by revising paragraph (b)(7) to read as follows:

253.215–70 DD Form 1547, Record of Weighted Guidelines Application.

* * * * *

(b) * * *

(7) For indefinite-delivery type contracts, prepare a consolidated DD Form 1547 for annual requirements expected to exceed the cost or pricing data threshold.

* * * * *

[FR Doc. 01–24385 Filed 9–28–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 219

[DFARS Case 2001–D009]

Defense Federal Acquisition Regulation Supplement; Memorandum of Understanding—Section 8(a) Program

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to reflect an extension in the expiration date of a memorandum of understanding between DoD and the Small Business Administration (SBA). The memorandum of understanding permits DoD to award contracts directly to 8(a) Program participants instead of awarding the contracts through the SBA.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–1302; facsimile (703) 602–0350. Please cite DFARS Case 2001–D009.

SUPPLEMENTARY INFORMATION:

A. Background

A memorandum of understanding dated May 6, 1998, between DoD and SBA permits DoD to award contracts directly to eligible 8(a) Program participants, instead of awarding the contracts through the SBA as provided for in Subpart 19.8 of the Federal Acquisition Regulation. The expiration date of the memorandum of understanding has been extended to December 31, 2001. This final rule amends DFARS 219.800 to reflect the extension.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2001–D009.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 219

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 219 is amended as follows:

1. The authority citation for 48 CFR part 219 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 219—SMALL BUSINESS PROGRAMS

219.800 [Amended]

2. Section 219.800 is amended in paragraph (a) in the third sentence by removing ''May 5'' and adding in its place ''December 31''.

[FR Doc. 01–24389 Filed 9–28–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 223

[DFARS Case 2001–D005]

Defense Federal Acquisition Regulation Supplement; Use of Recovered Materials

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove approval requirements pertaining to the acquisition of items that do not meet Environmental Protection Agency (EPA) minimum recovered material standards. The DFARS requirements are no longer necessary as a result of changes made to the Federal Acquisition Regulation (FAR) in Item III of Federal Acquisition Circular (FAC) 97–18.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2001–D005.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule—

- Removes DFARS 223.404(b)(3). FAR 223.404(b)(3) had required a written determination approved by an official designated by the agency head if the agency was acquiring EPA designated items that did not meet the EPA minimum recovered material standards. DFARS 223.404(b)(3) designated the approval officials for DoD. Since Item III of FAC 97–18 (65 FR 36016, June 6, 2000) removed the written determination requirement from the FAR, the corresponding levels of approval are removed from the DFARS; and
- Moves the text at DFARS 223.404(b)(4) to DFARS 223.405(d), since Item III of FAC 97–18 moved the corresponding text from FAR 223.404(b)(4) to FAR 223.405(d).

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2001–D005.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 223

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 223 is amended as follows:

1. The authority citation for 48 CFR Part 223 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

223.404 [Removed]

2. Section 223.404 is removed.

3. Section 223.405 is added to read as follows:

223.405 Procedures.

(d) Departments and agencies must centrally collect information submitted in accordance with the clause at FAR 52.223–9 for reporting to the Office of the Deputy Under Secretary of Defense (Environmental Security).

[FR Doc. 01–24388 Filed 9–28–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 232 and 252

[DFARS Case 2001–D012]

Defense Federal Acquisition Regulation Supplement; Customary Progress Payment Rate for Large Business Concerns

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to increase the customary uniform progress payment rate for large business concerns from 75 percent to 80 percent. The progress payment rate change is applicable only to contract awards made on or after October 1, 2001. Contracts awarded before October 1, 2001, will not be modified to include the 80 percent rate.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Haberlin, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; facsimile (703) 602–0350. Please cite DFARS Case 2001–D012.

SUPPLEMENTARY INFORMATION:

A. Background

This final DFARS rule conforms the DoD customary uniform progress payment rate for large business concerns with the progress payment rate for large business concerns currently being used by other Executive agencies under Federal Acquisition Regulation 32.501–1(a).

This final rule is unchanged from the proposed rule that was published at 66 FR 44589 on August 24, 2001. DoD received two comments in response to the proposed rule. Both comments were in favor of the rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule makes no change to the progress payment rates for small business and small disadvantaged business concerns.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 232 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 232 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 232—CONTRACT FINANCING

2. Section 232.501–1 is revised to read as follows:

232.501–1 Customary progress payment rates.

(a) The customary progress payment rates for DoD contracts, including contracts that contain foreign military sales (FMS) requirements, are 80 percent for large business concerns, 90 percent for small business concerns, and 95 percent for small disadvantaged business concerns.

3. Section 232.502–4–70 is amended by revising paragraph (b) to read as follows:

232.502–4–70 Additional clauses.

* * * * *

(b) Use the clause at 252.232–7004, DoD Progress Payment Rates, instead of Alternate I of the clause at FAR 52.232–16, if the contractor is a small business or small disadvantaged business concern.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 252.232–7004 is revised to read as follows:

252.232–7004 DoD Progress Payment Rates.

As prescribed in 232.502–4–70(b), use the following clause:

DOD Progress Payment Rates (Oct. 2001)

(a) If the contractor is a small business concern, the Progress Payments clause of this contract is modified to change each mention of the progress payment rate and liquidation rate (excepting paragraph (k), *Limitations on Undefinitized Contract Actions*) to 90 percent.

(b) If the contractor is a small disadvantaged business concern, the Progress Payments clause of this contract is modified to change each mention of the progress payment rate and liquidation rate (excepting paragraph (k), *Limitations on Undefinitized Contract Actions*) to 95 percent.

(End of clause)

[FR Doc. 01–24390 Filed 9–28–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 243, 248, and 252

[DFARS Case 2001–D001]

Defense Federal Acquisition Regulation Supplement; Cancellation of MIL–STD–973, Configuration Management

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove references to a cancelled military standard that prescribed a format for preparation of engineering change proposals.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Schneider, Defense Acquisition Regulations Council, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0326; facsimile (703) 602–0350. Please cite DFARS Case 2001–D001.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule removes the clauses at DFARS 252.243–7000, Engineering Change Proposals, and 252.248–7000, Preparation of Value Engineering Change Proposals, and the corresponding clause prescriptions at DFARS 243.205–70 and 248.270. DoD used these clauses to require submission of engineering change proposals in the format prescribed by MIL–STD–973, Configuration Management. MIS–STD–973 was cancelled without replacement on September 20, 2000. Therefore, this final rule removes the clauses that were based on the requirements of MIL–STD–973. General policy regarding engineering change proposals is removed from DFARS 243.205–70 to a more appropriate location at 243.204–71.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2001–D001.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 243, 248, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 243, 248, and 252 are amended as follows:

1. The authority citation for 48 CFR parts 243, 248, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 243—CONTRACT MODIFICATIONS

2. Section 243.204–71 is added to read as follows:

243.204–71 Engineering change proposals.

Engineering changes can originate with either the contractor or the Government. In either case, the Government will need detailed information from the contractor for evaluation of the technical, cost, and schedule effects of implementing the change.

243.205–70 [Removed]

3. Section 243.205–70 is removed.

243.205–71 [Redesignated as 243.205–70]

4. Section 243.205–71 is redesignated as 243.205–70.

243.205–72 [Redesignated as 243.205–71]

5. Section 243.205–72 is redesignated as 243.205–71.

PART 248—[REMOVED]

6. Part 248 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.243–7000 [Removed and Reserved]

7. Section 252.243–7000 is removed and reserved.

252.243–7001 [Amended]

8. Section 252.243–7001 is amended in the introductory text by removing ''243.205–71'' and adding in its place ''243.205–70''.

252.243–7002 [Amended]

9. Section 252.243–7002 is amended in the introductory text by removing ''243.205–72'' and adding in its place ''243.205–71''.

252.243–7000 [Removed]

10. Section 252.243–7000 is removed.

[FR Doc. 01–24387 Filed 9–28–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management

48 CFR Part 442

[AGAR Case 99–02]

RIN 0599–AA08

Agriculture Acquisition Regulation; Designation and Mandatory Use of Contractor Performance System

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Department of Agriculture's (USDA) Agriculture Acquisition Regulation (AGAR) to establish the National Institutes of Health (NIH) Contractor Performance System as the single USDA-wide automated performance evaluation system. AGAR regulations are amended to identify that system and specify its mandatory use.

DATES: This rule is effective November 30, 2001.

FOR FURTHER INFORMATION CONTACT: Patrice K. Honda, (202) 720–8924.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Executive Orders Nos. 12866 and 12988
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Small Business Regulatory Enforcement Fairness Act
E. Unfunded Mandates Reform Act
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

I. Background

The AGAR implements the Federal Acquisition Regulation (FAR) (48 CFR chapter 1) where further implementation is needed, and supplements the FAR where coverage is needed for subject matter not covered by the FAR. AGAR section 442.1502 currently provides that the heads of the contracting activities are responsible for establishing past performance evaluation procedures and systems as required by FAR sections 42.1502 and 42.1503. USDA has identified a single automated performance evaluation system (the National Institutes of Health Contractor Performance System (hereinafter ''NIH CPS'')) to be used USDA-wide and this rule modifies AGAR section 442.1502 to identify that system and specify its mandatory use by all USDA contracting activities.

In a Notice of Proposed Rulemaking (65 FR 54986, September 12, 2000), USDA announced that this proposed amendment to the AGAR was available for public review and comment during a 60 day comment period. One commenter, an employee of Department of Agriculture, submitted comments to USDA on the proposed rule. The commenter objected to USDA making the NIH CPS system mandatory. The commenter objected that the system was lengthy, complicated, cumbersome, costly, not user-friendly, and that local training was not provided. The commenter suggested that USDA develop its own system. While the employee's agency declined to support the position of the commenter, we have considered the comment as from an individual. After careful consideration, USDA has determined not to change the proposed rule. The NIH CPS provides a single uniform system for evaluating contractor performance, and because of the number of Federal agencies using the system, it has a very broad database available for such evaluations. Design and development of a USDA system would be costly and would not provide the broad database of information afforded by the NIH. In this rulemaking document, USDA is finalizing the proposed amendment to the AGAR.

II. Procedural Requirements

A. Executive Orders Nos. 12866 and 12988

USDA prepared a work plan for this regulation and submitted it to the Office of Management and Budget (OMB) pursuant to Executive Order No. 12866. OMB determined that the rule was not significant for the purposes of Executive Order No. 12866. Therefore, the rule has not been reviewed by OMB. USDA has reviewed this rule in accordance with Executive Order No. 12988, Civil Justice Reform. The rule meets the applicable standards in section 3 of Executive Order No. 12988.

B. Regulatory Flexibility Act

USDA reviewed this rule under the Regulatory Flexibility Act, 5 U.S.C. 601–611, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. USDA certifies that this rule will not have a significant economic effect on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared. USDA solicited comments from small entities concerning parts affected by the rule in the Notice of Proposed Rulemaking publicizing the proposed rule for comment (65 FR 54986, September 12, 2000). No comments from small entities were received.

C. Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed on the public by this rule. Accordingly no OMB clearance is required by the Paperwork Reduction Act, 44 U.S.C. Chapter 35 or OMB's implementing regulations at 5 CFR part 1320.

D. Small Business Regulatory Enforcement Fairness Act

A report on this rule has been submitted to each House of Congress and the Comptroller General in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 801–808. This rule is not a major rule for purposes of the Act.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. USDA has determined that this rule does not contain a Federal mandate. USDA has also determined that this rule would not significantly or uniquely affect small governments. Accordingly, the rule is not subject to the requirements of Title II of UMRA.

F. Executive Order 13132: Federalism

Executive Order 13132, Federalism (64 FR 43255, August 10, 1999), imposes requirements 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.''

USDA has determined that 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. The

rule will not impose substantial costs on States and localities. Accordingly, this rule is not subject to the procedural requirements of Executive Order 13132 for regulatory policies having federalism implications.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000), imposes requirements in the development of regulatory policies that have tribal implications. Executive Order 13175 defines ''policies that have tribal implications'' as those having ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' USDA has determined that this rule does have tribal implications and, therefore, the consultation and coordination requirements of Executive Order 13175 do not apply to this rule.

List of Subjects in 48 CFR Part 442

Acquisition regulations, Government contracts, Government procurement, Procurement.

For the reasons set out in the preamble, the Office of Procurement and Property Management amends 48 CFR part 442 as set forth below:

PART 442—CONTRACT ADMINISTRATION

1. The authority citation for part 442 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

2. Revise section 442.1502 to read as follows:

442.1502 Policy.

The Contractor Performance System (CPS), developed by the National Institutes of Health, is designated as the single USDA-wide system for maintaining contractor performance/evaluation information. Use of the CPS is mandatory. As a minimum, the CPS shall be accessed for contractor past performance information as part of proposal evaluation in accordance with FAR subpart 15.3, and information resulting from the evaluation of contractor performance in accordance with FAR subpart 42.15 shall be entered into and maintained in this system. The CPS is a part of the USDA Acquisition Toolkit which can be accessed from the USDA Procurement Homepage at *http://www.usda.gov/procurement/.*

Done at Washington, DC, this 24th day of September, 2001.

W.R. Ashworth,

Director, Office of Procurement and Property Management.

[FR Doc. 01–24352 Filed 9–28–01; 8:45 am]

BILLING CODE 3410–TX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Chapter III, Parts 325, 355, 356, 360, 365, 366, 367, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 381, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 395, 396, 397, 398, 399 and Appendixes B, F, and G to Subchapter B

[RIN 2126–AA62]

Motor Carrier Safety Regulations; Miscellaneous Technical Amendments

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule makes technical corrections throughout 49 CFR, chapter III, subpart B, to various rules containing outdated references to organization structure, contacts, and addresses. The Federal Motor Carrier Safety Administration (FMCSA) is also updating authority citations, removing obsolete and unnecessary references, and making minor editorial corrections. These amendments are necessary due to the establishment of the FMCSA by the Motor Carrier Safety Improvement Act of 1999 and the termination of the Interstate Commerce Commission under the ICC Termination Act of 1995. This action updates the Federal motor carrier safety and economic regulations to reflect the formation of the FMCSA and its current processes and requirements, but does not make any substantive changes to the affected rules.

DATES: The effective date of this rule is October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Janet Nunn, Regulatory Development Division (MC–PRR), 202–366–2797; or Mr. Michael J. Falk, Office of the Chief Counsel (MC–CC), 202–366–1384, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:15 a.m. to 4:45 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may view and download this document from the U.S. DOT Docket Management System (DMS) website (http://dms.dot.gov). Please follow the instructions online for more information and help. You may also view and download this document from the **Federal Register** website at: http://www.nara.gov/fedreg and through the Government Printing Office (GPO) Access service (http://www.access.gpo.gov/nara).

Background

The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106–159, 113 Stat. 1748, December 9, 1999) created the Federal Motor Carrier Safety Administration (FMCSA), the newest agency of the Department of Transportation (DOT), on January 1, 2000. The FMCSA carries out its responsibilities under authority delegated to its Administrator by the Secretary of Transportation (Secretary) pursuant to 49 CFR 1.73 (*see* 65 FR 220, January 4, 2000). Before FMCSA was created by the MCSIA, the Director of a new Office of Motor Carrier Safety (OMCS) in the DOT was delegated authority to regulate motor carrier activities under section 338 of the FY 2000 DOT and Related Agencies Appropriations Act (Public Law 106–69, October 9, 1999). Previously, the Federal Highway Administration (FHWA), through the Office of the Associate Administrator for Motor Carriers (OMC), was the agency responsible for developing and administering the Federal Motor Carrier Safety Regulations (FMCSRs). (*See* 64 FR 56270, October 19, 1999; 64 FR 58355 and 64 FR 58356, October 29, 1999).

Title 49 of the Code of Federal Regulations (CFR), chapter III, Subpart B, contain Federal motor carrier regulations for truck and bus safety. On January 1, 2000, the Secretary revised the heading for chapter III to read ''Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation.'' Simultaneously, part 301 of chapter III (which referenced the FHWA organization) was removed and reserved for the FMCSA organizational structure (see 64 FR 72959, December 29, 1999).

Introduction

This final rule removes obsolete references and updates authority citations because Congress enacted the MCSIA, which created the FMCSA, and resulted in the transfer of all motor carrier functions and operations to the FMCSA. Because these amendments do not impose new requirements, notice and public comment are unnecessary.

Summary of Changes

The following is a summary of technical amendments made under this final rule. Minor editorial changes, for example, typographical and punctuation errors, and certain other minor adjustments to improve clarification of the rules are not discussed. All references to Federal Highway Administration, FHWA, OMC, OMCS, Office of Motor Carrier and Highway Safety, Interstate Commerce Commission, ICC, and Commission, are replaced with ''Federal Motor Carrier Safety Administration'' and ''FMCSA.'' All references to Associate Administrator for Motor Carriers are replaced with ''Administrator''; Office of Motor Carrier Research and Standards is replaced with ''Office of Bus and Truck Standards and Operations''; Office of Motor Carrier Information Analysis is replaced with ''Office of Data Analysis and Information Systems''; and Licensing and Insurance Division is replaced with ''Licensing Team'' or ''Insurance Compliance''.

All references to Regional Director of Motor Carriers are replaced with ''Field Administrator,'' ''Division Administrator,'' or ''State Director''; Safety Technology and Information Management Division, HHS–10, and HHS–30 are replaced with ''Office of Enforcement and Compliance (MC–ECH)''; HCC–10 Docket Room, Hazardous Materials Routing Dispute Resolution Docket are replaced with ''Office of the Chief Counsel (MC–CC).''

We updated incorrect authority citations. We removed and reserved § 384.303 relating to State certification for FY1994 because it is no longer needed. Paragraph (c) of § 387.323 is updated to allow specifically for online insurance filings and cancellations by registered insurance and surety companies and financial institutions over the Internet. We are also removing, without replacement, paragraph (a)(4) of § 390.19, because it relates to past dates which are no longer relevant.

Rulemaking Analyses and Notices

This final rule makes only minor technical corrections to existing regulations. The rule replaces outdated language with terms more consistent with current statutory authority and codifies the transfer of regulatory responsibilities from the FHWA and the former OMCS within the DOT to the FMCSA. Substantive regulatory standards are not being changed in any way. Therefore, the FMCSA finds good cause to adopt the rule without prior notice or opportunity for public comment [5 U.S.C. 553(b)]. The rule imposes no new burdens and merely corrects or clarifies existing regulations. Therefore, good cause exists under 5 U.S.C. 553(d) to dispense with the 30-day delay in the effective date requirement and the FMCSA is making the rule effective upon publication in the **Federal Register**.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Since this rulemaking action makes only technical corrections to the current regulations, it is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FMCSA has evaluated the effects of this rule on small entities (i.e., motor carriers). Based on the evaluation, and since the rule merely corrects obsolete references and places no new requirements on the regulated industry, the FMCSA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. (2 U.S.C. 1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

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

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999, and it has been determined this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain information collection requirements for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

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

List of Subjects

49 CFR Part 325

Commercial motor carrier and vehicle, Noise control.

49 CFR Part 355

Highway safety, Intergovernmental relations, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 356

Administrative practice and procedure, Routing, Motor carriers.

49 CFR Part 360

Administrative practice and procedure, Fees, Insurance, Motor carriers.

49 CFR Part 365

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Motor carriers.

49 CFR Part 366

Administrative practice and procedure, Brokers, Freight forwarders, Motor carriers.

49 CFR Part 367

Commercial motor vehicle, Financial responsibility, Motor carriers, Motor vehicle safety, Registration, Reporting and recordkeeping requirements.

49 CFR Part 370

Administrative practice and procedure, Claims for property transported, Motor carriers.

49 CFR Part 371

Administrative practice and procedure, Broker, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 372

Buses, Commercial zones, Freight forwarders, Motor carriers of property.

49 CFR Part 373

Administrative practice and procedure, Buses, Freight forwarders, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 374

Baggage liability, Buses, Civil rights, Discrimination, Freight forwarders, Handicapped, Motor carriers.

49 CFR Part 375

Advertising, Arbitration, Consumer protection, Freight forwarders, Insurance, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 376

Administrative practice and procedure, Motor carriers—equipment leasing, Reporting and recordkeeping requirements.

49 CFR Part 377

Administrative practice and procedure, Credit, Motor carriers.

49 CFR Part 378

Administrative practice and procedure, Claims, Freight forwarders, Investigations, Motor carriers.

49 CFR Part 379

Freight forwarders, Maritime carriers, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

49 CFR Part 381

Motor carriers, Motor vehicle equipment, Waivers and exemptions, Pilot programs.

49 CFR Part 383

Commercial driver's license, Motor carriers.

49 CFR 384

Commercial driver's license, Motor carriers, Railroad—highway grade crossing.

49 CFR Part 385

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 386

Administrative practice and procedure, Hazardous materials transportation, Highway safety, Motor carriers, Motor vehicle safety, Penalties

49 CFR Part 387

Brokers, Freight forwarders, Insurance, Motor carriers, Surety bonds.

49 CFR Part 388

Administrative practice and procedure, Motor carriers.

49 CFR Part 389

Administrative practice and procedure, Motor carriers.

49 CFR 390

Highway safety, Motor carriers, Motor vehicle identification and marking, Reporting and recordkeeping.

49 CFR Part 391

Motor carriers'driver qualifications, Reporting and recordkeeping requirements.

49 CFR Part 392

Commercial motor vehicles, Motor carriers—driving practices.

49 CFR Part 393

Motor carriers—equipment and accessories, Motor vehicle safety.

49 CFR Part 395

Global positioning systems, Intelligent transportation systems, Motor carriers—driver rest and sleep requirements, Reporting and recordkeeping requirements.

49 CFR Part 396

Motor carriers, Motor vehicle maintenance, Reporting and recordkeeping requirements.

49 CFR Part 397

Hazardous materials transportation, Intergovernmental relations, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 398

Motor carriers—migrant labor, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 399

Commercial motor vehicles, Motor carriers—occupational safety and health.

For the reasons set out in the preamble, title 49 of the Code of Federal Regulations, chapter III is amended as follows:

PART 325—COMPLIANCE WITH INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS

1. Revise the authority citation for part 325 to read as follows:

Authority: 42 U.S.C. 4917; 49 U.S.C. 301; 49 CFR 1.73.

2. In part 325, revise all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration.''

3. Revise § 325.13 (d)(3) to read as follows:

§ 325.13 Inspection and examination of motor vehicles.

* * * * *

(d) * * *

(3) Motor carriers must complete the ''Motor Carrier Certification of Action Taken'' on Form MCS–141 in accordance with the terms prescribed thereon. Motor carriers must return Forms MCS–141 to the Division Office at the address indicated on Form MCS–141, within fifteen (15) days following the date of the vehicle inspection.

§ 325.93 [Amended]

4. Amend § 325.93 as follows:

a. Amend paragraph (b) by removing ''Associate Administrator for Motor Carriers'' and adding, in its place, ''Administrator''.

b. Amend paragraph (b)(2)(i) by removing ''Associate''.

PART 355—COMPATIBILITY OF STATE LAWS AND REGULATIONS AFFECTING INTERSTATE MOTOR CARRIER OPERATIONS

5. The authority citation for part 355 continues to read as follows:

Authority: 49 U.S.C. 504 and 31101 *et seq.*; 49 CFR 1.73

Appendix A to Part 355—[Amended]

6. Remove ''FHWA'' and add, in its place, ''FMCSA.''

PART 356—MOTOR CARRIER ROUTING REGULATIONS

7. Revise the authority citation for part 356 to read as follows:

Authority: 5 U.S.C. 553, 49 U.S.C. 13301 and 13902; and 49 CFR 1.73.

§ 356.13 [Amended]

8. Amend § 356.13 by removing ''FHWA'' wherever it appears and adding ''FMCSA.''

PART 360—FEES FOR MOTOR CARRIER REGISTRATION AND INSURANCE

9. Revise the authority citation for part 360 to read as follows:

Authority: 31 U.S.C. 9701, 49 U.S.C. 13908(c) and 14504(c)(2); and 49 CFR 1.73.

10. In part 360, revise all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration'', ''FHWA'' to read ''FMCSA'', and ''Office of Motor Carrier Information Analysis'' to read ''Office of Data Analysis and Information Systems.''

§ 360.1 [Amended]

11. Amend § 360.1 as follows:

a. Amend § 360.1(c) by removing ''Electrostatic.''

b. Amend § 360.1(d)(2) by removing ''Chief, Licensing and Insurance Division'' and adding, in its place, ''Office of Data Analysis and Information Systems (MC–RIS).''

12. Revise § 360.3(a)(2) to read as follows:

§ 360.3 Filing fees.

(a) * * *

(2) *Billing account procedure.* A written request must be submitted to the Office of Enforcement and Compliance (MC–ECI) to establish an insurance service fee account.

* * * * *

§ 360.5 [Amended]

13. Amend § 360.5(d)(4) by removing ''FHWA–OMC'' and adding, in its place, ''FMCSA.''

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

14. Revise the authority citation for part 365 to read as follows:

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; and 49 CFR 1.73.

15. In part 365, revise all references to ''Commission'' to read ''FMCSA''; ''Commission's'' to read ''FMCSA's''; and ''ICC'' to read ''FMCSA.''

16. Revise § 365.105 to read as follows:

§ 365.105 Starting the application process: Form OP–1.

(a) All applicants shall file the appropriate form in the OP–1 series. Form OP–1 for motor property carriers and brokers of general freight and household goods; Form OP–1(P) for motor passenger carriers; Form OP–1 (FF) for freight forwarders of household goods; Form OP–1(W) for water carriers and Form OP–1MX for Mexican motor property carriers. A separate filing fee in the amount specified at 49 CFR 360.3(f) is required for each type of transportation operation.

(b) Obtain the forms at a FMCSA Division Office in each State or at one of the FMCSA Service Centers. Addresses and phone numbers for the Division Offices and Service Centers can be found at: *http://www.fmcsa.dot.gov/aboutus/fieldoffs*. The forms can also be downloaded at: http://www.fmcsa.dot.gov/factsfigs/formspubs.

§ 365.107 [Amended]

17. Amend § 365.107(g) Note by removing ''Regional Office'' and adding, in its place, ''Division Office''; and by removing ''Regional''.

§ 365.109 [Amended]

18. Amend § 365.109(a)(4) by removing ''An employee board of the Commission appointed under § 1011.6(g)'' and adding, in its place, ''FMCSA staff.''

§ 365.117 [Amended]

19. Amend § 365.117 by removing the words ''Room 2229, Interstate Commerce Commission Building.''

§ 365.205 [Amended]

20. Amend § 365.205(d) by removing the words ''of this part'' and by removing the number ''927–7600'' and adding, in its place, ''366–9805.''

§ 365.301 [Amended]

21. Amend § 365.301 by removing ''49 CFR parts 1100 1105 and 1112 1117'' and adding, in its place, ''part 386 of this chapter.''

§ 365.413 [Amended]

22. Amend § 365.413 as follows:

a. Amend the introductory text of paragraph (a) by removing the words ''(and not the transfer rules at 49 CFR parts 365, subpart D, 1182, 1183 and 1186)''.

b. Amend the introductory text of paragraph (b) by removing the words ''Office of the Secretary, Applications and Fees Unit, Interstate Commerce Commission, Washington, DC 20423'' and adding, in its place, ''FMCSA, Office of Data Analysis and Information Systems (MC–RIS), Washington, DC 20590.''

c. Amend paragraph (b)(5) by removing the reference ''49 CFR 1002.2(f)(11)'' and adding, in its place, ''§ 360.3(f) of this chapter.''

PART 366—DESIGNATION OF PROCESS AGENT

23. Revise the authority citation for part 366 to read as follows:

Authority: 49 U.S.C. 13303, 13304, and 14704; and 49 CFR 1.73.

§ 366.5 [Amended]

24. Amend § 366.5 by removing ''Commission'' and adding, in its place, ''FMCSA'; and by removing ''Interstate Commerce Commission'' and adding, in its place, ''Federal Motor Carrier Safety Administration.''

PART 367—STANDARDS FOR REGISTRATION WITH STATES

25. Revise the authority citation for part 367 to read as follows:

Authority: 49 U.S.C. 13301 and 14504; and 49 CFR 1.73.

Appendix A to Part 367—[Amended]

26. Amend Appendix A to part 367 by removing ''FHWA'' wherever it appears and adding, in its place, ''FMCSA.''

PART 370—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

27. Revise the authority citation for part 370 to read as follows:

Authority: 49 U.S.C. 13301 and 14706; and 49 CFR 1.73.

§ 370.7 [Amended]

28. Amend § 370.7(b) by removing ''FHWA'' and adding, in its place, ''FMCSA.''

PART 371—BROKERS OF PROPERTY

29. Revise the authority citation for part 371 to read as follows:

Authority: 49 U.S.C. 13301, 13501, and 14122; and 49 CFR 1.73.

§ 371.10 [Amended]

30. Amend § 371.10 by removing ''FHWA'' and adding, in its place, ''FMCSA.''

PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS

31. Revise the authority citation for part 372 to read as follows:

Authority: 49 U.S.C. 13504 and 13506; and 49 CFR 1.73.

§ 372.107 [Amended]

32. Amend § 372.107 as follows:

a. Amend paragraphs (a) and (b) by removing ''10526(a)(5)'' and adding, in its place ''13506(a)(5).''

b. Amend paragraph (e) by removing ''10521'' and adding, in its place, ''13501''; and by removing ''Commission's'' and adding, in its place, ''FMCSA's.''

§ 372.109 [Amended]

33. Amend § 372.109 in the introductory paragraph by removing ''subchapter II, chapter 105, subtitle IV'' and adding ''subtitle IV, part B, chapter 135''; and paragraph (b) by removing ''10526(a)(5)'' and adding ''13506(a)(5).''

§ 372.231 [Amended]

34. Amend § 372.231 by removing ''of the Interstate Commerce Act.''

PART 373—RECEIPTS AND BILLS

35. Revise the authority citation for part 373 to read as follows:

Authority: 49 U.S.C. 13301 and 14706; and 49 CFR 1.73.

PART 374—PASSENGER CARRIER REGULATIONS

36. Revise the authority citation for part 374 to read as follows:

Authority: 49 U.S.C. 13301 and 14101; and 49 CFR 1.73.

§ 374.303 [Amended]

37. Amend § 374.303(g) by removing '', notwithstanding 49 CFR 1312.1(b)(33),.''

§ 374.311 [Amended]

38. Amend § 374.311(b) by removing ''FHWA's Regional'' and adding ''FMCSA's Division.''

§ 374.315 [Amended]

39. Amend § 374.315 by removing the number ''11201'' and adding the number ''12101.''

§ 374.319 [Amended]

40. Amend § 374.319, in paragraphs (a) and (b), by removing ''Federal Highway Administration'' and adding, in its place, ''Federal Motor Carrier Safety Administration.''

§ 374.403 [Amended]

41. Amend § 374.403(b) by removing ''FHWA'' and adding, in its place, ''FMCSA.''

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

42. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301 and 14104; and 49 CFR 1.73.

43. In part 375, revise all references to ''Commission'' to read FMCSA''; ''Interstate Commerce Commission'' to read ''Federal Motor Carrier Safety Administration''; and ''ICC'' to read ''FMCSA.''

§ 375.1 [Amended]

44. Amend § 375.1(b)(8) by removing the number ''10102'' and adding, in its place, ''13102.''

§ 375.2 [Amended]

45. Amend § 375.2(b)(1) and (b)(2) by removing ''Compliance and Enforcement'' and adding ''Enforcement and Compliance.''

§ 375.5 [Amended]

46. Amend § 375.5 in the introductory text of paragraph (a) by removing ''mimunum'' and adding ''minimum.''

§ 375.17 [Amended]

47. Amend § 375.17(b) by removing ''I.C.C.'' and adding, in its place, FMCSA.''

§ 375.18 [Amended]

48. Amend § 375.18 as follows:

a. Amend paragraphs (a) and (b) by removing Compliance and Enforcement and adding Enforcement and Compliance.

b. Amend paragraphs (a) and (b) by removing the number ''20423–0001'' and adding ''20590''.

c. Amend paragraph (b) by removing ''ICC'' and adding, in its place, ''USDOT or ICCMC''; and removing ''Year Ended December 31, 19—'', in the heading, and adding ''YEAR ENDED DECEMBER 31, 20—.''

d. Amend paragraphs (b) and (c) by removing ''ICC Annual Report'' and adding, in its place, ''Annual Performance Report.''

PART 376—LEASE AND INTERCHANGE OF VEHICLES

49. Revise the authority citation for part 376 to read as follows:

Authority: 49 U.S.C. 13301 and 14102; and 49 CFR 1.73.

50. In part 376, revise all references to ''FHWA'' to read ''FMCSA.''

PART 377—PAYMENT OF TRANSPORTATION CHARGES

51. Revise the authority citation for part 377 to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13701, 13702, 13706, 13707, and 14101; and 49 CFR 1.73.

§ 377.201 [Amended]

52. Amend § 377.201(a) by removing ''Federal Highway Administration'' and adding, in its place, ''Federal Motor Carrier Safety Administration.''

§ 377.215 [Amended]

53. Amend § 377.215 as follows:

a. Amend paragraph (c)(2) by removing ''of.''

b. Amend paragraph (c)(3)(iii) by removing ''Commission'' and adding, in its place, ''FMCSA.''

PART 378—PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS

54. Revise the authority citation for part 378 to read as follows:

Authority: 49 U.S.C. 13321, 14101, 14704 and 14705; and 49 CFR 1.73.

PART 379—PRESERVATION OF RECORDS

55. Revise the authority citation for part 379 to read as follows:

Authority: 49 U.S.C. 13301, 14122 and 14123; and 49 CFR 1.73.

Appendix A to Part 379—[Amended]

56. Amend Appendix A to part 379, in Item K, by removing ''Federal Highway Administration'' and adding, in its place, ''Federal Motor Carrier Safety Administration.''

PART 381—WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS

57. Revise the authority citation for part 381 to read as follows:

Authority: 49 U.S.C. 31136(e) and 31315; and 49 CFR 1.73.

58. In part 381:

a. Revise all references to ''FHWA'' to read ''FMCSA.''

b. Revise ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration'';

c. Revise ''Federal Highway Administrator'' to read ''Federal Motor Carrier Safety Administrator'';

d. Revise ''Office of Motor Carrier and Highway Safety'' to read ''Federal Motor Carrier Safety Administration''; and

e. Revise ''Office of Motor Carrier Research and Standards'' to read ''Office of Bus and Truck Standards and Operations''.

§ 381.200 [Amended]

59. Amend § 381.200(d)(3) by removing ''385.21'' and adding ''390.19.''

§ 381.210 [Amended]

60. Amend § 381.210(c)(4) by removing ''level a safety'' and adding ''level of safety.''

PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

61. Revise the authority citation for part 383 to read as follows:

Authority: 49 U.S.C. 31136, 31301 et seq., and 31502; and 49 CFR 1.73.

§ 383.5 [Amended]

62. Amend § 383.5 as follows:

a. Remove the words ''Federal Highway'' and add, in its place, ''Federal Motor Carrier Safety'' in the definition of Administrator.

b. Remove ''FHWA'' and add, in its place, ''FMCSA'' in the definitions of Commercial driver's license information system (CDLIS) and Disqualification.

§ 383.53 [Amended]

63. Amend § 383.53 as follows:

a. Amend paragraph (b)(1) by removing ''$1,000 nor more than $2,500'' and adding ''$1,100 nor more than $2,750.''

b. Amend paragraph (b)(2) by removing ''$2,500 nor more than $10,000'' and adding ''$2,750 nor more than $11,000.''

64. Revise § 383.72 to read as follows:

§ 383.72 Implied consent to alcohol testing.

Any person who holds a CDL is considered to have consented to such testing as is required by any State or jurisdiction in the enforcement of §§ 383.51(b)(2)(i) and 392.5(a)(2) of this chapter. Consent is implied by driving a commercial motor vehicle.

65. Amend § 383.73 as follows:

a. Amend paragraph (a)(3)(iii), introductory text, by removing the words '', when it is determined to be operational by the National Highway Traffic Safety Administrator.''

b. Revise paragraph (a)(4) to read as follows:

§ 383.73 State procedures.

(a) * * *

(4) Require the driver applicant to surrender his/her driver's license issued by another State, if he/she has moved from another State.

* * * * *

§ 383.75 [Amended]

66. Amend § 383.75(a)(2)(i) by removing ''FHWA'' and adding, in its place, ''FMCSA.''

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

67–68. Revise the authority citation for part 384 to read as follows:

Authority: 49 U.S.C. 31136, 31301 et seq., and 31502; and 49 CFR 1.73.

69. In part 384, revise all references to ''FHWA'' to read ''FMCSA'' and ''Federal Highway'' to read ''Federal Motor Carrier Safety.''

§ 384.303 [Removed and Reserved]

70. Remove and reserve § 384.303.

§ 384.305 [Amended]

71. Amend § 384.305(a) by removing ''Office of Motor Carriers.''

PART 385—SAFETY FITNESS PROCEDURES

72. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b)(5)(A) and (b)(8), 5113, 31136, 31144, 31502; and 49 CFR 1.73.

73. In part 385, revise all references to ''FHWA'' and ''FHWA's'' to read ''FMCSA'' and all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration.''

74. Amend § 385.19 as follows:

a. Amend paragraph (b) by removing ''DOT'' and adding ''USDOT'; and by removing ''ICC'' and adding, in its place, ''ICCMC'.

b. Revise paragraph (c) to read as follows:

§ 385.19 Safety fitness information.

* * * * *

(c) Requests should be addressed to the Office of Data Analysis and Information Systems (MC RIS), Federal Motor Carrier Safety Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The information can also be found at the SAFER website: *http://www.safersys.org.*

* * * * *

Appendix B to Part 385—[Amended]

75. Amend paragraph (d), introductory text, by removing ''Office of Motor Carriers.''

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS PROCEEDINGS

76. The authority citation for part 386 continues to read as follows:

Authority: 49 U.S.C. 113, chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315; sec. 206, Pub. L. 106–159, 113 Stat. 1763; and 49 CFR 1.45 and 1.73.

§ 386.37 [Amended]

77. Amend § 386.37 by removing the word ''fequency'' and adding, in its place, ''frequency.''

78. Revise the introductory text of § 386.54(b) to read as follows:

§ 386.54 Administrative law judge.

* * * * *

(b) *Power and duties.* The administrative law judge has power to take any action and to make all needful rules and regulations to govern the conduct of the proceedings to ensure a fair and impartial hearing, and to avoid delay in the disposition of the proceedings. The powers of the administrative law judge include the following:

* * * * *

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

79. Remove the authority citations from part 387, subparts C and D, and revise the authority citation for part 387 to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, and 31139; and 49 CFR 1.73.

80. In part 387:

a. Revise all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration'';
b. Revise ''FHWA'' to read ''FMCSA'';
c. Revise ''FHWA's'' to read ''FMCSA's'';
d. Revise ''Interstate Commerce Commission'' to read ''Federal Motor Carrier Safety Administration'';
e. Revise ''Commission'' to read ''FMCSA'';
f. Revise ''Commission's'' to read ''FMCSA's''; and
g. Revise ''ICC'' to read ''FMCSA'' and ''ICC's'' to read ''FMCSA's.''

§ 387.7 [Amended]

81. Amend § 387.7(d)(3) as follows:
a. Remove ''§ 1043.5 of this title'' and add, in its place, ''§ 387.309.''
b. Remove ''part 385 of this title'' and add, in its place, ''part 385 of this chapter.''

§ 387.15 [Amended]

82. Amend § 387.15 as follows:
a. Amend Illustration I and Illustration II by removing the words ''or the ICC.''
b. Amend Illustration I by removing the following: ''and the Interstate Commerce Commission (ICC).''
c. Amend Illustration II by removing ''49 U.S.C. 10927 note'' and adding, in its place, ''49 U.S.C. 13906.''
d. Amend Illustration II by removing the following:
''(3) Rules and Regulations of the Interstate Commerce Commission (ICC).''

§ 387.17 [Amended]

83. Amend § 387.17 as follows:
a. Remove ''$10,000'' and add, in its place, ''$11,000.''
b. Remove ''Associate.''
c. Remove ''for Motor Carriers.''

§ 387.41 [Amended]

84. Amend § 387.41 as follows:
a. Remove ''$10,000'' and add, in its place, ''$11,000.''
b. Remove ''Associate.''
c. Remove ''for Motor Carriers.''

§ 387.301 [Amended]

85. Amend § 387.301(a)(1), (b), and (c) as follows:
a. Remove ''subchapter II, chapter 105, subtitle IV'' and add, in its place, ''Subtitle IV, part B, chapter 135''.
b. Remove ''10927, subchapter II, chapter 109, subtitle IV'' and add, in its place, the number ''13906.''

§ 387.307 [Amended]

86. Amend § 387.307(c) by removing ''Interstate Commerce Act'' and adding, in its place, ''ICC Termination Act.''

§ 387.311 [Amended]

87. Amend § 387.311(c) by removing the words ''or the Department of Transportation.''

§ 387.313 [Amended]

88. Amend § 387.313 as follows:

a. Amend paragraph (a)(3) by removing ''§ 1043.2(c)'' and adding, in its place, ''§ 387.303(c).''

b. Amend paragraph (a)(5) by removing ''§ 1043.2(b)(1)'' and adding, in its place, ''§ 387.303(b)(1).''

c. Remove, at the end of § 387.313, the following:

''Cross Reference: For forms prescribed, see § 1003(b) of this chapter.''

§ 387.321 [Amended]

89. Amend § 387.321 by removing the words ''this Commission'' and adding, in its place, the words ''the FMCSA.''

90. Revise § 387.323(c), introductory text, to read as follows:

§ 387.323 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.

* * * * *

(c) Filings may be transmitted online via the Internet at: http://fhwa–li.volpe.dot.gov or via American Standard Code Information Interchange (ASCII). All ASCII transmission must be in fixed format, i.e., all records must have the same number of fields and same length. The record layouts for ASCII electronic transactions are described in the following table:

* * * * *

PART 388—COOPERATIVE AGREEMENTS WITH STATES

91. Revise the authority citation for part 388 to read as follows:

Authority: 49 U.S.C. 113 and 502; 49 CFR 1.73.

92. In part 388, revise all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration''; ''Regional Director of Motor Carrier Safety'' to read ''Division Administrator or State Director.''

§ 388.1 [Amended]

93. Amend § 388.1 by removing the number ''20591'' and adding the number ''20590.''

§ 388.5 [Amended]

94. Amend § 388.5(a) by removing ''Office of Motor Carriers''.

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

95. Revise the authority citation for part 389 to read as follows:

Authority: 49 U.S.C. 113, 501 *et seq.*, 31101 *et seq.*, 31138, 31139, 31301 *et seq.*, and 31502; 42 U.S.C. 4917; and 49 CFR 1.73.

96. In part 389, revise all references to ''Federal Highway'' to read ''Federal Motor Carrier Safety.''

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

97. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, 31504; sec. 204, Pub. L. 104–88, 109 Stat 803, 941 (49 U.S.C. 701 note); and 49 CFR 1.73.

98. In part 390:
a. Revise all references to ''Regional Director of Motor Carriers'' to read ''FMCSA Field Administrator'';
b. Revise ''Federal Highway'' to read ''Federal Motor Carrier Safety''; and
c. Revise ''FHWA'' to read ''FMCSA.''

§ 390.5 [Amended]

99. Amend § 390.5 as follows:
a. Remove ''region'' and add, in its place, ''geographical area'' in paragraph (1), in the definition of **Emergency**.
b. Remove the words ''by the FHWA in 49 CFR part 372, subpart B. The descriptions are printed'';
c. Remove ''§ 391.2(d)'' and add, in its place, ''§ 391.62'' in the definition of **Exempt intracity zone**.
d. Remove the words ''Interstate Commerce Commission (ICC) under 49 U.S.C. 10526'' and add, in its place, ''Federal Motor Carrier Safety Administration (FMCSA) under 49 U.S.C. 13506'' in the definition of **Exempt motor carrier**.
e. Remove ''Director of the Office of Motor Carriers'' and add, in its place, ''Field Administrator''; and, remove ''region'' and add ''area'' in the definition of **Regional Director of Motor Carriers**.

§ 390.16 [Amended]

100. Remove ''§'' from **''§§ 390.16 [Reserved]**''

§ 390.19 [Amended]

100a. Remove paragraph (a)(4) of § 390.19.

PART 391—QUALIFICATIONS OF DRIVERS

101. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 322, 504, 31133, 31136, and 31502; 49 CFR 1.73.

102. In part 391:

a. Revise all references to ''FHWA'' to read ''FMCSA''; and

b. Revise ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration''.

§ 391.31 [Amended]

103. Amend § 391.31(f) by removing ''19'' and adding ''20.''

§ 391.47 [Amended]

104. Amend § 391.47, paragraphs (c), (d)(1), (d)(2) and (f) by removing ''Office of Motor Carrier Research and Standards'' and adding, in its place, ''Office of Bus and Truck Standards and Operations (MC PSD).''

§ 391.51 [Amended]

105. Amend § 391.51(b)(8) by removing ''Regional Director of Motor Carriers'' and adding, in its place, ''Field Administrator, Division Administrator, or State Director.''

PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES

106. Revise the authority citation for part 392 to read as follows:

Authority: 49 U.S.C. 31136 and 31502; and 49 CFR 1.73.

§ 392.2 [Amended]

107. Amend § 392.2 by removing ''Federal Highway Administration'' and adding in its place, ''Federal Motor Carrier Safety Administration.''

§ 392.5 [Amended]

108. Amend § 392.5(d)(2) and (e) as follows:

a. Remove ''Regional Director of Motor Carriers for the Region'' and add, in its place, ''Division Administrator or State Director for the geographical area'';

b. Remove ''Regional Director of Motor Carriers'' and add, in its place, ''Division Administrator or State Director''; and

c. Remove ''Associate.''

§ 392.7 [Amended]

109. Amend § 392.7 by removing ''thereof shall have satisfied himself/herself'' and adding, in its place, ''is satisfied.''

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

110. The authority citation for part 393 continues to read as follows:

Authority: Sec. 1041(b) of Public Law 102–240, 105 Stat. 1914; 49 U.S.C. 31136 and 31502; 49 CFR 1.73.

111. In part 393, revise all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration'' and ''FHWA'' to read ''FMCSA.''

§ 393.47 [Amended]

112. Amend § 393.47 by removing ''lining n every'' and adding, in its place, ''lining in every.''

§ 393.80 [Amended]

113. Amend § 393.80(b)(3) by removing ''(49 U.S.C. 3102; 49 CFR 1.48).

PART 395—HOURS OF SERVICE OF DRIVERS

114. Revise the authority citation for part 395 to read as follows:

Authority: 49 U.S.C. 31133, 31136, and 31502; sec. 345 of Pub. L. 104–59, 109 Stat. 568, 613; and 49 CFR 1.73.

115. In part 395, revise all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration'' and ''FHWA'' to read ''FMCSA.''

§ 395.3 [Amended]

116. Amend § 395.3(a), introductory text, by removing ''395.1(i)'' and adding, in its place, ''395.1(h).''

§ 395.13 [Amended]

117. Amend § 395.13(c)(2) by removing ''Regional Director of Motor Carriers'' and adding, in its place, ''Division Administrator or State Director.''

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

118. Revise the authority citation for part 396 to read as follows:

Authority: 49 U.S.C. 31133, 31136, and 31502; and 49 CFR 1.73.

119. In part 396, revise all references to ''FHWA'' to read ''FMCSA.''

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

120. Revise the authority citation for part 397 to read as follows:

Authority: 49 U.S.C. 322; 49 CFR 1.73. Subpart A also issued under 49 U.S.C. 31136 and 31502; Subparts C, D, and E also issued under 49 U.S.C. 5112 and 5125.

121. In part 397, revise all references to ''Federal Highway'' to read ''Federal Motor Carrier Safety'' and ''FHWA'' to read ''FMCSA.''

§ 397.71 [Amended]

122. Amend § 397.71, in footnote 1, by removing ''Safety Technology and Information Management Division, HHS–10'' and adding, in its place, ''Office of Enforcement and Compliance (MC–ECH).''

§ 397.73 [Amended]

123. Amend § 397.73(b) by removing ''HHS–30'' and adding, in its place, ''Office of Enforcement and Compliance (MC–ECH).''

§ 397.75 [Amended]

124. Amend § 397.75(b)(1) by removing ''HCC–10, Docket Room, Hazardous Materials Routing Dispute Resolution Docket'' and adding, in its place, ''Office of the Chief Counsel (MC–CC).''

125. Amend § 397.101 by revising the introductory text of paragraph (g) to read as follows:

§ 397.101 Requirements for motor carriers and drivers.

* * * * *

(g) Except for packages shipped in compliance with the physical security requirements of the U.S. Nuclear Regulatory Commission in 10 CFR part 73, each carrier who accepts for transportation a highway route controlled quantity of Class 7 (radioactive) material (see 49 CFR 173.401(l)), must, within 90 days following the acceptance of the package, file the following information concerning the transportation of each such package with the Office of Enforcement and Compliance (MC–ECH), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001:

* * * * *

126. Revise § 397.103(c) and (d) to read as follows:

§ 397.103 Requirements for State routing designations.

* * * * *

(c) A State-designated route is effective when—

(1) The State gives written notice by certified mail, return receipt requested, to the Office of Enforcement and Compliance (MC–ECH), Attn: National Hazardous Materials Route Registry, 400 Seventh Street, SW., Washington, DC 20590.

(2) Receipt thereof is acknowledged in writing by the FMCSA.

(d) A list of State-designated preferred routes and a copy of the ''Guidelines for Selecting Preferred Highway Routes for Highway Route Controlled Quantity Shipments of Radioactive Materials'' are

available upon request to Office of Enforcement and Compliance (MC–ECH), 400 Seventh Street, SW., Washington, DC 20590.

§ 397.205 [Amended]

127. Amend § 397.205(b)(1) by removing ''HCC–10 Docket Room,'' and adding, in its place, ''Office of the Chief Counsel (MC–CC).''

§ 397.213 [Amended]

128. Amend § 397.213(b)(1) by removing ''HCC–10 Docket Room'' and adding, in its place, ''Office of the Chief Counsel (MC–CC).''

PART 398—TRANSPORTATION OF MIGRANT WORKERS

129. Revise the authority citation for part 398 to read as follows:

Authority: 49 U.S.C. 31501 and 31502; and 49 CFR 1.73.

130. In part 398, revise all references to ''Federal Highway Administration'' to read ''Federal Motor Carrier Safety Administration.''

PART 399—EMPLOYEE SAFETY AND HEALTH STANDARDS

131. Revise the authority citation for part 399 to read as follows:

Authority: 49 U.S.C. 31502; and 49 CFR 1.73.

132. Amend Appendix B as follows:

a. Remove all references to ''Federal Highway Administration'' and add, in its place ''Federal Motor Carrier Safety Administration'';

b. Remove all references to ''FHWA'' and add, in its place, ''FMCSA'';

c. Remove all references to ''Office of Motor Carriers'' and add, in its place, ''Federal Motor Carrier Safety Administration'';

d. Remove all references to ''Associate Administrator for Motor Carriers'' and add, in its place, ''Administrator''; and

e. Revise paragraph 3:

f. Revise the authority citation following paragraph 4.

The revisions read as follows:

APPENDIX B TO SUBCHAPTER B—SPECIAL AGENTS

* * * * *

3. Definition of Special Agent. Special agents are Federal Motor Carrier Safety Administration (FMCSA) employees who are identified by credentials issued by the FMCSA authorizing them to enforce 42 U.S.C. 4917 and to exercise relevant authority of the Secretary of Transportation under 49 U.S.C. 113, chapters 5, 51, 57, 131–149, 311, 313, and 315 and other statutes, as delegated to FMCSA by 49 CFR 1.73, and under regulations issued on the authority of those statutes. Special agents are authorized to inspect and copy records and to inspect and examine land, buildings, and equipment in the manner and to the extent provided by law.

4. * * *

''(49 U.S.C. 504, 5121, 14122, 31502 and 31503; and 49 CFR 1.73).''

APPENDIX F TO SUBCHAPTER B—COMMERCIAL ZONES

133. Amend Appendix F as follows:

a. Revise the note at the beginning of appendix F to read as follows:

''**Note:** The text of these definitions is identical to the text of 49 CFR Part 1048, revised as of October 1, 1975, which is no longer in print.''

b. Amend Sec. 3 St. Louis, Mo.-East St. Louis, Ill. by removing ''easternboundaries'' and adding, in its place, ''eastern boundaries.''

c. Amend Sec. 4 Washington, DC, in the second paragraph, by removing ''extendingnortheasterly'' and adding, in its place, ''extending northeasterly''; and removing ''thencenortherly'' and adding, in its place, ''thence northerly.''

Appendix G to Subchapter B—Minimum Periodic Inspection Standards

134. Amend Appendix G to Subchapter B by revising all references to ''FHWA'' to read ''FMCSA.''

Issued on: September 25, 2001.

Stephen E. Barber,

Associate Administrator for Enforcement and Program Delivery.

[FR Doc. 01–24432 Filed 9–28–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 001226367–0367-01; I.D. 092401G]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Primary Season and Resumption of Trip Limits for the Shore-based Fishery for Pacific Whiting

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces the end of the 2001 primary season for the shore-based fishery for Pacific whiting (whiting) and resumption of per-trip limits at 8 p.m. local time (l.t.) September 26, 2001, because the shore-based allowance is projected to be reached. This action is intended to keep the harvest of whiting at the 2001 allocation levels.

DATES: Effective from 8 p.m. September 26, 2001, until the effective date of the 2002 specification and management measures for the Pacific Coast groundfish fishery that will be published in the **Federal Register**, unless modified, superseded or rescinded. Comments will be accepted through October 16, 2001.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On January 11, 2001 (66 FR 2338), the levels of allowable biological catch (ABC), the optimum yield (OY) and the commercial OY (the OY minus the tribal allocation) for U.S. harvests of whiting were announced in the **Federal Register**. For 2001 the whiting ABC and OY are 190,400 metric tons (mt) and the commercial OY is 162,900 mt.

Regulations at 50 CFR 660.323 (a)(4) divide the commercial OY into separate allocations for the non-tribal catcher/processor, mothership, and shore-based sectors of the whiting fishery. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships, and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest. The shoreside sector is composed of vessels that harvest whiting for delivery to shoreside processors. Each of these sectors receives a portion of the commercial OY. In 2001, the catcher/processors received 34 percent, motherships received 24 percent, and the shore-based sector received 42

percent. When applied to the commercial OY for 2001, this resulted in the following allocations: 55,386 mt for the catcher/processors, 39,096 mt for the motherships, and 68,418 mt for the shore-based sector.

NMFS announced the end of the 2001 primary season for the shore-based Pacific whiting fishery at noon August 21, 2001, because the shore-based allocation was projected to be reached at that time. The regulations at 50 CFR 660.323 (a)(3)(i) describe the primary season for the shore-based sector as the period(s) when the large-scale target fishery is conducted. Before and after the primary seasons, per-trip limits under § 660.323 (b) are in effect for whiting.

On August 31, 2001, NMFS received notification from the tribal fishery participants indicating that 10,000 mts of the tribal allocation was not expected to be harvested before the end of the fishing year. As a result, on September 20, 2001 (66 FR 48370), NMFS announced the reapportionment of the 10,000 mt surplus whiting from the tribal allocation to the catcher/processor, mothership, and shore-based sectors. The catcher/processors received an additional 3,400 mt (34 percent), the motherships received an additional 2,400 mt (24 percent), and the shore-based sector received an additional 4,200 mt (42 percent). To provide the shore-based participants access to the reapportioned whiting, the primary season for the shore-based whiting fishery resumed at noon September 17, 2001.

The best available information on September 24, 2001, indicates that 71,092 mt had been taken through September 23, 2001, and that the 72,618 mt (68,418 mt + 4,200) shore-based allowance would be reached by 8 p.m. l.t. September 26, 2001. This **Federal Register** document announces the date that the primary season for the shore-based sector ends, and that per-trip limits are imposed. The per-trip limit is intended to accommodate small bait and fresh fish markets, and bycatch in other fisheries. To minimize incidental catch of chinook salmon by vessels fishing shoreward of the 100–fm (183–m) contour in the Eureka area, at any time during a fishing trip, a limit of 10,000 lb (4,536 kg) of whiting is in effect year-round (unless landings of whiting are prohibited).

NMFS Action

For the reasons stated above, and in accordance with the regulations at 50 CFR 660.323 (a)(4)(iii)(C), NMFS herein announces:

Effective 8 p.m. l.t. September 26, 2001, no more than 20,000 lb (9,072 kg) of whiting may be taken and retained, possessed or landed by a catcher vessel participating in the shore-based sector of the whiting fishery. If a vessel fishes shoreward of the 100 fm (183 m) contour in the Eureka area (43°- 40°30′ N. lat.) at any time during a fishing trip, the 10,000–lb (4,536 kg) trip limit applies, as announced in the annual management measures at paragraph IV, B (3)(c)(ii).

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323 (a)(4)(iii)(C) and is exempt from review under Executive Order 12866.

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

Dated: September 26, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–24498 Filed 9–26–01; 3:57 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 190
Monday, October 1, 2001

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

SECURITIES AND EXCHANGE COMMISSION

17 CFR PART 240

[Release No. 34–44845; File No. S7–14–01]

RIN 3235–AI23

Request for Comment on the Effects of Decimal Trading in Subpennies; Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Concept release; extension of comment period.

SUMMARY: The Securities and Exchange Commission (''Commission'') published in the **Federal Register** on July 24, 2001 (66 FR 38390) a concept release seeking comment on the impact on fair and orderly markets and investor protection of trading and potentially quoting securities in an increment of less than a penny. The original comment period ended September 24, 2001. The new deadline for submitting public comments is November 23, 2001.

DATES: Comments must be received on or before November 23, 2001.

ADDRESSES: Persons wishing to submit written comments should send three copies to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–14–01. Comments submitted by E-mail should include this file number in the subject line. Comment letters received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).[1]

FOR FURTHER INFORMATION CONTACT: Any of the following attorneys in the Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001: James Brigagliano, Jo Anne Swindler, Gregory Dumark, or Kevin Campion at (202) 942–0772; Alton Harvey, Patrick Joyce, or John Roeser at (202) 942–0154.

SUPPLEMENTARY INFORMATION: On July 24, 2001, the Commission published in the **Federal Register** a concept release seeking comment on the effects of subpenny prices on market transparency, on the operation and effectiveness of Commission and self-regulatory organizations rules that are dependent on trading or quoting price differentials, and on automated systems.[2] The deadline for submitting public comments established by the concept release was September 24, 2001. In view of the market disruption caused by the attacks of September 11, 2001, and in response to requests from commenters for more time to address the issues raised in the concept release, the Commission believes that it is appropriate to extend the comment period to November 23, 2001.[3]

By the Commission.
Dated: September 25, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24470 Filed 9–28–01; 8:45 am]

BILLING CODE 8020–01–P

[1] Personal identifying information, such as names or e-mail addresses, will not be edited from electronic submission. Submit only information that you wish to make publicly available.

[2] Securities Exchange Act Release No. 44568 (July 17, 2001), 66 FR 38390 (July 24, 2001).

[3] Commenters may wish to review the reports on decimal implementation recently filed with the Commission by the Exchanges and the NASD, which provide some data and discussion of subpenny market activity. The reports are in File No. 4–430.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 155 and 156

46 CFR Part 32

[USCG–2001–9046]

RIN 2115–AG10

Tank Level or Pressure Monitoring Devices

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: In December of 2000, the U.S. Court of Appeals for the District of Columbia Circuit ruled that the Coast Guard must promulgate a regulation for tank vessels to use tank level or pressure monitoring (TLPM) devices as mandated by the Oil Pollution Act of 1990 (OPA 90). We are of the opinion that these regulations must apply in some manner to single-hull tank vessels. Within this notice of proposed rulemaking, we present eight proposed regulatory options and regulatory text for each option regarding minimum standards for the performance and use of these devices on single-hull tank ships and single-hull tank barges carrying oil as cargo. Due to the extreme variance in impact to the classes of tank vessels subject to this proposed rule, and, taking into account the cost-effectiveness ratio relative to the other significant OPA 90 regulations, we are also soliciting comments on financial, energy, safety, and environmental considerations. The Coast Guard is seeking information from commenters in order to select the best alternative for the final rule. In accordance with the Administrative Procedure Act, once we receive and evaluate the public comments from this notice, we intend to implement this statutory mandate through some form of these proposed regulations as the final rule. However, in view of the cost-effectiveness ratios of the alternatives, as well as the numerous requirements throughout OPA 90 to report back to Congress on the impacts of this legislation, Coast Guard will share with Congress any information provided by the public that addresses the reasonableness of implementing the statute.

DATES: Comments and related material must reach the Docket Management Facility on or before November 30, 2001.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–9046), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400

Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: If you have general questions on this proposed rule, call Lieutenant Commander Glen Mine, Project Manager, Standards Evaluations and Analysis Division (G–MSR–1), Coast Guard, telephone 202–267–1303. For technical questions concerning the performance standards for TLPM devices call Dolores Mercier, Project Manager, Engineering Systems Division (G–MSE–3), Coast Guard, telephone 202–267–0658. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–9046), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

A public meeting will be held from 9 a.m. to 4 p.m. on November 6, 2001 in room 6200–6204, U.S. Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC 20590–0001. This meeting may close early if all business is finished.

Persons who are unable to attend the public meeting are encouraged to send written comments to Docket Management Facility as directed under **ADDRESSES** during the comment period.

Regulatory History

The Oil Pollution Act of 1990 (OPA 90) Public Law 101–380, directed the Coast Guard to promulgate a number of regulations, including a variety of standards for the design and operation of equipment to reduce the number and severity of tank vessel oil spill incidents. Section 4110 of OPA 90 mandates that the Coast Guard: (1) establish standards for devices that measure oil levels in cargo tanks or devices that monitor cargo tank pressure level, and (2) issue regulations establishing requirements concerning the use of these devices. Functionally, these tank level or pressure monitoring (TLPM) devices measure changes in cargo volume, thereby detecting possible oil leaks into the marine environment.

In May of 1991, the Coast Guard published in the **Federal Register** an Advance Notice of Proposed Rulemaking (ANPRM) (56 FR 21116) that solicited public comments relating to TLPMs on tank vessels carrying oil. We received 20 comments.

In August of 1992, the Volpe National Transportation Systems Center completed a feasibility study (Volpe study) on TLPM devices. Then, in January of the following year, we made this study available to the public for comment by publishing it in a notice of availability (58 FR 7292).

As announced in a notice of public meeting (59 FR 58810), we held a public meeting at Coast Guard Headquarters in December of 1994 to discuss this rulemaking. This meeting gave the public an opportunity to provide further input into the development of the proposed regulations. As a result of the public meeting nine comments were received.

In 1995, we proposed a regulation that set minimum standards for leak detection devices (60 FR 43427). Upon review of the risks of oil spills, we determined that the minimum detection threshold for such devices should be the lesser of either 0.5 percent below the quantity to which the tank was loaded or 1,000 gallons, which matched the criteria for an inland medium and coastal minor oil spill. This notice of proposed rulemaking received 10 comments.

In 1997, we published a temporary rule [62 FR 14828 (March 28, 1997)] establishing the minimum standards for TLPM devices. In the temporary rule, we requested the submission of TLPM devices that could meet the performance standard set out in the rule. For TLPM devices submitted for review, we would have evaluated the device to ensure that it met the performance standards required by the temporary rule and would have assessed the costs and benefits associated with the device to consider implementing use requirements. When the rule expired in April 1999, no devices had been submitted to us for evaluation.

In 1999, Bluewater Network and Ocean Advocates brought suit in the U.S. Court of Appeals for the District of Columbia Circuit. In their suit, the petitioners asked the Court for a Writ of Mandamus ordering us to promulgate TLPM regulations. In December of 2000, the Court agreed with the petitioners on this item and directed the Coast Guard to promptly promulgate regulations setting TLPM standards and requiring use of TLPM on tank vessels.

Background and Purpose

The purpose of TLPM devices is to reduce the size and impact of oil spills by alerting the tank vessel operator that an accidental discharge of cargo oil is occurring.

We published a temporary rule (62 FR 14828), which expired in 1999, requesting TLPM devices that alarm once a detection of a spill of the lesser of 1,000 gallons or 0.5 percent below the level to which the tank was loaded to be submitted to the Coast Guard for evaluation. However, no devices were submitted that could potentially meet this requirement. Based on a review of the devices currently available, there do not appear to be any devices that can be independently verified as meeting this standard. In this notice we present eight options with different categories of tank vessel types, which establish TLPM requirements with different standards and use requirements from the temporary rule.

In developing our eight options we closely examined the type of tank vessel to which this rule would apply, the performance standard for TLPM

devices, and the phase-in period of the rule.

We first examined to which tank vessels this rule should apply based on the hull type (single-hull or double-hull). These TLPM devices are intended to warn the operators of possible loss of cargo oil due to leaks they might otherwise not notice from cargo tanks into the water. Double-hull vessels are intrinsically designed to prevent this type of discharge. Therefore, this proposed rule will apply only to single-hull tank vessels.

Another criteria we examined when applying this rule was based on the gross tonnage of the tank vessel. In the 1997 temporary rule, we proposed that TLPM devices be installed on single-hull tank vessels greater than or equal to 5,000 gross tons. After examining the single-hull tank vessel population, we found that 92 percent of tank ships are greater or equal to 5,000 gross tons and 88 percent of the barges are less than 5,000 gross tons. We believe that rather than using the gross tonnage criteria, it is less confusing and more practical to use the vessel type criteria. A barge greater than 5,000 gross tons will encounter the same TLPM installation and operational challenges as a smaller barge. For these reasons, a gross tonnage criterion is not used for this proposed rule. Instead, tank vessels for this proposed rule are classified by vessel type, whether it is a ship or barge.

Next we examined the impact of this rule on single-hull tank ships and single-hull tank barges. The regulatory analysis for this rule showed that barges caused most of the oil spills where TLPM devices would have been effective on single-hull tank vessels. In fact, out of the 27 oil spill incident cases, 20 incidents were from tank barges and seven from tank ships. In these incidents tank barges contribute 75 percent of the amount of actual oil spilled. Additionally, a majority of current tank barges will be in existence for much longer than will tank ships. Approximately, 91 percent of the single-hull tank barges will be allowed to operate after 2010, compared to 54 percent of the tank ships. (All single-hull tank vessels will be phased-out by 2015.) Also, section 4110(b) of OPA 90, which requires the installation of TLPM devices, was added in part because of an oil spill from a barge resulting in the spill of 4,000 barrels of oil during a night transit in the Chesapeake Bay.

Even though the 27 oil spill incident cases revealed that tank barges spilled more oil than tank ships, tank ships, on the other hand, present a greater potential for a massive spill when a leak occurs. A one percent leak from a typical tank ship translates to approximately 36,078 gallons (859 barrels). In comparison, a one percent leak from an average tank barge is 4,536 gallons (108 barrels).

In developing the TLPM performance standards, we applied the 1992 Volpe study. The study surveyed a wide variety of liquid level gauging devices for marine and shoreside applications. Liquid cargo accountability during cargo custody transfer has been the primary use of tank level devices in the oil tanker industry. These devices are primarily meant for gauging during cargo loading and unloading operations, and their use as a TLPM device in a dynamic underway environment is beyond their current design. As such, we know of no TLPM devices installed on board existing vessels.

We considered having tank vessels use their existing onboard liquid level gauging device to meet the requirement of section 4110 of OPA 90. As noted above and in the Volpe study, these devices are not designed for continuous monitoring or to be used as a TLPM device without modifications. These modifications may include, but are not limited to, provisions for detection of a change in tank level beyond the threshold established and provisions for an alarm for watchstanders. Furthermore, the use of existing onboard liquid level gauging devices without any modification may not provide for this ability to compensate for internal and external uncertainties, such as, temperature changes, cargo movement, and tank deformations, which will result in decreased accuracy in dynamic underway conditions, thus, increasing the amount of leakage that would occur prior to detection or causing false leak indications.

We feel that false leak indications from unmodified liquid level gauging devices set to alarm at the proposed one percent standard may present a safety risk for the vessel and crew. The repetitive false alarms may become distracting to the crew, taking them away from their normal navigational, engineering, and maintenance duties onboard. These distractions may cause inattention to the performance of their duties leading to marine casualties such as groundings, collisions, and allisions. To deal with the extra duty of monitoring cargo levels and responding to the frequent false alarms from an unmodified liquid level gauging device, additional changes to the vessel's manning requirements may be required, increasing the cost of operating the vessel. The Volpe study did not thoroughly address the safety issues associated with the operation of TLPM devices or unmodified liquid level gauging devices used as TLPM devices on board tank vessels. We are seeking public comment on these and other safety risks of unmodified liquid level gauging devices being used as TLPM devices and TLPM devices on board tank vessels.

The Volpe study concluded that the attainable accuracy, defined as the limit outside of which false leak indications may be ruled out, is expected to be one to two percent. Even though the study acknowledged the claims of some manufacturers that their device(s) could achieve accuracy levels of 0.1 percent, Volpe concluded that one percent is the best attainable tank level accuracy achievable in the wide variety of sea conditions and that any claims made by manufacturers ''must be viewed skeptically until proven.''

Modifications to existing onboard liquid level gauging devices may include installation of stilling wells and computers that monitor and compensate for constant changes in the tank level readings due to temperature variations, hull structural deformations, and ullage conditions. Modifications also include alarm thresholds for each device. The Volpe study did not evaluate the degree of accuracy that could be afforded in dynamic underway conditions, ruling out false indications, by TLPM devices and existing onboard liquid level gauging devices with or without modifications less than those necessary to fully attain a one to two percent accuracy standard. We are seeking public input as to the attainable accuracy of unmodified liquid level gauging devices.

In selecting the standard, we considered two performance-based TLPM standards for the leak detection threshold. Applying the Volpe study and our survey of currently available technology as the basis, we examined three percent and one percent leak detection thresholds as the two possible standard designations.

Opting for the three percent standard would allow average tank ship spills of up to 2,577 barrels and tank barge spills of up to 324 barrels to go undetected.

The one percent performance standard requires TLPM devices to alarm when the quantity of the cargo oil increases or decreases by one percent. With this standard in place, we would be able to detect oil spills of approximately 859 barrels and 108 barrels from a typical tank ship and tank barge, respectively.

We determined that modifications would have to be made to existing onboard liquid level gauging devices to meet a one or three percent standard,

and that the costs of the modifications would be the same regardless of what standard we proposed. The procurement cost of a typical TLPM device would be approximately $6,000, and the cost of a liquid level gauging device is also approximately $6,000. Furthermore, the cost of modifying liquid level gauging devices to meet the functional requirements of a TLPM device would also cost approximately $6,000. The installation of a TLPM device or a modified or unmodified liquid level gauging devices is estimated to cost approximately $9,000 per tank.

As noted above, we found the costs of TLPM devices or modifying existing onboard liquid level gauging devices with an accuracy level of three percent versus one percent to be essentially equal. For this reason, we propose the one percent TLPM performance standard.

Lastly, we examined a phase-in period for the installation and operation of the TLPM devices. We recognize that installing the devices requires costly gas-freeing of cargo tanks. As a result, the phase-in period will coordinate the installation of TLPM devices with the gas-freeing of tanks for other required purposes (either under Coast Guard regulations for U.S.-flag vessels or under the requirements of the flag administration for foreign-flag vessels). The phase-in period would also allow companies to spread out the installation costs over a number of years rather than have to absorb them immediately, greatly benefiting the tank vessel industry and especially small businesses. However, the phase-out date for single-hull tank vessels must also be considered when deciding an installation phase-in period. Owners may decide to take the vessel out of service early rather than installing the devices.

We have provided alternatives for either a three year or a five year phase-in period. Any earlier period would place undue financial and logistical burden on industry. Any period beyond five years would reduce benefits in protecting the environment from oil spills before the single-hull tank vessels are phased out.

Our eight regulatory options reflect all the reasonable approaches we have examined in developing this proposed regulation. These eight options are designed to be performance based, allowing maximum flexibility to meet the regulatory and statutory intent. In developing our eight options we assume that this rule will apply only to single-hull tank vessels with a TLPM device that will detect a one percent change in cargo volume.

Discussion of Proposed Rule

The Coast Guard proposes removing the temporary regulations of Subpart 32.22T-Tank Level or Pressure Monitoring Devices found in 46 CFR Part 32. We would remove this subpart because the effective period of the standard has passed. We also propose adding new, permanent performance and use standards for tank level or pressure monitoring devices in 33 CFR Parts 155 and 156. The new standards we propose for the TLPM devices are intended for installation and operation on cargo tanks on U.S. and foreign-flag single-hull tank ships and tank barges carrying oil or oil residue as cargo. Section 4110(b) of OPA 90 (Public Law 101–380) authorizes the Coast Guard to require the use of TLPM devices on all U.S. and foreign-flag vessels constructed or adapted to carry oil in bulk as cargo or cargo residue on the United States navigable waters or exclusive economic zone.

The affected single-hull tank vessels are intended to comply with this rule within either three or five years from the effective date of a final rule, depending upon which alternative is adopted. Any current devices on board meeting the performance standards will be accepted to meet these proposed regulations.

We recognize that there may be technical challenges of processing, transmitting, and receiving signals from TLPM devices located on tank barges being towed or pushed by a single tugboat. We are seeking public comment on this issue, whether there should be a standard to address signal uniformity or compatibility among TLPM devices, and any other alternative methods that may notify the operator of a leak.

To maximize public involvement, we propose eight options for comment. The eight options proposed vary by applicable vessel types and by phase-in dates for those vessels. We request public comments addressing the safety, environmental, financial, and energy impacts of these devices on the proposed options. This approach will allow a fair and balanced evaluation in selecting the final rule.

Based on the consideration of all the previously discussed information, we propose these eight options. After evaluating our regulatory analysis and all of the comments we will receive addressing this notice of proposed rulemaking, we will publish a final rule based on all or part of the proposed options. This proposed action will amend part 155 by adding Section 155.490, Tank Level or Pressure Monitoring Device.

The eight options are characterized by the affected single-hull tank vessel type and the installation phase-in of TLPM devices with the one percent performance standard. The following table outlines the eight proposed options.

	What type of single-hull tank vessel is affected by this rule?	How long do the affected vessels have to comply with TLPM regulations?
Alternative One:		
Option One	Tank Ships	3 years
Option Two	Tank Ships	5 years
Alternative Two:		
Option One	Tank Barges	3 years
Option Two	Tank Barges	5 years
Alternative Three		
Option One	Tank Vessels	3 years
Option Two	Tank Vessels	5 years
Alternative Four:		
Option One	Tank Ships	3 years
	Tank Barges	5 years

	What type of single-hull tank vessel is affected by this rule?	How long do the affected vessels have to comply with TLPM regulations?
Option Two	Tank Ships	5 years
	Tank Barges	3 years

Note: Alternatives indicate the possible affected vessels. Options indicate the possible phase-in dates for the affected vessels.

Alternative One, Option One would require single-hull tank ships to install and use TLPM devices meeting the one percent performance standard within three years. Option Two would affect the same vessels as Option One (single-hull tank ships), though it would require those vessels to comply with the TLPM requirements within five years.

Alternative Two, Option One would require single-hull tank barges to install and use TLPM devices meeting the one percent performance standard within three years. Option Two would affect the same vessels as Option One (single-hull tank barges), though it would require those vessels to comply with the TLPM requirements within five years.

Alternative Three, Option One would require all single-hull tank vessels to install and use TLPM devices meeting the one percent performance standard within three years. Option Two would affect the all vessels as Option One (single-hull tank vessels), though it would require those vessels to comply with the TLPM requirements within five years.

Alternative Four, Option One would require single-hull tank ships to install TLPM devices meeting the one percent performance standard within three years, and would require single-hull tank barges to install TLPM devices meeting the one percent performance standard within five years. Option Two would require single-hull tank ships to install TLPM devices meeting the one percent performance standard within five years, and would require single-hull tank barges to install TLPM devices meeting the one percent performance standard within three years.

OPA 90 defined ''oil'' to mean oil of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil. We are applying this definition of ''oil'' for this section.

The Edible Oil Regulatory Reform Act [Public Law 104–55, 109 Stat. 546–547 (1995)] requires federal agencies to differentiate between classes of oils and consider different treatment of these classes, if appropriate. We have considered the difference in the physical, chemical, biological, and other properties and environmental effects of non-petroleum oils including those of animal, marine and vegetable origin. We have determined that bulk spills of all oils are damaging to the environment. Therefore, being consistent with OPA 90, single-hull tank vessels carrying these products must comply with this proposed rule.

Due to the properties and difficulties in measuring the cargo quantity of asphalt, asphalt-only tank vessels are exempt from this rule. The dense properties of asphalt do not allow leaks from cargo tanks detectable by TLPM devices.

The Coast Guard proposes to add a new paragraph (ee) to § 156.120, requiring that TLPM devices be activated and monitored whenever the tank is not actively being subjected to cargo transfer operations. Even though the original temporary rule did not address the issue of overfill, a review of oil spill cases found eight spills that were due to overfill of cargo tanks that were not actively being subjected to cargo operations because of faulty or misaligned cargo transfer valves. TLPM devices can detect such changes that may indicate not only leaks, but possible overfill situations during cargo transfer operations. Because of this added benefit with little or no additional costs, we are proposing to require the activation of TLPM devices on cargo tanks that are not being actively filled.

Even though 46 CFR 155.480 requires overfill devices on tank vessels and 46 CFR 156.120(bb) requires these devices to be operating when loading oil, this TLPM rule differs by alerting the operator of overfills during internal cargo transfers and inadvertent filling of a cargo tank due to faulty or misaligned valves. This can happen when the connecting valve between cargo tanks is not completely secured or faulty allowing oil to inadvertently overfill an unintended cargo tank.

Regulatory Evaluation

This proposed rule is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and requires an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has reviewed it under that Order. It is ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket as indicated under **ADDRESSES.** A summary of the evaluation follows:

When fully implemented, the measures outlined in this notice should reduce environmental and property damages resulting from oil pollution. The net cost-effectiveness of the eight options in the proposed rulemaking would range approximately from $111,000 to $315,000 per barrel of pollution avoided. This means that it will cost society from $111,000 to $315,000 to keep each barrel of oil out of the water.

The present value of the total cost of the eight options in this proposed rule over the 13-year period of analysis (2002–2014) would range from $64 million to $211 million. All the costs will be incurred during the three-year or five-year phase-in period. We realize that there may be incidental costs incurred after the phase-in period, but we consider these to be de minimis.

Over the 13-year period of analysis, we estimate that TLPMs would help reduce the amount of oil spilled in U.S. waters. The benefits derived from the eight options in this proposed rule have a range of 211 barrels to 1,425 barrels. The costs and benefits of each option are summarized in the table below:

Alternative/Option	Vessels	Phase-in period	PV barrels not spilled	PV cost of rule	Cost effective-ness
Alternative 1:					
Option One	Tank Ships	3 years	259.02	$81,549,724	$314,839
Option Two	Tank Ships	5 years	210.71	64,354,236	305,416
Alternative 2:					
Option One	Tank Barges	3 years	1,165.92	129,197,083	110,811
Option Two	Tank Barges	5 years	1,002.76	118,226,280	117,901
Alternative 3:					
Option One	Tank Vessels	3 years	1,424.92	210,746,807	147,901
Option Two	Tank Vessels	5 years	1,213.46	182,580,516	150,463
Alternative 4:					
Option One	Tank Ships/Tank Barges	3 years/5 years	1,261.76	199,776,004	158,331
Option Two	Tank Ships/Tank Barges	5 years/3 years	1,376.62	193,551,319	140,599

Comparison With Other OPA 90 Rulemakings

It is useful to compare the cost, benefit, and cost effectiveness of the proposed rule with other rulemakings mandated by the Oil Pollution Act of 1990. The Coast Guard published over 40 rules in the 1990s under OPA 90. Once the majority of these rules were in place, the Coast Guard conducted a Programmatic Regulatory Assessment (PRA) to analyze the multiple effects of these rules on marine safety and the environment. We selected a ''core group'' of 11 of the most important and significant OPA 90 rules to serve as a proxy for the entire suite of rules. The PRA assessed cost effectiveness of the core group by accounting for the overlapping effects of these rules. Without addressing these overlapping effects, we would have double-counted the true benefit and effect of these 11 significant rules. As with the proposed rule, benefit was estimated as the barrels of oil not spilled or spilled and recovered from the marine environment.

The cost (Present Value $1996), benefit (PV barrels), and cost-effectiveness (PV $/barrel) of the 11 core group rules is presented in the table below:

Rule	PV Cost (1996 $billions)	PV Benefit (1996 barrels)	Cost effectiveness ($/barrel)
All 11 core group rules	$10.600	1,221,000	$8,700
Financial responsibility*	−0.106	525,000	−$200
Lightering of single hull vessels	0.007	6,000	1,200
Facility response plans	0.179	59,000	3,000
Spill source control and containment	0.200	57,000	3,500
Operational measures for single hulls	0.102	28,000	3,700
Licenses, certificates, documents	0.062	14,000	4,500
Overfill devices	0.183	6,000	29,100
Deck spill control	0.013	< 1,000	31,100
Vessel response plans	3.252	50,000	64,600
Double hulls	6.411	94,000	68,100
Equipment and personnel in Prince William Sound, AK	0.325	3,000	108,900

*Cost and cost effectiveness was negative for this rule because avoided cost (value of avoided injuries, deaths, and cargo loss) exceeded the capital and labor cost.

When compared to the other major OPA 90 rulemakings, the proposed alternatives are less cost-effective. The overall cost effectiveness of the 11 core group rules in OPA 90 is approximately $8,700 per barrel not spilled. The cost effectiveness of the alternatives discussed for this proposed rule range from $110,811 to $314,839 per barrel in 2001 dollars ($97,670 to $277,520 per barrel expressed in 1996 dollars). We estimate that the amount of oil prevented from entering the environment due to the 11 major OPA 90 rulemakings is 1,221,000 barrels over the period of analysis (1996–2025). The amount of oil we estimate that will be prevented from entering the environment due to the proposed rulemaking ranges from 210 to 1,425 barrels depending on the selected alternative. In percentage terms, the pollution that would be averted due to the proposed rule represents approximately one tenth of one percent of the total pollution averted from the 11 major OPA 90 rulemakings.

When comparing the proposed rule to the cost and benefit estimates above, caveats should be noted. The assessment period for the OPA 90 PRA was 1996–2025 while the assessment period for the proposed rule is 2001–2015. This is not overly problematic because after 2015, the proposed rule will no longer affect single-hull vessels because they are scheduled to be phased-out by 2015. The cost and benefit of the rule after 2015, therefore, is expected to be zero. Extending the assessment period for the proposed rule to 2025 to align with the OPA 90 PRA would not change the results noticeably. Finally, the cost, benefit, and cost effectiveness estimates presented above represent an entire system of overlapping rulemakings. The cost effectiveness of each core group rule is the effectiveness when analyzed concurrently with all the other core group rules to assure benefit is not double-counted. For this reason, the overall benefit of the rule does not equal the sum of the benefits from all the rules because the amount of the overlapping benefit is not included in the individual benefit of the individual rule. The proposed rule is a stand-alone rulemaking and is analyzed as such.

The Coast Guard is interested in receiving comments discussing the benefits and costs of the alternatives contained in the proposed rulemaking with the benefits and costs associated with the other significant OPA 90 rules. Also, the Coast Guard is interested in receiving comments discussing the technologies required to implement the different alternatives contained in this

proposed rulemaking with the technologies needed to implement the other significant OPA 90 rules.

A copy of the OPA 90 PRA is available in the docket for further review and comparison [US Coast Guard, 2001. OPA 90 Programmatic Regulatory Assessment (PRA): Benefit, Cost, and Cost Effectiveness of Eleven Major Rulemakings of the Oil Pollution Act of 1990. Volpe National Transportation Center, May 2001.]

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

From our analysis (copy available in the docket), we conclude that requiring TLPM devices to be installed on single-hull tank vessels might have a significant economic impact on a substantial number of small entities. Consequently, by establishing a phase-in period for the systems, we would provide flexibility and accommodation for small entities affected. This would give small entities the time needed to explore markets, plan, and schedule installations during normal downtimes.

We are considering eight regulatory options for the proposed rule. The impacts of these options on small businesses are discussed in the Initial Regulatory Flexibility Analysis. As stated above, the Oil Pollution Act states that TLPM requirements must be established for tank vessels. As a result, we do not believe we have the discretion to exempt small business tank vessel owners from the requirements of this proposed rule.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Lieutenant Commander Glen Mine, (202) 267–1303.

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).) This proposed rule on the performance standards and use of TLPM devices fall into the category of vessel equipment and operation. Because the States may not regulate within these categories, preemption under Executive Order 13132 is not an issue.

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Consultation and Coordination With Indian Tribal Governments

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

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We have considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph (34)(d), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This proposed rule is categorically excluded because it concerns equipping of tank vessels with tank level or pressure monitoring devices. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that this might be classified as a ''significant energy action'' under that order because it is a ''significant regulatory action'' under Executive Order 12866 and might have a significant adverse effect on the supply,

distribution, or use of energy. The Coast Guard is establishing either a three year or a five year phase-in period for this proposed rule, and we do not anticipate adverse energy consequences during that time. After this initial three year or five year phase in period, we can not conclusively rule out the possibility that this regulation would have a national impact on energy supply, distribution, or use. We are seeking comments from the public in order to assist us in making that determination. An example of how this regulation may adversely affect oil distribution is that it may impact the OPA 90 phase-out schedule. A company may make the business decision to phase out a tank vessel earlier than scheduled instead of incurring the costs of complying with this regulation. If vessel owners made the decision to phase out their vessels early instead of incurring the necessary compliance costs, tank vessel shortages are possible.

The distribution of petroleum in the U.S. is an efficient, but complex, system involving the movement of crude oil into U.S. refineries from domestic and foreign sources and the movement of product out of refineries, primarily by pipeline and tank vessels. In order to facilitate meaningful public comment on this critical issue, it is helpful to discuss the specific segments that comprise the national waterborne distribution system of petroleum.

The Maritime Administration describes the U.S. waterborne petroleum trade as five distinct and interrelated market segments: domestic product tankers, coastal tank barges, domestic crude carriers, foreign tankers (imports), and inland tank barges.

Domestic product tankers compete with tank barges in medium haul (500–1,500 mile) coastal trades; product tankers supplement crude carriers in West Coast crude oil trades; and product tankers and tank barges lighter (transfer) cargoes from crude carriers to oil terminals. While tank barges compete with domestic product tankers in medium haul trades, they complement tankers and pipelines by transshipping products in short-haul trades.

Foreign product tankers compete indirectly with domestic product tankers through import trades, and provide product shipments to Middle Atlantic and Northeast states directly from a foreign port rather than from another domestic port. The Jones Act, which reserves U.S. coastwise shipments for U.S.-flag vessels, should not be be viewed, therefore, as absolute protection for domestic product tankers.

Over the period 1994 to 1999, the role of pipelines, foreign tankers and coastal tank barges has grown significantly in U.S. petroleum trades. Based on recent pipeline upgrades, year-end 2000 newbuilding orders and OPA 90 phase-out schedules, these trends should continue over the next five years.

Domestic Product Tankers

The primary domestic product tanker trades—U.S. Gulf/Atlantic, U.S. Gulf/West Coast, and intra West Coast have declined over the period 1994 to 1999. The declines can be attributed to a decline in Alaska crude oil production, increases in pipeline shipments, increases in product imports, increases in local refinery production of reformulated gas, and increases in medium-haul (500–1,500 mile) tank barge shipments. These trends are expected to continue over the next five years.

Product tanker freight markets have been efficient in allocating capacity to U.S. domestic and import trades. To meet their distribution requirements, oil companies have used foreign product tankers (imports) and/or domestic tank barges in lieu of domestic product tankers. The domestic product tanker fleet will continue to decline over the next five years reflecting an aging fleet, OPA 90 phase-out requirements, and high newbuilding prices/operating costs relative to charter rates.

Coastal Tank Barges

The market for coastal tank barge services can be divided into two broad segments: short-haul trades (< 500 miles), in which tank barge services complement tanker and pipeline services; and 500+ mile trades in which tank barge services substitute for tanker services. In 1999, long-haul ton-miles were about 3.5 times short-haul ton-miles.

Coastal tank barge traffic (ton-miles) will continue recent trends and grow at 2–3 percent per year over the next five years, reflecting fleet productivity increases and the substitution of large tank barges (10,000+ DWT) for product tankers in the 500+ mile coastal petroleum products trades.

The coastal tank barge fleet will not be significantly affected by OPA 90 double-hull requirements until 2005, when there will be a substantial impact (a decrease of 0.5 million DWT capacity) on the 10,000+ DWT fleet.

As of year-end 2000 there were nine large coastal tank barges (0.2 million DWT) on order for delivery in 2001 and 2002. For tank barges, the orderbook does not show deliveries beyond the next 2 years. There are, however, pending contracts for seven additional newbuildings and eight retrofits.

Domestic Crude Carriers

The Alaska crude oil trades are the primary source of demand for U.S. crude carriers. These trades are examples of ''Industrial Shipping'' in which shippers (oil companies) bear market risks by owning or time chartering tankers. In 1999, ninety-nine percent of the Alaska crude oil trades were controlled by oil companies or oil company affiliates. As a result, Alaska crude oil production, U.S. crude carrier capacity, and coastal crude oil traffic tend to move together over time.

Based on the Energy Information Agency's forecast for Alaska crude oil production, Alaska/U.S. West Coast crude oil trades will fall from 85 billion ton-miles in 1999 to 64 billion ton-miles in 2005, reducing crude carrier demand by about 500 thousand DWT or four 125,000 DWT tankers.

As of year-end 2000, there were eight newbuilding double-hull crude carriers (1.2 million DWT) on order, 0.2 million DWT more than the capacity scheduled to be phased-out under OPA–90 double-hull requirements by 2005. However, owners have typically retired crude carriers well before their OPA 90 phase-out dates. The average age of the 22 U.S. crude carriers removed from service in the last five years was 21-years, or an average of 4 years before their OPA 90 phase out dates. As of year-end 2000, 17 of the 21 active U.S. crude carriers were older than 21 years. Thus, it is reasonable to expect that owners will retire redundant crude carriers as newbuildings enter service.

Foreign Tankers

The U.S. relies on the foreign-flag segment of the international tanker fleet to deliver virtually all of its petroleum imports. At year-end 2000, the foreign-flag tanker fleet eligible to operate in U.S. trades was about 237 million DWT, or 80 percent of the international fleet. This tonnage was eligible to operate in U.S. petroleum trades either because it had a double hull or had not yet reached its OPA 90 phase-out date. Over time, additional capacity will be reaching its OPA 90 phase-out date and dropping out of the U.S. petroleum trade. In the next five years, an additional 34 million DWT of foreign-flag capacity will become ineligible to operate in U.S. trades. There is no risk of any shortage of tankers available to serve U.S. import trades, however, because—

- Newbuilding deliveries have been about 20 million DWT per year in the late 1990s and should continue at about that rate over the next five years.
- Based on 2000 data, only 42 percent of the tanker capacity eligible for U.S.

trades actually served U.S. trades. That is, there is a substantial pool of existing vessels that can move into U.S. trades; and

• Tankers calling at the LOOP (Louisiana Offshore Oil Port) and four Gulf of Mexico lightering areas are exempt from OPA 90 double-hull rules, though they would not be exempted this rule. In 2000, 40 percent of the 150,000+ DWT foreign-flag tanker calls to the U.S. were at these five areas.

Inland Tank Barges

Inland tank barge capacity should decline by 1 to 2 percent per year over the next five years. The decline reflects an expected decline in inland tank barge traffic, fleet attrition, tank barge replacements tied to affreightment contracts (traffic), and fleet productivity increases (i.e., new barges are more productive, require less maintenance/drydocking time) than those they replace.

The expected decline in inland tank barge traffic (0.5–1.0 percent per year) reflects a substitution of natural gas (shipped by pipeline) for fuel oils (shipped by barge) by electric utilities.

In 1999, charter rates for inland tank barges were generally above full-employment, newbuilding breakeven rates. Charter rates should remain above full-employment breakeven rates over the next five years, reflecting fleet attrition, industry consolidation, and fleet replacement tied to freight contracts (traffic).

Niche Markets

In addition to seeking comments on the five previously discussed market segments, we suspect this regulation may have effects on small businesses that serve local niche markets. Our Initial Regulatory Flexibility Analysis indicates that many small businesses will be required to spend a substantial portion of their annual revenue to fit their tank vessels with TLPM devices. It is possible that many of these small businesses will be unable to comply with this regulation and will leave their respective markets. These companies that leave the market may be serving small niche markets where other sources of oil distribution are not readily available. For example, a small barge company may be the sole or primary source of transportation of fuel oil to an island. If that particular company leaves the market as a result of this rule, the island would be without a distributor until another means of oil transportation becomes available.

Comments

We are requesting comments to assist us in identifying any likely significant adverse effects our proposed rule may have on the supply, distribution, or use of energy. We do not expect any adverse impacts in the foreign tankers (imports) segment due to the large number of double hull tankers already operating in that trade. However, we cannot conclusively rule out the possibility that this proposed regulation would have a national impact on energy supply, distribution, or use in the four domestic market segments previously discussed. We are especially interested in comments considering the impact this proposed regulation might have on the OPA 90 phase-out schedule. If vessel owners made the decision to phase out their vessels early instead of incurring the necessary compliance costs, tank vessel shortages are possible. A shortage of tank vessels could lead to an adverse energy effect. In addition, we are interested in receiving comments that address how this proposed rule will affect the ability of the tank vessel owners and/or operators to meet their customers' requirements. We also seek comments on whether this rule should be modified if compliance would be economically infeasible for specific vessels or categories of vessels.

Our analysis also suggests a possibility of potential adverse effects in unidentified small, local areas. Submit these and any other comments on possible adverse energy effects that the proposed rule may have to one of the locations listed under **ADDRESSES.** We will analyze all comments and, if necessary, prepare a full Statement of Energy Effects with the Final Rule for this project.

List of Subjects

33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 32

Cargo vessels, Fire prevention, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Parts 155 and 156 and 46 CFR Part 32 as follows:

33 CFR Chapter I

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

1. The authority citation for 33 CFR Part 155 and the note following citation are revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703.

Note: Additional requirements for vessels carrying oil or hazardous materials are contained in 46 CFR Parts 30 through 40, 150, 151, and 153.

2. Add § 155.490 to subpart B to read as follows:

§ 155.490 Tank Level or Pressure Monitoring devices.

ALTERNATIVE ONE to paragraph (a)

(a) By [*Either* **OPTION ONE,** three years after effective date, *or* **OPTION TWO,** five years after the effective date], each U.S. and foreign-flag single-hull tank ship carrying oil or oil residue as cargo, must have a tank level or pressure monitoring device that is permanently installed on each cargo tank and meets the requirements of this section.

ALTERNATIVE TWO to paragraph (a)

(a) By [*Either* **OPTION ONE,** three years after effective date, *or* **OPTION TWO,** five years after the effective date], each U.S. and foreign-flag single-hull tank barge carrying oil or oil residue as cargo, must have a tank level or pressure monitoring device that is permanently installed on each cargo tank and meets the requirements of this section.

ALTERNATIVE THREE to paragraph (a)

(a) By [*Either* **OPTION ONE,** three years after effective date, *or* **OPTION TWO,** five years after the effective date], each U.S. and foreign-flag single-hull tank vessel carrying oil or oil residue as cargo, must have a tank level or pressure monitoring device that is permanently installed on each cargo tank and meets the requirements of this section.

ALTERNATIVE FOUR to paragraph (a)

(a) Each U.S. and foreign-flag single-hull tank ship carrying oil or oil residue as cargo must have a tank level or pressure monitoring device that is permanently installed on each cargo tank by [*Either* **OPTION ONE**, three years after effective date, *or* **OPTION TWO,** five years after the effective date], and each U.S. and foreign-flag single-hull tank barge carrying oil or oil residue as cargo must have a tank level or pressure

monitoring device that is permanently installed on each cargo tank by [*Either* **OPTION ONE,** five years after effective date, *or* **OPTION TWO**, three years after the effective date].

(b) Each device must meet the following requirements:

(1) Be intrinsically safe as per 46 CFR 111.105;

(2) Indicate any loss of power or failure of the tank level or pressure monitoring device and monitor the condition of the alarm circuitry and sensor by an electronic self-testing feature;

(3) Alarm at or before the cargo in the cargo tank either increases or decreases by a level of one percent from the cargo quantity in the tank after securing cargo transfer operations;

(4) Operate in heavy seas, moisture, and varying weather conditions; and

(5) Have audible and visual alarm indicators which are distinctly identifiable as cargo tank level or pressure monitoring alarms that can be seen and heard on the navigation bridge of the tank ship or towing vessel and on the cargo deck area.

(c) Double-hull tank vessels are exempt from the requirements of this section.

(d) This section does not apply to tank vessels that carry asphalt as their only cargo.

PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

3. The authority citation for 33 CFR Part 156 is revised to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120(bb) and (ee) are also issued under 46 U.S.C. 3703.

4. Add in § 156.120 paragraph (ee) as follows:

§ 156.120 Requirements for transfer.

* * * * *

(ee) Each tank level or pressure monitoring device must be activated and monitored whenever the tank is not actively being subjected to cargo operations.

46 CFR Chapter I

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

5. The authority citation for Part 32 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703, 3719; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 32.59 also issued under the authority of Sec. 4109, Pub. L. 101–308, 104 Stat. 515.

Subpart 32.22T [Removed]

6. Remove subpart 32.22T (§§ 32.22 T–1 and 32.22T–5).

Dated: September 26, 2001.

James M. Loy,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 01–24493 Filed 9–26–01; 4:44 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 4

RIN 2900–AH21

Total Disability Ratings Based on Inability of the Individual To Engage in Substantially Gainful Employment

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend those portions of its adjudication regulations and its Schedule for Rating Disabilities dealing with the issue of total disability ratings based on inability of the individual to engage in substantially gainful employment in claims for service-connected compensation or non-service-connected pension. The purpose of these proposed changes is to revise and clarify the procedures and substantive standards for determining whether a veteran's disabilities, although they do not meet the schedular requirements for a total rating, nonetheless prevent him or her from engaging in substantially gainful employment. The intended effect of this action is to establish clear standards for assigning a total rating based on the individual's inability to engage in substantially gainful employment and to ensure consistency of decisions in such claims.

DATES: Comments must be received on or before November 30, 2001.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Room 1154, 810 Vermont Ave., NW, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AH21.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Janice Jacobs, Consultant, Regulations Staff, Compensation and Pension Service (211), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 273–7223.

SUPPLEMENTARY INFORMATION: It is a long-standing VA policy to assign a total (100 percent) rating for an individual veteran who is unable to engage in a substantially gainful occupation because of his or her disabilities. When the veteran does not meet the requirements for a total rating under the Schedule for Rating Disabilities, 38 CFR part 4, but because of unusual individual circumstances, he or she is nonetheless prevented from engaging in substantially gainful employment because of disability, VA may assign a total rating.

The regulations governing these extra-schedular ''individual unemployability'' ratings are scattered throughout part 3 and subpart A of part 4 of 38 CFR. (*See* 38 CFR 3.321, General rating considerations; § 3.340, Total and permanent total ratings and unemployability; § 3.341, Total disability ratings for compensation purposes; § 3.342, Permanent and total disability ratings for pension purposes; § 4.15, Total disability ratings; § 4.16, Total disability ratings for compensation based on unemployability of the individual; § 4.17, Total disability ratings for pension based on unemployability and age of the individual; and § 4.18, Unemployability.) The United States Court of Appeals for Veterans Claims (the Court) has characterized these regulations as ''a confusing tapestry for the adjudication of claims.'' *Hatlestad* v. *Derwinski,* 1 Vet. App. 164, 167 (1991); *see also Talley* v. *Derwinski,* 2 Vet. App. 282 (1992). In addition to being scattered and confusing, the current regulations neither define the terms used nor clearly state specific requirements for entitlement to a total rating based on inability of the individual to engage in substantially gainful employment.

In order to address these problems and make the provisions clearer and more uniform, we propose to make a number of changes throughout §§ 4.15 through 4.18. The current regulations use the various terms ''secure and follow,'' ''secure or follow'' and ''follow'' substantially gainful employment. We propose to employ a single term, ''engage in'' substantially gainful employment. We propose to define terms used and outline specific requirements for these special ratings. We propose to make the regulations in 38 CFR part 3 (§§ 3.321, 3.340, 3.341,

and 3.342) consistent with the proposed provisions of part 4, subpart A and in both part 3 and part 4, remove redundant or otherwise unnecessary material, i.e., material which neither prescribes VA policy nor establishes procedures decisionmakers must follow. We also propose to make other changes to both part 3 and part 4 for purposes of clarity and to amend authority citations as appropriate.

A portion of the current § 4.15 repeats the purpose of the rating schedule already contained in § 4.1, stating that the rating is based primarily upon the average impairment in earning capacity. It also states, among other things: that the ability to overcome the handicap of disability varies widely among individuals; that full consideration must be given to unusual physical or mental defects in individual cases that might prevent the usual amount of success in overcoming the handicap of disability; that total disability will be considered to exist when there is present any impairment of mind or body sufficient to render it impossible for the average person to follow a substantially gainful occupation; and that specific disabilities are considered permanently and totally disabling. Some of this information is also contained in § 3.321, which provides for approval of extra-schedular ratings for those cases where the percentage evaluation provided by the rating schedule does not reflect the actual limitations imposed by the service-connected disabilities.

We propose to eliminate as unnecessary the portions of § 4.15 that are stated elsewhere and to rewrite the section so that it will clearly state VA's long-standing policy to assign a total rating in individual cases where permanent physical or mental impairment results in an inability to engage in substantially gainful employment.

Since the specific disabilities listed in § 4.15 as permanently and totally disabling (i.e., permanent loss of use of both hands (DC 5106, 5109); both feet (DC 5107, 5110); one hand and one foot (DC 5104, 5105, 5108, 5111); and sight of both eyes (DC 6061–6063, 6067, 6071)) all warrant a 100 percent schedular rating under subpart B of the Schedule for Rating Disabilities, it is redundant to designate them as permanently and totally disabling here.

Section 4.15 also provides that permanent helplessness or permanently-bedridden status will constitute permanent total disability. In service-connected compensation claims, those provisions are superfluous because 38 U.S.C. 1114(l) and (m) provide for compensation amounts greater than those payable for 100 percent disability in cases where a veteran is, due to service-connected disability, permanently bedridden or so helpless as to be in need of regular aid and attendance. For purposes of pension entitlement, although permanent helplessness or permanently-bedridden status may provide sufficient evidence of permanent and total disability, there may be cases where such status would not establish the existence of permanent and total disability (such as where the veteran is employed and earning significant income from employment). Accordingly, in our judgment, it is preferable to establish a uniform standard for determining whether a claimant whose disabilities are rated less than 100 percent disabling is unable to engage in substantially gainful employment, rather than to presume such inability based on helplessness or bedridden status. (*See* 38 CFR 3.351, 3.352.)

Section 4.16 currently states that a total rating for compensation purposes may be assigned if the schedular rating is less than total but, in the judgment of the rating activity, the veteran is unable to secure or follow a substantially gainful occupation due to service-connected disabilities. However, the factors that would trigger rating activity consideration and the specific requirements for these total ''extra-schedular'' ratings are not specified. We propose to reorganize and rewrite this section to establish clear requirements.

In proposed section 4.16(a) we provide that a total rating based on individual unemployability may be assigned only if the veteran's disabilities do not warrant a total schedular rating. Because these extra-schedular provisions are for application only when a total schedular rating cannot be established, a decision to assign an extra-schedular rating always requires review of the particular circumstances in that case. Disability ratings are to be based as far as practicable on the rating schedule. Current regulations in § 4.16(a) make clear that total disability ratings based on individual unemployability are intended only to ensure appropriate compensation to persons who are unemployable due to disability but do not meet the schedular requirements for a total disability rating. Consequently, when a veteran is entitled to a total schedular rating, the justification for a total disability rating based on individual unemployability ceases to exist. We therefore propose to state in § 4.16(a) that a total schedular rating cancels an existing rating that was assigned based on inability to engage in substantially gainful employment. The cancellation of a total rating based on individual unemployability under these circumstances will not result in a reduction of benefits, and the procedural provisions concerning the reduction or discontinuance of benefits are not applicable. We propose to amend § 3.343(c) to make clear that the procedural provisions to which it refers for reduction of benefits are not applicable when a total disability rating based on individual unemployability is replaced by a total schedular rating.

In § 4.16(b), we propose to clarify that a total disability rating based on individual unemployability will not be assigned if the veteran already has a total schedular rating. A total disability rating based on individual unemployability could not result in any additional benefits to a veteran who already has a total service-connected rating. This provision is not a change, but merely a clarification of principles established by existing regulations.

Claimants may establish entitlement to a total rating based on inability to engage in substantially gainful employment if circumstances unique to their individual situations cause the effects of their disabilities to be more severe than they would be in the average person. We propose to specifically state in § 4.16(b) that a total rating for compensation purposes assigned because of inability of the individual to engage in substantially gainful employment encompasses all service-connected disabilities existing at the time the total rating is assigned. The intent of this change is to ensure that the overall effect of the service-connected disabilities and their impact upon one another is fully considered in determining if those disabilities prevent the individual from engaging in substantially gainful employment.

We propose to state in § 4.16(d) that a determination as to whether a veteran is unable to engage in substantially gainful employment due to service-connected disability or disabilities will be based upon evidence of the veteran's ability to perform the activities normally required for substantially gainful employment with the regularity and for the duration required for substantially gainful employment. We propose to include a list of specific factors which the rating activity must address in every claim for a total rating for compensation purposes based on inability of the individual to engage in substantially gainful employment.

In *Moore* v. *Derwinski,* 1 Vet. App. 356, 359 (1991), the Court suggested that VA regulations on this issue address what a veteran can and cannot do in a practical rather than a theoretical

manner. In § 4.16(d)(1), we propose to require that the rating activity consider medical evidence describing the veteran's service-connected disabilities and the extent to which they limit the veteran's ability to perform ''activities normally required for substantially gainful employment.'' This phrase, as defined in proposed § 4.16(g)(2), means both exertional and non-exertional activities that, as a group, affect the ability to engage in any form of employment. Exertional activities would include, but would not be limited to, the ability to sit, stand, walk, push, pull, use hands, reach, lift and carry. Non-exertional activities would include, but would not be limited to, the ability to communicate, remember, follow instructions, use judgment, adapt to changes, and deal with people, including supervisors, co-workers, and the public. Requiring the rating decision to be based upon the veteran's ability to perform these specific activities would assure that each decision would be based on more objective findings rather than merely on the evaluator's interpretation of the subjective term ''unemployable.''

In § 4.16(d)(2), we propose to require that the rating activity consider evidence of any other unusual limitations imposed by the service-connected disabilities, such as that they require uncharacteristically frequent periods of hospitalization, or that there are unusual effects of medication, etc. We believe that these factors could affect an individual's ability to perform activities necessary for employment and thus should be part of any unemployability determination.

Under current provisions of § 4.16, entitlement to a total rating for compensation purposes because of inability of the individual to engage in substantially gainful employment is based solely on service-connected disability or disabilities without considering age and non-service-connected disabilities in making the determination. (*See* §§ 4.19 and 3.341.) We propose to include at § 4.16(e) a list of factors that VA would disregard in determining entitlement to this rating. In addition to age and non-service-connected disabilities, we propose that VA would disregard: the veteran's training or lack thereof unless service-connected disabilities would impede further training; the state of the economy in the veteran's community; and the fact that prior employment may have been terminated due to such factors as employer relocation or technological advances that make a prior job obsolete. In our judgment these factors have no bearing on the effect of service-connected disability on the claimant's ability to perform activities deemed necessary for employment.

We propose to state at § 4.16(e)(3) that VA will not consider a veteran's training or lack thereof in the rating decision because training in one field does not preclude employment in some other area, nor does lack of training preclude a veteran from being successfully trained to engage in some form of substantially gainful employment. However, if further training is not feasible because of service-connected disabilities, that is a factor VA should take into account in assessing the veteran's ability to engage in substantially gainful employment.

Similarly, neither the state of the economy in the veteran's community nor the fact that a job the veteran previously held has been eliminated because of technological advances or employer relocation renders the veteran incapable of performing other substantially gainful employment. We propose to exclude these factors from consideration at § 4.16(e)(4) and (e)(5) in order to focus the determination on whether a veteran can perform activities necessary to engage in substantially gainful employment rather than on whether he or she is unemployed.

We propose that § 4.16(f)(1) will state the percentages required for a rating activity to assign a total evaluation without referral to any other VA official. Current regulations in § 4.16(a) provide that a rating board may assign a total rating without referral to any other official if the veteran has a single service-connected disability rated at least 60 percent disabling or has a single service-connected disability rated at least 40 percent disabling and sufficient additional service-connected disability to result in a combined rating of at least 70 percent. Current § 4.16(a) also states that certain combinations of disabilities may be considered as a single disability for purposes of this determination. We are proposing to retain the current requirement of a 60 percent evaluation for a single disability now contained in § 4.16(a). However, we propose to reduce the threshold for combined ratings from 70 percent to 60 percent and to eliminate the requirement that one of the disabilities must be rated at least 40 percent disabling. In our view, multiple service-connected disabilities combining to a 60 percent evaluation are no less likely to result in total disability based on individual unemployability than single service-connected disabilities evaluated as 60 percent or higher. We also believe that disabilities resulting in a combined rating of 60 percent may have approximately the same effect on a veteran's ability to engage in substantially gainful employment, regardless of whether one of the disabilities is rated at 40 percent or more. The proposed rule would, therefore, apply the same standard to all veterans having a combined rating of 60 percent or more.

Because the proposed rules would eliminate the different percentage thresholds applicable to single disability ratings and combined ratings, there is no need to retain the provisions in current § 4.16(a) stating that certain combinations of disabilities (e.g., multiple disabilities incurred in combat or in a single accident) may be treated as a single disability for purposes of applying those threshold requirements. Accordingly, we are not including those provisions in the proposed rules.

Consistent with current regulations, we propose to require that if the specified percentage ratings are not met, but in the judgment of the rating activity the evidence shows that the veteran is unable to engage in substantially gainful employment due to service-connected disabilities, the rating activity will prepare an extra-schedular total rating for the approval of the Director of the Compensation and Pension Service.

The Court has held that, under the current regulation, the Board of Veterans' Appeals (BVA) is precluded from assigning an extra-schedular rating in the first instance. (See *Floyd* v. *Brown,* 9 Vet. App. 88 (1996).) In our judgment, requiring BVA to remand such cases to a regional office for a decision not only serves no useful purpose, it significantly increases the time that a claimant must wait for a decision on his or her appeal. We therefore propose to state in § 4.16(f)(3) that, in cases before BVA on appellate review, the authority to authorize extra-schedular ratings extends to BVA. This proposal would reduce the number of cases remanded by BVA for regional office consideration and improve timeliness of appeals.

The current unemployability regulations provide no clear definition of what constitutes ''substantially gainful employment.'' The regulations state that marginal employment (defined, generally, as earned annual income below the level established by the U.S. Department of Commerce, Bureau of the Census, as the poverty threshold for one person) is not considered substantially gainful employment. The Court has pointed out, however, that a purely negative definition, i.e., one that states what is not substantially gainful employment, is not adequate. (*See Ferraro* v. *Derwinski,*

1 Vet. App. 326, 333 (1991).) We propose to: eliminate the concept of marginal employment; define ''substantially gainful employment''; and state that if a veteran is employed, earned income that exceeds an amount that is more than twice the Maximum Annual Pension Rate (MAPR) for a veteran without dependents under 38 U.S.C. 1521(b) (as increased under 38 U.S.C. 5312(a)) will be considered conclusive evidence that the veteran is engaged in substantially gainful employment.

We propose to define ''substantially gainful employment'' as any work that is generally done for pay or profit that the veteran is able to perform with sufficient regularity and duration to provide a reliable source of income. This definition takes into account that general abilities and skills are necessary for any type of employment and that in order for employment to be ''substantially gainful,'' work must be performed with reasonable consistency and for a reasonable period of time.

As noted above, we propose to state that if a veteran is employed, earned income that exceeds an amount that is twice the MAPR for a veteran without dependents under 38 U.S.C. 1521(b) (as increased under 38 U.S.C. 5312(a)) will be considered conclusive evidence that the veteran is engaged in substantially gainful employment. This amount roughly doubles the current level used to define ''marginal'' employment. Although the current regulation at § 4.16 defines marginal employment according to a level of earnings, it also allows exceptions. For example, employment may be held to be ''marginal,'' and therefore not substantially gainful, when earnings exceed the established level if a veteran is employed in a ''protected environment.'' We propose to eliminate such exceptions so that the standard to determine whether a veteran is able to engage in substantially gainful employment applies equally to all veterans in an objective and impartial manner.

The MAPR reflects the reasoned judgment of Congress concerning levels of income which are adequate to meet the ordinary needs of individuals with no other income and was designed to create a national minimum standard necessary to meet basic needs. This judgment is outlined in the legislative history of the Veterans' and Survivors' Pension Improvement Act of 1978, Pub. L. No. 95–588 (*See* H.R. Rep. No. 1225, 95th Cong., 2d Sess. 27 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5583, 5608–5609). The MAPR is regularly adjusted for cost-of-living increases pursuant to 38 U.S.C. 5312. In our judgment, it is reasonable to conclude that an individual earning twice that amount from employment is engaged in substantially gainful employment, thus making further inquiry under the standards of §§ 4.16 and 4.17 unnecessary.

Section 4.17 is currently titled ''Total disability ratings for pension based on unemployability and age of the individual.'' We propose to retitle this section ''Permanent and total disability ratings for pension purposes.'' While this would not be a substantive change, it more accurately reflects the content of the section.

In discussing pension entitlement, § 4.17 currently states ''When the percentage requirements [in current § 4.16(a)] are met, and the disabilities involved are of a permanent nature, a rating of permanent and total disability will be assigned if the veteran is found to be unable to secure and follow substantially gainful employment by reason of such disability.'' This section also provides that if the veteran is unemployable but fails to meet the percentage standards, the claim will be referred to the Adjudication Officer. The requirements for a permanent and total evaluation for pension purposes are further discussed in § 3.321(b)(2), which states that if the veteran ''is found to be unemployable by reason of his or her disability(ies), age, occupational background and other related factors,'' an extra-schedular permanent and total rating can be approved. Neither section specifies the manner in which these various factors will be considered.

We propose to retain the basic provisions of the current § 4.17 but revise the language governing pension determinations to make it clear that the rating activity is authorized to approve a permanent and total disability rating if the veteran has either a single disability rated at 60 percent or more, or a combination of disabilities resulting in a combined rating of 60 percent or more. For the reasons stated above with respect to compensation claims, this would eliminate the difference in current regulations between the threshold requirements in claims based on a single disability and those based on a combination of disabilities. Current regulations require that a permanent and total disability rating will be referred for approval by the Adjudication Officer if the evidence establishes that the veteran is unable to engage in substantially gainful employment, but his or her disabilities do not meet basic percentage requirements necessary for the rating activity to assign a total rating for pension purposes. We propose to retain this requirement, but to designate the Service Center Manager as the approving official. As part of its Business Process Reengineering efforts, the Veterans Benefits Administration has merged the traditional Adjudication and Veterans Services functions within its regional offices and replaced Adjudication Officers with Service Center Managers. This provision incorporates that change in title. We also propose to state in § 4.17 that, in cases before the Board of Veterans' Appeals on appellate review, the authority to authorize extra-schedular ratings extends to BVA. This is consistent with the previously-explained provisions of proposed § 4.16.

In rating the disability levels under § 4.17, we propose to require that all permanent disabilities that are not due to misconduct be considered. We propose to require that if the rating assigned for the veteran's disabilities does not satisfy the requirements for a total schedular rating, the determination of permanent and total disability will be based on evaluation of the veteran's ability to perform the specific employment-related activities outlined in proposed § 4.16. We have previously explained these proposed provisions. Their adoption here will assure that all ratings are based on the same standard.

As discussed above, the current provisions of § 3.321(b)(2) allow a total rating for pension purposes if the veteran is unemployable by reason of disability, age, occupational background, and ''other related factors.'' Because the regulations do not specify how these factors will be considered, we propose to replace the general term ''other related factors'' with the more specific term ''training or education'' in § 4.17(e) and state that we will consider age, occupational background, training and education only to the extent that they limit further training and adaptation in a veteran. In our judgment, this will clarify that the basic requirement for a permanent and total disability rating is that the veteran is unemployable because of disability and will eliminate any implication in the current rule that a permanent and total rating may be assigned where the veteran is unemployable primarily due to age and factors other than disability.

Similarly, we propose to state in § 4.17(f) that in determining whether the veteran is entitled to a permanent and total rating, VA will disregard the state of the economy in the veteran's community and, if applicable, the fact that the veteran's previous employment has been eliminated due to such factors as technological advances or employer relocation. We have previously explained our reasons for disregarding

these factors in § 4.16, and we believe adopting this provision here will properly focus the decision on whether the veteran is prevented from engaging in substantially gainful employment because of disability.

In § 4.17 we propose to define substantially gainful employment as any work generally done for pay or profit that the veteran is able to perform with sufficient regularity and duration to provide a reliable source of income. This definition is consistent with compensation requirements in proposed § 4.16, and our rationale for this definition has already been explained. Again, for consistency with the compensation regulations, we propose to state that if a veteran is employed, earned income greater than an amount equal to twice the MAPR for a veteran with no dependents is conclusive evidence that the veteran's employment is substantially gainful.

Section 4.17a, Misconduct etiology, currently states that a permanent and total disability rating under the provisions of §§ 4.15, 4.16, and 4.17 is not precluded by the existence of a disability that is due to the veteran's own willful misconduct when there is also separate, innocently acquired disability rated as 100 percent disabling, or if there are separate innocently acquired disabilities which themselves cause inability of the individual to engage in substantially gainful employment. The principles pertaining to willful misconduct are contained in VA's regulations at §§ 3.1 Definitions (in paragraphs (m) ''in line of duty'' and (n) ''willful misconduct''); 3.3 Pension; 3.4 Compensation; and 3.301 Line of duty and misconduct. Since these provisions clearly state that direct service connection or pension may be granted only for disability not due to the veteran's own willful misconduct, we propose to delete § 4.17a because its provisions are unnecessary.

Section 4.18, Unemployability, currently states that a veteran may be considered unemployable upon termination of employment which made some accommodation for disability if he or she cannot secure further employment. The proposed regulations would recognize that any time a veteran claims inability to be employed due to disability, an assessment of the veteran's ability to perform activities generally necessary for substantially gainful employment would be the determining factor in assigning a total rating. For this reason, the nature of the prior employment and any employer concessions which enabled the veteran to engage in employment would be irrelevant and we propose to delete that statement.

Section 4.18 also currently states that in the case of traumatic injuries of static character (*i.e.,* amputations, fractures, etc.) an extra-schedular rating will require a finding of continuous unemployability from either the date of the trauma or the date the disability stabilized. Exceptions are allowed if employment is ''occasional, intermittent, tryout or unsuccessful.'' We believe that even when the level of disability has been stable for an extended period, it is possible for unusual individual circumstances to develop at any time that could cause the effect of service-connected disabilities to be more severe than they are in the average person. Accordingly, we propose to delete the requirement for a finding of continuous unemployability from the date of traumatic injury or stabilization of such injury.

The current § 4.18 further states that when inability of the individual to engage in substantially gainful employment for pension purposes has been established based on combined service-connected and non-service-connected disabilities, and the service-connected disability has increased in severity, the rating activity must determine whether the veteran is unemployable under the provisions of § 4.16. 38 CFR 3.103(a) requires VA as a matter of policy ''to render a decision which grants every benefit that can be supported in law.'' Because VA's policy as stated in § 3.103(a) already requires consideration of a total unemployability rating under the circumstances in question, that portion of § 4.18 is unnecessary and we propose to delete it. In light of all these factors, we propose to delete § 4.18 in its entirety.

Section 3.321 is currently titled ''General rating considerations.'' We propose to retitle this section ''General rating principles'' to more accurately reflect the content. The current § 3.321(a), Use of rating schedule, states that the Schedule for Rating Disabilities will be used for evaluating the degree of disability in veterans' claims and repeats provisions of § 4.1 stating that the Rating Schedule will represent the average impairment in earning capacity resulting from disability. We propose to eliminate the redundant language and simply state that in claims for benefits, disabilities will be rated under the Schedule for Rating Disabilities, 38 CFR part 4.

Section 3.321(b), currently titled ''Exceptional cases,'' contains separate paragraphs referring to extra-schedular evaluations for compensation and pension and the effective dates for such evaluations. Much of this material is stated elsewhere in the proposed regulations. (*See* § 4.16 Total disability rating for compensation based on inability of the individual to engage in substantially gainful employment; § 4.17 Permanent and total disability rating for pension purposes; *see also* current § 4.1 and § 3.400 (governing effective dates).)

We propose to rewrite § 3.321 to provide separate paragraphs addressing (1) extra-schedular ratings where the percentage rating provided for a specific disability under the Schedule for Rating Disabilities does not adequately reflect the actual limitation imposed by the service-connected disability or disabilities in an individual case, and (2) extra-schedular ratings based on an individual's inability to engage in substantially gainful employment.

We propose to title § 3.321(b) ''Extra-schedular ratings in unusual cases'' and to state that in unusual cases, if in the judgment of the rating activity, the percentage rating provided for specific disability by the Schedule for Rating Disabilities does not adequately reflect the actual limitations imposed upon that individual by service-connected disabilities, the rating activity will prepare an extra-schedular rating for the approval of the Director of the Compensation and Pension Service. We propose to require that the rating specify the unusual limitations and the percentage rating that in the judgment of the rating activity adequately reflects those limitations in order to clearly establish the reasons and bases for an extra-schedular rating. The current § 3.321(b) reserves approval authority to either the Under Secretary for Benefits or the Director of the Compensation and Pension Service. The Director of the Compensation and Pension Service, who provides technical expertise and advice to the Under Secretary for Benefits on a wide variety of compensation and pension issues, is well qualified to exercise this authority in an objective and impartial manner. Further, there is no need to elevate these determinations to the Under Secretary for Benefits. Therefore, we propose that the Director of the Compensation and Pension Service will have the sole authority to approve extra-schedular ratings in such cases. However, we also propose to state in this paragraph that, in cases under appeal to BVA, the authority to approve an extra-schedular rating extends to BVA. This is consistent with the previously explained provisions of proposed §§ 4.16 and 4.17.

We propose to title § 3.321(c) ''Extra-schedular ratings based on an individual's inability to engage in

substantially gainful employment'' and state that the rating activity will prepare an extra-schedular rating in accordance with the standards and procedures provided in § 4.16 or § 4.17.

The current § 3.321(c), titled ''Advisory opinion,'' states that if the application of the schedule or propriety of an extra-schedular rating is questionable in a particular case, the field station may submit that case to Central Office for advisory opinion. This is a statement of internal agency procedure and does not affect any rights or obligations of claimants. In our opinion, it is inappropriate to include this provision in a regulation and we propose to delete it.

Section 3.340 is currently titled ''Total and permanent total ratings and unemployability.'' We propose to retitle this section ''Miscellaneous provisions pertaining to ratings based on an individual's inability to engage in substantially gainful employment,'' eliminate unnecessary paragraphs, and consolidate into § 3.340 miscellaneous provisions pertaining to inability of the individual to engage in substantially gainful employment currently contained in § 3.341 ''Total disability ratings for compensation purposes.'' We propose to delete §§ 3.341 and 3.342.

The paragraphs we propose to eliminate in § 3.340 are paragraph (a) ''Total disability ratings''; paragraph (a)(1) ''General''; paragraph (a)(2) ''Schedule for rating disabilities''; paragraph (a)(3) ''Ratings of total disability on history''; and paragraph (b) ''Permanent total disability.'' These paragraphs essentially repeat or would be superseded by the provisions outlined in proposed §§ 4.16 and 4.17 pertaining to extra-schedular ratings for compensation and pension claims based on inability of the individual to engage in substantially gainful employment. We propose to retain § 3.340(c) ''Insurance ratings'' without change, except to add an authority citation following it.

We propose to move § 3.341(b) ''Incarcerated veterans,'' and § 3.341(c) ''Program for vocational rehabilitation,'' to § 3.340 and to redesignate those paragraphs as § 3.340(a) and (b), respectively. We also propose to eliminate as redundant § 3.341(a) ''General,'' which addresses extra-schedular total ratings.

We propose to delete § 3.342 in its entirety. The current § 3.342(a) states that permanent and total ratings for pension purposes are authorized for disabling conditions not the result of the veteran's own willful misconduct whether or not they are service-connected, and the current § 3.342(b)(1) states that disability pension will be authorized for congenital, developmental, hereditary or familial conditions. We propose to delete both of these paragraphs as unnecessary since they merely repeat provisions for permanent and total disability ratings contained in proposed § 4.17(e).

The current § 3.342(b)(2) contains separate provisions that relate to substantive determinations of permanence and to the effective dates of determinations of permanence. The current § 3.342(b)(2) states, for example, that permanence will be presumed for active pulmonary tuberculosis after six months' hospitalization without improvement, and may be presumed after six months' hospitalization without improvement for other types of disabilities requiring hospitalization for indefinite periods. It also states that the effective date of a determination of permanence will be the date of hospital admission in certain circumstances, such as when a ''waiting period'' is required to determine if a condition is permanent. We propose to delete the sentences in § 3.342(b)(2) that relate to both of these issues. In our judgment, it is preferable to make decisions regarding permanence of disability using the uniform ''reasonably certain to continue'' standard in proposed § 4.17(a)(3) and to require that the effective dates of all such decisions be governed by the uniform effective date provisions of § 3.400(b)(1).

Section 3.342(b)(3) relates to the question of permanence of disability if a veteran is under the age of 40. We also propose to delete this provision. In our judgment, stating that it must be reasonably certain that the disability will continue throughout the veteran's lifetime is sufficient to assure that determinations of permanence will be based on this uniform standard, making additional specifications relating to the veteran's age unnecessary.

Section 3.342(c) is entitled ''Temporary program of vocational rehabilitation training for certain pension recipients.'' Under 38 U.S.C. 1524, temporary vocational rehabilitation eligibility was provided for veterans who were awarded pension during the program period, or those who applied for vocational training under the provisions of this temporary program. The program period, which began on February 1, 1985, and ended on December 31, 1995, has now expired; therefore, § 3.342(c) is unnecessary and we propose to delete it.

Section 3.400(b)(1)(ii)(B), concerning effective dates in disability pension claims filed on or after October 1, 1984, contains a cross-reference to § 3.342(a). Since we propose to delete paragraph § 3.342 in its entirety, we also propose to delete this cross-reference.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this rule would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Pensions, Veterans.

38 CFR Part 4

Disability benefits, Pensions, Individuals with disabilities, Veterans.

Approved: May 25, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR parts 3 and 4 are proposed to be amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. Section 3.321 is revised to read as follows:

§ 3.321 General rating principles.

(a) *Use of rating schedule.* In claims for benefits administered by the Department of Veterans Affairs, disabilities must be rated under the Schedule for Rating Disabilities, part 4 of this chapter.

(**AUTHORITY:** 38 U.S.C. 1155)

(b) *Extra-schedular ratings in unusual cases.* If, in the judgment of the rating activity, there are unusual circumstances which cause the percentage rating provided for specific disability by the Schedule for Rating Disabilities to inadequately reflect the actual limitations imposed upon an individual by the service-connected disability or disabilities, the rating activity will prepare an extra-schedular rating for the approval of the Director of the Compensation and Pension Service. The extra-schedular rating must include a full description of the unusual circumstances that warrant an extra-schedular rating and state what rating in the judgment of the rating activity is commensurate with the impairment in earning capacity due exclusively to the service-connected disability or disabilities. In a case under appeal to the Board of Veterans' Appeals, the Board is authorized to assign an extra-schedular rating under this section.

(c) *Extra-schedular ratings based on an individual's inability to engage in substantially gainful employment.* If in the judgment of the rating activity a veteran is unable to engage in substantially gainful employment because of disability but does not meet the requirements for a total rating under the Schedule for Rating Disabilities, the rating activity will prepare a rating assigning an extra-schedular total rating in accordance with the standards and procedures provided in § 4.16 or § 4.17 of this chapter. The extra-schedular rating must include a full description of the unusual circumstances that warrant an extra-schedular rating and the factors that in the judgment of the rating activity prevent the veteran from engaging in substantially gainful employment.

(**AUTHORITY:** 38 U.S.C. 501(a), 512(a), 1110, 1131, 1521(a))

Cross-references: Total disability ratings for compensation based on an individual's inability to engage in substantially gainful employment. See § 4.16. Permanent and total disability ratings for pension purposes. See § 4.17.

3. Section 3.340 is amended by:

a. Revising the section heading.

b. Removing paragraphs (a) and (b).

c. Adding an authority citation at the end of the section.

The revision and addition read as follows:

§ 3.340 Miscellaneous provisions pertaining to ratings based on an individual's inability to engage in substantially gainful employment.

* * * * *

(**AUTHORITY:** 38 U.S.C. 501(a), 1110, 1131, 1502(a))

§ 3.341 [Amended]

4. In § 3.341, paragraphs (b) and (c) and their authority citations are redesignated as paragraphs (a) and (b), respectively, of § 3.340; and newly redesignated paragraph (b) is amended by removing ''an evaluation'' and adding, in its place, ''a rating'.

§ 3.341 [Removed]

5. Section 3.341 is removed.

§ 3.342 [Removed]

6. Section 3.342 is removed.

7. Section 3.343 is amended by:

a. In paragraph (c)(1), in the first sentence, removing ''In'' and adding, in its place, ''Unless the rating is replaced by a total schedular rating, in''.

b. Revising the authority citation at the end of paragraph (c)(1).

The revision reads as follows:

§ 3.343 Continuance of total disability ratings.

* * * * *

(c) * * *

(1) * * *

(**AUTHORITY:** 38 U.S.C. 1155, 1718(f), 5104, 5112)

* * * * *

§ 3.400 [Amended]

8. Section 3.400(b)(1)(ii)(B) is amended by removing the last sentence.

PART 4—SCHEDULE FOR RATING DISABILITIES

Subpart A—General Policy in Rating

9. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155, unless otherwise noted.

10. Section 4.15 is revised to read as follows:

§ 4.15 Total disability ratings.

Although ratings under this part are based on the average impairment in earning capacity resulting from disease or injury, it is the policy of the Department of Veterans Affairs to assign a total rating in any case where physical or mental disability renders an individual veteran unable to engage in substantially gainful employment. For purposes of compensation, the inability to engage in substantially gainful employment must be solely due to service-connected disability. For purposes of pension, the inability to engage in substantially gainful employment must be due to permanent disability.

(**AUTHORITY:** 38 U.S.C. 1155, 1502)

Cross-references: § 4.16 Total disability rating for compensation based on an individual's inability to engage in substantially gainful employment; § 4.17 Permanent and total disability rating for pension purposes; and § 3.321 General rating principles.

11. Section 4.16 is revised to read as follows:

§ 4.16 Total disability rating for compensation based on an individual's inability to engage in substantially gainful employment.

(a) If a veteran's service-connected disabilities do not meet the requirements for a total rating under the provisions of this part, VA will nevertheless assign a total rating based on these disabilities, provided that the veteran is unable to engage in substantially gainful employment solely because of the service-connected disabilities. A subsequent total schedular rating based on service-connected disabilities cancels an existing rating based on inability to engage in substantially gainful employment.

(b) A total rating based on inability to engage in substantially gainful employment encompasses all service-connected disabilities in existence at the time the rating is assigned. A total schedular rating for any service-connected disability or any combination of service-connected disabilities precludes the assignment of a total rating based on individual unemployability due to service-connected disabilities.

(c) If the veteran is employed, regardless of the nature, duration and regularity of employment activity, VA will consider income from employment that is more than twice the Maximum Annual Pension Rate for a veteran with no dependents under 38 U.S.C. 1521(b) (as increased under 38 U.S.C. 5312(a)) to

be conclusive evidence that the veteran is engaged in substantially gainful employment.

(d) VA will base a determination as to whether a veteran is unable to engage in substantially gainful employment due to service-connected disability or disabilities upon the veteran's ability to perform the activities normally required for substantially gainful employment and the veteran's ability to engage in such activities with the regularity and for the duration normally required for substantially gainful employment. In making such a determination, VA will require:

(1) Medical evidence which describes the nature, frequency, severity and duration of symptoms of the service-connected disabilities and the extent to which the veteran's ability to perform activities normally required for substantially gainful employment is limited solely due to service-connected disabilities; and

(2) Evidence of unusual limitations imposed by service-connected disabilities, such as the nature and unusual frequency of hospitalizations or other required treatment, unusual effects of required medication, etc.

(e) In determining whether a veteran is entitled to a total rating for service-connected disability or disabilities based on inability to engage in substantially gainful employment, VA will disregard:

(1) Non-service-connected disabilities;

(2) Age;

(3) The veteran's training or lack thereof, unless the evidence establishes that the service-connected disability or disabilities would impede further training;

(4) The state of the economy in the veteran's community; and

(5) If applicable, the fact that the veteran's previous employment has been eliminated due to such factors as technological advances or employer relocation.

(f) Authority to assign ratings under this section is assigned as follows:

(1) If a veteran has a service-connected disability rated at 60 percent or more or two or more service-connected disabilities resulting in a combined rating of 60 percent or more, the rating activity will assign a total rating under this section if the veteran is unable to engage in substantially gainful employment due to service-connected disability.

(2) If a veteran's disabilities do not meet the percentages set out in paragraph (f)(1) of this section but, in the judgment of the rating activity, the veteran is unable to engage in substantially gainful employment due to service-connected disability, the rating activity will prepare a total rating under this section and submit it for the approval of the Director of the Compensation and Pension Service.

(3) In a case under appeal to the Board of Veterans' Appeals, the Board is authorized to assign a total rating under this section.

(g) *Definitions.* For purposes of this section:

(1) The term *substantially gainful employment* means any work generally done for pay or profit that the veteran is able to perform with sufficient regularity and duration to provide a reliable source of income.

(2) The term *activities normally required for substantially gainful employment* means both:

(i) *Exertional activities,* including, but not limited to, the ability to sit, stand, walk, push, pull, use hands, reach, lift and carry; and

(ii) *Non-exertional activities,* including, but not limited to, the ability to communicate, remember, follow instructions, use judgment, adapt to changes and deal with people, including supervisors, co-workers, and the public.

(**AUTHORITY:** 38 U.S.C. 1155)

12. Section 4.17 is revised to read as follows:

§ 4.17 Permanent and total disability rating for pension purposes.

(a) For pension purposes, the rating activity will assign a permanent and total disability rating under this section provided that:

(1) The veteran has either a disability rated at 60 percent or more or two or more disabilities resulting in a combined rating of 60 percent or more;

(2) The disability or disabilities are not due to the veteran's own willful misconduct;

(3) The disability or disabilities are reasonably certain to continue throughout the veteran's lifetime; and

(4) The veteran is unable to engage in substantially gainful employment because of such disability or disabilities.

(b) If the veteran's disabilities do not meet the percentage requirements in paragraph (a)(1) of this section but, in the judgment of the rating activity, the evidence establishes that the disabilities nonetheless prevent the veteran from engaging in substantially gainful employment, the rating activity will prepare a permanent and total disability rating under this section and submit it for the approval of the Adjudication Officer or Service Center Manager. In a case under appeal to the Board of Veterans' Appeals, the Board is authorized to assign a permanent and total disability rating under this section.

(c) For purposes of this section, *substantially gainful employment* means any work generally done for pay or profit that the veteran is able to perform with sufficient regularity and duration to provide a reliable source of income.

(d) However, if the veteran is employed, regardless of the nature, duration and regularity of the employment activity, VA will consider income from employment that is more than twice the Maximum Annual Pension Rate for a veteran with no dependents under 38 U.S.C. 1521(b) (as increased under 38 U.S.C. 5312(a)) to be conclusive evidence that the veteran is engaged in substantially gainful employment.

(e) VA will base a determination as to whether a veteran is unable to engage in substantially gainful employment due to disability upon the veteran's ability to perform the activities normally required for substantially gainful employment as defined in § 4.16(g)(2) and on the veteran's ability to engage in such activities with the regularity and for the duration normally required for substantially gainful employment. In making such a determination:

(1) VA will require medical evidence which describes the nature, frequency, severity and duration of symptoms of the veteran's disabilities and the extent to which the veteran's ability to perform the activities normally required for substantially gainful employment listed in § 4.16(g)(2) is limited by the disabilities.

(2) VA will also consider:

(i) All permanent disabilities, whether service connected or non-service connected, developmental, congenital, hereditary or familial, that are not due to the veteran's own willful misconduct;

(ii) Any evidence that factors such as the veteran's age, occupational background, training or education limit the veteran's ability to learn and adapt to training necessary for employment or necessary to perform the activities normally required for substantially gainful employment listed in § 4.16(g)(2); and

(iii) Any evidence of unusual limitations imposed by the veteran's disabilities, such as the nature and unusual frequency of hospitalizations or other required treatment, unusual effects of required medication, etc.

(f) However, in determining whether a veteran is entitled to a permanent and total rating for pension purposes, VA will disregard:

(1) The state of the economy in the veteran's community; and

(2) If applicable, the fact that the veteran's previous employment has been eliminated due to such factors as

technological advances or employer relocation.

(**AUTHORITY:** 38 U.S.C. 1155, 1502)

Cross References: Pension. See § 3.3. Period of war. See § 3.2.

§ 4.17a [Removed]

13. Section 4.17a is removed.

§ 4.18 [Removed]

14. Section 4.18 is removed.

[FR Doc. 01–24272 Filed 9–28–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–70665]

Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendment.

SUMMARY: We are proposing to amend the current provisions in the standards of performance for industrial-commercial-institutional steam generating units which permit owners and operators of new steam generating units located at chemical manufacturing plants and petroleum refineries burning high-nitrogen byproduct/wastes to petition the Administrator for a site specific nitrogen oxides emission limit. The amendment extends the provisions to owners and operators of new steam generating units located at pulp and paper mills.

In the Rules and Regulations section of this **Federal Register**, we are making this amendment in a direct final rule, without prior proposal, because we view this revision as noncontroversial, and we anticipate no significant adverse comments. We have explained our reasons for this amendment in the preamble to the direct final rule.

If we receive no significant adverse comments, we will take no further action on the rule. If an adverse comment applies to an amendment, paragraph, or section of the rule, and that provision may be addressed separately from the remainder of the rule, we will withdraw only those provisions on which we received adverse comments. We will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn.

DATES: *Comments.* Submit comments on or before October 31, 2001.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by October 22, 2001, we will hold a public hearing on October 31, 2001. Persons interested in attending the hearing should call Mrs. Kelly Hayes at (919) 541–5578 to verify that a hearing will be held.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–2001–18, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–2001–18, U.S. EPA, 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. in our Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–2001–18 contains supporting information used in developing the standards and guidelines. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Combustion Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5251; facsimile number (919) 541–5450; electronic mail address *porter.fred@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–2001–18. 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 propriety information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such propriety information directly to the following address, and not to the public docket, to ensure that propriety information is not inadvertently placed in the docket: Attention: Mr. Fred Porter, U.S. EPA, c/o OAQPS Document Control Officer, 411 W. Chapel Hill Street, Room 740, Durham NC 27701. We 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, 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 information compiled in developing 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 docket contains the record in the case of judicial review. The docket number for this rulemaking is A–2001–18, which contains supporting information used in developing the standards and guidelines. 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 will be posted on the Technology Transfer Network's (TTN) policy and guidance information page *http://www/epa/gov/ttn/caaa.* 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 categories and entities that potentially will be affected by this amendment include the following:

Category	NAICS CODES	SIC CODES	Examples of potentially regulated entities
Pulp and paper	322	26	Pulp and paper mills

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that we are now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 60.41b of the rules. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Are the Administrative Requirements for This Action?

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

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 this proposed rule on small entities, small entity is defined as (1) a small business in the regulated industry which has 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; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities because it does not impose any additional regulatory requirements.

For additional information, see the direct final rule published in the Rules and Regulations section of this **Federal Register** publication.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 20, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–24074 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[TX–128–1–7466b; FRL–7067–4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Texas; Control of Emissions From Existing Hospital/ Medical/Infectious Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the Texas Plan for Designated Facilities and Pollutants (111(d) Plan) submitted by the Governor of Texas on June 2, 2000, to implement and enforce the emissions guidelines for existing hospital/medical/ infectious waste incinerators (HMIWI).

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's HMIWI 111(d) Plan as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will not take further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Written comments must be received by October 31, 2001.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese at (214) 665–7253.

SUPPLEMENTARY INFORMATION: This document concerns approval of the Texas 111(d) Plan for Existing Hospital/ Medical/Infectious Waste Incinerators. For further information, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

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

Dated: September 14, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 01–24214 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–7068–8]

Clean Air Act Final Approval of Operating Permits Program; State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes full approval of the operating permit program submitted by the State of Rhode Island. In the Final Rules Section of this **Federal**

Register, EPA is approving the Rhode Island Operating Permit Program as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments must be received on or before October 31, 2001.

ADDRESSES: Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA Region I, JFK Federal Building, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, (617) 918–1653.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 20, 2001.

Robert W. Varney,

Regional Administrator, EPA—New England.

[FR Doc. 01–24253 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7068–2]

Missouri: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Missouri has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Missouri. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by October 31, 2001.

ADDRESSES: Send written comments to Lisa V. Haugen, U.S. EPA Region 7, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas 66101. You can view and copy Missouri's application during normal business hours at the following addresses: Hazardous Waste Program, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102–0176, (573) 751–3176; and EPA Region 7 Library, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7877, Lisa Haugen.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at the above address and phone number.

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

Dated: September 13, 2001.

William W. Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 01–24195 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. ; I.D. 092101B]

RIN 0648–AN88

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to amend the regulations that implement the Atlantic Large Whale Take Reduction Plan (ALWTRP) to provide further protection for large whales, with an emphasis on protective measures to benefit North Atlantic right whales.

DATES: Comments on this proposed rule must be postmarked or transmitted via facsimile by 5 p.m. Eastern Standard Time, on October 31, 2001. Comments transmitted via e-mail will not be accepted.

ADDRESSES: Send comments on this proposed rule to the Chief, Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, MA 01930–2298. Copies of the Environmental Assessment can be obtained from the ALWTRP website listed under Electronic Access portion of this document. Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, progress reports on implementation of the ALWTRP, and table of the changes to the ALWTRP may be obtained by writing to Gregg LaMontagne, NMFS/Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930 or Katherine Wang, NMFS/Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702–2432.

FOR FURTHER INFORMATION CONTACT: Gregg LaMontagne, NMFS, Northeast Region, 978–281–9291; Katherine Wang, NMFS, Southeast Region, 727–570–5312; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for this proposed rule and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.nmfs.gov/whaletrp/*.

Copies of the most recent marine mammal Stock Assessment Reports may be obtained by writing to Richard Merrick, NMFS, 166 Water St., Woods Hole, MA 02543 or can be downloaded from the Internet at *http://www.nmfs.noaa.gov/prot—res/mammals/sa—rep/sar.html*. Information on disentanglement events is available on the web page of NMFS' whale disentanglement contractor, the Center for Coastal Studies, *http://www.coastalstudies.org/*.

Background

The ALWTRP was developed pursuant to the Marine Mammal Protection Act (MMPA) to reduce the level of serious injury/mortality of all whales in East Coast lobster trap and finfish gillnet fisheries. The background for the take reduction planning process and development of the ALWTRP is set out in the preamble to the proposed (62 FR 16519, April 7, 1997), interim final (62 FR 39157, July 22, 1997), final (64 FR 7529, February 16, 1999), and interim final (65 FR 80368, December 21, 2000) rules implementing the ALWTRP. Copies of these documents and supporting Environmental Assessments (EA) are available from the NMFS/Northeast Region contact in the **ADDRESSES** section of this proposed rule.

NMFS issued four biological opinions (BOs) on the multispecies, spiny dogfish, monkfish fishery management plans (FMPs) and lobster Federal regulations on June 14, 2001, in accordance with section 7 of the Endangered Species Act (ESA). The BOs concluded that all four of the fisheries jeopardized the continued existence of the North Atlantic right whale. The analysis that led to that conclusion incorporated the gear modifications in the December 2000 interim final rule that were recommended by the Northeast sub-group of the ALWTRT for Northeast gillnet and lobster trap fisheries. The reasonable and prudent alternative (RPA) in the June 14, 2001, BOs included additional gear modifications for the Northeast lobster trap fisheries and new gear modifications for the Mid-Atlantic and Southeast gillnet and lobster trap fisheries that were necessary to avoid jeopardizing the continued existence of North Atlantic right whales. The need for additional gear modifications in these fisheries had been considered by the ALWTRT, but not implemented by the December 2000 interim final rule.

Take Reduction Planning Activities in 2001

Pursuant to section 118 (f)(7)(E) and (F) of the MMPA, NMFS has reconvened the ALWTRT periodically to monitor progress of the ALWTRP and to make recommendations for improvements. During the February 2000 meeting, the ALWTRT split into sub-groups covering the Northeast, Mid-Atlantic, and Southeast Areas. The recommendations of the Northeast sub-group were addressed by the December 2000 interim final rule. The Mid-Atlantic and Southeast sub-groups met on August 25, 2000, and July 24, 2000, respectively and provided meeting summaries with recommendations to the entire ALWTRT for review. The recommendations of the Mid-Atlantic and Southeast sub-groups are addressed by this proposed rule.

The ALWTRT met on June 27 and 28, 2001, to review the elements of the RPA required by the four BOs and recommend measures that would not only satisfy the requirements of the ESA and the four BOs, but would also satisfy the requirements of the MMPA. The MMPA provides goals of reducing takes in commercial fishing operations to below the potential biological removal (PBR) level within 6 months of the ALWTRP's implementation and the achievement of the zero mortality rate goal (ZMRG) within 5 years of ALWTRP implementation. For North Atlantic right whales, these two goals are essentially the same since PBR level is defined as zero. Consequently, additional entanglement risk reduction is needed to comply with the MMPA.

This preamble describes modifications to the ALWTRP recommended by the ALWTRT, as well as other modifications NMFS deems necessary to satisfy requirements of the ESA and MMPA. Specifically, for the following areas, this proposed rule would:

(1) *Northern Inshore State Lobster Waters Area*. Remove the option for lobstermen to use line with a diameter of 7/16 in (1.11 cm) or less for all buoy line, effective January 1, 2003, as an option in the Lobster Take Reduction Technology List applicable to fishing with lobster traps in this area, and allow the use of neutrally buoyant line in all buoy lines and ground lines.

(2) *Southern Nearshore Lobster Waters Area*. Replace the Lobster Gear Technology List with the following mandatory gear modifications applicable year-round: (a) Installation of a weak link with a maximum breaking strength of 600 lb (272.4 kg) on the buoy line, and (b) installation of weak links in such a way that produces knotless ends if the weak link breaks;

(3) *Offshore Lobster Waters Area*. Reduce the maximum breaking strength of weak links at all buoys from 3,780 lb (1,714.3 kg) to 2,000 lb (906.9 kg); require the use of a weak link with a maximum breaking strength of 3,780 lb (1,714.3 kg) between the surface system (all buoys, highflyers, and associated lines) and the buoy line going to the trawl on the ocean floor; and require that fishers install weak links so that if the lines were to break, they would produce knotless ends on the line;

(4) *Gillnet Mid-Atlantic Coastal Waters Area*. Replace the Gillnet Gear Technology List with requirements to install buoy line weak links with a maximum breaking strength of 1,100 lb (498.8 kg) and net panel weak links with a maximum breaking strength of 1,100 lb (498.8 kg) in the center of the floatline section on each 50–fathom net panel or every 25 fathoms on the floatline for longer panels; and require fishers to return all gillnet gear to port with their vessels, or if the gillnets are left at sea to continue fishing to secure the nets on each end with anchors that have the holding power of at least a 22–lb (10.0–kg) Danforth-style anchor; and

(5) *Southeast U.S. Restricted Area*. Prohibit straight sets of gillnets at night between November 15 and March 31 in the Southeast U.S. Restricted Area, unless the exemption under § 229.32 (f)(3)(iii) applies.

In addition, NMFS proposes the following changes to the Take Reduction Technology Lists:

(1) *For the Lobster Take Reduction Technology List*. Remove the option for fishers to use 7/16 in (1.11 cm) diameter line for all buoy lines, effective January 1, 2003, and to amend the list to provide the option that all buoy lines and ground lines be composed entirely of sinking and/or neutrally buoyant line. For the Southern Nearshore Lobster Waters Area, this rule proposes to replace the requirement to choose options from the Lobster Take Reduction Technology List with a set of specific requirements.

(2) *For the Gillnet Take Reduction Technology List*. Remove the option for fishers to use line of 7/16–in (1.11–cm) in diameter or less for all buoy lines, require installation of weak links with a maximum breaking strength of 1,100 lb (498.8 kg) in the center of the floatline of each net panel, and require that all buoy lines be composed entirely of sinking and/or neutrally buoyant line.

Changes Proposed for the Atlantic Large Whale Take Reduction Plan for Lobster Trap Gear

Northern Inshore State Lobster Waters Area

Under the proposed rule the Northern Inshore State Lobster Waters Area

would be the only area to incorporate the Lobster Take Reduction Technology List into its area-specific regulations. The ALWTRP currently incorporates a Lobster Take Reduction Technology List from which fishers must choose at least one gear option in order to reduce risk of entanglement of whales in their gear. The ALWTRT discussed, but did not reach consensus on, removal of 7/16–in (1.11–cm) diameter line from the Lobster Take Reduction Technology List, which would reduce to three the number of options available to lobster trap fishers in this area. Nevertheless, NMFS proposes to remove the option for lobstermen to use line with a diameter of 7/16 in (1.11 cm) or less for all buoy line, effective January 1, 2003. For rationale, see the discussion under the Lobster Take Reduction Technology List heading later in this proposed rule. This proposed rule also would add the use of neutrally buoyant buoy lines and ground lines as options in the Lobster Take Reduction Technology List. See the discussion under ''Lobster Take Reduction Technology List'' for the rationale and justification of this proposed change.

Southern Nearshore Lobster Waters Area

The Southern Nearshore Lobster Waters Area encompasses both the state- and Federal-water portions of EEZ Nearshore Management Areas 4 and 5 (as defined in the American lobster fishery regulations at part 697 of this title), excluding the waters currently exempted from regulation under the ALWTRP. This definition was adopted in the December 2000 interim final rule. To further reduce the risk of entanglement, NMFS is proposing, upon the recommendation of the Mid-Atlantic sub-group, to replace the Lobster Take Reduction Technology List with the following mandatory gear modifications applicable year-round for the Southern Nearshore Lobster Waters Area: (1) installation of a buoy line weak link with a maximum breaking strength of 600 lb (272.4 kg); and (2) installation of weak links in such a way that produces knotless ends if the weak link breaks. The weak link at the buoy increases the likelihood that a line sliding through a whale's mouth will break away quickly at the buoy before the whale begins to thrash and become more entangled. It is also expected to reduce risk in cases where a whale gets line wrapped around an appendage at a point close to the buoy. The weak link would only be effective when sufficient resistance is created by the weight and drag of the gear to exceed the breaking strength of the weak link.

The required 1,100–lb (489.8–kg) breaking strength for weak links in the buoy line in the 1997 interim final rule was recommended by the Gear Advisory Group (GAG) at its original meeting in June 1997 as a ''best available practice'' that could be used in the gear technology lists. The proposed buoy line weak link breaking strength of 600 lb (272.4 kg) for Southern nearshore lobster trap gear is based on information collected by the gear research program that suggests that the 1,100–lb (498.8–kg) breaking strength required in a previous rule is higher than necessary for the nearshore lobster trap/pot fisheries. Based on this information, the breaking strength of buoy line weak links in Northeast waters was reduced from 1,100 lb (498.8 kg) to 600 lb (272.4 kg) in the December 2000 interim final rule. The proposed rule would require installation of buoy weak link with a maximum breaking strength of 600 lb (272.4 kg), which would make nearshore lobster gear regulations consistent throughout the range of the ALWTRP.

The proposed rule would require installation of weak links in such a way that produces knotless ends in the line if the weak link were to break, because a weak link that breaks but leaves a knot or other obstruction at the end of the line leading down to the gear could become lodged in the whale's baleen or around an appendage. Observations of North Atlantic right whale jaw anatomy suggest that even a knotless line would be difficult to pull through a whale's mouth when the jaw is clamped shut. However, testing on baleen obtained from whale carcasses has shown that knots further hinder the passage of line through the baleen.

Offshore Lobster Waters Area

The December 2000 interim final rule required that fishers reduce the risk of entanglements by installing a buoy line weak link with a maximum breaking strength of 3,780 lb (1,714.3 kg) in lobster trap gear set in the offshore lobster fishery area and ensuring that if the weak link were to break, it would produce a knotless end. In light of cooperative research between NMFS and the offshore lobster fishing industry using load cells and based on lessons learned from a recent whale entanglement, this proposed rule would reduce the maximum breaking strength of weak links at all buoys from 3,780 lb (1,714.3 kg) to 2,000 lb (906.9 kg); require the use of weak links with a maximum breaking strength of 3,780 lb (1,714.3 kg) between the surface system (all buoys, highflyers, and associated lines) and the buoy line going to the trawl on the ocean floor; and require that fishers install weak links so that if they were to break, they would produce knotless ends on the line.

The current required maximum breaking strength of 3,780 lb (1,714.3 kg) for the offshore lobster buoy line weak links is the same as that specified in the Lobster Take Reduction Technology List in the February 1999 final rule. The option for fishers to choose to use a weak link with a maximum breaking strength of 3,780 lb (1,714.3 kg) was developed based on a recommendation from the GAG at its June 1997 meeting for 0.5 inches (1.27 cm) polypropylene line, which has a breaking strength of approximately 3,780 lb (1,714.3 kg). Initial testing conducted by NMFS suggests that this breaking strength could be lowered for these gear types while still allowing the gear to be effectively used. The ALWTRT requested further testing for extreme conditions and that information was presented at the June 2001 ALWTRT meeting.

Load cells were deployed with the assistance of the offshore lobster industry, which measured and recorded actual strain values on buoy systems. These deployments collected 310 days of data from six locations ranging from the Gulf of Maine to Hydrographer Canyon. Deployments took place throughout all four seasons from March of 2000 through July of 2001. The highest maximum strain was 535 lb (243 kg) on a deployment in Hydrographer Canyon and the lowest maximum strain was 190 lb (86 kg) on an offshore deployment. The average maximum strain across all six buoy systems for a total of 310 days was 397 lbs (180 kg) The ALWTRT discussed the data associated with four of the six deployments. The consensus recommendation by the ALWTRT was for a weak link with a maximum breaking strength of 2,000 lb (906.9 kg). The ALWTRT recommended, and NMFS proposes, a 2,000 lb maximum breaking strength because it is approximately three times the measured strain of 535 lb (243 kg) and, as such, provides a reasonable measure of safety that would help prevent gear from being lost at sea during the worst conditions. Ghost gear, or gear lost at sea, presents an additional entanglement risk to whales, other marine mammals, and fish. Based on these load cell data, the need to prevent gear from being lost at sea, and the recommendation of the ALWTRT, NMFS proposes to lower the current breaking strength from 3,780 lb (1714.3 kg) to 2,000 lb (906.9 kg) for weak links at the buoy in the offshore lobster waters.

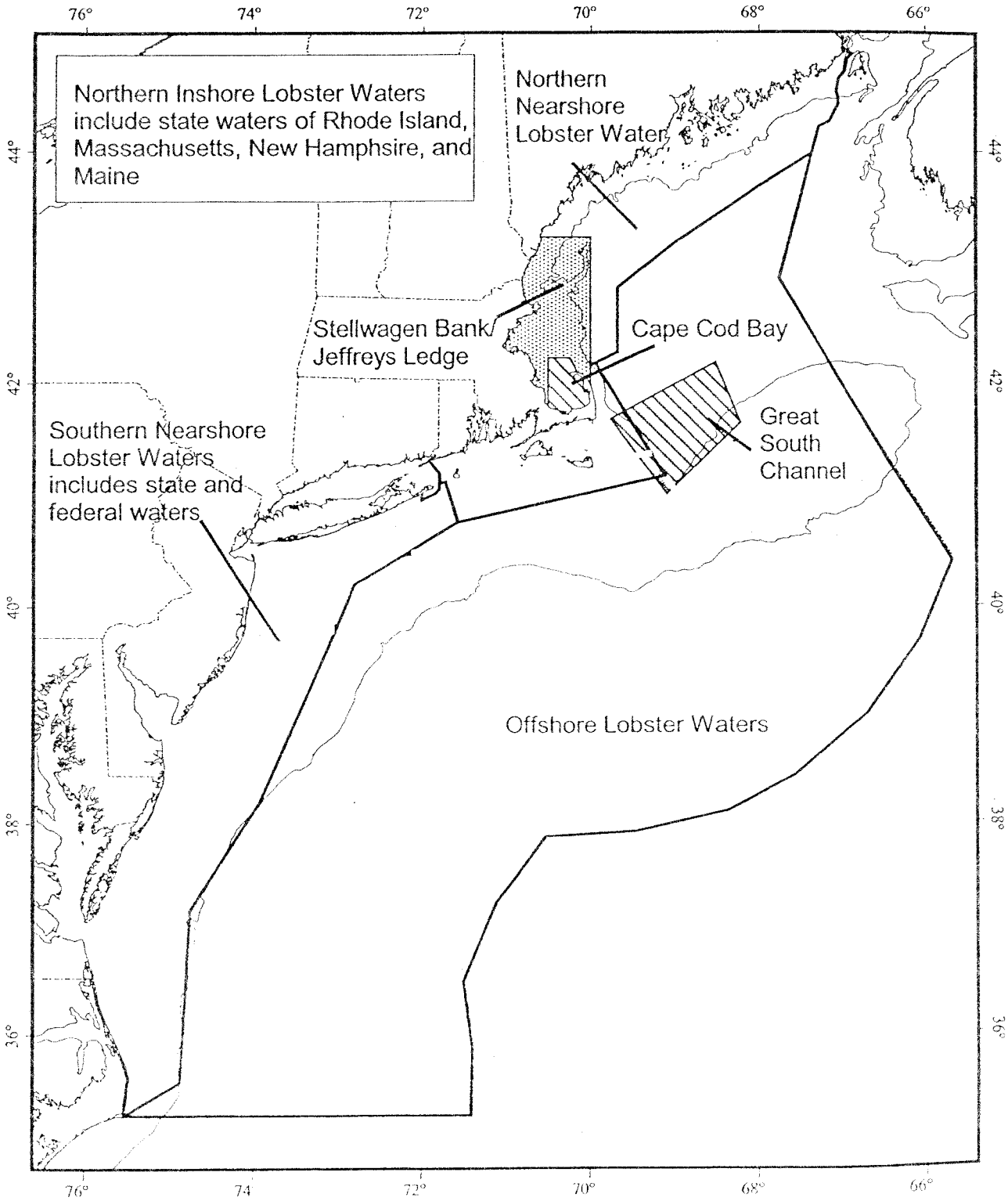
NMFS proposes to require installation of a weak link with a maximum breaking strength of 3,780 lb (1,714.3 kg) in offshore lobster trap gear between the surface system (all surface buoys, the high flyer, and associated lines) and the buoy line leading down to the trawl, based on the analysis of gear that had recently entangled a whale. On July 20, 2001, a whale watch vessel reported an entangled whale in the Jeffreys Ledge area off the coast of New Hampshire. The whale was identified as a 7-year-old male North Atlantic right whale, catalog #2427, and the Center for Coastal Studies disentangled the animal very soon after locating it. The recovered gear was identified in the fishery interaction gear analysis process as offshore lobster gear set in offshore lobster waters. The owner was contacted to determine when and where the gear was set, and how it was configured in an effort to better understand the entanglement process.

The NMFS analysis of this entanglement and the recovered gear has resulted in additional proposed gear modifications for lobster trap gear used in the offshore lobster waters, which are detailed in this proposed rule. The gear recovered during the disentanglement and the description of the owner's typical gear configuration indicates that the surface system was separated from the buoy line going to the trawl by a weak link consisting of a 1 fathom-long section of 1/2 in (1.27 cm) polypropylene line with a breaking strength of 3,780 lb (1,714.3 kg) or less. It appears that the animal may have become entangled in the surface system and exerted sufficient strain to part the 1/2–in (1.27–cm) polypropylene weak link. The presence and location of this weak link in the gear may have prevented the animal from becoming further entangled in the buoy line below the weak link.

NMFS' rationale for proposing to require lobstermen fishing in the offshore lobster waters area to install weak links in such a way that produces knotless ends in the line if the weak link were to break is the same as the rationale described in the previous section on the Southern Nearshore Lobster Waters Area.

Figure 1 shows the boundaries for the regulated lobster waters. These boundaries were effective February 21, 2001, as a result of an interim final rule published on December 21, 2000.

ALWTRP Regulated Lobster Waters



Effective February 21, 2001

Changes Proposed for the Atlantic Large Whale Take Reduction Plan for Gillnet Gear

No additional changes were recommended for gillnet fishers in Northeastern waters. However, the ALWTRT Mid-Atlantic and Southeast sub-groups recommended in 2000, that NMFS amend the ALWTRP restrictions applicable to gillnet fisheries in their respective areas.

Mid-Atlantic Coastal Waters

The Mid-Atlantic Coastal Waters Area includes coastal waters from the south shore of Long Island to the border between North Carolina and South Carolina and out to the long. 72° 30′ W. as defined in 50 CFR 229.2. The ALWTRT Mid-Atlantic sub-group recommended reducing entanglement risk by replacing the Gillnet Take Reduction Technology List, from which gillnetters must choose one gear option to abide by, with a requirement that gillnetters install buoy line weak links with a maximum breaking strength of 1,100 lb (498.8 kg), install net panel weak links with a maximum breaking strength of 1,100 lb (498.8 kg) in the center of the floatline on each net panel, and return all gillnet gear to port with their vessels or, if the gillnets are left at sea to continue fishing, secure the nets with anchors that have the holding power of at least a 22–lb (10.0–kg) Danforth-style anchor.

The proposed changes were identified by NMFS following ALWTRT sub-group meetings in 2000 and a full meeting in 2001 of the ALWTRT. There was no consensus recommendation on 600–lb (272.4–kg) versus 1,100-lb (498.8-kg) buoy and floatline weak links for anchored gillnets from the full ALWTRT meeting in June 2001. The weak link breaking strength is the same as the buoy line and net panel weak link options in the Gillnet Take Reduction Technology List in the February 1999 final rule. NMFS believes that a 1,100–lb (498.8–kg) maximum breaking strength would be consistent with the buoy and floatline weak links breaking strength currently required in the Northeast anchored gillnet fisheries. NMFS does not believe there is sufficient information available to implement a 600–lb (272.4–kg) breaking strength in the Mid-Atlantic while utilizing 1,100 lb (498.8 kg) in the Northeast. NMFS will investigate the utility of lowering this breaking strength for both the Northeast and the Mid-Atlantic through further gear research efforts.

The placement of the net panel weak link at the center of the floatline for each panel is a change from the February 1999 final rule, which required that the weak link be placed on the floatline between net panels. Weak links in the center of each 50–fathom (300–ft or 91.4–m) net panel floatline, or every 25 fathoms for longer nets, are expected to break when a whale exerts force in opposition to the resistance provided by the anchoring system and weight of the gear. The weak link would allow the floatline to part and unravel from the net mesh when a whale encounters any section of the gear. The net mesh would then be free of the stronger floatline, and a large whale would have a better chance of breaking free of the weaker monofilament mesh.

The net panel weak links are required in the center of each net panel floatline, rather than between net panels as was specified for the gillnet technology list option in the February 1999 final rule. The ALWTRT recommended changing the placement of the net panel weak links because a weak link placed at the bridle might cause a failure at a point in the gear which is critical for safe hauling of the gear and placement in the center of the net panel would reduce chances of lost gear. Furthermore, in cases where a whale hits the gear near a weak link in the floatline, a breaking point within that floatline would maximize the chance for the whale to break away from the net before becoming entangled in the mesh. Once a whale becomes entangled in the mesh, there is a greater chance that other parts of the gear including the heavier lines will contribute to the seriousness of the entanglement. This is also based on observations of the flexibility and mobility of net strings along the ocean floor, where the nets become bowed with the current rather than remain in a rigid straight line. A whale exerting force on a net string would move the net before breaking it. During that period of movement, a net without weak links is likely to wrap along either side of the whale. With a weak link at the bridle, which is much shorter than the net panel sections, there is a greater chance that a whale would come away wrapped in sections of the net.

The net panel weak link requirement contained in this proposed rule specifies a breaking strength of no more than 1,100 lb (498.8 kg). This breaking strength is a significant reduction from the floatline strength used historically in sink gillnet gear, which ranges from 1,700–lb (771.8–kg) to 2,500–lb (1,135–kg). The use of weak links is not expected to hinder retrieval of the gear, as gillnetters would be able to haul their gear by the lead line in each net panel and the full-strength bridles between the net panels.

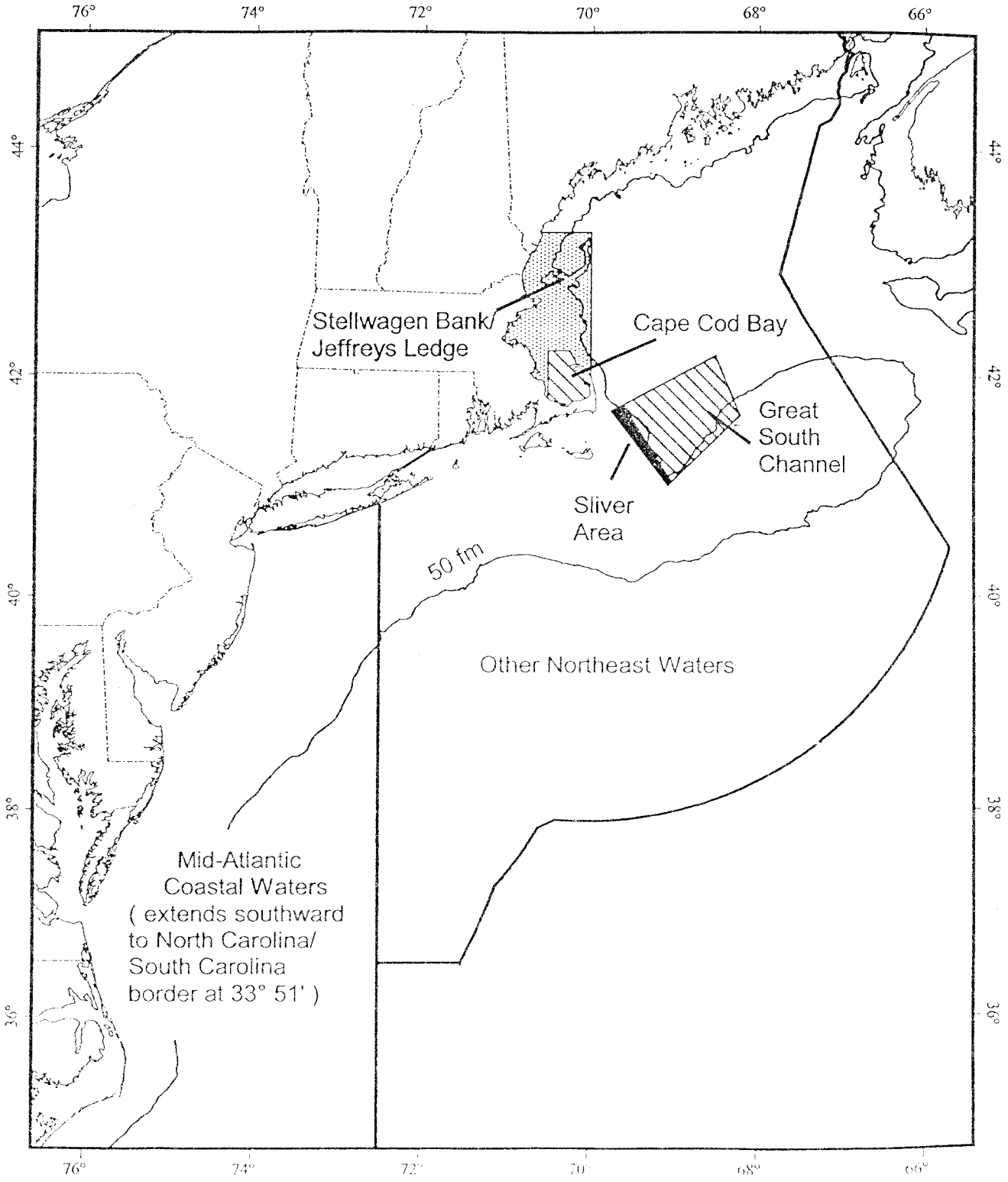
When a whale encounters a net panel, the pressure exerted by the whale will not necessarily be directly at the weak link, and the part of the floatline containing the weak link will not necessarily be in the whale's mouth. Therefore, these weak links do not need to be knotless.

The anchoring requirement was intended to create sufficient resistance to allow the net panel weak links to break when at least 1,100 lb (498.8 kg) of force is exerted by a whale on net strings of 20 or fewer net panels. The anchoring system for gillnet gear not returning to port with the vessel in the Mid-Atlantic Coastal Waters was recommended by the subgroup to allow sufficient resistence such that a whale can part the net regardless of the number of net panels.

At this time, information is not available on the minimum breaking strength, maximum number of weak links, and the location along the floatline of those weak links that will allow the gear to fish and provide some measure of protection for entangled animals. The ALWTRT requested further testing on these parameters, and the NMFS Gear Research Team has various weak link strength and floatline configurations out with commercial fishers in an attempt to assess measures available to further reduce risk to whales.

Figure 2 shows the boundaries for the regulated gillnet waters in the Northeast and Mid-Atlantic waters. These boundaries were effective February 21, 2001, as a result of an interim final rule published on December 21, 2000.

ALWTRP Regulated Gillnet Waters



Effective February 21, 2001

Southeast U.S. Restricted Area

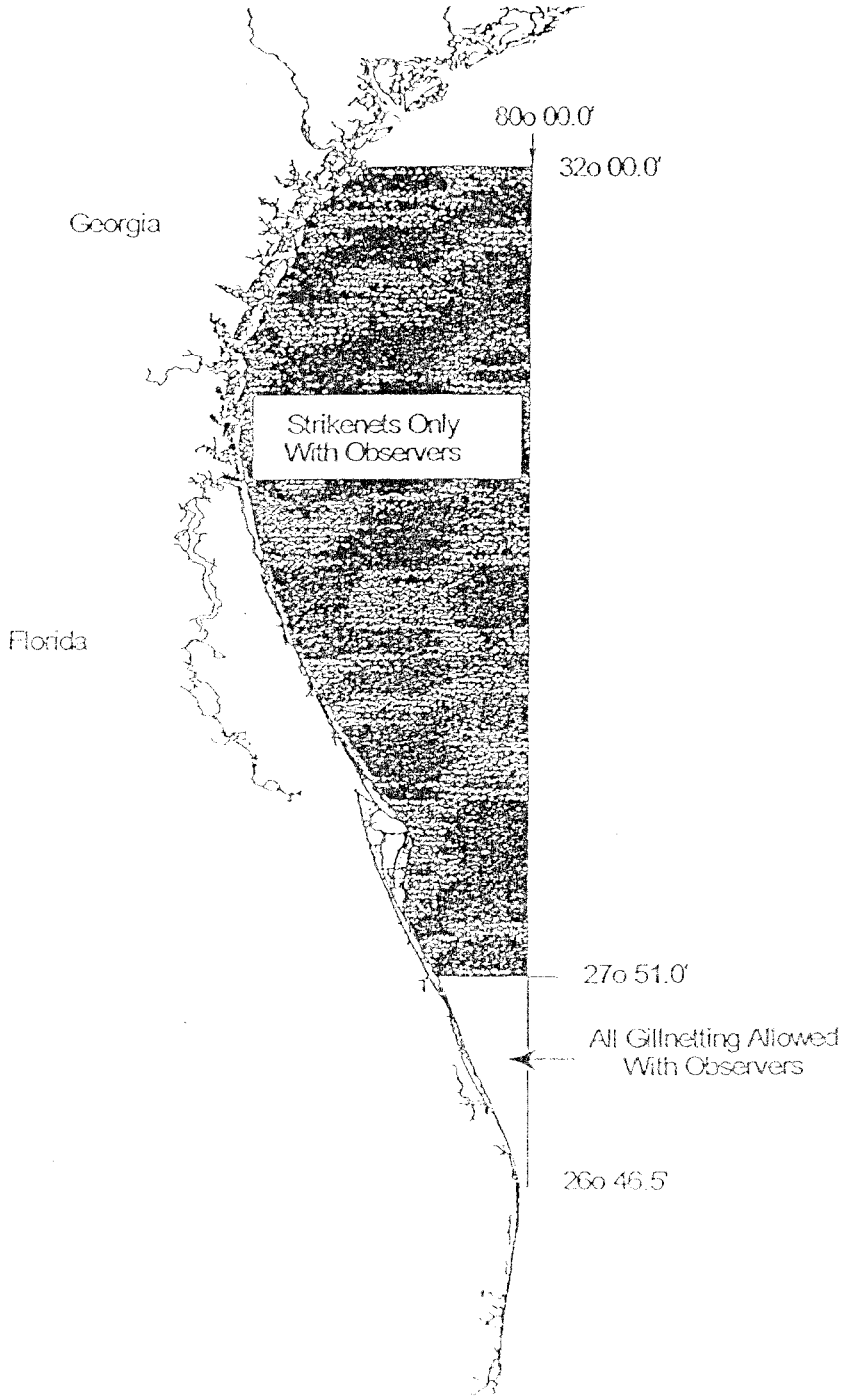
The ALWTRT Southeast sub-group discussed activities associated with the ALWTRP at their July 2000 meeting. Many of the items discussed or recommended involved measures not requiring regulatory action. The Southeast sub-group did discuss two specific regulatory items, applying Northeast gear marking requirements to the Southeast and prohibiting straight sets at night at certain times.

There was limited discussion on applying Northeast gear marking requirements to the Southeast at the June 2001 ALWTRT meeting. However, subsequent information from the NMFS Northeast Regional Office and Southeast Regional Office indicates that the current gear marking system is performing its required function. In addition, applying the Northeast gear marking requirements in the Southeast may conflict with current gear marking requirements under an existing FMP. NMFS intends at this time to leave the existing gear marking requirement in place for the Southeast U.S. Observer Area. This system is more elaborate than the Northeast gear marking scheme and, as such, may yield more information than the simplified scheme employed by the December 2000 interim final rule for the Northeast.

The second of the two regulatory items discussed by the Southeast sub-group was the prohibition of straight sets of gillnets at night between November 15 and March 31 in the Southeast U.S. Restricted Area, unless the exemption under § 229.32 (f)(3)(iii), which relates to shark gillnets, applies. A straight set is the deployment of a gillnet in a straight line, as opposed to the deployment of a gillnet in a circular manner, for example around a school of fish. Straight sets at night pose a higher level of risk of entanglement to whales, because fishers are not as actively involved with straight set gear and whales are much more difficult to spot at night due to darkness.

Figure 3 shows the boundaries for the regulated shark gillnet waters in the southeastern waters. These boundaries were effective April 1, 1999, as a result of an interim final rule published on February 16, 1999.

ALWTRP Regulated Shark Gillnet Waters



November 15 to March 31 Shark Gillnetting Restrictions

Proposed Changes to the Lobster and Gillnet Take Reduction Technology Lists

Lobster Take Reduction Technology List

The ALWTRT discussed, but did not reach consensus on, the removal of 7/16 in (1.11 cm) diameter line from the Lobster Take Reduction Technology List, which would reduce to three the number of options that lobster trap fishers in this area have to modify their gear to reduce risks of entanglement. Although the ALWTRT did not reach consensus, NMFS proposes to remove the option to utilize 7/16 in (1.11 cm) line for all buoy lines. The option of using line of a diameter of 7/16 in (1.11 cm) or less was previously adopted as part of the ALWTRP based upon the breaking strength of 7/16 in (1.11 cm) line. This strategy assumed that using a line with a consistent diameter would result in a consistent breaking strength. However, experience has demonstrated that the breaking strength of 7/16 in. (1.11 cm) line can vary dramatically and, therefore, is not an appropriate entanglement risk reduction tool. Since the December 2000 interim final rule was published, weak links have been developed and are now available commercially. These weak links, or alternative techniques (such as swivels, hog rings, and rope stapled to a buoy stick) may provide a more reliable and consistent breaking strength than using line diameter to predict breaking strength.

However, the ALWTRT is split between sub-groups on this issue. The Mid-Atlantic sub-group recommended removing the 7/16–in (1.11–cm) line option, while some members of the Northeast sub-group expressed concern regarding the loss of the 7/16–in (1.11–cm) line option for the northern inshore lobster waters area. They are concerned that weak links may not be standing up well to inshore conditions and may be showing signs of abrasion and weakening with only a single season of use. In light of this concern, NMFS proposes to delay the elimination of the 7/16–in (1.11–cm) line option for the Lobster Take Reduction Technology List until January 1, 2003, to allow additional time for the improvement and study of weak links or the development of alternatives to weak links that can meet the unique physical requirements of the northern inshore state lobster waters area. The NMFS gear research team is available to provide support in the development of alternative methods to achieve the purpose of the weak link requirement.

NMFS proposes to allow the use of neutrally buoyant line in buoy lines and ground lines as a risk reduction tool because the existing option to use sinking line for all groundlines and buoy lines is not operationally feasible in areas of hard rocky bottom. The neutrally buoyant line will provide more flexibility to fishers and facilitate the use of non-floating line in various bottom types.

Gillnet Take Reduction Technology List

NMFS proposes to amend the Gillnet Take Reduction Technology List by: (1) removing the option of using buoy line with a diameter of 7/16 in (1.11 cm) or less as a take reduction measure; and (2) requiring that weak links with a maximum breaking strength of 1,100 lb (498.8 kg) be installed in the center of the floatline of each net panel. The rationale for the option of using buoy line with a diameter of 7/16 in (1.11 cm) or less is the same as that presented in the discussion of proposed changes to the Lobster Take Reduction Technology List. The rationale for requiring that weak links with a maximum breaking strength of 1,100 lb (498.8 kg) be installed in the center of the floatline of each 50–fathom net panel or every 25 fathoms for longer panels is the same as that presented in the discussion of proposed changes for the Mid-Atlantic Coastal Waters Area. The rationale for allowing buoyline and ground lines to be composed of neutrally buoyant line is the same as that presented in the discussion of proposed changes to the Lobster Take Reduction Technology List.

Voluntary Measures

NMFS encourages fishers to use and maintain knot-free buoy lines. The ALWTRT initially recommended requiring knot-free buoy lines, but changed the recommendation from a mandatory measure to a voluntary measure because fishers need to repair and re-tie buoy lines frequently at sea. The knot-free buoy line concept is similar to the breakaway buoy concept, where the objective is to keep knots from becoming lodged in a whale's baleen or from contributing to the wrapping of line around an appendage.

In some cases, fishers prefer splices to knots, because splices are stronger. NMFS is recommending the use of splices wherever possible, because splices are not likely to increase entanglement threat. However, NMFS recognizes that connecting lines using a splice may not be practicable while gear is being hauled. NMFS encourages the splicing of line, as opposed to knot-tying, especially during seasonal gear overhauls or as new gear is added. Although concepts for devices to join lines quickly at sea have been proposed, none have been developed yet; therefore, there is currently no feasible way to join lines quickly other than knotting. NMFS will continue to investigate line connecting alternatives and may require further use of knotless lines in the future if a reasonable substitute for knots is developed.

Classification

This proposed rule refers to a collection-of-information requirement subject to the Paperwork Reduction Act, namely a gear marking requirement, and which has been approved by OMB under control number 0648-0364. The public reporting burden for this requirement is estimated to average .6 minutes per line. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20053 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the RPA, unless that collection of information displays a currently valid OMB Control Number.

As required by the Regulatory Flexibility Act, NMFS prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule. A summary of that IRFA follows.

The objective of this proposed rule, which would implement additional gear modifications to protect concentrations of North Atlantic right whales published pursuant to the authority of section 118 of the MMPA, is to reduce the level of serious injury to and mortality of North Atlantic right whales in East Coast lobster trap and finfish gillnet fisheries. The impacted fishing communities include gillnet and lobster trap fishermen. The geographic range of the gear modifications will include the northern inshore, offshore, and the Mid-Atlantic water areas. The potential sizes of the fleets impacted are: the northern inshore fleet as large as 5,982 vessels, the offshore fleet as large as 172 vessels, and the Mid-Atlantic fleet as large as 625 vessels. All vessels are assumed to be small entities within the meaning of the Regulatory Flexibility Act.

The proposed rule contains no reporting, record keeping, or additional compliance requirements other than modifying lobster and gillnet gear. There are no relevant Federal rules that duplicate, overlap, or conflict with the proposed rule.

Four alternatives were evaluated for this proposed rule, including a status quo or ''no action'' alternative, the preferred altenative (PA), and two other alternatives. The No Action alternative would leave in place the existing regulations promulgated under the ALWTRP and as such would result in no additional economic burden on the fishing industry.

The proposed action is to implement the gear modifications as stated for the areas described. In the northern inshore area, the total lower and upper bound cost per vessel (compliance cost for change in gear requirements) in the lobster fleet under the PA plan is $139 and $648, respectively (Table 8.2.1 of the EA). Given there are 5,982 vessels potentially fishing lobster gear, the total lower and upper bound cost to the industyr is $832K and $3,877K, respectively.

In the northern offshore area, the total lower and upper bound cost per vessel in the lobster fleet under the PA plan is $97 and $218, respectively. Given there are 172 vessels potentially fishing lobster gear, the total lower and upper bound cost to the industry is $17K and $38K, respectively. In the southern nearshore area, there is no additional cost to the lobster fleet under the PA plan.

In the Mid-Atlantic (southern nearshore and southern offshore) under the PA plan, the average cost per sink gillnet vessel is $657 to attach weak links at the top of the buoy line, in the middle of each 50 fathom net panel, and to purchase a 22-lb (10.0-kg) Danforth anchor (Table 8.2.2). The total industry cost to the Mid-Atlantic sink gillnet fishery is $99.0K.

Finally, the total lower and upper bound industry costs to the lobster and sink gillnet fleet under the PA plan are $948K ($948 = $849 lobster + $99 sink gillnet) and $4,014 ($4,014 = $3,915 lobster + $99 sink gillnet), respectively.

The third alternative which is the non-preferred alternative (NPA-1) would consist of the PA as well as the use of full weak links at the surface and bottom of the buoy line and the reduction of floating line.

The total lower and upper bound cost per vessel in the lobster fleet under the NPA-1 plan is $5,297 and $17,841, respectively (Table 8.2.1). Given there are 5,982 vessels potentially fishing lobster gear, the total lower and upper bound cost to the industry is $31.7M and $106.8M, respectively.

In the northern offshore area, the total lower and upper bound cost per vessel in the lobster fleet under the NPA-1 plan is $50,212 and $105,849, respectively. Given there are 172 vessels potentially fishing lobster gear, the total lower and upper bound cost to the industry is $8.6M and $18.2M, respectively.

In the southern nearshore area, the total lower and upper bound cost per vessel in the lobster fleet under the NPA-1 plan is $3,411 and $10,743, respectively. Given there are 222 vessels potentially fishing lobster gear, the total lower and upper bound cost to the industry is $0.8M and $2.4M, respectively.

In the southern nearshore area, the average cost per vessel in the sink gillnet fleet under the NPA-1 plan is $1,009 if an anchor is required and $440 if an anchor is not required under the PA plan (Table 8.2.2). Given there are 357 vessels potentially fishing sink gillnet gear, the average industry cost is $225K. In the southern offshore area, the average cost per vessel in the sink gillnet fleet under the NPA-1 plan is $4,349 if an anchor is required and $3,789 if an anchor is not required under the PA plan. Given there are 100 vessels potentially fishing sink gillnet gear, the average industry cost is $469K.

Finally, the total lower and upper bound industry cost to the lobster fleet under the NPA-1 plan is $41.1M and $127.4M. The average total industry cost for the sink gillnet fleet is $694K.

The fourth alternative (NPA-2) would consist of the PA as well as buoy line removal and the reduction of floating line. The costs of that alternative are provided here in summary form.

In the northern inshore area, the total lower and upper bound cost per vessel in the lobster fleet under the NPA-2 plan is $158.1K and $517.6K, respectively (Table 8.2.1). Given there are 5,982 vessels potentially fishing lobster gear, the total lower and upper bound cost to the industry is $945.6M and $3,096.2M, respectively.

In the northern offshore area, the total lower and upper bound cost per vessel in the lobster fleet under the NPA-2 plan is $131.0K and $271.6K, respectively. Given there are 172 vessels potentially fishing lobster gear, the total lower and upper bound cost to the industry is $22.5M and $46.7M, respectively.

In the southern nearshore area, the total lower and upper bound cost per vessel in the lobster fleet under the NPA-2 plan is $73.9K and $224.3K, respectively. Given there are 222 vessels potentially fishing gear, the total lowre and upper bound cost to the industry is $16.4M and $49.8M, respectively.

In the southern nearshore area, the average cost per vessel in the sink gillnet fleet under the NPA-2 plan is $22.8K (Table 8.2.2). Given there are 357 vessels potentially fishing sink gillnet gear, the total industry cost is $8.1M. In the southern offshore area, the total cost per vessel in the sink gillnet fleet under the NPA-2 plan is $44.5K. Given there are 100 vessels potentially fishing sink gillnet gear, the average industry cost is $44.5M.

Finally, the total lower and upper bound industry cost to the lobster fleet under the nPA-2 is $984.5M and $3,192.7M. The average total cost for the sink gillnet fleet under the NPA-2 is $712,598K.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

References

International Whaling Commission (IWC). 2001. Report on the IWC Workshop on the Status and Trends in western North Atlantic Right whales. J. of Cetacean Research and Management. In press.

Kraus, S.D., P.K. Hamilton, R. D. Kenney, A.R. Knowlton, and C.K. Slay. 2000. Status and trends in reproduction of the North Atlantic Right Whale. J. Cetacean Research Management. In press.

Waring, G.T., J.M Quintal, and S. Swartz. 2000. U.S. Atlantic and Gulf of Mexico Marine Mammal Stock Assessments - 2000. NOAA Technical Memorandum NMFS-NE-162. U.S. Department of Commerce, Northeast Fisheries Science Center, Woods Hole, MA. pp. 303.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and record keeping requirements.

Dated: September 26, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, the National Marine Fisheries Service proposes to amend 50 CFR part 229 as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1371 *et seq.*

2. In § 229.2, a definition of ''Neutrally buoyant line'' is added in alphabetical order to read as follows:

§ 229.2 Definitions.

* * * * *

Neutrally buoyant line means line with a specific gravity near that of sea water, so that the line neither sinks to the ocean floor nor floats at the surface, but remains close to the bottom.

* * * * *

3. In § 229.3, paragraph (k) is revised to read as follows:

§ 229.3 Prohibitions.

* * * * *

(k) It is prohibited to fish with gillnet gear in the areas and for the times specified in § 229.32 (b)(2), (f)(1)(i), and (f)(1)(ii) unless the gear complies with the closures, marking requirements, modifications, and other restrictions specified in § 229.32 (b)(3)(i), (b)(3)(ii), and (f)(2) through (f)(3)(iv).

* * * * *

4. Section 229.32 is amended by adding a note at the end of the section; adding paragraphs (c)(5)(ii)(B) and (f)(3)(iv); revising the heading of the introductory text of paragraph (c)(5)(ii)(A); and revising paragraphs (c)(5)(ii)(A)(2), (c)(8)(ii), (c)(9)(i), (c)(9)(iii), (c)(9)(iv), (d)(7), (d)(8), and the heading of paragraph (f) to read as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(c) * * *

(5) * * *

(ii) * * *

(A) *Weak links on all buoy lines.* * * *

* * * * *

(*2*) The breaking strength of these weak links may not exceed 2,000 lb (906.9 kg).

* * * * *

(B) *Weak links between the surface system and buoy line.* A weak link must be utilized between the surface system (which includes all buoys, high flyers, line, and associated hardware) and the buoy line that leads to the trawl on the ocean floor. This weak link must meet the following specifications:

(*1*) This weak link must be chosen from the following list of combinations approved by the NMFS gear research program: Swivels, plastic weak links, rope of appropriate breaking strength, or other materials or devices approved in writing by the Assistant Administrator.

(*2*) The breaking strength of this weak link may not exceed 3,780 lb (1,714.3 kg).

* * * * *

(8) * * *

(ii) *Area-specific gear requirements for the restricted period*— (A) *Restricted period.* The restricted period for Southern Nearshore Lobster Waters is year round unless the Assistant Administrator revises this period in accordance with paragraph (g) of this section.

(B) *Gear requirements.* No person may fish with lobster trap gear in the Southern Nearshore Lobster Waters Area during the restricted period unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal lobster trap gear requirements in paragraph (c)(1) of this section, and the following gear requirements for this area, which the Assistant Administrator may revise in accordance with paragraph (g) of this section:

(*1*) *Buoy line weak links.* All buoy lines must be attached to the main buoy with a weak link that meets the following specifications:

(*i*) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(*ii*) The breaking strength of this weak link may not exceed 600 lb (272.4 kg).

(*iii*) Weak links must be designed such that the bitter end of the buoy line is clean and free of knots when the link breaks. Splices are not considered to be knots for the purpose of this provision.

(*2*) [Reserved]

(9) * * *

(i) Through December 31, 2002, all buoy lines must be 7/16 inches (1.11 cm) or less in diameter.

* * * * *

(iii) All buoy lines must be comprised entirely of sinking and/or neutrally buoyant line.

(iv) All ground lines must be comprised entirely of sinking and/or neutrally buoyant line.

(d) * * *

(7) *Mid-Atlantic Coastal Waters Area*—(i) Area. The Mid-Atlantic Coastal Waters Area consists of all U.S. waters bounded by the line defined by the following points: The southern shore of Long Island, NY, at 72° 30′ W. long., then due south to 33° 51′ N. lat., thence west to the North Carolina-South Carolina border, as defined in § 229.2.

(ii) *Area-specific gear requirements.* No person may fish with anchored gillnet gear in the Mid-Atlantic Coastal Waters Area unless that person's gear complies with the gear marking requirements specified in paragraph (b) of this section, the universal anchored gillnet gear requirements specified in paragraph (d)(1) of this section, and the following area-specific requirements, which the Assistant Administrator may revise in accordance with paragraph (g) of this section:

(A) *Buoy line weak links.* All buoy lines must be attached to the main buoy with a weak link that meets the following specifications:

(*1*) The weak link must be chosen from the following list of combinations approved by the NMFS gear research program: Swivels, plastic weak links, rope of appropriate breaking strength, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(*2*) The breaking strength of these weak links may not exceed 1,100 lb (498.8 kg).

(*3*) Weak links must be designed such that the bitter end of the buoy line is clean and free of any knots when the link breaks. Splices are not considered to be knots for the purposes of this provision.

(B) *Net panel weak links.* All net panels must contain weak links that meet the following specifications:

(*1*) Weak links must be inserted in the center of the floatline of each 50-fathom net panel in a net string or every 25 fathoms for longer panels.

(*2*) The breaking strength of these weak links may not exceed 1,100 lb (498.8 kg).

(C) *Tending/anchoring.* All gillnets must return to port with the vessel or be anchored at each end with an anchor capable of the holding power of at least a 22–lb (10.0-kg) Danforth-style anchor.

(8) *Gillnet Take Reduction Technology List.* The following gear characteristics comprise the Gillnet Take Reduction Technology List:

(i) All buoy lines are attached to the buoy line with a weak link having a maximum breaking strength of up to 1,100 lb (498.8 kg). Weak links may include swivels, plastic weak links, rope of appropriate diameter, hog rings, rope stapled to a buoy stick, or other materials or devices approved in writing by the Assistant Administrator.

(ii) Weak links with a breaking strength of up to 1,100 lb (498.8 kg) must be inserted in the center of the floatline (headrope) of each 50 fathom net panel or every 25 fathoms for longer panels.

(iii) All buoy lines must be comprised entirely of sinking and/or neutrally buoyant line.

* * * * *

(f) Restrictions applicable to the Southeast U.S. Restricted Area and the Southeast U.S. Observer Area. * * *

(3) * * *

(iv) Straight sets of gillnets may not be made at night in the Southeast U.S. restricted area during the closed period described in paragraph (f)(3)(ii) of this section, except for shark gillnets exempted under paragraph (f)(3)(iii) of this section. A straight set is defined as a set in which the gillnet is placed in a straight line in the water column, as opposed to a circular set in which the gillnet is used to encircle a school or group of fish.

* * * * *

Note to § 229.32: Additional regulations that affect fishing with lobster trap gear have also been issued under authority of the Atlantic Coastal Fisheries Cooperative Management Act in part 697 of this title.

[FR Doc. 01–24590 Filed 9–27–01; 3:23 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010914227–1227–01; I.D. 080201E]

RIN 0468–AM40

Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program for Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement Amendment 67 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. This action is necessary to stabilize fully utilized Pacific cod resources harvested with non-trawl gear in the Bering Sea and Aleutian Islands Area (BSAI). This would be accomplished by issuing endorsements for exclusive participation in the Pacific cod non-trawl fishery in the BSAI by long-time participants. The intended effect of this action is to conserve and manage the Pacific cod resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Comments must be received by November 15, 2001.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to room 401 of the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (analysis) prepared for Amendment 67 are available from the North Pacific Fishery Management Council, 605 West Avenue, Suite 306, Anchorage, AK 99501; telephone 907–271–2809. Specifically, NMFS requests comments on the findings of the analysis, such as more information about the number of small entities adversely affected by this proposed rule and the magnitude of any such adverse effects.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586–7228 or email at john.lepore@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. The North Pacific Fishery Management Council (Council) prepared this fishery management plan (FMP) under the authority of the Magnuson-Stevens Act. Regulations governing U.S. fisheries and implementing this FMP appear at 50 CFR parts 600 and 679.

Background of Amendment 67

The Council recommended, and NMFS approved, the License Limitation Program (LLP) to address concerns of excess fishing capacity in the groundfish and crab fisheries off Alaska. The LLP replaced the Vessel Moratorium Program, a program implemented by NMFS to impose a temporary moratorium on the entry of new capacity in the groundfish fisheries off Alaska and crab fisheries in the BSAI and to define the class of entities that would be eligible for licenses under the LLP. The Vessel Moratorium Program expired on December 31, 1999, and fishing under the LLP began on January 1, 2000. More information on the specifics of the LLP and the problems it was designed to resolve can be found in the final rule implementing the LLP (63 FR 52642, October 1, 1998).

The LLP, as implemented on January 1, 2000, was always considered by the Council and NMFS as an initial stage in a multi-staged process designed to reduce fishing capacity in the affected fisheries. The LLP is a limited access system authorized under the Magnuson-Stevens Act that requires a person to hold a license in order to participate in the groundfish fishery. Under the original provisions of the LLP, an LLP groundfish license was specific as to the area in which a person could participate, but not as to gear or species. The Council fully anticipated that specific fisheries within the LLP complex of fisheries would need further management controls to fully respond to the effects of excess fishing capacity. One such fishery is BSAI Pacific cod harvested with non-trawl gear.

In 1996, the Council recommended Amendment 46 to the BSAI FMP. Amendment 46 allocated the total allowable catch (TAC) for BSAI Pacific cod among participants who used jig gear (2 percent), trawl gear (47 percent), and fixed gear (or hook-and-line gear and pot gear)(51 percent). Amendment 46 further split the trawl gear allocation equally between catcher vessels and catcher/processor vessels. Amendment 46 was approved by NMFS, and implemented in January 1997 (61 FR 59029, November 20, 1996).

Although Amendment 46 initiated a process to address issues surrounding the allocation of BSAI Pacific cod fisheries among various participants, it did not address all of the issues, including increased prices for Pacific cod; reduced crab guideline harvest levels; and shortened or cancelled crab seasons due to low resource abundance, which intensified the use of Pacific cod resources by participants using pot gear. This intensified use prompted the concern of long-time Pacific cod fishermen who use non-trawl gear about the potential erosion of historical harvest trends in the BSAI Pacific cod fishery in favor of more recent participants. Also, the entrance of new participants in the fisheries has raised concerns regarding the increase of competition for a fully utilized resource.

In response to this concern, the Council recommended Amendment 64. This amendment, approved by NMFS and implemented by final rule in September 2000 (65 FR 51553, August 24, 2000), further divided the 51 percent of the TAC for BSAI Pacific cod allocated to hook-and-line gear and pot gear as follows: hook-and-line catcher/processor vessels, 80 percent; hook-and-line catcher vessels, 0.3 percent; pot gear vessels, 18.3 percent; and hook-and-line or pot catcher vessels less than

60 ft (18.3 m) length overall (LOA), 1.4 percent. Amendment 64 also contained specific provisions for the accounting of directed fishing allowances and the transfer of unharvested amounts of these allowances. Further information regarding these specific provisions can be found in the final rule that implemented Amendment 64.

Amendments 46 and 64 established TAC allocations for different gear sectors of the BSAI Pacific cod fisheries. However, neither amendment prevented movement among those sectors or the entrance of new participants who hold an LLP groundfish license with a Bering Sea or Aleutian Islands area endorsement into BSAI Pacific cod fisheries, because these amendments did not require specific endorsements.

In April 1999, the Council initiated an analysis of alternatives to add Pacific cod endorsements to LLP groundfish licenses. Pacific cod endorsements are designed to address the concern about new participants entering the Pacific cod fisheries and movement of Pacific cod fishermen among the various sectors that use non-trawl gear. This analysis contained the following Problem Statement:

> The hook-and-line and pot fisheries for Pacific cod in the Bering Sea/Aleutian Islands are fully utilized. Competition for this resource has increased for a variety of reasons, including increased market value of cod products and a declining allowable biological catch/TAC.
>
> Longline and pot fishermen who have made significant long-term investments, have long catch histories, and are significantly dependent on the BSAI cod fisheries need protection from others who have little or limited history and wish to increase their participation in the fishery.
>
> This requires prompt action to promote stability in the BSAI fixed gear [non-trawl] cod fishery until comprehensive rationalization is completed.

The analysis reviewed the status of Pacific cod stocks and catch, the history of Pacific cod allocations, and the economic, social, and environmental impacts of various limited access alternatives. A copy of this analysis can be obtained for review from the Council (see **ADDRESSES**).

In April 2000, the Council recommended its preferred alternative for the BSAI Pacific cod non-trawl fisheries (Amendment 67). This recommendation is currently being reviewed by NMFS. The details of Amendment 67 are provided in the following section.

Details of Amendment 67

As explained earlier, the BSAI Pacific cod fisheries are fully utilized. Therefore, any new participant increases the competition for an already fully utilized resource. Although new participants are often discouraged from entering such a fishery due to the costs of increased competition, the relatively high value of the Pacific cod and the depressed abundance of crab resources have provided incentives for new participants to enter the BSAI Pacific cod fisheries.

The Council considered various alternatives to limit entry into the BSAI Pacific cod fishery by fishermen using non-trawl gear. These alternatives were designed to prevent a person who holds an LLP groundfish license, but who has not participated in the Pacific cod fisheries in the BSAI with non-trawl gear in the past, or who has not participated at a level that could constitute significant dependence on those fisheries, from participating in those fisheries in the future.

After receiving public testimony concerning this action, the Council recommended the following eligibility requirements for Pacific cod endorsements:

Eligibility Requirements—General Information

As used throughout this document, a license holder means the person to whom an LLP groundfish license was issued or the person authorized to use that license.

Qualifying amounts are in round weight. Round weight is calculated by dividing the weight of the primary product made from the Pacific cod by the product recovery rate for that primary product as listed in Table 3 to 50 CFR part 679. Primary product can be processed or unprocessed.

Pacific cod that was harvested for the commercial bait fishery and properly documented would be applied toward the qualifying amount. Properly documented means that the Pacific cod was landed in compliance with Federal and state commercial fishing regulations in effect at the time of landing. Pacific cod that was harvested for personal use bait would not be applied toward the qualifying amount. The Council reviewed the Pacific cod bait issue and determined that giving credit for commercial bait, but not personal bait, was consistent with a Pacific cod fishery that is commercial in nature.

Pacific cod harvested in the Bering Sea Subarea or the Aleutian Islands Subarea would be applied toward the qualifying amount. However, a license holder would only be authorized to harvest Pacific cod in an area in which he or she had an area endorsement. This would be consistent with the overall goals and objectives of the LLP (i.e., a person had to participate in a management area during a specific period to qualify for an area endorsement). For example, a person who had an LLP groundfish license with only a Bering Sea area endorsement would not be authorized to harvest Pacific cod in the Aleutian Islands subarea, even though his or her Pacific cod endorsement was issued based on harvests in both the Bering Sea Subarea and the Aleutian Islands Subarea.

Also, discarded Pacific cod would not be applied toward the qualifying amount. Discarded fish are often not reported and do not enter the stream of commerce; therefore, they are not considered commercial in nature.

Eligibility Requirements—Specific Information

To receive a Pacific cod endorsement that authorizes an LLP groundfish license holder to harvest Pacific cod with hook-and-line gear in the BSAI but not process that Pacific cod, a person would need to have:

1. An LLP groundfish license with a catcher vessel designation;
2. Harvested at least 7.5 metric tons (mt) round weight of Pacific cod with hook-and-line gear or jig gear in the directed commercial BSAI Pacific cod fishery in any 1 of the years 1995, 1996, 1997, 1998, or 1999; and
3. Harvested the qualifying amount with the vessel that was used as the basis of eligibility for the license holder's LLP groundfish license.

To receive a Pacific cod endorsement that authorizes an LLP groundfish license holder to harvest Pacific cod with hook-and-line gear in the BSAI and process that Pacific cod, a person would need to have:

1. An LLP groundfish license with a catcher/processor vessel designation;
2. Harvested at least 270 mt round weight of Pacific cod with hook-and-line gear in the directed commercial BSAI Pacific cod fishery in any 1 of the years 1996, 1997, 1998, or 1999; and
3. Harvested the qualifying amount with the vessel that was used as the basis of eligibility for the license holder's LLP groundfish license.

To receive a Pacific cod endorsement that authorizes an LLP groundfish license holder to harvest Pacific cod with pot gear in the BSAI but not process that Pacific cod, a person would need to have:

1. An LLP groundfish license with a catcher vessel designation;
2. Harvested at least 100,000 lb (45 mt) round weight of Pacific cod with pot gear or jig gear in the directed commercial BSAI Pacific cod fishery in each of any 2 of the years 1995, 1996, 1997, 1998, or 1999; and

3. Harvested the qualifying amount with the vessel that was used as the basis of eligibility for the license holder's LLP groundfish license.

To receive a Pacific cod endorsement that authorizes an LLP groundfish license holder to harvest Pacific cod with pot gear in the BSAI and process that Pacific cod, a person would need to have:

1. An LLP groundfish license with a catcher/processor vessel designation;

2. Harvested at least 300,000 lb (136 mt) round weight of Pacific cod with pot gear in the directed commercial BSAI Pacific cod fishery in each of any 2 of the years 1995, 1996, 1997, or 1998; and

3. Harvested the qualifying amount with the vessel that was used as the basis of eligibility for the license holder's LLP groundfish license.

Except as explained here, a license holder would need to have a Pacific cod endorsement on his or her LLP groundfish license to conduct directed fishing for Pacific cod in the BSAI with hook-and-line or pot gear(s) including Pacific cod harvested for the commercial bait fishery. The license holder would have to use the specific non-trawl gear designated with the Pacific cod endorsement.

Exemptions

A license holder would not need a Pacific cod endorsement on his or her LLP groundfish license to use a catcher vessel less than 60 ft (18.3 mt) LOA to conduct directed fishing for Pacific cod in the BSAI with non-trawl gear. The Council decided to exempt this class of vessels because of concern over the ability of these relatively small vessels to compete under the current fishery management regime. Amendment 64 allocates 1.4 percent of the BSAI Pacific cod non-trawl allocation to vessels less than 60 ft (18.3 m) LOA. In providing this exemption, the Council intended to ensure that the number of vessels in this vessel class would be sufficient to take advantage of the entire allocation.

Exemptions to the LLP would apply to the Pacific cod endorsement. That means that a vessel that is exempt from the LLP would not need to comply with Pacific cod endorsement requirements proposed by this rule to conduct directed fishing for Pacific cod in the BSAI with non-trawl gear. These exemptions include (1) vessels less than 32 ft (7.5 m) LOA and (2) vessels less than 60 ft (18.3 m) LOA using a limited amount of jig gear. Specific information concerning these exemptions can be found at 50 CFR 679.4(k)(2).

A Pacific cod endorsement would not be required to harvest Pacific cod for personal use bait.

Other Provisions

The Council considered several provisions that would have allowed a person to combine the catch histories of more than one vessel to qualify for a Pacific cod endorsement. The Council recommended that a person be allowed to combine catch histories only when the vessel that was used as the basis of eligibility for the original LLP groundfish license sank and was replaced with another vessel by that person within a specified time period. The Council decided not to allow any other combining of landings (or catch histories) of multiple vessels because of the potential of increasing participation in a fishery in which excess capacity already is a recognized problem. The Council determined that allowing for the combining of landings in the limited circumstances of sunken vessels would not greatly increase the number of participants (the analysis identified approximately seven vessels that may qualify for this provision). However, it would provide equitable consideration to those persons who would have participated but for their vessel sinking.

Specifically, a person could combine the landings of a sunken vessel with the landings of a replacement vessel to meet the eligibility criteria for a Pacific cod endorsement if:

(1) The vessel that sank was used as the basis of eligibility for the original LLP groundfish license;

(2) The vessel sank after January 1, 1995; and

(3) The sunken vessel was replaced with a vessel by December 31 of the year 2 years after the vessel sank. This time period was chosen by the Council because it corresponds with the time period used by the Internal Revenue Service for tax purposes. For example, if a vessel sank any time during 1996, replacement of that vessel had to occur before December 31, 1998.

Another provision recommended by the Council concerns unavoidable circumstances. This hardship provision is similar to one provided for general LLP eligibility and would enable a person to receive a Pacific cod endorsement even though that person would not qualify for an endorsement based on landings. The requirements for eligibility under the hardship provision would be very specific. First, a person would have to be an LLP groundfish license holder and owner of the vessel that, but for the unavoidable circumstances, would have had sufficient landings to meet the requirements for a Pacific cod endorsement. Second, that person would have to demonstrate a specific intent to use that vessel to conduct directed fishing for Pacific cod in the BSAI during the relevant time period and the capability to have made harvests sufficient to meet the eligibility criteria. Third, the specific intent would have to have been thwarted by a circumstance that was unavoidable, unique to the person or unique to the vessel, and unforeseen and reasonably unforeseeable to the person. Fourth, under the circumstances, the person would have to have taken all reasonable steps to overcome the circumstances. Fifth, any amount of Pacific cod would have to have been harvested on the vessel in the BSAI with non-trawl gear during the period of eligibility for the specific Pacific cod endorsement desired but after the vessel was prevented from participating by the unavoidable circumstance.

Species Endorsements in the Community Development Quota (CDQ) Fisheries

The Council recommended that the provisions of Amendment 67 apply to the CDQ fisheries. This means that vessels not authorized to harvest Pacific cod under the LLP would be prohibited from directed fishing for Pacific cod CDQ. However, NMFS regulations do not currently define directed fishing for Pacific cod in the CDQ fisheries.

Through the CDQ program, NMFS allocates 10 percent of pollock and 7.5 percent of the BSAI groundfish, prohibited species, halibut, and crab TAC to 65 eligible Western Alaska communities. The CDQ groups to which the TAC is allocated are expected to manage their allocations of CDQ and Prohibited Species Quota to account for bycatch as well as target catch. The CDQ groups are prohibited from exceeding any of their CDQ allocations, which prevents continued fishing for one groundfish species once the quota of another groundfish or halibut bycatch species is reached.

In the non-CDQ fisheries, NMFS defines directed fisheries based on the amount of retained catch of a given species relative to the amount of other groundfish species on board the vessel. When a TAC amount for a species is approached, NMFS will close directed fishing for the species but allow fishing to continue in other fisheries in which the species is taken incidentally.

Thus, in contrast to the non-CDQ fisheries, NMFS has traditionally not needed to define directed fishing within the CDQ program and current regulations prohibit the use of CDQ catch as the basis for calculating the maximum retainable bycatch. These regulations were implemented because

directed fishing closures did not apply to the CDQ fisheries. Further, because there are no provisions for regulatory discard, vessels engaged in CDQ fisheries are often required to retain all catch.

Implementing Amendment 67 would require that the existing regulations be amended as follows: First, the definition of directed fishing in § 679.2 would be revised, in order to remove specific reference to the CDQ fisheries. This reference was appropriate when the only directed fishery defined under the CDQ program was pollock. However, under this rule, directed fishing for Pacific cod in the CDQ fisheries would be defined following the same procedure as the non-CDQ fisheries. Second, the use of CDQ species as basis species for calculating retainable amounts of other CDQ species would be allowed. This revision would be necessary to determine whether a vessel is directed fishing for Pacific cod in the CDQ fisheries and would be required to have species endorsements. Third, regulatory discards of Pacific cod by vessels that do not have a Pacific cod species endorsement would be allowed. This revision would be necessary so that vessel operators who do not have a Pacific cod species endorsement could comply with the maximum retainable bycatch amounts of Pacific cod.

This action would also clarify the existing CDQ regulations by specifically allowing the regulatory discard of sablefish when their retention is prohibited by other regulations.

Classification

At this time, NMFS has not determined that Amendment 67 to the FMP for the Groundfish Fishery of the BSAI is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. In making that determination, NMFS will take into account the data, views, and comments received during the comment period on the amendment.

The Council prepared an environmental assessment for FMP Amendment 67 that analyzes the impacts on the environment as a result of this action. The assessment indicates that the individual and cumulative impacts of this action would not significantly affect the quality of the human environment. This action would reduce the number of eligible participants in the BSAI non-trawl Pacific cod fishery, as compared to the status quo. This reduction is not expected to adversely impact the targeted fishery stock, non-targeted fishery stocks, or the physical environment.

The Council also prepared an initial regulatory flexibility analysis (IRFA). The IRFA was prepared by the Council because it was unable to make a definitive finding of non-significance under the Regulatory Flexibility Act. The IRFA indicates that the Council took this action under the Magnuson-Stevens Act, which authorizes the Council to recommend to the Secretary of Commerce limited access measures that are consistent with sound fishery management and conservation policies. The Council recommended Amendment 67 to further rationalize the Pacific cod fisheries in the BSAI in a manner consistent with the overall principles of LLP and to protect investment-backed expectations of long-term participants in the Pacific cod fisheries. Besides the proposed qualifying criteria, the Council considered other combinations of qualifying harvest amounts and qualifying years that could have allowed more small entities to participate; however, these alternative combinations failed to meet conservation and management goals for this fully utilized fishery.

Approximately 365 catcher vessels, 67 catcher/processor vessels, and 5 shore-based processors were considered small entities for purposes of the IRFA. However, because little is known about the ownership structures of certain vessels (i.e., some vessels may be tied to corporations with revenues greater than $3 million), the IRFA may have overestimated the number of small entities. This action does not increase existing reporting, recordkeeping, or compliance requirements. Harvesting information necessary to determine eligibility for an endorsement is already available to NMFS. However, if a person feels that the information is in error, he or she would need to provide alternative information for review and verification. As this action creates a new endorsement under the LLP, it does not duplicate, overlap or conflict with any other relevant Federal regulations.

To reduce the impacts of this recommendation on small entities the Council exempted catcher vessels less than 60 ft (18.3 m) from the endorsement requirement and allowed persons operating vessels greater than or equal to 60 ft (18.3 m) to use harvests of Pacific cod with jig gear to qualify for endorsements. The Council also included a general hardship exemption provision (details of which were already mentioned above) to further mitigate possible adverse effects to small entities that would not have otherwise qualified. NMFS requests comments on the IRFA from small entities and others who would be affected by this proposed rule. Specifically, NMFS requests more information about the number of small entities adversely affected by this proposed rule and the magnitude of any such adverse effects.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 25, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is proposed to be amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; sec. 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and sec. 209, Pub. L. 106-554.

§ 679.2 [Amended]

2. In § 679.2, the definition of ''Directed fishing'' is amended by removing paragraph (5).

3. In § 679.4, paragraph (k)(1)(i) is revised and paragraph (k)(9) is added to read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(1) * * *

(i) In addition to the permit and licensing requirements of this part, and except as provided in paragraph (k)(2) of this section, each vessel within the GOA or the BSAI must have an LLP groundfish license on board at all times it is engaged in fishing activities defined in § 679.2 as directed fishing for license limitation groundfish. This groundfish license, issued by NMFS to a qualified person, authorizes a license holder to deploy a vessel to conduct directed fishing for license limitation groundfish only in accordance with the specific area and species endorsements, the vessel and gear designations, and the MLOA specified on the license.

* * * * *

(9) *Pacific cod endorsements*—(i) *General.* In addition to other requirements of this part, and unless specifically exempted in paragraph (k)(9)(iv) of this section, a license holder must have a Pacific cod endorsement on his or her groundfish license to conduct

directed fishing for Pacific cod with hook-and-line or pot gear in the BSAI. A license holder can only use the specific non-trawl gear(s) indicated on his or her license to conduct directed fishing for Pacific cod in the BSAI.

(ii) *Eligibility requirements for a Pacific cod endorsement.* This table provides eligibility requirements for Pacific cod endorsements on an LLP groundfish license:

IF A LICENSE HOLDER'S LICENSE HAS A...	AND THE LICENSE HOLDER HARVESTED PACIFIC COD IN THE BSAI WITH...	THEN THE LICENSE HOLDER MUST DEMONSTRATE THAT HE OR SHE HARVESTED AT LEAST...	IN...	TO RECEIVE A PACIFIC COD ENDORSEMENT THAT AUTHORIZES HARVEST WITH...
(A) Catcher vessel designation	hook-and-line gear or jig gear	7.5 mt of Pacific cod in the BSAI	in any 1 of the years 1995, 1996, 1997, 1998, or 1999	hook-and-line gear.
(B) Catcher vessel designation	pot gear or jig gear	100,000 lb of Pacific cod in the BSAI	in each of any 2 of the years 1995, 1996, 1997, 1998, or 1999	pot gear.
(C) Catcher/processor vessel designation	hook-and-line gear	270 mt of Pacific cod in the BSAI	in any 1 of the years 1996, 1997, 1998, or 1999	hook-and-line gear.
(D) Catcher/processor vessel designation	pot gear	300,000 lb of Pacific cod in the BSAI	in each of any 2 of the years 1995, 1996, 1997, or 1998	pot gear.

(iii) *Explanations for Pacific cod endorsements.* (A) All eligibility amounts in the table at paragraph (k)(9)(ii) of this section will be determined based on round weight equivalents.

(B) Discards will not count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.

(C) Pacific cod harvested for personal bait use will not count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.

(D) A legal landing of Pacific cod in the BSAI for commercial bait will count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.

(E) Landings within the BSAI will count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section; however, a license holder will only be able to harvest Pacific cod in the specific areas in the BSAI for which he or she has an area endorsement.

(iv) *Exemptions to Pacific cod endorsements.* (A) Any vessel exempted from the License Limitation Program at paragraph (k)(2) of this section.

(B) Any catcher vessel less than 60 ft (18.3 mt) LOA.

(C) Any catch of Pacific cod for personal use bait.

(v) *Combination of landings and hardship provision.* Notwithstanding the eligibility requirements in paragraph (k)(9)(ii) of this section, a license holder may be eligible for a Pacific cod endorsement by meeting the following criteria.

(A) *Combination of landings.* A license holder may combine the landings of a sunken vessel and the landings of a vessel obtained to replace a sunken vessel to satisfy the eligibility amounts in the table at paragraph (k)(9)(ii) of this section only if he or she meets the requirements in paragraphs (k)(9)(v)(A)(*1*)—(*4*) of this section. No other combination of landings will satisfy the eligibility amounts in the table at paragraph (k)(9)(ii) of this section.

(*1*) The sunken vessel was used as the basis of eligibility for the license holder's groundfish license;

(*2*) The sunken vessel sank after January 1, 1995;

(*3*) The vessel obtained to replace the sunken vessel was obtained by December 31 of the year 2 years after the sunken vessel sank; and

(*4*) The length of the vessel obtained to replace the sunken vessel does not exceed the MLOA specified on the license holder's groundfish license.

(B) *Hardship provision.* A license holder may be eligible for a Pacific cod endorsement because of unavoidable circumstances if he or she meets the requirements in paragraphs (k)(9)(v)(B)(*1*)—(*4*) of this section. For purposes of this hardship provision, the term license holder includes the person whose landings were used to meet the eligibility requirements for the license holder's groundfish license, if not the same person.

(*1*) The license holder at the time of the unavoidable circumstance held a specific intent to conduct directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in the table at paragraph (k)(9)(ii) of this section but this intent was thwarted by a circumstance that was:

(*i*) Unavoidable;

(*ii*) Unique to the license holder, or unique to the vessel that was used as the basis of eligibility for the license holder's groundfish license; and

(*iii*) Unforeseen and reasonably unforeseeable to the license holder.

(*2*) The circumstance that prevented the license holder from conducting directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in paragraph (k)(9)(ii) actually occurred;

(*3*) The license holder took all reasonable steps to overcome the circumstance that prevented the license holder from conducting directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in paragraph (k)(9)(ii) of this section; and

(*4*) Any amount of Pacific cod was harvested in the BSAI aboard the vessel that was used as the basis of eligibility for the license holder's groundfish license during the time period required for the Pacific cod endorsement but after the vessel was prevented from participating by the unavoidable circumstance.

* * * * *

4. In § 679.7, paragraph (d)(11), (d)(16) and (d)(23) are revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(d)* * *

(11) For the operator of a catcher vessel using trawl gear or any vessel less than 60 ft (18.3 m) LOA that is groundfish CDQ fishing as defined at § 679.2, discard any groundfish CDQ species or salmon PSQ before it is delivered to an eligible processor listed on an approved CDP unless discard of the groundfish CDQ is required under other provisions or, in waters within the State of Alaska, discard is required by laws of the State of Alaska.

* * * * *

(16) Use any groundfish CDQ species as a basis species for calculating retainable amounts of non-CDQ species under § 679.20.

* * * * *

(23) For any person on a vessel using fixed gear that is fishing for a CDQ group with an allocation of fixed gear sablefish CDQ, discard sablefish harvested with fixed gear unless discard of sablefish is required under other provisions or, in waters within the State of Alaska, discard is required by laws of the State of Alaska.

5. In § 679.20, paragraph (f)(2) and (f)(3) are revised to read as follows:

§ 679.20 General limitations.

* * * * *

(f) * * *

(2) *Retainable amounts.* Except as provided in Table 10 to this part, arrowtooth flounder, or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species. CDQ species may only be used to calculate retainable amounts of other CDQ species.

(3) *Directed fishing for pollock CDQ.* Directed fishing for pollock CDQ is determined based on the species composition of the total catch of groundfish while harvesting groundfish CDQ species. For catcher/processors, the species composition of each haul is assessed to determine the directed fishery. For catcher vessels, the species composition of the catch onboard the vessel at any time is assessed to determine the directed fishery. The groundfish species used to calculate total catch of groundfish includes all species categories defined in Table 1 of the annual BSAI specifications. A vessel operator using trawl gear is directed fishing for pollock CDQ if pollock represents 60 percent or more of the total catch of groundfish species by weight in a haul by a catcher/processor or 60 percent or more of the total catch of groundfish species by weight onboard the catcher vessel at any time.

* * * * *

6. In § 679.32, paragraphs (c)(1)(i), (c)(2)(i)(A), (c)(2)(ii)(A) and (f)(4) are revised to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

* * * * *

(c) * * *

(1) * * *

(i) Operators of catcher vessels less than 60 ft (18.3 mt) LOA must retain all groundfish CDQ, halibut CDQ, and salmon PSQ until it is delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section unless discard of the groundfish CDQ species is required under other provisions or, in waters within the State of Alaska, discard is required by laws of the State of Alaska. Operators of catcher vessels using trawl gear must report the at-sea discards of halibut PSQ or crab PSQ on the CDQ delivery sheet (see § 679.5(n)(1). Operators of catcher vessels using nontrawl gear must report the at-sea discards of halibut PSQ on the CDQ delivery report, unless exempted from the accounting for halibut PSQ under paragraph (b) of this section.

* * * * *

(2) * * *

(i) * * *

(A) Retain all CDQ species and salmon PSQ until they are delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section unless discard of the groundfish CDQ species is required under other provisions or, in waters within the State of Alaska, discard is required by laws of the State of Alaska.

* * * * *

(ii) * * *

(A) *Option 1:* Retain all CDQ species. Retain all CDQ species until they are delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section unless discard of the groundfish CDQ or PSQ species is required under other provisions or, in waters within the State of Alaska, discard is required by laws of the State

of Alaska. Have all of the halibut PSQ counted by the CDQ observer and sampled for length or average weight; or

* * * * *

(f) * * *

(4) *Groundfish CDQ retention requirements.* Operators of vessels less than 60 ft (18.3 m) LOA are not required to retain and deliver groundfish CDQ species while halibut CDQ fishing, unless required to do so elsewhere in this part. Operators of vessels equal to or greater than 60 ft (18.3 m) LOA are required to comply with all groundfish CDQ and PSQ catch accounting requirements in paragraphs (b) through (d) of this section, including the retention of all groundfish CDQ, if option 1 under § 679.32(c)(2)(ii) is selected in the CDP. CDQ species may be discarded when required by other provisions or, in waters within the State of Alaska, when discard is required by laws of the State of Alaska.

* * * * *

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Notices

Federal Register

Vol. 66, No. 190

Monday, October 1, 2001

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

DEPARTMENT OF AGRICULTURE

Forest Service

Meeting of the Land Between The Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Land Between The Lakes Advisory Board will hold a meeting on Thursday, October 25, 2001. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App.2.

The meeting agenda includes the following:

(1) Welcome, Introductions, Agenda Review.

(2) Protection Act—Brainstorming Typical Trust Fund Projects.

(3) Discussion on Trust Fund Criteria.

(4) Board Feedback on Environmental Education Goals and Visions.

(5) National, Regional, and Local Recreational Use Information.

(6) Public Participation in Planning.

(7) Discussion of Potential LBL Public Participation Methods.

The meeting is open to the public. Written comments are invited and may be mailed to: William P. Lisowsky, Area Supervisor, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211. Written comments must be received at Land Between The Lakes by October 18, 2001, in order for copies to be provided to the members at the meeting. Board members will review written comments received, and at their request, oral clarification may be requested at a future meeting.

DATES: The meeting will be held on Thursday, October 25, 2001, 8:30 a.m. to 4:00 p.m., CDT.

ADDRESSES: The meeting will be held at the Lake Barkley State Resort Park and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Sharon Byers, Advisory Board Liaison, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, 270–924–2002.

SUPPLEMENTARY INFORMATION: None.

Dated: September 21, 2001.

William P. Lisowsky,

Area Supervisor, Land Between The Lakes.

[FR Doc. 01–24464 Filed 9–28–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

[01–01–S2]

Designation for the Amarillo (TX), Schaal (IA), and Wisconsin Areas; Designation of Columbus (OH) and Michigan (MI) for the Fostoria (OH) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act):

Amarillo Grain Exchange, Inc. (Amarillo);

Columbus Grain Inspection, Inc. (Columbus);

Michigan Grain Inspection Services, Inc. (Michigan);

D.R. Schaal Agency, Inc. (Schaal); and

Wisconsin Department of Agriculture, Trade and Consumer Protection (Wisconsin).

EFFECTIVE DATE: December 1, 2001.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart at 202–720–8525, e-mail *janhart@gipsadc.usda.gov.*

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 8, 2001, **Federal Register** (66 FR 13874), GIPSA asked persons interested in providing official services in the geographic areas assigned to the official agencies named above to submit an application for designation. Applications were due by March 31, 2001.

Amarillo, Schaal, and Wisconsin were the sole applicants for designation to provide official services in the entire area currently assigned to them, so GIPSA did not ask for comments on them.

There were three applicants for the Fostoria area: Columbus, Fostoria Grain Inspection, Inc. (Fostoria), and Michigan, all designated official agencies. Fostoria applied for designation to provide official services in the entire area currently assigned to them. Columbus and Michigan applied for designation to provide official services in all or part of the Fostoria geographic area. GIPSA asked for comments on the applicants for providing service in the Fostoria area in the June 1, 2001, **Federal Register** (66 FR 29765). Comments were due by June 30, 2001. GIPSA received six comments by the due date. There were no comments regarding Columbus. Two of Fostoria's current customers supported designation of Fostoria for the area they currently serve. Four of Michigan's current customers supported Michigan for the Fostoria area.

GIPSA evaluated all available information regarding the designation criteria in section 7(f)(l)(A) of the Act and, according to section 7(f)(l)(B), determined that Amarillo, Schaal, and Wisconsin are able to provide official services in the geographic areas specified in the March 8, 2001, **Federal Register**, for which they applied.

GIPSA evaluated all available information regarding the designation criteria in section 7(f)(l)(A) of the Act and, according to section 7(f)(l)(B), determined that Columbus is better able than Fostoria to provide official services in the eastern portion of the Fostoria geographic area in Ohio, as follows: Wood County; parts of Sandusky County west of state Route 590; Seneca County west of State Route 53; Crawford County west of State Route 19 and north of U.S. Route 30; Wyandot County north of U.S. Route 30; and Hancock County north of U.S. Route 30 and west of U.S. Route 68.

GIPSA also evaluated all available information regarding the designation criteria in section 7(f)(l)(A) of the Act

and, according to section 7(f)(l)(B), determined that Michigan is better able than Fostoria to provide official services in the western portion of the Fostoria geographic area in Ohio, as follows: Fulton County; and part of Henry County north of U.S. Route 24 and east of State Route 108.

Effective December 1, 2001, ending January 1, 2002 for Columbus, and effective December 1, 2001, ending March 31, 2004 for Michigan (concurrent with their present designations), Columbus and Michigan are designated to provide official inspection services in the geographic area specified above in addition to the areas they are already designated to serve. Interested persons may obtain official services by calling the telephone numbers listed below.

Official agency	Headquarters location and telephone	Designation start–end
Amarillo	Amarillo, TX—806–372–8511; Additional service location: Guymon, OK	12/01/2001–09/30/2004
Columbus	Circleville, OH—740–474–3519; Additional service location: Bucyrus, OH	02/01/1999–01/31/2002
Michigan	Marshall, MI—616–781–2711; Additional service locations: Carrollton, MI and Lima, OH.	05/01/2001–03/31/2004
Schaal	Belmond, IA—641–444–3122	12/01/2001–09/30/2004
Wisconsin	Madison, WI—608–224–5105; Additional service locations: Milwaukee, and Superior, WI.	12/01/2001–09/30/2004

[1] Currently designated.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: September 6, 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–24319 Filed 9–28–01; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Solicitation of Nominations for Members of the Grain Inspection Advisory Committee

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice to solicit nominees.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is announcing that nominations are being sought for persons to serve on GIPSA's Grain Inspection Advisory Committee.

SUPPLEMENTARY INFORMATION: Under authority of section 20 of the United States Grain Standards Act (Act) Pub. L. 97–35, the Secretary of Agriculture established the Grain Inspection Advisory Committee (Advisory Committee) on September 29, 1981, to provide advice to the Administrator on implementation of the Act. Section 21 of the United States Grain Standards Act Amendments of 2000, Pub. L. 106–580, extended the authority for the Advisory Committee through September 30, 2005.

The Advisory Committee presently consists of 15 members, appointed by the Secretary, who represent the interests of grain producers, processors, handlers, merchandisers, consumers, and exporters, including scientists with expertise in research related to the policies in section 2 of the Act. Members of the Committee serve without compensation. They are reimbursed for travel expenses, including per diem in lieu of subsistence, for travel away from their homes or regular places of business in performance of Committee service, as authorized under section 5703 of title 5, United States Code. Alternatively, travel expenses may be paid by Committee members.

Nominations are being sought for persons to serve on the Advisory Committee to replace the five members and the five alternate members whose terms will expire in March 2002.

Persons interested in serving on the Advisory Committee, or in nominating individuals to serve, should contact: GIPSA, by telephone (tel: 202–720–0219), fax (fax: 202–205–9237), or electronic mail (e-mail: mplaus@gipsadc.usda.gov) and request Form AD–755. Form AD–755 may also be obtained via the Internet through GIPSA's homepage at: http://www.usda.gov/gipsa/advcommittee/ad755.pdf. Completed forms must be submitted to GIPSA by fax or at the following address: GIPSA, 1400 Independence Ave., SW, Stop 3601, Washington, DC 20250–3601. Form AD–755 must be received not later than November 30, 2001.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations of the Committee take into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The final selection of Advisory Committee members and alternates will be made by the Secretary.

David Shipman,

Acting Administrator.

[FR Doc. 01–24318 Filed 9–28–01; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Rural-Business Cooperative Service

Notice of Request for Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's intention to request an extension of a currently approved information collection in support of the program for ''Rural Development Loan Servicing.''

DATES: Comments on this notice must be received by November 30, 2001 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Cindy L. Mason, Loan Assistant, Rural Business-Cooperative Service, USDA, Stop 3225, 1400 Independence Ave., SW, Washington, DC 20250–3225, Telephone: (202) 690–1433.

SUPPLEMENTARY INFORMATION:

Title: Rural Development Loan Servicing.

OMB Number: 0570–0015.

Expiration Date of Approval: March 31, 2002.

Type of Request: Extension of a currently approved information collection.

Abstract: This regulation is for servicing and liquidating loans made by

the Rural Business-Cooperative Service (RBS), under the Intermediary Relending Program (IRP) to eligible IRP intermediaries and applies to ultimate recipients and other involved parties. This regulation is also for servicing the existing Rural Development Loan Fund (RDLF) loans previously approved and administered by the U.S. Department of Health and Human Services (HHS) under 45 CFR part 1076. The objective of the IRP is to improve community facilities and employment opportunities and increase economic activity in rural areas by financing business facilities and community development. This purpose is achieved through loans made by RBS to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community development. The regulations contain various requirements for information from the intermediaries and some requirements may cause the intermediary to require information from ultimate recipients. The information requested is vital to RBS for prudent loan servicing, credit decisions and reasonable program monitoring. The provisions of this subpart supersede conflicting provisions of any other subpart.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.68 hours per response.

Respondents: Non-profit corporations, public agencies, and cooperatives.

Estimated number of Respondents: 420.

Estimated number of responses per respondent: 9.96.

Estimated total annual burden on respondents: 11,235 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of 3 RBS, including whether the information will have practical utility; (b) the accuracy of RBS estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: September 19, 2001.

John Rosso,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 01–24480 Filed 9–28–01; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF COMMERCE

[Docket No. 010925133–1233–01]

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

AGENCY: Department of Commerce (DoC).

ACTION: Notice.

SUMMARY: The Department of Commerce (DoC) announces Department-wide requirements which pertain to information provided to applicants for funding under grants and cooperative agreements awarded by the DoC.

DATES: These provisions are effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Elizabeth Dorfman, Office of Executive Assistance Management, Telephone Number—202–482–4115.

SUPPLEMENTARY INFORMATION: The DoC is authorized to award grants and cooperative agreements under a wide range of programs that support economic development; international trade; minority businesses; standards and technology; oceanic/atmospheric services; and telecommunications and information.

It is the policy of DoC to seek full and open competition for award of discretionary financial assistance funds. Moreover, DoC financial assistance must be awarded through a merit-based review and selection process whenever possible. An annual notice announcing the availability of Federal funds for each DoC competitive financial assistance program with funds available for new awards will be published in the **Federal Register** by the sponsoring operating unit. The announcement will reference or include the DoC Pre-Award Notification Requirements identified in Sections A and B of this notice and will include program-specific information as identified in Section C of this notice.

This announcement provides notice of the DoC Pre-Award Notification Requirements which apply to all DoC sponsored grant and cooperative agreement programs and may supplement those program announcements which make reference to this notice. Some of the DoC general provisions published herein contain, by reference or substance, a summary of the pertinent statutes or regulations published in the U.S. Code (U.S.C.), **Federal Register**, Code of Federal Regulations (CFR), Executive Orders, OMB Circulars (circulars), or Assurances (Forms SF–424B, 424D). To the extent that it is a summary, such provision is not in derogation of, or an amendment to, any such statute, regulation, Executive Order, circulars, or Forms SF–424B and SF–424D.

Each individual award notice will complete and include an analysis of the requirements in Executive Order 12866, Executive Order 13132, the Administrative Procedure Act, the Regulatory Flexibility Act, and the Paperwork Reduction Act, as applicable.

Pre-Award Notification Requirements

A. The following pre-award notice provisions will apply to all applicants for and recipients of DoC grants and cooperative agreements:

1. Federal Policies and Procedures. Applicants, recipients and subrecipients are subject to all Federal laws and Federal and DoC policies, regulations, and procedures applicable to Federal financial assistance. The DoC specific regulations and forms, including the DoC Financial Assistance Standard Terms and Conditions, as well as OMB forms and circulars can be accessed on the Internet through links on the DoC Grants Management Web site at *http://www.doc.gov/oebam/grants.htm.*

2. Debarment, Suspension, Drug-Free Workplace, and Lobbying Provisions. All applicants must comply with the requirements of 15 CFR part 26, ''Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)'' and 15 CFR part 28, ''New Restrictions on Lobbying,'' including the submission of required forms and obtaining certifications from lower tier applicants/bidders.

3. Pre-Award Screening of Applicant's and Recipient's Management Capabilities, Financial Condition, and Present Responsibility. It is the policy of DoC to make awards to applicants and recipients who are competently managed, responsible, financially capable and committed to achieving the objectives of the award(s) they receive.

Therefore, pre-award screening may include, but is not limited to, the following reviews:

(a) Past Performance. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(b) Credit Checks. A credit check will be performed on individuals, for-profit, and non-profit organizations.

(c) Delinquent Federal Debts. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until:

(1) The delinquent account is paid in full,

(2) A negotiated repayment schedule is established and at least one payment is received, or

(3) Other arrangements satisfactory to DoC are made.

(d) Name Check Review. Non-profit and for-profit applicants are subject to a name check review process, unless an exemption has been provided by the DoC Office of Inspector General (OIG). Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges (*e.g.*, fraud, theft, perjury), or other matters which significantly reflect on the applicant's management honesty or financial integrity. Officials of state and local governments, economic development districts, and officials of accredited colleges and universities who are acting on behalf of their respective entities in applying for assistance are exempt from the name check requirement. If any of the conditions listed below in paragraphs (1), (2), or (3) occur, DoC reserves the right to take one or more of the following actions: consider suspension/termination of an award immediately for cause; require the removal of any key individual from association with management of and/or implementation of the award; and make appropriate provisions or revisions with respect to the method of payment and/or financial reporting requirements:

(1) A key individual fails to submit the required Form CD–346, Applicant for Funding Assistance;

(2) A key individual makes an incorrect statement or omits a material fact on the Form CD–346; or

(3) The name check reveals significant adverse findings that reflect on the business integrity or responsibility of the recipient and/or key individual.

(e) List of Parties Excluded from Procurement and Nonprocurement Programs. The list maintained by GSA of parties excluded from Federal procurement and nonprocurement programs will be checked to assure that an applicant is not debarred or suspended on a government-wide basis from receiving financial assistance.

(f) Pre-Award Accounting System Surveys. The Grants Office, in cooperation with the OIG, may arrange for a pre-award survey of the applicant's financial management system in cases where the recommended applicant has had no prior Federal support, the operating unit has reason to question whether the financial management system meets Federal financial management standards, or the applicant is being considered for a high-risk designation.

4. No Obligation for Future Funding. If an application is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Amendment of an award to increase funding or to extend the period of performance is at the total discretion of DoC.

5. Pre-Award Activities. If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs unless approved by the Grants Officer as part of the terms when the award is made.

6. Freedom of Information Act (FOIA) Disclosure. The FOIA, 5 U.S.C. 552 and implementing DoC regulations at 15 CFR Part 4, set forth DoC's rules to make requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of applications and proposals submitted by applicants may be released in response to FOIA requests.

7. False Statements. A false statement on an application is grounds for denial or termination of an award and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

8. Application Forms. Unless the individual programs specify differently in their annual notice of availability of funding or in other appropriate publications, the following forms and certifications will be used in applying for DoC grants and cooperative agreements: Standard Forms 424, Application for Federal Assistance; SF–424A, Budget Information—Non-Construction Programs; SF–424B, Assurances—Non-Construction Programs; SF–424C, Budget Information—Construction Programs; SF–424D, Assurances—Construction Programs; as well as the Form CD–346, Applicant for Funding Assistance, as appropriate, shall be used in applying for financial assistance. In addition, Forms CD–511, Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying; CD–512, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying; and SF–LLL, Disclosure of Lobbying Activities, will be used as appropriate.

B. The following general provisions will apply to all DoC grant and cooperative agreement awards:

1. Administrative Requirements and Cost Principles. The uniform administrative requirements for all DoC grants and cooperative agreements are codified at 15 CFR part 14, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations;'' and 15 CFR part 24, ''Uniform Administrative Requirements for Grants and Agreements to State and Local Governments.'' The following is a list of cost principles most often used by DoC in grants and cooperative agreements: OMB Circular A–21, ''Cost Principles for Educational Institutions;'' OMB Circular A–87, ''Cost Principles for State, Local and Indian Tribal Governments;'' OMB Circular A–122, ''Cost Principles for Nonprofit Organizations;'' and Federal Acquisition Regulation Subpart 31.2, ''Contracts with Commercial Organizations,'' codified at 48 CFR 31.2. Applicable administrative requirements and cost principles are identified in each award and are incorporated into the award by reference.

2. Award Payments. Advances will be limited to the minimum amounts necessary to meet *immediate* disbursement needs. Advanced funds not disbursed in a timely manner must be promptly returned to DoC. When the Standard Form 270 is used to request payment, advances will be approved for periods not to exceed 30 days. DoC may begin using the Department of Treasury's Automated Standard Application for Payment (ASAP) system. Awards that will be paid using the ASAP system will contain a special award condition, clause, or provision. In order to receive payments under ASAP, recipients will be required to register with the Department of Treasury and indicate whether or not they will use the on-line or voice response method of withdrawing funds from their ASAP established accounts.

3. Federal and Non-Federal Sharing.

(a) Awards which include Federal and non-Federal sharing will incorporate an estimated budget consisting of shared

allowable costs. If actual allowable costs are less than the total approved estimated budget, the Federal and non-Federal cost share ratio will be calculated as a percentage of Federal and non-Federal approved amounts. If actual allowable costs are greater than the total approved estimated budget, the Federal share will not exceed the total Federal dollar amount of the award.

(b) The non-Federal share, whether in cash or in-kind, will be expected to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for or later commitment of cash or in-kind contributions. In any case, recipients must meet the cost share commitment over the life of the award.

4. Budget Changes. When the terms of an award allow the recipient to transfer funds among approved direct cost categories, the transfer authority does not authorize the recipient to create new budget categories within an approved budget unless the Grants Officer has provided prior approval. In addition, the recipient will not be authorized at any time to transfer amounts budgeted for direct costs to the indirect costs line item or vice versa, without written prior approval of the Grants Officer.

5. Indirect Costs.

(a) Indirect costs will not be allowable charges against an award unless specifically included as a line item in the approved budget incorporated into the award. (The term ''indirect cost'' has been replaced with the term ''facilities and administrative costs'' under OMB Circular A–21, ''Cost Principles for Educational Institutions.'')

(b) Excess indirect costs may not be used to offset unallowable direct costs.

(c) If the recipient has not previously established an indirect cost rate with a Federal agency, the negotiation and approval of a rate will be subject to the procedures in the applicable cost principles and the following subparagraphs:

(1) The OIG is authorized to review cost allocation procedures and negotiate indirect cost rates on behalf of DoC for those organizations for which DoC is cognizant or has oversight. The OIG either will negotiate a fixed rate for the recipient or, in some instances, will limit its review to evaluating the procedures described in the recipient's cost allocation methodology plan. The recipient must submit to the OIG within 90 days of the award start date, documentation (indirect cost proposal, cost allocation plan, etc.) necessary for the OIG to perform its review. The recipient must provide the Grants Officer with a copy of the transmittal letter to the OIG.

(2) When an oversight or cognizant Federal agency other than DoC has responsibility for establishing an indirect cost rate, the recipient must submit to that oversight or cognizant Federal agency within 90 days of the award start date the documentation (indirect cost proposal, cost allocation plan, etc.) necessary to establish such rates. The recipient must provide the Grants Officer with a copy of the transmittal letter to the cognizant Federal agency.

(3) If the recipient fails to submit the required documentation to the OIG or other oversight or cognizant Federal agency within 90 days of the award start date, the recipient may be precluded from recovering any indirect costs under the award. If the DoC OIG, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.

(4) Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which DoC will reimburse the recipient shall be the lesser of the line item amount for the Federal share of indirect costs contained in the approved budget of the award, or the Federal share of the total allocable indirect costs of the award based on the indirect cost rate approved by an oversight or cognizant Federal agency and current at the time the cost was incurred, provided the rate is approved on or before the award end date.

6. Tax Refunds. Refunds of FICA/FUTA taxes received by a recipient during or after an award period must be refunded or credited to DoC where the benefits were financed with Federal funds under the award. Recipients must agree to contact the Grants Officer immediately upon receipt of these refunds. Recipients must further agree to refund portions of FICA/FUTA taxes determined to belong to the Federal Government, including refunds received after the award end date.

7. Other Federal Awards with Similar Programmatic Activities. Recipients will be required to provide written notification to the Federal Program Officer and the Grants Officer in the event that, subsequent to receipt of the DoC award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DoC award. DoC will not pay for costs that are funded by other sources.

8. Non-Compliance With Award Provisions. Failure to comply with any or all of the provisions of an award may have a negative impact on future funding by DoC and may be considered grounds for any or all of the following actions: establishment of an account receivable, withholding payments under any DoC awards to the recipient, changing the method of payment from advance to reimbursement only, or the imposition of other special award conditions, suspension of any DoC active awards, and termination of any DoC active awards.

9. Prohibition Against Assignment by the Recipient. Notwithstanding any other provision of an award, recipients may not transfer, pledge, mortgage, or otherwise assign an award, or any interest therein, or any claim arising thereunder, to any party or parties, banks, trust companies, or other financing or financial institutions.

10. Non-Discrimination Requirements. No person in the United States shall, on the ground of race, color, national origin, handicap, religion, age, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving financial assistance from DoC.

11. Audits of For-Profit Recipients. In accordance with 15 CFR 14.26 (c) and (d), for-profit hospitals, commercial, and other organizations not covered by the audit provisions of OMB Circular A–133 shall be subject to the audit requirements as stipulated in the award or sub-award document. For-profit recipients of awards exceeding $100,000 in Federal funding must have a program-specific audit performed. The DoC award may include a line item in the budget for the cost of the audit. If DoC does not have a program-specific audit guide available for the program, the auditor should follow Generally Accepted Government Auditing Standards and the requirements for a program-specific audit as described in OMB Circular A–133 section 235.

12. Policies and Procedures for Resolution of Audit-Related Debts. DoC has established policies and procedures for handling the resolution and reconsideration of financial assistance audits which have resulted in, or may result in, the establishment of a debt (account receivable) for financial assistance awards. These policies and procedures are contained in the **Federal Register** notice dated January 27, 1989. See 54 FR 4053. The policies and procedures are also provided in more detail in the Department of Commerce Financial Assistance Standard Terms and Conditions.

13. Debts. Any debts determined to be owed the Federal Government shall be paid promptly by the recipient. In accordance with 15 CFR 21.4, a debt will be considered delinquent if it is not paid within 15 days of the due date, or if there is no due date, within 30 days of the billing date. Failure to pay a debt by the due date, or if there is no due date, within 30 days of the billing date, shall result in the imposition of late payment charges. In addition, failure to pay the debt or establish a repayment agreement by the due date, or if there is no due date, within 30 days of the billing date, will also result in the referral of the debt for collection action and may result in DoC taking further action as specified in the terms of the award. Funds for payment of a debt must not come from other Federally sponsored programs. Verification that other Federal funds have not been used will be made, e.g., during on-site visits and audits.

14. Post-Award Discovery of Adverse Information. After an award is made, if adverse information on a recipient or any key individual associated with a recipient is discovered which reflects significantly and adversely on the recipient's responsibility, the Grants Officer may take the following actions:

(a) Require the recipient to correct the conditions.

(b) Consider the recipient to be ''high risk'' and unilaterally impose special award conditions to protect the Federal Government's interest.

(c) Suspend or terminate an active award. The recipient will be afforded adequate due process while effecting such actions.

(d) Require the removal of personnel from association with the management of and/or implementation of the project and require Grants Officer approval of personnel replacements.

15. Competition and Codes of Conduct.

(a) Pursuant to the certification in SF–424B, Paragraph 3, recipients must maintain written standards of conduct to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of a personal or organizational conflict of interest, or personal gain in the administration of this award and any subawards.

(b) Recipients must maintain written standards of conduct governing the performance of their employees engaged in the award and administration of subawards. No employee, officer, or agent shall participate in the selection, award, or administration of a subaward supported by Federal funds if a real or apparent conflict of interest is or would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization in which he/she serves as an officer or which employs or is about to employ any of the parties mentioned in this section, has a financial or other interest in the organization selected or to be selected for a subaward. The officers, employees, and agents of the recipient may not solicit or accept anything of monetary value from subrecipients. However, recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of a recipient.

(c) All subawards will be made in a manner to provide, to the maximum extent practicable, open and free competition. Recipients must be alert to organizational conflicts of interest as well as other practices among subrecipients that may restrict or eliminate competition. In order to ensure objective subrecipient performance and eliminate unfair competitive advantage, subrecipients that develop or draft work requirements, statements of work, or requests for proposals will be excluded from competing for such subawards.

(d) For purposes of this award, a financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with an applicant. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to act in an impartial manner. It could also result from non-financial gain to the individual, such as benefit to reputation or prestige in a professional field.

16. Minority Owned Business Enterprise. DoC encourages recipients to utilize minority and women-owned firms and enterprises in contracts under financial assistance awards. The Minority Business Development Agency can assist recipients in matching qualified minority owned enterprises with contract opportunities.

17. Subaward and/or Contract to a Federal Agency. Recipients, subrecipients, contractors, and/or subcontractors may not sub-grant or sub-contract any part of an approved project to any Federal department, agency, instrumentality, or employee thereof, without the prior written approval of the Grants Officer.

18. Foreign Travel. Recipients must comply with the provisions of the Fly America Act, 49 U.S.C. 40118. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed foreign air travel must use U.S. flag carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable, or use of U.S. flag carrier service will not accomplish the agency's mission. The implementing Federal Travel Regulations are found at 41 CFR 301–10.131 through 301–10.143.

19. Purchase of American-Made Equipment and Products. Recipients are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under DoC financial assistance awards.

20. Intellectual Property Rights.

(a) Inventions. The rights to any invention made by a recipient under a DoC financial assistance award are determined by the Bayh-Dole Act, Public Law 96–517, as amended, and codified in 35 U.S.C. 200 *et seq.,* except as otherwise required by law. The specific rights and responsibilities are described in more detail in 37 CFR Part 401 and in particular, in the standard patent rights clause in 37 CFR 401.14.

(b) Patent Notification Procedures. Pursuant to EO 12889, DoC is required to notify the owner of any valid patent covering technology whenever the DoC or its financial assistance recipients, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the recipient uses or has used patented technology under this award without a license or permission from the owner, the recipient must notify the DoC Patent Counsel and Grants Officer.

(c) Data, Databases, and Software. The rights to any work produced or purchased under a DoC Federal financial assistance award are determined by 15 CFR 24.34 and 15 CFR 14.36. Such works may include data, databases or software. The recipient owns any work produced or purchased under a DoC Federal financial assistance award subject to DoC's right to obtain, reproduce, publish or otherwise use the work or authorize others to receive, reproduce, publish or otherwise use the data for Government purposes.

(d) Copyright. The recipient may copyright any work produced under a DoC Federal financial assistance award subject to DoC's royalty-free nonexclusive and irrevocable right to reproduce, publish or otherwise use the work or authorize others to do so for Government purposes. Works jointly authored by DoC and recipient employees may be copyrighted but only the part authored by the recipient is protected because, under 17 U.S.C. 105, works produced by Government employees are not copyrightable in the United States. If the contributions of the authors cannot be separated, the copyright status of the joint work is questionable. On occasion, DoC may ask the recipient to transfer to DoC its copyright in a particular work when DoC is undertaking the primary dissemination of the work. Ownership of copyright by the Government through assignment is permitted by 17 U.S.C. 105.

21. Seat Belt Use. Pursuant to EO 13043, recipients should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating recipient/company-owned, rented or personally owned vehicles.

22. Research Involving Human Subjects. All proposed research involving human subjects must be conducted in accordance with 15 CFR part 27, ''Protection of Human Subject.'' No research involving human subjects is permitted under any DoC financial assistance award unless expressly authorized by the Grants Officer.

23. Federal Employee Expenses. Federal agencies are generally barred from accepting funds from a recipient to pay transportation, travel, or other expenses for any Federal employee unless specifically approved in the terms of the award. Use of award funds (Federal or non-Federal) or the recipient's provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee, may raise appropriation augmentation issues. In addition, DoC policy prohibits the acceptance of gifts, including travel payments for Federal employees, from recipients or applicants regardless of the source.

24. Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects. Pursuant to Executive Order 13202, ''Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects,'' unless the project is exempted under section 5(c) of the order, bid specifications, project agreements, or other controlling documents for construction contracts awarded by recipients of grants or cooperative agreements, or those of any construction manager acting on their behalf, shall not: (1) include any requirement or prohibition on bidders, offerors, contractors, or subcontractors about entering into or adhering to agreements with one or more labor organizations on the same or related construction project(s); or (2) otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

25. Minority Serving Institutions (MSIs) Initiative. Pursuant to Executive Orders 12876, 12900, and 13021, DoC is strongly committed to broadening the participation of MSIs in its financial assistance programs. DoC goals include achieving full participation of MSIs in order to advance the development of human potential, strengthen the Nation's capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DoC encourages all applicants and recipients to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education Web site at *http://www.ed.gov/offices/OCR/minorityinst.html.*

26. Access to Records. The Inspector General of the DoC, or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the parties to a grant or cooperative agreement, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. An audit of an award may be conducted at any time. Recipients that are subject to OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations,'' and that expend $300,000 or more annually in Federal awards shall have an organization-wide audit performed, unless a program-specific audit is determined by DoC to be more appropriate. Other recipients will be subject to the audit requirements as stipulated in the award or subaward document.

C. The annual notices announcing the availability of Federal funds for each DoC competitive financial assistance program will generally contain the following program-specific information: Program Authority; Catalog of Federal Domestic Assistance (CFDA) Number and Title; Program Description; Funding Availability; Matching Requirements; Type of Funding Instrument (grant or cooperative agreement); Eligibility Criteria; Award Period; Evaluation Criteria; Project Funding Priorities; Selection Procedures; Applicability of Executive Order 12372; Identification of any Non-Standard Forms Used in the Application Package; Citation(s) to the Regulation and/or Department-Wide Notice Where Required Information Can Be Found If Not Included in the Solicitation; Disposition of Unsuccessful Applications; and Program-Specific Requirements. Also included should be notice of any program-specific requirements, such as environmental compliance provisions for construction projects and policies on human subjects, patents, care and use of laboratory animals, and biosafety measures, as applicable, for research awards.

Classification

Executive Order 12866

This notice has been determined to be ''not significant'' for purposes of Executive Order 12866, ''Regulatory Planning and Review.''

Administrative Procedure Act and Regulatory Flexibility Act

Because notice and comment are not required under 5 U.S.C. 553, or any other law, for this notice relating to public property, loans, grants benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Paperwork Reduction Act

These regulatory actions do not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection-of-information, subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid

Office of Management and Budget (OMB) control number. Forms SF–424, SF–424A, SF–424B, SF–424C, SF–424D, SF–LLL, and CD–346, have been approved under control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0041, 0348,0042, 0348–0046, and 0605–0001, respectively.

Catalog of Federal Domestic Assistance

This notice affects all of the grant and cooperative agreement programs funded by DoC. The Catalog of Federal Domestic Assistance can be accessed on the Internet under the DoC Grants Management Web site at *http://www.cfda.gov.*

List of Subjects

Accounting, Administrative practice and procedures, Grants administration, Grant programs-economic development, Grant programs-oceans, atmosphere and fisheries management, Grant programs-minority businesses, Grant programs-technology, Grant programs-telecommunications, Grant programs-international, Reporting and recordkeeping requirements.

Issued this 26th day of September, 2001, at Washington, DC.

Robert F. Kugelman,

Director, Office of Executive Budgeting and Assistance Management.

[FR Doc. 01–24515 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–FA–P

DEPARTMENT OF COMMERCE

International Trade Administration

Overseas Business Interest Questionnaire

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (C) (2) (A)).

DATES: Written comments must be submitted on or before November 30, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th & Constitution Avenue, NW, Washington, DC 20230 or via internet at MClayton@doc.gov.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to Thomas Nisbet, telephone 202–482–5657, fax 202–482–1999, e-mail Tom_Nisbet@ ita.doc.gov or to Joseph English, telephone 202–482–3334, fax 202–482–5362, e-mail Joseph.English@ita.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection allows U.S. firms participating in overseas trade events sponsored by the U.S. Department of Commerce's International Trade Administration (ITA) an opportunity to specifically identify their marketing objective for a specific event as well as current marketing activities and status in the specific foreign markets where the event will take place. The U.S. and Foreign Commercial Service/ITA overseas posts use the information to schedule business appointments during the trade event, arrange ''blue ribbon'' calls on key agents or distributors identified by participants prior to an event, and to issue specific show invitations appropriate prospective overseas business partners. It is critical to prearrange business appointments thus providing U.S. participants with a program of high caliber business appointments.

II. Method of Data Collection

Form ITA–471P is sent by request to U.S. firms. Applicant firms complete the form and forward it to the appropriate Department of Commerce trade event manager.

III. Data

OMB Number: 0625–0039.

Form Number: ITA–471P.

Type of Review: Regular Submission.

Affected Public: Business or other for-profit companies; small to medium sized businesses or organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 490 hours.

Estimated Total Annual Costs: The estimated annual cost for this collection is $20,000.00 ($18,000.00 for respondents and $2,000.00 for federal government).

IV. Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) 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 forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 26, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–24461 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Advocacy Questionnaire

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before November 30, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Email MClayton@doc.gov., Department of Commerce, Room 6086, 14th & Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: Jay Brandes, The Advocacy Center, Room 3814A, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230; Phone number: (202) 482–3896, and fax number: (202) 482–3508.

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Department of Commerce invites the general public and other

Federal agencies to comment on the proposed extension of the use of the advocacy questionnaire by the Trade Promotion Coordination Committee's (TPCC) Advocacy Network. The questionnaire is used to evaluate requests for United States' Government (USG) commercial advocacy in connection with overseas bids and proposals. The International Trade Administration's Advocacy Center marshals federal resources to assist U.S. business interests competing for foreign government procurements worldwide. The mission of the Advocacy Center is to coordinate USG commercial advocacy in order to promote U.S. exports and create U.S. jobs. The Advocacy Center is under the umbrella of the TPCC, which is chaired by the Secretary of Commerce and includes 19 federal agencies involved in export promotion. The purpose of the advocacy questionnaire is to collect the information necessary to make an evaluation about a company's eligibility for USG advocacy assistance. There are clear, well established USG advocacy guidelines that describe the various situations in which the USG can provide advocacy support for a firm. The questionnaire was developed to collect only the information necessary to determine if the firm meets the eligibility requirements set forth in these guidelines. The Advocacy Center, appropriate ITA officials, our U.S. Embassies worldwide, and other federal government agencies (the Advocacy Network) that provide advocacy support, will require firms seeking USG advocacy support to complete the questionnaire. Without this information, the USG would be unable to make eligibility determinations.

II. Method of Collection

Form ITA–4133P is sent to U.S. firms that request USG advocacy assistance.

III. Data

OMB Number: 0625–0220.

Form Number: ITA–4133P.

Type of Review: Regular Submission.

Affected Public: Companies who desire USG advocacy.

Estimated Number of Respondents: 200.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 205.

Estimated Total Annual Costs: The estimated annual cost for this collection is $12,300.00 ($7,175.00 for respondents and $5,125.00 for federal government).

IV. Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) 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 forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 26, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–24462 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (2000), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of October 2001, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

	Period
Antidumping Duty Proceedings	
Italy: Pressure Sensitive Tape, A–475–059	10/1/00—9/30/01
Japan: Vector Supercomputers, A–588–841	10/1/00—9/30/01
Malaysia: Extruded Rubber Thread, A–557–805	10/1/00—9/30/01
People's Republic of China: Barium Chloride, A–570–007	10/1/00—9/30/01
The People's Republic of China: Lock Washers, A–570–822	10/1/00—9/30/01
The People's Republic of China: Shop Towels, A–570–003	10/1/00—9/30/01
Countervailing Duty Proceedings	
Iran: Roasted In-Shell Pistachios, C–507–601	1/1/00—12/31/00
Suspension Agreements	
Russia: Certain Cut-to-Length Carbon Steel, A–821–808	10/1/00—9/30/01
Russia: Uranium, A–821–802	10/1/00—9/30/01
South Africa: Certain Cut-to-Length Carbon Steel, A–791–804	10/1/00—9/30/01
The People's Republic of China: Certain Cut-to-Length Carbon Steel, A–570–849	10/1/00—9/30/01
Ukraine: Certain Cut-to-Length Carbon Steel, A–823–808	10/1/00—9/30/01

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing

duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of October 2001. If the Department does not receive, by the last day of October 2001, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 7, 2001.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, AD/CVD Enforcement.

[FR Doc. 01–24416 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke three antidumping duty orders in part.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2000), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders for Pure Magnesium from Canada, Oil Country Tubular Goods from Mexico and Canned Pineapple from Thailand. The revocation request for Canned Pineapple from Thailand was inadvertently omitted from the initiation notice published on August 20, 2001 (66 FR 43570).

Initiation of Reviews

In accordance with sections 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 2002.

	Period to be reviewed
Antidumping Duty Proceedings	
Argentina: Oil Country Tubular Goods, A–357–810	8/1/00–7/31/01
Acindar Industria Argentina de Aceros, S.A.	
Siderca, S.A.I.C.	
Canada: Pure Magnesium, A–122–814	8/1/00–7/31/01
Magnola Metallurgy Inc.	
Norsk Hydo Canada, Inc.	
France: Industrial Nitrocellulose, A–427–009	8/1/00–7/31/01
Bergerac N.C.	
France: Stainless Steel Sheet and Strip In Coils[1], A–427–814	7/1/00–6/30/01
Ugine S.A.	
Italy: Granular Polytetrafluoroethylene (PTFE) Resin, A–475–703	8/1/00–7/31/01
Ausimont SpA	
Japan: Oil Country Tubular Goods, A–588–835	8/1/00–7/31/01
Kawasaki Steel Corporation	
Nippon Steel Corporation	
NKK Steel Corporation	
Sumitomo Metal Industries, Ltd.	
Mexico: Carbon and Alloy Seamless Standard, Line, and Pressure Pipe (Over 4½ Inches), A–201–827	2/4/00–7/31/01
Tubos de Aceros de Mexico, S.A.	
Mexico: Gray Portland Cement and Clinker, A–201–802	8/1/00–7/31/01

	Period to be reviewed
GCC Cementos, S.A. de C.V.	
CEMEX, S.A. de C.V.	
Apasco, S.A. de C.V.	
Mexico: Oil Country Tubular Goods, A–201–817	8/1/00–7/31/01
Hylsa, S.A. de C.V.	
Tubos de Acero de Mexico S.A.	
Republic of Korea: Corrosion-Resistant Carbon Steel Flat Products, A–580–816	8/1/00–7/31/01
Dongbu Steel Co., Ltd.	
Pohang Iron and Steel Co., Ltd.	
Union Steel Manufacturing Co., Ltd.	
Republic of Korea: Oil Country Tubular Goods, Other than Drill Pipe, A–580–825	8/1/00–7/31/01
SeAH Steel Corporation	
Shinho Steel Co., Ltd.	
Republic of Korea: Structural Steel Beams, A–580–841	2/11/00–7/31/01
INI Steel Company (formerly Inchon Iron & Steel Co., Ltd.)	
Romania: Certain Small Diameter Carbon and Alloy Seamless Standard Line and Pressure Pipe, A–485–805	2/4/00–7/31/01
Silcotub, S.A.	
Romania: Cut-to-Length Carbon Steel Plate, A–485–803	8/1/00–7/31/01
Sidex, S.A.	
Taiwan: Stainless Steel Sheet and Strip in Coils[2], A–583–831	7/1/00–6/30/01
Chia Far Industrial Co., Ltd.	
Ta Chen Stainless Pipe Co., Ltd.	
Tung Mung Development Co., Ltd.	
Yieh United Steel Corporation	
The People's Republic of China: Petroleum Wax Candles[3], A–570–504	8/1/00–7/31/01
Dongguan Fay Candle Company, Ltd.	
The People's Republic of China: Sulfanilic Acid[4], A–570–815	8/1/00–7/31/01
Boading Mancheng Zhenxing Chemical Plant	
Xinyu Chemical Plant	
Yude Chemical Industry, Co.	
Zhenxing Chemical Industry, Co.	
Thailand: Certain Carbon Steel Butt-Weld Pipe Fittings[5], A–549–806	7/1/00–6/30/01
Thai Benkan Company, Ltd.	
Countervailing Duty Proceedings	
Canada: Alloy Magnesium, C–122–815	1/1/00–12/31/00
Magnola Metallurgy Inc.	
Norsk Hydro Canada Inc.	
Canada: Pure Magnesium, C–122–815	1/1/00–12/31/00
Magnola Metallurgy Inc.	
Norsk Hydro Canada Inc.	
France: Stainless Steel Sheet and Strip in Coils, C–427–815	1/1/00–12/31/00
Ugine S.A.	
Republic of Korea: Stainless Steel Sheet and Strip in Coils, C–580–835	1/1/00–12/31/00
INI Steel Company (formerly Inchon Iron and Steel Co., Ltd.)	
Sammi Steel Co.	
Suspension Agreements	
None.	

[1] Case inadvertently omitted from previous initiation notice.
[2] Case inadvertently omitted from previous initiation notice.
[3] If one of the above named companies does not qualify for a separate rate, all other exporters of petroleum wax candles from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.
[4] If one of the above named companies does not qualify for a separate rate, all other exporters of sulfanilic acid from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.
[5] In the initiation notice published on August 20, 2001 (66 FR 43570), the case number and review period for Certain Carbon Steel Butt-Weld Pipe Fittings from Thailand is incorrect. The correct case number and review period is listed above.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under § 351.211 or a determination under § 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 24, 2001.

Holly A. Kuga,

Senior Office Director, Group II, Office 4 AD/ CVD Enforcement.

[FR Doc. 01–24507 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

Notice of Initiation of Five-Year Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of five-year (''sunset'') review.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year (''sunset'') review of the suspended antidumping investigation listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* covering this same suspended investigation.

FOR FURTHER INFORMATION CONTACT: Carole A. Showers or Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–3217 or (202) 482–5050, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

The Applicable Statue

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the ''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department'') regulations are to 19 CFR part 351 (2001). Pursuant to sections 751(c) and 752 of the Act, an antidumping (''AD'') or countervailing duty (''CVD'') order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin'').*

Background

Initiation of Review

In accordance with 19 CFR 351.218 we are initiating a sunset review of the following suspended investigation:

DOC case No.	ITC case No.	Country	Product
A–201–820	731–TA–747	Mexico	Fresh Tomatoes.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* (19 CFR 351.218) and *Sunset Policy Bulletin,* the Department's schedule of sunset reviews, case history information (*i.e.,* previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset Internet website at the following address: *http://ia.ita.doc.gov/sunset/.*

All submissions in this sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303. Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. The Department will make additions to and/or deletions from the service list provided on the sunset website based on notifications from parties and participation in this review. Specifically, the Department will delete from the service list all parties that do not submit a substantive response to the notice of initiation.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102) wishing to participate in this sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: September 25, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–24508 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–834]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review.

SUMMARY: On August 6, 2001, the Department of Commerce (''Department'') received a letter on behalf of the INI Steel Company (''INI''), formerly Inchon Iron and Steel Co., Ltd. (''Inchon''), notifying the Department that Inchon's corporate name has changed to INI Steel Company. INI requests that the Department initiate a changed circumstance administrative review to confirm that INI is the successor-in-interest to Inchon.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Cheryl Werner or Rick Johnson, Import Adminstration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2667 and (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

In an August 6, 2001, letter to the Department, INI Steel Company, formerly Inchon Iron and Steel Co., Ltd., notified the Department that as of August 1, 2001, Inchon's corporate name had changed to INI Steel Company. INI stated that its owners, management structure, production facilities, supplier relationships and customer base are to remain unchanged and unaffected by the adoption of the new corporate name. INI provided documentation to support this claim consisting of: the minutes of Inchon's July 27, 2001 shareholders' meeting where the name change was approved; the Inchon District Court's official certification of the name change registered on July 31, 2001; and INI's Business Registration Certificate issued on August 1, 2001 by the Inchon Tax Office.

Scope of the Review

For purposes of this changed circumstances review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this review is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81[1], 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this review are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

The Department has determined that certain additional specialty stainless steel products are also excluded from the scope of this review. These excluded products are described below.

Flapper value steel is excluded from this review. Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of

[1] Due to changes to the HTSUS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13,0071, and 7219.13.0081, respectively.

suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this review. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this review. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [2]

Certain electrical resistance alloy steel is also excluded from the scope of this review. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (''ASTM'') specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [3]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this review. This high-strength, ductile stainless steel product is designated under the Unified Numbering System (''UNS'') as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [4]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this review. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[5] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[6]

Initiation of Changed Circumstance AD Review

At the request of INI, and in accordance with sections 751(b)(1) of the Act, and section 351.216 of the Department's regulations, the Department is initiating a changed circumstance review of stainless steel sheet and strip in coils from Korea to determine whether INI is the successor-in-interest to Inchon Iron and Steel, Co., Ltd. In making successor-in-interest determinations, the Department examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See e.g., Brass Sheet* and *Strip from Canada; Final Results of Antidumping Duty Administrative Review,* 57 FR 20460, 20461 (May 13, 1992). While no single factor, or combination of factors, will necessarily be dispositive, the Department will generally consider the new company to be the successor to its predecessor company if the resulting operations are essentially the same as the predecessor company. *See e.g., id.* and *Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review,* 59 FR 6944, 6945 (February 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as its predecessor, the Department will treat the new company as the successor-in-interest to the predecessor.

The information submitted by INI shows changed circumstances sufficient to warrant a review under 19 CFR 351.216. We will publish in the **Federal Register** a notice of preliminary results of antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action

[2] ''Armokrome III'' is a trademark of the Arnold Engineering Company.

[3] ''Gilphy 36'' is a trademark of Imphy, S.A.

[4] ''Durphynox 17'' is a trademark of Imphy, S.A.

[5] This list of uses is illustrative and provided for descriptive purposes only.

[6] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

proposed based on those results. As per 351.221(b)(4), interested parties will have an opportunity to comment. The Department will issue its final results of review in accordance with the time limitations set forth in 19 CFR 351.216(e). All written comments must be submitted to the Department and served on all interested parties on the Department's service list in accordance with 19 CFR 351.303.

During the course of this changed circumstances review, we will not change any cash deposit instructions on the merchandise subject to this changed circumstances review, unless a change is determined to be warranted pursuant to the final results of this review.

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.221.

Dated: September 24, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–24505 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–841]

Structural Steel Beams from the Republic of Korea: Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review.

SUMMARY: On August 6, 2001, the Department of Commerce (''Department'') received a letter on behalf of the INI Steel Company (''INI''), formerly Inchon Iron and Steel Co., Ltd. (''Inchon''), notifying the Department that Inchon's corporate name has changed to INI Steel Company. INI requests that the Department initiate a changed circumstance administrative review to confirm that INI is the successor-in-interest to Inchon.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Cheryl Werner or Rick Johnson, Import Adminstration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2667 and (202) 482–3818, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

In an August 6, 2001, letter to the Department, INI Steel Company, formerly Inchon Iron and Steel Co., Ltd., notified the Department that as of August 1, 2001, Inchon's corporate name had changed to INI Steel Company. INI stated that its owners, management structure, production facilities, supplier relationships and customer base are to remain unchanged and unaffected by the adoption of the new corporate name. INI provided documentation to support this claim consisting of: the minutes of Inchon's July 27, 2001 shareholders' meeting where the name change was approved; the Inchon District Court's official certification of the name change registered on July 31, 2001; and INI's Business Registration Certificate issued on August 1, 2001 by the Inchon Tax Office.

Scope of the Review

The products covered by this review include structural steel beams that are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams (''W'' shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subjeadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Initiation of Changed Circumstance AD Review

At the request of INI, and in accordance with sections 751(b)(1) of the Act, and § 351.216 of the Department's regulations, the Department is initiating a changed circumstance review of stainless steel sheet and strip in coils from Korea to determine whether INI is the successor-in-interest to Inchon Iron and Steel, Co., Ltd. In making successor-in-interest determinations, the Department examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See e.g., Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review,* 57 FR 20460, 20461 (May 13, 1992). While no single factor, or combination of factors, will necessarily be dispositive, the Department will generally consider the new company to be the successor to its predecessor company if the resulting operations are essentially the same as the predecessor company. *See e.g., id.* and I*ndustrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review,* 59 FR 6944, 6945 (February 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as its predecessor, the Department will treat the new company as the successor-in-interest to the predecessor.

The information submitted by INI shows changed circumstances sufficient to warrant a review under 19 CFR 351.216. We will publish in the **Federal Register** a notice of preliminary results of antidumping duty changed circumstances review, in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the factual and legal conclusions upon which our preliminary results are based and a description of any action proposed based on those results. As per 351.221(b)(4), interested parties will have an opportunity to comment. The Department will issue its final results of review in accordance with the time limitations set forth in 19 CFR

351.216(e). All written comments must be submitted to the Department and served on all interested parties on the Department's service list in accordance with 19 CFR 351.303.

During the course of this changed circumstances review, we will not change any cash deposit instructions on the merchandise subject to this changed circumstances review, unless a change it determined to be warranted pursuant to the final results of this review.

This notice is in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.221.

Dated: September 24, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–24506 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–601]

Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Amended Final Results and Rescission, in Part, of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review.

SUMMARY: We are amending our final results of the 1999 administrative review of the antidumping duty order on top-of-the-stove-stainless steel cooking ware from the Republic of Korea, published on August 29, 2001 (66 FR 45664), to reflect the correction of ministerial errors made in the final results. This correction is in accordance with section 751(h) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.224 of the Department's regulations. The period covered by these amended final results of review is January 1, 1999 through December 31, 1999.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Paige Rivas or Ron Trentham, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–0651 or 482–6320, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

On February 23, 2001, the Department of Commerce (the Department) published the preliminary results of the 1999 administrative review of the antidumping duty order on top-of-the-stove stainless steel cooking ware from the Republic of Korea. The Department published the final results of review on August 29, 2001. *See Top-of-the-Stove Stainless Steel Cooking Ware From the Republic of Korea: Final Results and Rescission, in Part, of Antidumping Duty Administrative Review,* 66 FR 45664 (August 29, 2001) (*Final Results*).

On August 30, 2001, we received timely allegations from Dong Won Metal Co., Ltd. (Dong Won) (a respondent) that the Department made ministerial errors in the final results of review regarding Dong Won. The petitioner did not submit any comments in reply to these ministerial error allegations.

Scope of Review

The merchandise subject to this antidumping order is top-of-the-stove stainless steel cookware from Korea. The subject merchandise is all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers. Excluded from the scope of the order are stainless steel oven ware and stainless steel kitchen ware. The subject merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7323.93.00 and 9604.00.00. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

The Department has issued several scope clarifications for this order. The Department found that certain stainless steel pasta and steamer inserts (63 FR 41545, August 4, 1998), certain stainless steel eight-cup coffee percolators (58 FR 11209, February 24, 1993), and certain stainless steel stock pots and covers are within the scope of the order (57 FR 57420, December 4, 1992). Moreover, as a result of a changed circumstances review, the Department revoked the order on Korea in part with respect to certain stainless steel camping ware (1) made of single-ply stainless steel having a thickness no greater than 6.0 millimeters; and (2) consisting of 1.0, 1.5, and 2.0 quart saucepans without handles and with lids that also serve as fry pans (62 FR 3662, January 24, 1997).

Amendment of Final Results

Comment 1

Dong Won states that the model matching programming language as applied for the final results for Dong Won fails to restrict the search for similar matches to products with the same ''product type,'' as was the Department's clearly stated intent. According to Dong Won, as currently written, the Department's margin program model matching methodology instead allows U.S. models to be compared to third country models of any body type. Dong Won urges the Department to correct this significant ministerial error.

Department's Position: After a review of Dong Won's allegation, we agree with Dong Won and have corrected our model match program. *See* Calculation Memorandum dated September 24, 2001 for the corrections.

Comment 2

Dong Won contends that, as in the preliminary results, the Department's final margin program contains a step in which the weighted-average third country selling expense data for matching models is merged with Dong Won's U.S. sales file. According to Dong Won, because the conversion of these expenses is done with a ''data merge,'' the Department's SAS program incorrectly multiplies the won-denominated third country selling expenses by the exchange rate twice, thus significantly understating the value of DINLFTPT, CREDIT2T, DIRSEL2T, DINVCART, and PACKT for certain records.

Dong Won points out that this same clerical error was addressed in its administrative Case Brief. *See* Letter from Hogan & Hartson to the U.S. Department of Commerce, dated March 26, 2001. According to Dong Won, in response, the Department indicated in Comment 7 of the *Issues and Decision Memorandum for the Administrative Review of Top-of-the-Stove Stainless Cooking Ware from Korea; Final Results,*

dated August 22, 2001, (*Decision Memorandum*) that it agreed with Dong Won and that it believed that it corrected for this error in the process of correcting the transposition of certain selling expense fields as outlined in response to Comment 6 of the *Decision Memorandum*. Dong Won contends that the transposition of the expense fields did not correct the conversion error for the reasons discussed above and requests that the Department correct this ministerial error.

Department's Position: We agree with Dong Won and have corrected the programming language in the margin calculation program. *See* Calculation Memorandum for the programming changes.

Amended Final Results

As a result of our review and the correction of the ministerial errors described above, we have determined that the margin for Dong Won is 13.30 percent. No other changes have been to made to the other margins published in the *Final Results.*

Assessment

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. In accordance with 19 CFR 351.212(b)(1), we have calculated for Dong Won importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the importer-specific sales to the total entered value of the same sales. Where the importer-specific assessment rate is above *de minimis,* we will instruct Customs to assess antidumping duties on that importer's entries of subject merchandise.

Cash Deposit Requirements

Upon publication of this notice of amended final results of these administrative reviews for all shipments of top-of-stove stainless steel cooking ware from Korea entered, or withdrawn from warehouse, for consumption on or after publication date of the amended final results of these administrative reviews, as provided by section 751(a)(1) of the Act, the cash deposit rate for Dong Won will be the rate established in the amended final results of this administrative review. No other changes have been made to the cash deposit requirements provided in the *Final Results.*

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 24, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–24504 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–833, C–122–841, C–428–833, C–274–805, C–489–809]

Notice of Initiation of Countervailing Duty Investigations: Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Trinidad and Tobago, and Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters of carbon alloy steel wire rod from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey receive countervailable subsidies.

ACTION: Initiation of Countervailing Duty Investigations.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Melani Miller (Brazil) at (202) 482–0116; Sally Hastings or Craig Matney (Canada) at (202) 482–3464 or (202) 482–0588, respectively; Annika O'Hara or Melanie Brown (Germany) at (202) 482–3798 or (202) 482–4987, respectively; Suresh Maniam (Trinidad and Tobago) at (202) 482–0176; and Jennifer Jones (Turkey) at (202) 482–4194; Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the ''Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department'') regulations are references to the provisions codified at 19 CFR part 351 (April 2000).

The Petitions

On August 31, 2001, the Department received petitions filed in proper form by Co-Steel Raritan, Inc., GS Industries, Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc. (collectively, the petitioners). The Department received various additional information to support the petitions on September 6, 7, 12, 13, 18, and 21, 2001. In addition to supporting evidence, these later submissions contained new subsidy allegations not included in the original petitions for Germany, Trinidad and Tobago, and Turkey.

The petitioners did not file these submissions with the International Trade Commission (''ITC'') until September 20, 2001 (for Germany and Turkey) and September 21, 2001 (for Brazil, Canada, and Trinidad and Tobago). As a result, while we have taken into account the supporting information contained in these submissions in these initiations, due to the lateness of the filing and the resulting lack of time for proper analysis, we have not addressed any new allegations that were made. However, we intend to examine these new allegations following the initiation.

In accordance with section 702(b)(1) of the Act, the petitioners allege that manufacturers, producers, or exporters of the subject merchandise from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey receive countervailable subsidies within the meaning of section 701 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed these petitions on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) of the Act and they have demonstrated sufficient industry support. *See infra*, ''Determination of Industry Support for the Petitions.''

Scope of Investigations

The merchandise covered by these investigations is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.0 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (''HTSUS'') definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining

steel products (*i.e.*, products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0090, 7227.90.6051 and 7227.90.6058 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Governments of Brazil (''GOB''), Canada (''GOC''), Germany (''GOG''), Trinidad and Tobago (''GOTT''), Turkey (''GRT''), and the European Commission (''EC'') for consultations with respect to the petitions filed. The Department held consultations with the GOTT on September 6 and 18, 2001; the GOB on September 13, 2001; the GRT on September 13; the GOG and the EC together on September 18, 2001; and the GOC on September 21, 2001. The points raised in the consultations are described in individual country-specific consultation memoranda to the file dated September 6, 13, 14, 19, and 21, 2001, which are on file in the Department's Central Records Unit, Room B–099 of the main Department of Commerce building (''CRU'').

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, when determining the degree of industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The ITC, which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petitions. Moreover, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigations.

The petitions cover carbon and certain steel wire rod as defined in the ''Scope of the Investigations'' section, above, a single class or kind of merchandise. The Department has no basis on the record to find the petitioners' definition of the domestic like product to be inaccurate. The Department, therefore, has adopted the domestic like product definition set forth in the petitions.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Finally, section 732(c)(4)(D) of the Act provides that if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the administering agency shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

In this case, the Department has determined that the petitions (and subsequent amendments) contain adequate evidence of industry support; therefore, polling is unnecessary. *See* Attachment 1 to the Initiation Checklists for each country dated September 24, 2001 (''*Initiation Checklist*''). To estimate total domestic production of steel wire rod, the petitioners relied on data compiled by the ITC,[2] adjusted upward by five percent to include an estimate of production of products excluded by Presidential Proclamation 7273. In a letter dated September 7, 2001, the petitioners' provided support for the five percent adjustment in the form of an affidavit from an industry representative familiar with the excluded products.

On September 14, 2001, the Department received comments regarding industry support from Ispat-Sidbec Inc., a Canadian producer of steel wire rod. The petitioners responded to these comments in a letter to the Department dated September 18, 2001. Further, on September 21, 2001, the petitioners submitted a letter adding the support of Nucor Corp., a domestic producer of steel wire rod, for the petitions.

The Department has reviewed the comments of Ispat-Sidbec and the petitioners. In order to estimate production for the domestic industry as defined for purposes of this case, the Department has relied upon not only the petitions and amendments thereto, but also upon ''other information'' it obtained through research and described in Attachment I of the *Initiation Checklist.* Based on information from these sources, the Department determined, pursuant to section 732(c)(4)(D), that there is support for the petitions as required by subparagraph (A). Specifically, the Department made the following determinations. For Brazil, Canada, Germany, Trinidad and Tobago, and Turkey the petitioners established industry support representing over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petitions account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. Furthermore, because the Department received no opposition to the petitions, the domestic producers or workers who support the petitions account for more than 50 percent of the production of the domestic like product

[1] *See Algoma Steel Corp. Ltd., v. United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition,* 56 FR 32376, 32380–81 (July 16, 1991).

[2] *Certain Steel Wire Rod,* Inv. No. TA–204–06, Final Staff Report, Table II–2 at II–4.

produced by that portion of the industry expressing support for or opposition to the petitions. Thus, the requirements of section 732(c)(4)(A)(ii) are also met. Accordingly, the Department determines that the petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See Initiation Checklist.*

Injury Test

Because Brazil, Canada, Germany, Trinidad and Tobago, and Turkey are each a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitions allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise. The petitioners contend that the industry's injured condition is evident in the stagnation of U.S. producers' sales volumes and profits, the decline of their capacity utilization, the increase of U.S. inventories, and closures of U.S. production facilities. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation (*see* Injury Allegation section of the *Initiation Checklist* for each individual country). In accordance with section 771(7)(G)(ii)(III) of the Act, which provides an exception to the mandatory cumulation provision for imports from any country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act, we have considered the petitioners' allegation of injury with respect to Trinidad and Tobago independent of the allegations for each of the remaining countries named in the petition and found that the information provided satisfies the requirements (*see* Injury Allegation section of the *Initiation Checklist* for Trinidad and Tobago).

Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioners supporting the allegations.

Initiation of Countervailing Duty Investigations

The Department has examined the countervailing duty petitions on carbon and certain alloy steel wire rod from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey and found that they comply with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating a countervailing duty investigation in each country to determine whether manufacturers, producers, or exporters of carbon and certain alloy steel wire rod from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey receive countervailable subsidies (*see Initiation Checklist* for each country).

Brazil

A. Equityworthiness and Creditworthiness

The petitioners allege that both Usina Siderurgica da Bahia S.A. (''Usiba'') and Cia Siderurgica do Nordeste (''Cosinor''), which were sold to the Gerdau Group in 1989 and 1991, respectively, were both unequityworthy and uncreditworthy during the time periods 1986 through 1989 and 1986 through 1991, respectively. With respect to Usiba, the petitioners allege that Usiba never earned a profit prior to its sale to the Gerdau Group in 1989 and continued to incur losses after its sale. The petitioners point to several articles published in various publications in which Usiba's poor financial condition during the period 1986 through 1989 was discussed. Because of its financial condition, the petitioners contend that Usiba could not have attracted private capital during this period. With respect to Cosinor, the petitioners state that the GOB allegedly converted a significant amount of Cosinor's debt into equity in 1988 and then erased additional Cosinor debt in 1991. Moreover, the petitioners state that the GOB poured millions of dollars into Cosinor during the period 1986 through 1991, which shows that Cosinor was unable to repay its debts to the GOB and that Cosinor was in such poor financial condition that it could not have attracted private capital during this period.

We find that the petitioners have established a reasonable basis to believe or suspect that Usiba was unequityworthy and uncreditworthy in 1988, the only year in which the petitioners have alleged a related program with respect to Usiba. With respect to Cosinor, as noted below in the Brazil ''Programs'' section, we are not initiating an investigation of the single program involving Cosinor during the years 1986 through 1991. Thus, we are not initiating an investigation of Cosinor's equityworthiness and creditworthiness in these years.

B. Change in Ownership

The petitioners allege that both Usiba and Cosinor received non-recurring grants prior to changes in their ownership and that, after the changes in ownership, the Gerdau Group is, for all intents and purposes, the same ''person'' as Usiba and Cosinor, respectively. Consequently, according to the petitioners, consistent with the Department's recent *Final Results of Redetermination Pursuant to Court Remand in Acciai Speciali Terni S.p.A.* v. *United States, et al., (Ct. No. 99–06–00364*) (December 19, 2000) (''*AST Remand Redetermination*''), the past countervailable subsidies received by Usiba and Cosinor continue to be countervailable after the changes in ownership. Therefore, the petitioners request, consistent with the methodology in the *AST Remand Redetermination*, that all non-recurring subsidies provided to Usiba and Cosinor be attributed in full to the Gerdau Group.

We will examine this issue in the course of the investigation to determine whether any non-recurring subsidies provided to Usiba should be attributed to Gerdau. We will not examine this issue with respect to Cosinor, however, because, as noted above, we are not investigating any programs specifically related to Cosinor.

C. Programs

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Brazil:

1. Programs offered by the National Bank for Economic and Social Development (''BNDES'')
   a. Programa de Modernizacao da Siderurgia Brasiliera—Fund for the Modernization of the Steel Industry
   b. Financing for the Acquisition or Lease of Machinery and Equipment

through the Special Agency for Industrial Financing
c. BNDES Export Financing
2. Programa de Financiamento as Exportacoes
3. Exemption of Import Duties, the Industrial Products Tax (''IPI''), the Merchandise Circulation Tax (''ICMS''), and the Merchant Marine Renewal Tax on the Imports of Spare Parts and Machinery
4. Tax Incentives Provided by Amazon Region Development Authority and the Northeast Region Development Authority
5. Amazonia Investment Fund and Northeast Investment Fund Tax Subsidies
6. Constitutional Funds for Financing Productive Sectors in the Northeast, North, and Midwest Regions (Fundos Constitucionais de Financiamento do Nordeste, do Norte, e do Centro-Oeste)
7. Fiscal Incentives for Regional Development (Provisional Measure No. 1532 of Dec. 18, 1996)
8. Accelerated Depreciation
9. Exemption of Urban Building and Land Tax
10. Gerdau
a. Equity Infusions and Debt Forgiveness Provided to Usina Siderurgica da Bahia S.A. During the Period 1986 through 1989
b. BNDES Financing for the Acquisition of Acominas
11. Belgo-Mineira
a. BNDES Financing for the Acquisition of Mendes Junior Siderurgia S.A.
b. BNDES Financing for the Acquisition of Dedini Siderurgicia de Piracicaba

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in Brazil:

1. Rebate of ICMS Credit for Inputs Consumed in the Production of Exported Products

The ICMS is a state-government value-added tax (''VAT'') applicable to both imports and domestic products. According to the petitioners, the ICMS tax is calculated on a monthly basis, and is based on the total monthly ICMS tax liability for domestic sales (as export sales are exempt) minus monthly tax credits from ICMS taxes embedded in the purchase price of inputs consumed for all products (domestic and export). The petitioners allege that the offset is countervailable because the tax exemption for exports and the tax credits for inputs used in the exported product exceed the ICMS paid on domestic sales. The alleged benefit would be the amount of the ICMS tax creditable to inputs consumed in the manufacture of exported products.

We are not including this program in our investigation. As described by the petitioners, this program does no more than provide a rebate of a VAT tax collected on inputs to exported products. The fact that this rebate is effected as a credit in calculating the amount of VAT tax owed on domestic sales does not necessarily result in an excessive remission of indirect taxes pursuant to 19 CFR 351.517(a) of the Department's regulations.

2. Rebate of the IPI Credit on Inputs Consumed in the Production of Exported Products

The petition states that the IPI is a federal VAT tax levied on most domestic and imported manufactured products. Exports are exempt from the IPI tax. According to the petitioners, an IPI tax credit is created in the amount of the IPI assessed on inputs used to produce goods sold in both the domestic and export markets. The IPI tax, however, is assessed only on products sold in the domestic market because export sales are exempt. Thus, the credit generated from the purchases of inputs for both domestic and export products exceeds the actual IPI tax paid on domestic sales of merchandise, leaving companies with excess IPI tax credits. Therefore, the benefit would be the amount of the IPI tax creditable to inputs consumed in the manufacture of the exported product.

We are not including this program in our investigation. As described by the petitioners, this program does no more than provide a rebate of a VAT tax collected on inputs to exported products. The fact that this rebate is effected as a credit in calculating the amount of VAT tax owed on domestic sales does not necessarily result in an excessive remission of indirect taxes pursuant to 19 CFR 351.517(a) of the Department's regulations.

3. Exemption of Exports From the Social Integration Program (''PIS'') and Social Contribution of Billings (''COFINS'')

Under PIS, firms make contributions on a monthly basis to create a social fund for employees. COFINS is a federal social financing program which is used to finance social security expenses. The petitioners contend that, in past antidumping duty investigations, the Department determined that these taxes are ''levied on total revenues (except for export revenues), and thus the taxes are direct, similar to taxes on profit or wages.''

Within the context of a countervailing duty proceeding, taxes on revenues such as PIS and COFINS would generally be considered indirect taxes. (*See* 19 CFR 351.102(b) of the Department's regulations for the definition of an indirect tax.) In the case of these particular taxes, the Department's regulations at 19 CFR 351.517(a) state that a benefit exists to the extent that the amount remitted or exempted exceeds the amount levied. There is no information in this instance of any excessive remission. Thus, we are not including this allegation in our investigation.

4. Rebate of PIS and COFINS Taxes on Inputs Used for Exporting Products

Through this program, the PIS and COFINS contributions assessed on the purchase of raw materials, intermediate products, and packing materials used in the production of exports can be claimed as an advance IPI credit. Companies may request a cash refund from the GOB if the amount of the advance IPI credit exceeds the amounts paid by the company for certain federal taxes and contributions.

Based on the petitioners' description of this program, noted above, it appears to be a rebate of indirect taxes levied on inputs to export products. The petitioners' evidence does not indicate that the rebate is excessive. Therefore, we find no basis to call this program an export subsidy, and we are not including this program in our investigation.

5. Investment Incentives Provided by the Government of Minas Gerais to the Steel Industry

The petition alleges that funding provided by the Brazilian state Government of Minas Gerais (''GOM'') through the Program for Industrial and Agroindustrial Integration and Diversification and the Program to Induce Industrial Modernization is countervailable. The petitioners contend that this program is *de facto* specific to the steel industry because, based on the prominence of the steel industry in Minas Gerais, steel production in the region receives a disproportionately large amount of the funding provided through these programs.

According to the same GOM web site cited by the petitioners, the steel industry appears to be one of several prominent industries in Minas Gerais. Thus, although steel may be a large industry, there are also many other industries that appear to play a large role in the economy of Minas Gerais. Therefore, there is insufficient information to show that steel

production in the region receives a disproportionately large amount of the funding provided through these programs. Because of this, we are not including these programs in our investigation.

6. Discounted Natural Gas From Petrobras

The petition alleges that Belgo-Mineira, as well as possibly other Brazilian wire rod producers, purchase discounted natural gas from Petrobras, Brazil's state oil company.

There is no information that any producer other than Belgo-Mineira signed an intention protocol with Petrobas to purchase discounted natural gas. Furthermore, as the intention protocol between Belgo-Mineira and Petrobras was not signed until December 2000, there is no evidence that there was any financial contribution made to Belgo-Mineira during 2000. Therefore, we are not including this program in our investigation.

7. Debt-to-Equity Conversion, Equity Infusions, and/or Debt Forgiveness Provided to Cosinor During the Period 1986 Through 1991

The petition alleges that the GOB did not act like a rational private investor when it made various investments in Cosinor during the time period 1988 through 1991. The petitioners argue that in order to make steel firms in general more ''privatizable,'' the GOB spent millions upgrading and refurbishing these mills. It then sold the steel mills for much less than it invested. The petitioners allege that this made the GOB's investments inconsistent with those of a rational private investor.

There is no information that Cosinor was in a poor financial condition at the time any of these investments were made. Although the petitioner has provided information with respect to actions taken by the GOB to make government firms more ''privatizable,'' there is no specific information relating to the state of Cosinor's financial condition. Moreover, with respect to the 1991 debt forgiveness, the petitioners have provided no information that this debt forgiveness was part of a debt-to-equity conversion. Therefore, because there is no evidence that Cosinor specifically was in poor financial condition, we have no evidence that a reasonable private investor would not have invested in Cosinor. Moreover, the petitioners have not provided evidence in support of its benefit allegation with respect to the alleged debt forgiveness. Thus, we do not recommend initiating an investigation of these transactions.

Canada

A. Equityworthiness and Creditworthiness

The petitioners have identified three producers of carbon steel wire rod in Canada: Sidbec-Dosco (Ispat) Inc. (''Ispat-Sidbec), Stelco Inc. (''Stelco''), and Ivaco Inc. (''Ivaco'').

The petitioners allege that, consistent with our previous findings in *Steel Wire Rod from Canada*, 62 FR 54972 (October 22, 1997) (''*Canadian Wire Rod*''), the Department should continue to find Sidbec-Dosco Limited (''Sidbec-Dosco''), the predecessor to Isapt-Sidbec, unequityworthy from 1983 through 1992. The petitioners note that in *Canadian Wire Rod*, the Department initiated an unequityworthy investigation on Sidbec-Dosco for the years alleged in this investigation, but made a final determination of unequityworthiness only for 1988 because that was the only year in which we determined that a countervailable equity infusion was made. Based on our previous initiation of an equityworthiness inquiry for Sidbec-Dosco, if in the course of this investigation we discover that Sidbec-Dosco received equity infusions in any year during the period from 1983 through 1992, we will investigate whether it was unequityworthy in that year.

In addition, the petitioners allege that all three producers were uncreditworthy at various times. Consistent with *Canadian Wire Rod*, the petitioners request that the Department continue to find Sidbec-Dosco uncreditworthy from 1983 through 1992. Furthermore, because of a lack of public information regarding the current owner, Ispat-Sidbec, the petitioners request that the Department assess the creditworthiness of Ispat-Sidbec from 1992 through 2000. Based on our previous finding of uncreditworthiness for Sidbec-Dosco, if in the course of this investigation we discover that Sidbec-Dosco received any non-recurring subsidies, loans, or loan guarantees in any year during the period from 1983 through 1992, we will investigate whether it was uncreditworthy in that year. However, because the petitioners have provided no support for their allegation of uncreditworthiness for Ispat-Sidbec from 1992 through 2000, we will not examine its creditworthiness.

In addition, the petitioners allege that Stelco was uncreditworthy from 1988 through 1994 and that Ivaco was uncreditworthy from 1989 through 1998. However, as stated below and in the *Initiation Checklist* for Canada, because we are not initiating on any programs with respect to Stelco or Ivaco within the alleged years, we do not need to investigate the creditworthiness for these two companies.

B. Change in Ownership

The petitioners allege that Sidbec-Dosco received non-recurring grants prior to its change in ownership and that, after the change in ownership, Ispat-Sidbec is, for all intents and purposes, the ''same person'' as Sidbec-Dosco. Consequently, according to the petitioners, consistent with the Department's recent *AST Remand Redetermination*, the past countervailable subsidies received by Sidbec-Dosco continue to be countervailable after the changes in ownership. Therefore, the petitioners request, consistent with the methodology in the *AST Remand Redetermination*, that all non-recurring subsidies provided to Sidbec-Dosco be attributed in full to Ispat-Sidbec.

We will examine this issue in the course of the investigation to determine whether non-recurring subsidies provided to Sidbec-Dosco should be attributed to Ispat-Sidbec.

C. Programs

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Canada:

1. 1988 Conversion of Sidbec-Dosco's Debt into Sidbec Capital Stock
2. 1984 through 1992 Government of Quebec Grants to Sidbec-Dosco
3. Tax Credit for Mining Incentives for Stelco

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in Canada:

1. Provision of Electricity for Less Than Adequate Remuneration for Stelco

The petition states that Ontario Hydro's agreement with Stelco to not increase electricity costs for Stelco, which is described in Stelco's 1994 annual report, is a countervailable benefit. The petitioners argue that, because energy costs have escalated in recent years and the wire rod industry is highly energy-intensive, Ontario Hydro's commitment to lock rates in for Stelco indicates that Ontario Hydro is receiving less than adequate remuneration for the provision of electricity. The petitioners contend that this 1994 agreement shows that the Canadian government has a history of providing discounted rates.

We are not investigating this allegation because the petitioners have not provided evidence to support their claims of specificity and benefit. Even assuming that Stelco's rates did not increase, that does not provide a basis for speculating that others' rates did rise. The benefit claim, too, is based on speculation. Finally, we find no basis to ascribe the behavior of Hydro Quebec to Ontario Hydro.

2. Federal and Provincial Government Assistance for Plant Modernization Under SDI or Other Government Programs

Ivaco reported in its 1999 financial statement that it underwent a C$65 million modernization program. The petitioners contend that, because the Department found that Ivaco received grants from a Government of Quebec (''GOQ'') agency in *Canadian Wire Rod* to assist with modernization, it is likely that Ivaco also received such grants or loans for the 1999 modernization. The petitioners also state that Stelco has undertaken new expansion projects which have likely benefitted from this type of assistance it could not have afforded on its own. Finally, the petitioners allege that Ispat-Sidbec likely also received such funds because it is located in an area that has traditionally benefitted from such projects and it could not have afforded such projects on its own.

The petitioners have not provided any information evidencing that any of these companies actually received a financial contribution or a benefit from any Canadian governmental entity for plant modernization and associated programs. Therefore, we are not initiating an investigation of this allegation.

3. McGill University Research and Development Services and Production Assets Provided to Ivaco

Ivaco reported in its 1999 financial statement that it participated in joint research work with McGill University in 1999. The petitioners note that McGill's web site states that the largest source of funding for McGill is grants from the GOQ. Thus, the petitioners contend that McGill is a quasi-government agency, and is providing a countervailable benefit to Ivaco by way of the provision of goods and services for less than adequate remuneration in the form of free research and assets.

In past cases, the Department has established several criteria in order to assess whether an entity should be considered to be the government or a public entity for purposes of countervailing duty investigations. (*See, e.g., Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment With Final Antidumping Duty Determinations: Certain Hot-Rolled Carbon Steel Flat Products From South Africa*, 66 FR 20261 (April 20, 2001).) The criteria include (1) significant government ownership, (2) the government's presence on the entity's board of directors, (3) the government's control over the entity's activities, (4) the entity's pursuit of governmental policies or interests, and (5) whether the entity is created by statute. The petitioners have provided no information with respect to any of these criterion. Lacking evidence that McGill is a government or public entity, we are not initiating an investigation with respect to this allegation.

4. Ivaco's Industrial Revenue Bonds

The petitioners allege that industrial revenue bonds, which are listed in Ivaco's financial statements for 1984 through 1996, appear to be provided at preferential rates of borrowing. The petitioners argue that, because there was no mention of similar bonds in the financial statements of other wire rod producers, or because this type of bond financing would only make sense for large manufacturing concerns and would almost never be used outside of the manufacturing industry, these bonds must be specific because they are limited only to Stelco, or only to ''industrial'' activities.

The petitioners have provided no evidence showing that these bonds were limited to Ivaco, other producers of subject merchandise, or ''industrial'' activities. Because there is only speculation as to the specificity of these bonds and the petitioners have not provided any information regarding the provider(s) of these bonds (regardless of country of issuance), we do not recommend initiating an investigation of these industrial revenue bonds.

5. Britannia Environmental Agreement With Ivaco

The petition alleges that the Government of British Columbia's (''GOBC'') agreement with the previous (including Ivaco) and current owners of a mining site in British Columbia with respect to the environmental clean-up of the site is a countervailable subsidy because the owners were responsible for paying only half of the expected clean-up cost, leaving the GOBC responsible for covering the remaining costs.

The petitioners have provided no evidence in the petition showing that this transaction was related to the subject merchandise or its production. Moreover, the petitioners state that this agreement was reached in April 2001, which was after the period of time we would be examining in this investigation. Therefore, as there was no benefit or financial contribution during the POI, we are not including this program in our investigation.

6. Operating Assistance to Stelco

The petitioners state that, according to Stelco's annual reports, Stelco received government assistance to continue operating during periods of financial distress in the early 1990's.

The petitioners withdrew this allegation in their supplemental petition submission dated September 13, 2001. Therefore, we are not including this program in our investigation.

7. Assistance for Energy Projects for Stelco

The petitioners cite a 1999 report by Stelco which states that projects implemented at one of Stelco's plants to improve energy efficiency relied on incentives provided by ''government and utility demand side management programs.'' Thus, the petitioners allege that the GOC provided assistance to Stelco in the form of grants, or by way of work that may have been done directly by the government itself.

The petitioners did not submit documentation to support their allegation. Moreover, the petitioners did not provide sufficient evidence that any financial contribution or benefit was provided during 2000, or that any potential subsidies were specific only to Stelco (and did not provide any information with respect to other producers). Therefore, we are not including this program in our investigation.

8. Manufacturing and Processing Profits Deduction/Credit Provided to Stelco

The petition notes that, according to its financial statements, Stelco received a manufacturing and processing profits deduction or credit from 1986 through 2000. The petitioners claim that this deduction/credit is a countervailable subsidy because it was either regionally specific or, alternately, provided only to Stelco.

The petitioners have provided no evidence to support their claim that this tax program was regionally specific. The petitioners have also not provided any supporting evidence showing that this tax deduction/credit was specific because it was limited only to Stelco. Thus, we are not including this program in our investigation.

9. Investment Tax Credits Provided to Stelco

The petition notes that Stelco's financial statements from 1986 through 2000 indicate that ''capital assets are recorded at historical cost less investment tax credits and include construction in process.'' The petition also notes that, in a past antidumping investigation, Stelco reported that it received investment tax credits that represent ''reimbursement by the Canadian government of research and development expenses.'' Because some of the investment tax credits examined in the *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Canada,* 51 FR 15037 (April 22, 1986) (''*Oil Country Tubular Goods*'') were found to be specific, and because it is unclear which type of industrial tax credits were included in Stelco's financial statements, the petitioners urge the Department to investigate Stelco's investment tax credits. Alternately, the petitioners argue that, because only Stelco's financial statements mentioned these types of credits, these investment tax credits were not provided through a generally available program and were only available to Stelco.

As noted above, the petitioners state as part of their argument that Stelco received ''reimbursement by the Canadian government of research and development expenses.'' However, the Department found in *Oil Country Tubular Goods* that research and development investment tax credits were not specific. Moreover, the petitioners have not provided any supporting evidence showing that this tax deduction/credit was, in fact, limited only to Stelco. Therefore, we are not including this program in our investigation.

GERMANY

A. General

The petitioners made several allegations regarding possible subsidies to Georgsmarienhuette GmbH (''GMH'') and Brandenburger Elecktrostahlwerke (''BES''). Based on our review of import data for the period January 1, 2000 through December 31, 2000, neither of these two companies had any imports of subject merchandise into the United States during the expected POI (*see* Memorandum to File, ''Importers of Steel Wire Rod from Germany during the year 2000,'' dated September 24, 2000). Given this, GMH and BES would not be selected to respond to our countervailing duty questionnaire. Therefore, we have not analyzed the petitioners' allegations with respect to these two companies and have not included them in our initiation of this investigation. However, if new information indicates that either GMH or BES should respond to our countervailing duty questionnaire, we will evaluate the petitioners' allegations at that time.

B. Equityworthiness and Creditworthiness

The petitioners allege that Saarstahl AG (''Saarstahl'') was both unequityworthy and uncreditworthy and that Ispat Hamburger Stahlwerke (''Ispat)'' was uncreditworthy.

First, the petitioners allege that, consistent with our previous findings in *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany*, 64 FR 54990 (October 22, 1997) (German Wire Rod), the Department should continue to find Saarstahl, uncreditworthy in 1989. The petitioners also allege that Saarstahl was uncreditworthy from 1993 to 2000. In support of this argument, the petitioners, citing to *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany; Preliminary Results of Countervailing Duty Administrative Review*, 64 FR 16915 (April 7, 1997), claim that Saarstahl, due to massive financial losses, has been involved in a creditor arrangement from 1993 through 2000. Specifically, the petitioners refer to information on Saarstahl's website indicating that it is required to pay ten percent of its outstanding debt in order to obtain the relinquishment of its remaining debt. The petitioners also point to a 1997 news article confirming that Saarstahl's shareholders agreed to pay ten percent of the company's debts as part of a government-approved plant to relieve Saarstahl of its remaining debt. As a result, according to the petitioners, no rational investor would have loaned money to Saarstahl during these times.

Based on the same information relied upon for the uncreditworthy allegation (*i.e.*, the creditor arrangement beginning in 1993), the petitioners also allege that Saarstahl was unequityworthy in 1994, 1996, 1998, and 1999, the years in which they claim the GOG made equity infusions into Saarstahl.

In *Notice of Initiation of Countervailing Duty Investigations: Steel Wire Rod from Germany, Trinidad and Tobago, Canada and Venezuela*, 62 FR 13866, 13868 (March 24, 1997), we initiated an uncreditworthy investigation for Saarstahl for the period 1993 through 1996 (in addition to the year 1989, as stated above). We did not, however, initiate an unequityworthy investigation for these same years because the petitioners had not alleged any equity infusions in the relevant years. *Id.* Our examination of the petitioners' evidence and, in particular, the information on Saarstahl's website concerning its bankruptcy proceedings, indicate sufficient evidence of Saarstahl's uncreditworthiness and unequityworthiness to warrant investigation. Specifically, we find that Saarstahl began bankruptcy proceedings in 1993 and made its last payment pursuant to a settlement agreement with creditors in 1999. Therefore, based upon our previous finding and these facts, we will investigate Saarstahl's creditworthiness in 1989 and those years between 1993 and 1999 in which it received any non-recurring subsidies, loans, or loan guarantees. Regarding Saarstahl's equityworthiness allegation, because we are not initiating with respect to any equity infusions into Saarstahl during the alleged years, we will not investigate Saarstahl's equityworthiness.

Second, consistent with *German Wire Rod*, the petitioners allege that Ispat was uncreditworthy in 1994. 62 FR at 54991. Based on our previous finding, we will consider Ispat's uncreditworthiness in 1994 if we find that it received any non-recurring subsidies, loans, or loan guarantees in that year.

C. Change in Ownership

The petitioners request that the Department examine the pre- and post-sale entity for each respondent that underwent a change in ownership and conduct a ''same person'' analysis, consistent with the methodology in the *AST Remand Redetermination.*

We will examine this issue in the course of the investigation to determine whether non-recurring subsidies provided to pre-sale company should be attributed to the post-sale company.

D. Programs

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Germany:

1. Allegations Pertaining Only to Saarstahl
   a. Private Bank Debt Forgiveness/ Liquidity Assurances by the GOS
   b. 1989 Debt Forgiveness for Saarstahl
   c. Subsidies Leading up to the 1997 Reorganization of Saarstahl
   d. Research and Development Assistance to Saarstahl
2. Subsidies Pertaining Only to Ispat
   a. Forgiveness of Ispat Hamburger Stahlwerke's 1994 Debt

3. Subsidies Pertaining to All/Other Producers and Exporters
   a. Investment Allowance Act
   b. Joint Program: Upswing East
   c. Treuhandanstalt Assistance
   d. Aid for Closure of Steel Operations
   e. Structural Improvement Assistance Aids
4. State (Land) Government Benefits
   a. Ruhr District Action Program
   b. Consolidation Funds
   c. Special Depreciation
   d. Ecological Tax Scheme
5. ECSC Programs
   a. ECSC Article 54 Loans
   b. ECSC Loan Guarantees
   c. Interest Rate Rebates
   d. ECSC Redeployment Aid Under Article 56(2)(b) (Worker Assistance)

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in Germany:

1. Alleged Subsidies to GMH

As noted above, based on our review of Customs' information, we believe that GMH did not export to the United States during our expected POI. Given this, GMH would not be selected to respond to our countervailing duty questionnaire. Consequently, we have not included the following subsidies which allegedly were provided only to GMH in our investigation. However, if new information indicates that this company should respond to our countervailing duty questionnaire, we will evaluate the petitioners' allegations at that time.

a. Operating Assistance to GMH from the Government of Lower Saxony and the GOG
b. Debt Relief and Grant Assistance in Connection with the Sale of GMH
c. Guaranteed Annual Management Service Contract Payments to GMH

2. Extension of Investment Premium Scheme in the New Lander

The petitioners allege that the German Parliament extended an 8 percent investment premium to large enterprises located in the new German Lander. In support of their allegation, the petitioners cite to a 1997 EC Report on competition policy.

Based on our review of the support documentation, it appears that the investment premium was not extended, as petitioners have alleged. Specifically, the report states:

> The German Parliament had approved an Act which put back from 1996 to 1998 the date by which qualifying investment projects had to be completed; the Act did not affect the date for the start of the investment. The Commission considered that this extension constituted additional aid to the same projects, and would not encourage new projects. It was therefore operating assistance, and the Commission, citing the judgment in Philip Morris, refused to authorize the extension, which did not satisfy the tests laid down in Article 93. (Footnote omitted.)

Because the information submitted by the petitioners does not support their allegation, we are not investigating this alleged subsidy.

3. German Lander Guarantee Schemes

The petitioners allege that certain Lander provide guarantee schemes for the rescue and restructuring of large industries. In claiming that this program is specific, the petitioners point to the fact that the guarantee schemes are only available in certain regions of Germany.

By the petitioners' own description, and according to the source documentation they submitted, these guarantee schemes are operated by the individual Lander. Therefore, because the individual Lander are the granting authorities, the petitioners need to address whether the benefits are specific within each of the Lander. They have not done so.

Because the petitioners have not alleged the elements necessary for the imposition of countervailing duties, we are not investigating this alleged subsidy.

4. Capital Investment Grants

The petitioners allege that the Steel Investment Allowance Act provides grants amounting to 20% of the acquisition cost of assets purchased or produced prior to January 1986 and ordered or produced after July 30, 1981.

Because the period covered by this program (1981–1986) predates the 15-year allocation period, there is no basis to believe that benefits continue to exist in the POI. Therefore, we are not investigating this alleged subsidy.

Trinidad and Tobago

A. Equityworthiness and Creditworthiness

The petitioners allege that, consistent with our previous findings in *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Trinidad and Tobago*, 62 FR 55003 (October 22, 1997) (''*Trinidad Wire Rod*''), the Department should find the Iron and Steel company of Trinidad and Tobago (''ISCOTT'') unequityworthy from June 13, 1984, to December 31, 1991. In addition, the petitioners cite to the Department's recent decision in *Stainless Steel Plate in Coils from Belgium*, 66 FR 20425, 20428 (April 23, 2001) in which the Department determined that where an investment decision occurs without a pre-infusion objective analysis, that investment results in a benefit. Accordingly, in this investigation, the petitioners allege that because they are unaware of any pre-infusion objective analysis undertaken by the GOTT and because in *Trinidad Wire Rod* the Department determined that the equity infusions made by the GOTT were part of an open-ended agreement to provide financial support regardless of financial performance, that ISCOTT was unequityworthy for all years in which the GOTT made equity infusions into ISCOTT (*i.e.*, from June 13, 1984 through December 31, 1994).

In addition, the petitioners allege that, consistent with *Trinidad Wire Rod*, the Department should find ISCOTT uncreditworthy from June 13, 1984 to December 31, 1994.

For those years in which we previously found ISCOTT to be uncreditworthy (*i.e.*, from June 13, 1984 through December 31, 1991), we will consider its unequityworthiness if we find that ISCOTT received any equity infusions during this period. In addition, for those years from 1992 through 1994, because, after examination of documentation from *Trinidad Wire Rod 1997* (which was submitted on the record of this investigation), we found no evidence of any pre-infusion objective analysis, we will investigate whether ISCOTT was unequityworthy in these years if we find that ISCOTT received any equity infusions during this period. Also, if in the course of this investigation we discover that ISCOTT received any non-recurring subsidies, loans, or loan guarantees in any year during the period from June 13, 1984 to December 31, 1994, we will investigate whether it was uncreditworthy in that year.

B. Change in Ownership

The petitioners allege that ISCOTT received non-recurring grants prior to its change in ownership and that, after the changes in ownership, the successor company, Caribbean Ispat Limited (''CIL'') is, for all intents and purposes, the same ''person'' as ISCOTT. Consequently, according to the petitioners, consistent with the Department's recent *AST Remand Redetermination*, the past countervailable subsidies received by ISCOTT continue to be countervailable after the changes in ownership. Therefore, the petitioners request, consistent with the methodology in the *AST Remand Redetermination*, that all non-recurring subsidies provided to ISCOTT be attributed in full to CIL.

We will examine this issue in the course of the investigation to determine whether non-recurring subsidies provided to ISCOTT should be attributed to CIL.

C. Programs

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Trindad and Tobago:

1. Equity Infusions into ISCOTT
2. Debt Forgiveness Provided in Conjunction With CIL's Purchase of ISCOTT
3. Export Allowance Under Act No. 14
4. Export Market Development Grants
5. Export Promotion Allowance
6. Corporate Tax Exemptions Under the Fiscal Incentives Act
7. Provision of Electricity

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in Trinidad and Tobago:

1. Point Lisas Lease

The petition alleges that the GOTT holds a majority ownership in Point Lisas Industrial Port Development Company, Ltd. (''PLIPDECO''), and that PLIPDECO received less than adequate remuneration from its lease with CIL. The petitioners state that, while the lease terms were examined in *Trinidad Wire Rod* and found not countervailable, the renegotiation of the lease terms in 1996 was not examined.

In *Trinidad Wire Rod*, we found that PLIPDECO received adequate remuneration from the CIL lease, and therefore, no subsidy existed. The petitioners have provided no new evidence in the petition that the 1996 renegotiation of lease terms provided less than adequate remuneration to PLIPDECO. Therefore, we are not investigating the Point Lisas lease.

Turkey

A. Programs

We are including in our investigation the following programs alleged in the petition to have provided countervailable subsidies to producers and exporters of the subject merchandise in Turkey:

1. Deduction from Taxable Income for Export Revenue
2. Export Credit Bank of Turkey Subsidies
   a. Pre-shipment Export Loans
   b. Foreign Trade Corporate Companies Rediscount Credit Facility
   c. Export Credit Insurance Program
   d. Past Performance Related Foreign Currency Loan
   e. Revolving Export Credits
   f. Buyer's Credits
3. Foreign Exchange Loan Assistance
4. Payments for Exports on Turkish Ships/State Aid for Exports Program
5. Advance Refunds of Tax Savings
6. Taxes, Duties, and Credit Charges Exemption
7. Customs Duty Exemption
8. Energy Incentive
9. General Incentives Program (''GIP'')
   a. Incentive Program on Domestically Obtained Goods
   b. Investment Allowances
   i. Investment Allowance Based on Region
   ii. 200% Investment Allowance
   c. Subsidized Credit Facility
   d. Resource Utilization Support Fund
   i. VAT Rebate
   ii. 15% Investment Payment
   iii. Payments to Exporters
   e. Incentives Granted to Less Developed and Industrial Belt Regions
   i. Law 4325 Land Allocation
   ii. Electricity Discounts
   iii. Special Incentives for East and Southeast Turkey

We are not including in our investigation the following programs alleged to benefit producers and exporters of the subject merchandise in Turkey:

1. Export Incentive Certificate Customs Duty and Other Tax Exemptions

The petitioners allege that this program, under which companies were permitted to import spare parts free of customs duties and certain other taxes provided the imported parts were used in the manufacture of goods for export, bestowed countervailable benefits on producers and exporters of subject merchandise in the POI. The Department previously investigated this program and found it terminated with no residual benefits accruing. (*See Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Final Results of Countervailing Duty Administrative Review,* 64 FR 44496, 44497 (August 16, 1999)). Therefore, the Department is not investigating this program.

2. General Incentives Programs

a. 100% Investment Allowance.

The petitioners allege that a one hundred percent allowance is provided under the GIP for certain investments regardless of geographic region. The Department previously investigated this program in *Certain Welded Carbon Steel Pipes and Tubes from Turkey; Preliminary Results of Countervailing Duty Administrative Review* (''*Pipe Prelim 1998*''), 65 FR 18070 (April 6, 2000). We note that in *Pipe Prelim 1998*, the Department found that this program was neither *de jure* nor *de facto* specific and, thus, not countervailable. In the instant proceeding, the petitioners provided no information to the contrary. Therefore, the Department is not investigating the one hundred percent investment allowance program.

b. Law 4325 Corporate and Income Tax Exemption.

The petitioners allege that Law 4325 provides tax exemptions for new businesses established between January 1, 1998, and December 31, 2000, for certain cities within the less-developed regions. They also allege that companies qualifying for this deduction, and who employ at least ten workers, are exempt from corporate and income taxes for a period of five years from the beginning of their operations. However, the information provided by the petitioners does not confirm the existence of this program. Thus, because the petitioners have not met the requirements of section 702(b) of the Act by supporting their allegations with reasonably available information, the Department is not investigating the alleged Law 4325 tax exemptions.

3. Export Tax Rebate and Supplemental Tax Rebate

The petitioners allege that the GRT provides export tax rebates to exporters based on the percentage of export receipts converted from a foreign currency into Turkish lira. They also allege that the Turkish government provides supplemental tax rebates to exporters with annual exports of more than $2 million. In *Certain Welded Carbon Steel Pipe and Tube Products from Turkey; Preliminary Results of Countervailing Duty Administrative Reviews*, 52 FR 47621 (December 15, 1987) the Department stated that ''the Government of Turkey eliminated basic and supplemental export tax rebates on exports of iron and steel products to the United States.'' Furthermore, benefits received under this program are considered recurring and as such, would be expensed in the year of receipt. (*See* 19 CFR 351.524). Therefore, the Department is not investigating this program.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act, a copy of the public version of the respective petition has been provided to the GOB, GOC, GOG, GOTT, GRT, and EC. We will

attempt to provide a copy of the public version of the respective petition to each exporter named in each petition, as provided for under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiations, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine no later than October 15, 2001, whether there is a reasonable indication that imports of carbon and certain alloy steel wire rod from Brazil, Canada, Germany, Trinidad and Tobago, and Turkey are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: September 24, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–24503 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091701E]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of cancellation of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) has cancelled the public meeting of its Socioeconomic Panel that was scheduled for Wednesday, October 10 through Friday, October 12, 2001. The meetings were announced in the **Federal Register** on September 26, 2001.

FOR FURTHER INFORMATION CONTACT: Antonio B. Lamberte, Economist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The initial notice published on September 26, 2001 (66 FR 49167).

Dated: September 26, 2001.

Richard W. Surdi,

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

[FR Doc. 01–24520 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092401A]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Protected Species Committee in October, 2001. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on October 15, 2001, at 9:30 a.m.

ADDRESSES: The meeting will be held at the New England Fishery Management Council Office, 50 Water Street, Mill #2, Newburyport, MA 01950; telephone: (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Protected Species Committee will review and comment on NMFS proposed rule scheduled for publication at the end of September, 2001 to implement the Reasonable and Prudent Alternatives described in the Biological Opinions for the Northeast Multispecies, Monkfish and Dogfish Fishery Management Plans. The committee will also prepare comments on the Draft Right Whale Recovery Plan as well as discuss and provide guidance concerning initiatives of the Take Reduction and Northeast Implementation Teams.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: September 25, 2001.

Richard W. Surdi,

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

[FR Doc. 01–24519 Filed 9–28–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

The Joint Staff; National Defense University (NDU), Board of Visitors (BOV); Meeting

AGENCY: National Defense University, Defense.

ACTION: Notice of meeting.

SUMMARY: The President, National Defense University has scheduled a meeting of the Board of Visitors.

DATES: The meeting will be held between 0800–1230 and 1330–1630 on October 2, 2001.

ADDRESSES: The meeting will be held in Room 155B, Marshall Hall, Building 62, Fort Lesley J. McNair, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Assistant Vice President of Academic Affairs, National Defense University Fort Lesley J. McNair, Washington, DC 20319–600. To reserve space, interested persons should phone (202) 685–3930.

SUPPLEMENTARY INFORMATION: The agenda will include present and future educational and research plans for the National Defense University and its components. The meeting is open to the public, but the limited space available for observers will be allocated on a first come, first served basis. Due to administrative oversight, the posting of this meeting in the **Federal Register** falls short of the normal 15 day notice.

Dated: September 25, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–24440 Filed 9–28–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DoD.

ACTION: Notice of a Computer Matching Program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, requires agencies to publish advanced notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act is hereby giving notice to the record subjects of a computer matching program between VA and DoD that their records are being matched by computer. The purpose is to verify eligibility for the DoD/USCG members of the Reserve forces who receive VA disability compensation or pension to also receive military pay and allowances when performing reserve duty.

DATES: This proposed action is effective October 31, 2001 and matching may commence unless changes to the matching program are required due to public comments or by Congressional or by Office of Management and Budget objections. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr. at (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DMDC and VA have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to verify eligibility for the DoD/USCG members of the Reserve forces who receive VA disability compensation or pension to also receive military pay and allowances when performing reserve duty.

The parties to this agreement have determined that a computer matching program is the most efficient, expeditious, and effective means of obtaining and processing the information needed by the VA to identify those individuals who are receiving both VA compensation and DoD/USCG payments for those periods when they are performing Reserve Duty. By law, the individual must waive his or her entitlement to VA disability compensation or pension if he or she desires to receive DoD/USCG pay and allowances for the period of duty performed. This matching agreement will result in an accurate reconciliation of such payments by permitting the VA to determine which individuals are being paid by DoD/USCG for duty performed and are being paid VA disability compensation or pension benefits for the same period of time without a waiver on file with the VA. If this reconciliation is not done by computer matching, but is done manually, the cost would be prohibitive and it is possible that not all such dual payments would be detected.

A copy of the computer matching agreement between VA and DoD is available upon request. Requests should be submitted to the address caption above or to the Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published on June 19, 1989, at 54 FR 25818.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on September 19, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records about Individuals'', dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: September 25, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Notice of a Computer Matching Program Between the Department of Veterans Affairs and the Department of Defense for Reserve Pay Reconciliation

A. *Participating Agencies:* Participants in this computer matching program are the Department of Veterans Affairs (VA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The VA is the source agency, *i.e.*, the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, *i.e.*, the agency that actually performs the computer matching.

B. *Purpose of the Match:* The purpose of this agreement is to verify eligibility for the DoD/USCG members of the Reserve forces who receive VA disability compensation or pension to also receive military pay and allowances when performing reserve duty. The agreement will not only cover current individuals receiving dual payments but those who may have received them for Fiscal Years 1993 through 1997.

C. *Authority for Conducting the Match:* The legal authority for conducting the matching program is 38 U.S.C. 5304(c) which provides that VA disability compensation or pension based upon his or her previous military service shall not be paid to a person for any period for which such person receives active service pay. 10 U.S.C. 12316 further provides that a reservist who is entitled to disability payments due to his or her earlier military service and who performs duty for which he or she is entitled to DoD/USCG compensation may elect to receive for that duty either the disability payments or, if he or she waives such payments, the DoD/USCG compensation for the duty performed.

D. *Records to be Matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

1. The VA will use 58 VA 21/22, entitled ''Compensation, Pension, and Education and Rehabilitation Records—VA'' first published on March 3, 1976, at 41 FR 924, and last amended on June 15, 2000, at 65 FR 37605, with other amendments as cited therein.

2. The DMDC will use S322.10 DMDC, entitled ''Defense Manpower Data Center Data Base'', last published on May 31, 2001, at 66 FR 29552.

E. *Description of Computer Matching Program:* Annually, VA will submit to DMDC an electronic file of all VA pension and disability compensation beneficiaries as of the end of September. Upon receipt of the electronic file, DMDC will match this file by SSN with a file of days drilled as submitted to DMDC by the military services and the USCG. Upon a SSN match, or a 'hit,' of both files, DMDC will provide VA the individual's name and other identifying data, to include the number of days drilled, by Fiscal Year, for each matched record.

The hits will be furnished to VA which will be responsible for verifying and determining that the data in the DMDC electronic file is consistent with

the VA files and for resolving any discrepancies or inconsistencies on an individual basis. VA will initiate actions to obtain an election by the individual of which pay he or she wishes to receive and will be responsible for making final determinations as to positive identification, eligibility for, or amounts of pension or disability compensation benefits, adjustments thereto, or any recovery of overpayments, or such other action as authorized by law.

The annual electronic file provided by the VA will contain information on approximately 2.5 million pension and disability compensation recipients.

The DMDC computer database file contains information on approximately 827,000 DoD and 8,300 USCG reservists who receive pay and allowances for performing authorized duty.

VA will furnish DMDC the name and SSN of all VA pension and disability compensation recipients and DMDC will supply VA the name, SSN, date of birth, and the number of days drilled by fiscal year of each reservist who is identified as a result of the match.

F. *Inclusive Dates of the Matching Program:* This computer matching program is subject to public comment and review by Congress and the Office of Management and Budget. If the mandatory 30 day period for comment has expired and no comments are received and if no objections are raised by either Congress or the Office of Management and Budget within 40 days of being notified of the proposed match, the computer matching program becomes effective and the respective agencies may begin the exchange at a mutually agreeable time on a annual basis. By agreement between VA and DMDC, the matching program will be in effect for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for Receipt of Public Comments or Inquiries:* Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Suite 920, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 01–24442 Filed 9–28–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the C–7 (North Dade) Canal General Reevaluation Report (GRR)

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers (Corps), along with the South Florida Water Management District (SFWMD), intends to prepare a Draft Environmental Impact Statement (DEIS) for the feasibility phase of the C–7 (North Dade) Canal General Reevaluation Report (GRR).

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by: Paul Stevenson, Planning Division, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232–0019; Telephone 904–899–5049/Fax 904–232–3442.

SUPPLEMENTARY INFORMATION:

a. Authorization: Construction of the C–7 (Little River) canal and associated water control structure, S–27 was authorized by the Flood Control Act of 1948, which provided for construction of the first phase of a comprehensive plan for flood control, fish and wildlife preservation, regional groundwater control, salinity control, and navigation.

The Energy and Water Development Act of 1995 authorized preparation of a GRR to review conveyance capacity of existing canal, document the quality of local maintenance, and to make recommendations for sufficient solutions to flooding problems within the C–7 drainage basins.

b. Study Area: The C–7 basin is located in northeastern Miami-Dade County, Florida; the canal and associated control structure S–27 are previously constructed Corps' projects. The C–7 basin comprises 35 square miles, and is approximately 11 miles long. The western portion of the basin lies in Area B, an area of relatively poor drainage, west of the coastal ridge, eastern Miami-Dade County. S–27 is a double gated concrete spillway located in C–7, which permits release of flood runoff and prevents over-drainage and saltwater intrusion through C–7.

S–30 is a gated concrete culvert which prevents excessive seepage losses from Water Conservation Area (WCA) –3A by permitting higher stages in the L–33 borrow canal and supplies water from L–33 borrow canal during dry periods to maintain stages and satisfy irrigation demands in the C–7 drainage basin. C–7 canal discharges into northern Biscayne Bay, at Miami.

c. Project Scope and Preliminary Alternatives: The primary objective of this project is to develop a total watershed plan, which identifies structural and/or operational modifications to the C–7 canal and the associated water management facilities, to improve flood control. While the project emphasis is to enhance flood control benefits in the project area, the GRR will also document the status and quality of maintenance on the existing project and identify environmental restoration opportunities in conjunction with proposed project modifications.

Alternatives will be developed and evaluated based on the project objectives, environmental studies, flood control feasibility, and economics. Standard Corps' programs and SWMM modeling will be used to develop hydraulic models of the existing and any proposed flood control features.

In addition to the without project and future conditions, four preliminary alternatives have been drafted which may be revised pending model results and public feedback. They include: (1) No action; (2) modifications to existing canal to increase conveyance where appropriate and possible; (3) installation of pumps to pump water eastward to tide, possibly in conjunction with canal cross-section modifications; (4) installation of pumps to pump water westward possibly in conjunction with channel modifications and a water treatment component.

d. Scoping: The scoping process as outlined by the Council on Environmental Quality will be utilized to involve Federal, State, and local agencies, affected Indian Tribes, and other interested private organizations and parties.

A Scoping letter will be sent to interested Federal, State and local agencies, interested organizations and the public, requesting their comments and concerns regarding issues they feel should be addressed in DEIS. Interested persons and organizations wishing to participate in the scoping process should contact the U.S. Army Corps of Engineers at the address above. Significant issues anticipated include concern for: maintenance of flood protection for the project area; water quality, particularly in the receiving waters of Biscayne Bay or WCA–3A; wetlands, fish and wildlife; saltwater intrusion into project canal and the groundwater and; threatened and endangered plant and animal species. Public meetings will be held over the

course of the study, the exact location, dates, and times will be announced in public notices and local newspapers.

e. DEIS Preparation: It is estimated that the DEIS will be available to the public about January 2002.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–24482 Filed 9–28–01; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Upper Columbia Basin Alternative Flood Control and Fish Operations at Libby Dam, Montana; Hungry Horse Dam, Montana; and Grand Coulee Dam, Washington

AGENCY: US Army Corps of Engineers (Corps), DoD and US Bureau of Reclamation (Bureau), Department of Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, the US Army Corps of Engineers (Corps), and the Bureau of Reclamation (Bureau) propose to prepare an Environmental Impact Statement (EIS) on operational alternatives for the conservation of threatened and endangered species of fish listed for protection under the Endangered Species Act. (The Corps has responsibility for publishing the notice in the **Federal Register** and for preparing and filing the EIS.) Specifically, this EIS will address those operational actions for Libby, Hungry Horse, and Grand Coulee Dams identified by the National Marine Fisheries Service (NMFS) and the US Fish and Wildlife Service (USFWS) as Reasonable and Prudent Alternatives in their Biological Opinions (BiOps) both dated December 21, 2000. Those BiOps call for the Corps of Engineers and Bureau of Reclamation to undertake various actions at their 14 main Federal Columbia River Power System (FCRPS) dams to assist in recovery of fish species listed under the Endangered Species Act in the Columbia River basin. Among those actions is implementation of an alternative flood control strategy, called variable discharge (variable Q, or VARQ), required at Libby and Hungry Horse Dams. This strategy has potential impacts in other parts of the Columbia system, and results in different operation at Grand Coulee Dam. All three reservoirs are storage reservoirs, and Libby and Hungry Horse are on headwater tributaries to the Columbia River, the Kootenai and South Fork Flathhead, respectively, while Grand Coulee is on the mainstream Columbia. Libby is a Corps project, and Hungry Horse and Grand Coulee are Bureau projects. VARQ is a flood control operation that reduces wintertime reservoir drawdown at Libby and Hungry Horse for floodwater storage compared to existing operation, and provides better assurance of reservoir refill in summer, to meet multiple water uses. The no-action alternative is called BASE–CRT63, and consists of the existing flood control operation.

In addition, the NMFS BiOp calls for summer flow augmentation from Grand Coulee Dam for juvenile salmon out-migration, as well as provision for fall flows for lower Columbia chum salmon spawning and incubation. The USFWS BiOp calls for reduction of adverse effects of flow fluctuations on bull trout below Hungry Horse and Libby dams, and for maintenance of minimum year-round flows for bull trout.

FOR FURTHER INFORMATION CONTACT: Questions regarding the scoping process or preparation of the DEIS may be directed to Dr. Stephen Martin, U.S. Army Corps of Engineers, Seattle District, Environmental Resources Section, PO Box 3755, Seattle, Washington 98124–3755; telephone (206) 764–3631; e-mail *stephen.g.martin@usace.army. mil.*

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The Federal Columbia River Power System (FCRPS) comprises 14 major dams and a number of smaller ones. Libby, Hungry Horse and Grand Coulee dams are among the 14 large projects. The BiOps from the USFWS and NMFS were both issued on December 21, 2000, under Section 7 of the Endangered Species Act, as amended, in response to a Biological Assessment and supplementary information concerning effects of the FCRPS on listed stocks of white sturgeon, bull trout, salmon and steelhead in the Columbia and tributaries. Libby and Hungry Horse dams store water primarily for hydropower and flood control, as well as for other purposes such as fish and wildlife and recreation. Libby Dam is located at river mile (RM) 222 on the Kootenai River in northwestern Montana; when full, the reservoir (Lake Koocanusa) backs into southern British Columbia, Canada. Hungry Horse Dam is at RM 5 on the South Fork Flathead River, part of the Flathead/Clark Fork/Pend Oreille system, also in northwestern Montana. The two systems are adjacent to each other. Grand Coulee Dam is at RM 597 on the Columbia River in northeastern Washington State.

In general, flood control using reservoirs involves maintaining the reservoir low enough to impound inflow from high-runoff events such as rainstorms and sudden snowmelts. In multipurpose storage reservoirs, it means drawing down the reservoir beginning in early fall through March or April to a surface elevation appropriate for the runoff forecast for the coming spring and summer (generally based on snowpack readings). Then refill begins, and the reservoir is generally full by the end of July, where it is maintained through August. For Libby, Hungry Horse and Grand Coulee, water passed through the dam is used for power generation, and lowering the reservoir elevation serves to meet increased power needs of the region in fall and winter.

VARQ is an alternative flood control strategy intended to meet other needs by better assuring reservoir refill and higher spring flows, to come closer to natural snowmelt runoff conditions in the rivers. That runoff is impounded by Libby and Hungry Horse dams, which under normal operations released only minimum flows during that period. In the Kootenai River, starting in the 1990s, drawing down the reservoirs for power generation below the required flood control elevation has been curtailed in winter to allow water storage for flow augmentation in spring. In addition to benefiting sturgeon, it also benefits juvenile salmon outmigration in the lower Columbia River. Furthermore, August flow augmentation for Columbia salmon outmigration has also been provided from Libby in response to 1995 NMFS BiOp requirements.

VARQ is related to the Montana Department of Fish, Wildlife and Parks Integrated Rule Curves (IRCs) as an alternative flood control strategy. In lower and medium runoff-forecast years, compared to VARQ, IRCs allow deeper reservoir drawdown in winter, which benefits power.

As called for by USFWS and NMFS BiOps, the Corps and Bureau are to implement VARQ at Libby and Hungry Horse dams, as well as other actions for benefit of listed fish stocks in the Columbia basin. If remaining studies of system flood control prove VARQ feasible, and other impacts are either not significant or can be mitigated, then it would be implemented the next winter following completion of NEPA documentation.

Other operations to provide water in summer and fall for salmon outmigration, spawning and incubation are also part of the proposed action, as are reduction of adverse effects of flow fluctuation below Libby and Hungry Horse dams, and provision of minimum flows for bull trout.

2. Alternatives

Alternatives to be evaluated will include existing operation (no-action), which includes current flood control operation with flow augmentation in spring for white sturgeon, bull trout, and salmon; VARQ with spring and summer flow augmentation for fish; increased summertime drawdown of Lake Roosevelt (Grand Coulee Dam) to meet summer flow objectives for salmon; and fall flow augmentation for salmon spawning and incubation in the lower Columbia. The scoping process will be used to derive the full range of reasonable alternatives.

3. Scoping and Public Involvement

Public involvement will be sought during the scoping and conduct of the study in accordance with NEPA procedures. Public meetings will be held in affected communities during scoping, and during public review of the DEIS. A public scoping process will be initiated to clarify issues of major concern, identify studies that might be needed in order to analyze and evaluate impacts, and obtain public input on the range and acceptability of alternatives. This notice of intent formally commences the joint scoping process under NEPA. As part of the scoping process, all affected Federal, State and local agencies, Native American Tribes, and other interested private organizations, including environmental interest groups, are invited to comment on the scope of the EIS. Comments are requested concerning project alternatives, mitigation measures, probable significant environmental impacts, and permits or other approvals that may be required.

To date, the following issues of concern have been identified to be analyzed in depth in the draft EIS: (1) Flood control impacts on a local and a system-wide basis; (2) fisheries and other aquatic ecosystem impacts and benefits in affected reservoirs and downstream in the Kootenai and Flathead systems and on the mainstem Columbia; (3) effects of potential increase in frequency of spill and impacts from dissolved gas on aquatic organisms; (4) groundwater seepage in lands from prolonged high spring flows along the Kootenai River in Idaho; (5) levee integrity concerns from prolonged high spring flows along the Kootenai River in Idaho and British Columbia; (6) potential for increased suspension of sediments due to drawdown of Lake Roosevelt (Grand Coulee); (7) potential aerial transport of contaminants (mainly heavy metals) from exposed Lake Roosevelt sediments; (8) exposure, looting and vandalism of prehistoric artifacts and human remains along Lake Roosevelt; (9) recreational impacts on affected reservoirs; (10) Columbia system power generation impacts; and (11) power generation impacts at Canadian projects downstream of Libby Dam, a treaty issue.

There are fish stocks listed under ESA that would be directly affected by the proposed action, including Kootenai River white sturgeon (endangered), bull trout (Salvelinus confluentus) (threatened); various stocks of chinook (Oncorhynchus tshawytscha), chum (O. keta) and sockeye (O. nerka) salmon, and steelhead (O. mykiss).

A notice of scoping meetings will be mailed to all involved agencies and individuals known to have an interest in this project. Scoping meetings are scheduled as follows:

(1) Grand Coulee, Grant Co., Washington, Oct. 29, 2001.

(2) Sandpoint, Bonner Co., Idaho, October 30, 2001.

(3) Bonners Ferry, Boundary Co., Idaho, November 1, 2001.

(4) Portland, Multnomah Co., Oregon, November 8, 2001.

(5) Libby, Lincoln Co., Montana, November 13, 2001.

(6) Eureka, Lincoln Co., Montana, November 14, 2001.

(7) Kalispell, Flathead Co., Montana, November 15, 2001.

These dates, or revised dates, as well as specific times and locations will be published in each town's newspaper approximately 30 days before each meeting. Specific dates and times can also be verified by visiting the Corps of Engineers' website at *www.nws.usace.army.mil/index.cfm.* There will also be up to six government-to-government meetings with Tribal council members in affected areas. Verbal or written comments will be accepted at the scoping meetings, or written comments may be sent by regular or electronic mail to Stephen Martin at the above addresses on or before November 2, 2001. Ongoing communication with agencies, Native American tribes, public interest groups, and interested citizens will take place throughout the EIS development through the use of public meetings, mailings, and the Internet.

4. Other Environmental Review, Coordination and Permit Requirements

The environmental review process will be comprehensive and will integrate and satisfy the requirements of NEPA, and other relevant Federal, State and local environmental laws. Other environmental review, coordination, and permit requirements may include preparation of a Clean Water Act, Section 404 evaluation by the Corps.

5. Schedule

The draft EIS is scheduled for release in Fall, 2003.

Ralph H. Graves,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 01–24481 Filed 9–28–01; 8:45 am]

BILLING CODE 3710–ER–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Purchasing Instructions (BPI) and Bonneville Financial Assistance Instructions (BFIA)

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of document availability.

SUMMARY: Copies of the Bonneville Purchasing Instructions (BPI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of its purchases of goods and services, including construction, are available in printed form for $30, or without charge at the following Internet address: *http://www.bpa.gov/Corporate/kgp/bpi/bpi.htm.* Copies of the Bonneville Financial Assistance Instructions (BFAI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements), are available in printed form for $15 each, or available without charge at the following Internet address: *http://www.bpa.gov/corporate/kgp/bfai/bfai.htm.*

ADDRESSES: Unbound copies of the BPI or BFAI may be obtained by sending a check for the proper amount to the Head of the Contracting Activity, Routing CK–1, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621.

FOR FURTHER INFORMATION CONTACT: Manager, Corporate Communications, 1–800–622–4519.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power

Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues rather than annual appropriations. BPA's purchasing operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes. Pursuant to these special authorities, the BPI is promulgated as a statement of purchasing policy and as a body of interpretative regulations governing the conduct of BPA purchasing activities. It is significantly different from the Federal Acquisition Regulation, and reflects BPA's private sector approach to purchasing the goods and services that it requires. BPA's financial assistance operations are conducted under 16 U.S.C. 832 *et seq.*, and 16 U.S.C. 839 *et seq.* The BFAI express BPA's financial assistance policy. The BFAI also comprise BPA's rules governing implementation of the principles provided in the following OMB circulars:

A–21 Cost Principles for Educational Institutions.

A–87 Cost Principles for State, Local and Indian Tribal Governments.

A–102 Grants and Cooperative Agreements with State and Local Governments

A–110 Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations

A–122 Cost Principles for Non-Profit Organizations.

A–133 Audits of States, Local Governments and Non-Profit Organizations.

BPA's solicitations and contracts include notice of applicability and availability of the BPI and the BFAI, as appropriate, for the information of offerors on particular purchases or financial assistance transactions.

Issued in Portland, Oregon, on September 4, 2001.

Kenneth R. Berglund,

Manager, Contracts and Property Management.

[FR Doc. 01–24522 Filed 9–28–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC01–1F–000, FERC Form 1–F]

Proposed Information Collection and Request for Comments

September 25, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted within 60 days of the publication of this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)208–1415, by fax at (202)208–2425, and by e-mail at *mike.miller@ferc.fed.us.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC Form 1-F ''Annual Report for Nonmajor Electric Utilities and Licensees'' (OMB No. 1902–0029) is used by the Commission to implement the statutory provisions of the Federal Power Act (FPA) 16 U.S.C. 791a–825r. The Commission is authorized and empowered to make investigations, collect and record data, prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for administering the FPA. The Commission may prescribe a system of accounts for jurisdictional companies and, after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited. The FERC Form No. 1–F is a financial and operating report for electric rate regulation. ''Nonmajor'' is defined as having total sales in each of the last three consecutive years of 10,000 megawatt-hours or less.

FERC staff uses the data in the continuous review of the financial condition of regulated companies, in various rate proceedings and supply programs and in the Commission's audit program. The annual financial information filed with the Commission is a mandatory requirement submitted in a prescribed format which is filed electronically via the Internet. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Parts 41, 101, 141.2.

Action: The Commission is requesting a three-year extension of the current expiration date, with certain changes to the existing collection of data. Based on a review of the FERC's requirements for Form 1–F data and requests from respondents for reductions in the collection, the Commission recommends the elimination of the Form 1–F schedules listed below:

- Data on Security Holders and Voting Powers (Parts X and XI, P. 18)
- Nonutility Property (221, P. 110)
- Capital Stock Sub, Cap Stock Liability for Con, Prem. Cap Stock, & Inst Received (252, P. 112)
- Discount on Capital Stock (254, P. 112)
- Particulars Concerning Certain Income Deduction and Interest Charges (340, P. 117)
- Electric Distribution Meters and Line Transformers (429, lines 63 & 65, P. 206)
- Number of Electric Department Employees (323, page 323)
- Construction Overheads—electric (217, p. 8 Allowance for Funds used During Construction)

Burden Statement: Public reporting burden for this collection has been reduced by the elimination of several schedules and the paper filing format requirement. The burden is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)x(2)x(3)
17	1	32	544

Estimated cost burden to respondents: 476 hours/2,080 hours per year x $117,041 per year = $26,784. The cost per respondent is equal to $ 1,576.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including:

(1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 those who are to respond.

David P. Boergers,

Secretary.

[FR Doc. 01–24443 Filed 9–28–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

September 25, 2001.

a. *Application Type:* Application to Amend License for the Power Creek Hydroelectric Project.

b. *Project No:* 11243–037.

c. *Date Filed:* September 7, 2001.

d. *Applicant:* Cordova Electric Cooperative.

e. *Name of Project:* Power Creek Hydroelectric Project.

f. *Location:* The project is located on Power Creek in the town of Cordova, Southeast Alaska. The project is entirely on Eyak Native Corporation Lands, adjacent to the Chugach National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kenneth J. Gates, Cordova Electric Cooperative, P.O. Box 20, Cordova, AK, 99674–0020. Tel: (907) 424–5555.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Vedula Sarma at (202) 219–3273 or by e-mail at vedula.sarma@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* (October 25, 2001).

All documents (original and eight copies) should be filed with David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 10416. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Please include the project number (11243–037) on any comments or motions filed.

k. *Description of Filing:* The licensee is proposing re-route about 250 feet of the project pipeline in the area of the penstock bridge. The re-route would consist of burying the penstock under Power Creek where it crosses the creek, instead of running over on the bridge as presently constructed. The proposed action would protect the penstock from any avalanche damage. Burying the penstock would provide economic and environmental benefits by eliminating the risk of pipe line rupture and consequent water quality impact , and power outages.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, § .211, § .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–24444 Filed 9–28–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7063–8]

Privacy Act of 1974: System of Records, Creation of Eleven New Privacy Act System of Records

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is establishing eleven new Privacy Act system of records.

EFFECTIVE DATES: The proposed amendments will be effective without further notice on November 10, 2001 unless comments received require a contrary determination.

ADDRESSES: Send written comments to Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave., (M/C 2822) Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Judy E. Hutt, Agency Privacy Act Officer, 1200 Pennsylvania Ave. (M/C 2822) Washington, DC 20460, *hutt.judy@epa.gov.*

SUPPLEMENTARY INFORMATION:

New System of Records

1. Superfund Cost Recovery Accounting Information System

This system is used to recover costs from potentially responsible parties (PRPs) for government cleanup efforts. The system maintains documentation in support of amounts billed to PRPs. It consists of several components that will ultimately be integrated into an existing document management system called SCORPIOS. The previously existing functions of SCORPIOS, with the inclusion of the record component, will remain unchanged.

2. EPA Personnel Emergency Contact Files

This system is intended to cover all emergency contact files in every EPA office. There is some central policy direction, but the collection and maintenance is decentralized. The Manager of the Emergency Operations Center will serve as the system manager, along with emergency coordinators in each other affected office. The notice is written with enough flexibility so that local office practices for emergency contact information can vary and still fall within the scope of the system notice.

3. Time Sharing Services Management System Registration Files

This system contains the records that control the access to the Agency's computer systems and tracks usage for accounting purposes.

4. Risk Management Plan Review Access List

This system contains emergency contact information used to control access to risk management plans and to support communications with authorized users. The Chemical Emergency Preparedness and Prevention Office, Office of Solid Waste and Emergency Response, operates the system.

5. IGOR (Inspector General Operations and Reporting System)

The establishment of the IGOR system in the Office of Inspector General resulted in a restructuring of the OIG systems of records. Two existing systems (for investigative files and personnel security files) migrated to the IGOR structure. One new OIG system for audit, assignment, and time sheet files has been created.

6. OCEFT

The Office of Criminal Enforcement, Forensics and Training independently prepared a revision of its own system notice and developed two additional systems. That effort has been incorporated into this report. The two new systems are for tracking investigations and for recording training activities.

7. Libby Asbestos Exposure Assessment Records

This system was created to support EPA's Comprehensive Energy Recovery & Criminal Liability Act emergency removal process at the Libby Asbestos Site. It provides information assessing exposure pathways and exposure outcomes due to amphibole asbestos, thus enabling EPA to provide long-term protection of public health and welfare.

8. Emissions Inspection and Maintenance Records

The new system Emissions Inspection and Maintenance Records for Federal Employees Parking at Federal Parking Facilities, is EPA's first government-wide system of records. It will bear the number EPA–GOVT–1, and it will appear as the last system in the compilation. This new system notice will not only cover records maintained by EPA, but it will also include comparable records maintained by other agencies. The system notice covers emissions inspection and maintenance records for federal employees parking at federal parking facilities. Several other agencies publish government-wide system of records notices that cover either records that the publishing agency owns or records that are substantially the same throughout government. The publication of a single government-wide system notice is an efficient way to cover the same records at many agencies. As the publishing agency for the system, EPA will not have any direct responsibility for managing the records at other agencies. The notice directs employees seeking access to or correction of records to an office of the agency maintaining the record. Any agency that maintains these records in a substantially different manner may publish its own local notice.

Dated: September 5, 2001.

Margaret Schneider,

Acting Assistant Administrator, Office of Environmental Information.

General Routine Uses Applicable to More Than One System of Records

A. Disclosure for Law Enforcement Purposes

Information may be disclosed to the appropriate Federal, State, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. Disclosure Incident to Requesting Information

Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. Disclosure to Requesting Agency

Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made

unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget

Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. Disclosure to Congressional Offices

Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice

Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof; or
2. Any employee of the Agency in his or her official capacity; or
3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency has agreed to represent the employee; or
4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives

Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others

Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints, and Appeals

Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

J. Disclosure to the Office of Personnel Management

Information from this system of records may be disclosed to the Office of Personnel Management pursuant to that agency's responsibility for evaluation and oversight of Federal personnel management.

K. Disclosure in Connection With Litigation

Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

EPA–40

SYSTEM NAME:

Inspector General's Operation and Reporting (IGOR) System Investigative Files.

SYSTEM LOCATION:

Enterprise Technology Services Division, Environmental Protection Agency, Research Triangle Park, NC 27711.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects, complainants, and witnesses in OIG investigations; OIG employees who perform investigations; and individuals who receive the results of investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative file information, including the names of the subjects of OIG investigations; the cities, States, and EPA regions in which the subjects were located; the names of complainants in OIG investigations; and the names of important witnesses interviewed during OIG investigations.

Authority for Maintenance of the System (includes any revisions or amendments):

Inspector General Act of 1978, 5 U.S.C. app. 3.

Purpose(s):

To conduct and supervise audits and investigations relating to programs and operations of the EPA.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:

General Routine Uses A, B, C, D E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To any source, private or public, to the extent necessary to secure from such source information relevant to a legitimate EPA investigation, audit, decision, or other inquiry.
2. To a Federal agency responsible for considering suspension or debarment action where such record would be relevant to such action.
3. To the Department of Justice to obtain its advice on Freedom of Information Act matters.
4. In response to a lawful subpoena issued by a Federal agency.
5. To the Department of the Treasury and the Department of Justice when EPA is seeking an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.
6. To a Federal, State, local, foreign, or international agency, or other public authority, for use in a computer matching program, as that term is defined in 5 U.S.C. 552a(a)(8).
7. To a public or professional licensing organization if the record indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.
8. To any person when disclosure of the record is needed to enable the recipient of the record to take action to recover money or property of the EPA, when such recovery will accrue to the benefit of the United States, or when disclosure of the record is needed to enable the recipient of the record to take

appropriate disciplinary action to maintain the integrity of EPA programs or operations.

9. To the Office of Government Ethics to comply with agency reporting requirements in 5 CFR part 2638, subpart F.

10. To officers and employees of other Federal agencies for the purpose of conducting quality assessments of the OIG.

11. To the news media and public when a public interest justifies the disclosure of information on public events such as indictments or similar activities.

12. To Members of Congress and the public in the OIG's Semiannual Report to the Congress when the Inspector General determines that the matter reported is significant.

13. To the public when the matter under audit or investigation has become public knowledge, or when the Inspector General determines that such disclosure is necessary to preserve confidence in the integrity of the OIG audit or investigative process or is necessary to demonstrate the accountability of EPA officers, employees, or individuals covered by this system, unless it is determined that disclosure of the specific information in the context of a particular case could reasonably be expected to constitute an unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a computer database.

RETRIEVABILITY:

By names of subjects, complainants, and important witnesses interviewed during investigations; investigative case file numbers; and the names and social security numbers of OIG employees.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Inspector General Records, approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Management, Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

To the extent permitted under the Privacy Act of 1974, 5 U.S.C. 552a(j), (k)(2) & (k)(5) this system has been exempted from the provisions of the Privacy Act of 1974 that permit access and correction. However, EPA may, in its discretion, fully grant individual requests for access and correction if it determines that the exercise of these rights will not interfere with an interest that the exemption is intended to protect. The exemption from access is limited in some instances by law to information that would reveal the identity of a confidential source. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Subjects of an investigation; individuals with whom the subjects are or were associated (*e.g.,* colleagues, business associates, acquaintances, or relatives); Federal, State, local, international, and foreign investigative or law enforcement agencies; other government agencies; confidential sources; complainants; witnesses; concerned citizens; and public source materials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(j)(2), this system is exempt from the following provisions of the Privacy Act of 1974, as amended: 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5), and (e)(8); (f); and (g). Under 5 U.S.C. 552a(k)(2) and (k)(5), this system is exempt from the following provisions of the Privacy Act of 1974 as amended, subject to the limitations set forth in this subsection; 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), and (f)(2) through (5).

EPA–41

SYSTEM NAME:

Inspector General's Operation and Reporting (IGOR) System Personnel Security Files.

SECURITY CLASSIFICATION:

This system has no overall security classification. However, some records within the system may bear a national defense/foreign policy classification of Confidential, Secret, or Top Secret.

SYSTEM LOCATION:

Enterprise Technology Services Division, Environmental Protection Agency, Research Triangle Park, NC 27711.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of personnel security and suitability investigations (*e.g.,* national agency checks and inquiries, background investigations, and periodic reinvestigations) conducted by or for the OIG or the Office of Personnel Management, including present and former EPA employees, consultants, contractors, and subcontractors in national security and/or public trust positions; and applicants for national security and/or public trust positions at EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security and suitability files, including the subject's social security number, name, title, EPA office, EPA organization mail code, General Schedule occupation series and grade, geographic location, type of employee (e.g., EPA employee, EPA OIG employee, or contractor employee), location of Official Personnel File folder, date of birth, place of birth, type of investigation conducted, date investigation completed, date the completed investigation was received by EPA OIG, date completed investigation was adjudicated by EPA OIG, case number assigned by EPA OIG Personnel Security Staff, type of security clearance, date of security clearance, and sensitivity of the position occupied.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Inspector General Act of 1978, 5 U.S.C. app. 3; Executive Order 12958 (Apr. 12, 1995); Executive Order 12968 (Aug. 2, 1995).

PURPOSE(S):

To support personnel security investigations for EPA staff, contractor,

and others required to maintain clearances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, D, E, F, G, H, I, J, and K apply to this system. Records may also be disclosed:

To officers and employees of other Federal agencies for the purpose of conducting quality assessments of the OIG.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a computer database.

RETRIEVABILITY:

By the name, social security number, or file number of the subjects of background investigations.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Inspector General Records, approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Mission Systems, Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

To the extent permitted under the Privacy Act of 1974, 5 U.S.C. 552a(k)(2) & (k)(5), this system has been exempted from the provisions of the Privacy Act of 1974 that permit access and correction. However, EPA may, in its discretion, fully grant individual requests for access and correction if it determines that the exercise of these rights will not interfere with an interest that the exemption is intended to protect. The exemption from access is limited in some instances by law to information that would reveal the identity of a confidential source. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Subjects of a personnel security or suitability investigation; individuals with whom the subjects are or were associated (e.g., colleagues, business associates, acquaintances, or relatives); Federal, State, local, international, and foreign investigative or law enforcement agencies; other government agencies; confidential sources; complainants; witnesses; concerned citizens; and public source materials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Under 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), this system is exempt from the following provisions of the Privacy Act of 1974 as amended, subject to the limitations set forth in this subsection; 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), and (f)(2) through (5).

EPA–42

SYSTEM NAME:

Inspector General's Operation and Reporting (IGOR) System Audit, Assignment, and Timesheet Files.

SYSTEM LOCATION:

Enterprise Technology Services Division, Environmental Protection Agency, Research Triangle Park, NC 27711.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

OIG employees; individuals who request audits or special projects; names of individual auditees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming audit requests, assignment sheets, work papers, review sheets, and reports; incoming special project requests, assignment sheets, and memorandums or briefing materials; and OIG employee timesheets.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Inspector General Act of 1978, 5 U.S.C. app. 3.

PURPOSE(S):

To assist the OIG in planning audits, investigations, and other operations of the OIG; monitoring OIG performance of its activities; and reporting results.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, D E, F, G, H, I, J, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a computer database.

RETRIEVABILITY:

By assignment number, audit report number, the name and social security number of the assigned OIG auditor, or the name of the audit requestor. The general assignment module contains records that are retrieved by assignment number, and the name and Social Security Number of the OIG employee performing the assignment.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Inspector General Records, approved by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Mission Systems, Office of Inspector General, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORDS ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed

and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subject, OIG supervisors, other EPA employees.

EPA–43

SYSTEM NAME:

Time Sharing Services Management System Registration Files.

SYSTEM LOCATION:

National Computer Center, Environmental Protection Agency, Research Triangle Park, NC 27711.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contractors, consultants, volunteers, and external users who have access to EPA computers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, telephone number, and user identification number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

5 U.S.C. 301; 42 U.S.C. 4370e.

PURPOSE(S):

To regulate access to the EPA computer system, maintain computer security, and to allocate costs to computer users.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, D, E, F, G, H, I, and K apply to this system. Records may also be disclosed:

1. To other federal agencies authorized to register external users.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a computerized database.

RETRIEVABILITY:

By employee name, user identification name, and any other data element.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Any paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are kept at least as long as the record subject is affiliated with EPA and has used the computer within the last year.

SYSTEM MANAGER (S) AND ADDRESS:

Director, National Technology Services Division.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects, account managers, and ADP coordinators.

EPA–44

SYSTEM NAME:

EPA Personnel Emergency Contact Files.

SYSTEM LOCATION:

Each Headquarters Office, Region, or other EPA facility may maintain emergency contact files. See the appendix for addresses of regional and other offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

EPA employees, contractors, and consultants, and emergency response personnel from other government agencies who may need to be contacted in case of an emergency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, office location, scope of the record subject's responsibilities, home telephone number, home address, email address, pager number, cell phone number, and emergency contact person. Each office may collect a different set of information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

42 U.S.C. 5121 *et seq.*; Executive Order 12656 (Nov. 18, 1989).

PURPOSE(S):

To contact employees, contractors, consultants, and others in case of an emergency or other event that may require their assistance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To Federal, State, local, foreign, tribal, or other public authorities or to private companies or individuals involved with an emergency (or related exercise) that may require EPA assistance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

On paper or in a computerized database.

RETRIEVABILITY:

By employee name and responsibility.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are kept as long as the record subject is affiliated with EPA and has emergency responsibilities.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Emergency Operations Center, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460. Emergency coordinators in regions and other offices may also be responsible for records.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects.

EPA–45

SYSTEM NAME:

Risk Management Plan Review Access List.

SYSTEM LOCATION:

Chemical Emergency Preparedness and Prevention Office, Office of Solid Waste and Emergency Response, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal, state, and local government officials, qualified researchers, and others who are ''covered persons'' under 42 U.S.C. 7412(r) and permitted to have access to risk management plans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, title, position, telephone number, fax number, email address, user ID, and password.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

42 U.S.C. 7412(r).

PURPOSE(S):

To control access to risk management plans and to support communications with authorized users.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, B, E, F, G, H, and K apply to this system. Records may also be disclosed:

1. To employers and to government agencies to verify the credentials of users.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In a computerized database.

RETRIEVABILITY:

By name, user identification name, and any other data element.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Records are kept at least as long as the record subject is authorized to access risk management plans.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Program Implementation and Coordination Division, Chemical Emergency Preparedness and Prevention Office, Office of Solid Waste and Emergency Response.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Record subjects and the offices that employ them.

EPA–46

SYSTEM NAME:

OCEFT/NEIC Master Tracking System.

SYSTEM LOCATION:

National Enforcement Investigations Center, Office of Criminal Enforcement, Forensics & Training, Environmental Protection Agency, P.O. Box 25227, Denver Federal Center, Denver, Colorado 80225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects of investigation about whom data has been collected by criminal investigators of the Office of Criminal Enforcement, Forensics and Training, Criminal Investigation Division, and assembled in the form of investigative reports concerning violations of federal environmental statutes and regulations; persons who provide information and evidence that is used to substantiate environmental criminal violations are also covered by this system of records.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Computer Indexes:* Computerized records systems for internal tracking and management of NEIC environmental enforcement technical support projects, and includes for each technical support project, a description of the project, a schedule of project milestones, the current project status, a listing of personnel working on the project, and the environmental statutes at issue. Each project may be named, for either a company or an individual, depending on the nature of the violations being investigated or on the basis of the type of support activity being provided by OCEFT/NEIC. These indexes also contain enforcement data such as planned dates for search warrants or facility inspections and types of sampling or analyses to be conducted.

2. *Project Files.* Documentary information relating to an enforcement matter to which OCEFT/NEIC is providing support, including, but are not limited to, correspondence (case coordination reports, memos of conversation, and other records of communication relating to the matter); witness interviews (on-site statements of interviews generated by either an NEIC investigator or another agency or person); regulatory history (permits and reports generated as a result of normal program activity); technical support (project reports generated as a result of the investigation); inspection notes; financial information; sampling and laboratory notes and other related investigative information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Reorganization Plan No. 3 of 1970 (5 U.S.C. app. 1), effective December 2, 1970; Powers of Environmental Protection Agency, 18 U.S.C.3063; Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9603; Resource Conservation and Recovery Act, 42 U.S.C. 6928; Federal Water Pollution Control Act, 33 U.S.C. 1319, 1321; Toxic Substances Control Act, 15 U.S.C. 2614, 2615; Clean Air Act, 42 U.S.C. 7413; Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136j, 136l; Safe Drinking Water Act, 42 U.S.C. 300h-2, 300i-1; Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. 11045; and the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1415.

PURPOSE(S):

To provide support in investigations of persons or organizations alleged to have violated any Federal environmental statute or regulation or, pursuant to a cooperative agreement with a state, local, or tribal authority, an environmental statute or regulation of such authority.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses A, C, D, E, F, G, H, and K apply to this system.

RECORDS MAY ALSO BE DISCLOSED:

1. To a potential source of information to the extent necessary to elicit information or to obtain cooperation of that source in furtherance of an EPA criminal investigation.

2. To the Department of Justice for consultation about what information and records are required to be publicly released under federal law.

3. To a federal agency in response to a valid subpoena.

4. To Federal and state government agencies responsible for administering suspension and debarment programs.

5. To international law enforcement organizations if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the organization or a law enforcement agency that is a member of the organization.

6. To the news media and public unless it is determined that the release of the specific information in the context of a particular case would constitute an unwarranted invasion of privacy.

7. To any person if the EPA determines that compelling circumstances affecting human health, the environment, or property warrant disclosure.

8. In connection with criminal prosecutions or plea negotiations to the extent that disclosure of the information is relevant and necessary to the prosecution or negotiation and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files and computer databases.

RETRIEVABILITY:

Project Files are assigned a project file number and records are maintained in numerical order. The computer index may use the project title, the name of an individual, or the name of an organization to retrieve data and records.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

Computerized data from the system is retained for a period of ten years, then removed from the system and stored on hard disk. Project files relating to criminal investigations are retained according to EPA Records Schedules. Closed project files are retained no less than two years and no more than five years in the office. Criminal project files are destroyed by the Federal Records Center no less than five years and no more than fifteen years after the closing date depending on prosecution status. Project files relating to civil investigations are retained according to media specific EPA Records Retention schedules for civil investigations. Depending on the media, closed files are retained no less than 1 year and no more than 3 years in the office. Project files classified as disposable are retained by the Federal Records Center no less than three years and no more than eight years depending on the media. Project Files classified as permanent records are transferred from the Federal Records Center to the National Archives from 15–18 years after the closing date depending on the media.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Enforcement Investigations Center, Office of Criminal Enforcement, Forensics and Training, P.O. Box 25227, Denver Federal Center, Denver, Colorado 80225.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

To the extent permitted under the Privacy Act of 1974, 5 U.S.C. 552a(j) or (k)(2), this system has been exempted from the provisions of the Privacy Act of 1974 that permit access and correction. Exemptions from access may be complete or partial, depending on the particular exemption applicable. However, EPA may, in its discretion, grant individual requests for access and correction if it determines that the exercise of these rights will not interfere with an interest that the exemption is intended to protect. Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

EPA employees and officials; employees of Federal contractors; employees of other Federal agencies and of State, local, tribal, and foreign agencies; witnesses; informants; public source materials, and other persons who may have information relevant to OCEFT/NEIC investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2) this system is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8); (f)(2) through (5); and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in that subsection: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (f)(2) through (5).

EPA–47

SYSTEM NAME:

OCEFT/NETI Training Registration and Administration Records.

SYSTEM LOCATION:

National Enforcement Training Institute, Office of Criminal Enforcement, Forensics, and Training, Office of Enforcement and Compliance Assurance, Environmental Protection Agency, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal, state, local, and tribal environmental enforcement personnel who are enrolled in or have attended OCEFT/NETI environmental enforcement related training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Cost and/or budget related data, student registrations and transcripts, course descriptions, course lists, course rosters, course catalogs, and other related records. Registrations and transcripts contain students' names, telephone numbers, e-mail addresses, mailing addresses, fax numbers, titles, and work affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Pollution Prosecution Act of 1990, 42 U.S.C. 4321; Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

To manage environmental enforcement related training data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General Routine Uses A, D, E, F, G, H, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer database.

RETRIEVABILITY:

Files are retrieved by individuals using a log-in name and individually selected password.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. All records are maintained in secure, access-controlled areas or buildings. The computer system also maintains a user log that identifies and records persons who access and use the system.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Enforcement Training Institute, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave. NW, Washington, D.C. 20460.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances. In addition, any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, may access the database using the ''find self'' feature. If the record is found, the user can personally update/correct the information contained in the record.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Individual enrollees.

EPA–48

SYSTEM NAME:

Libby Asbestos Exposure Assessment Records

SYSTEM LOCATION:

Libby Exposure Assessment Document Repository, Technical Assistance Unit, Office of Ecosystem Protection and Remediation, U.S. Environmental Protection Agency, 999 18th Street, Suite 500, Denver, CO, 80202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who volunteer for participation in the EPA–ATSDR Libby Asbestos medical testing-exposure assessment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents containing names, addresses, telephone numbers of individual volunteers; individual volunteer's vital statistics, medical histories and exposure history; results of laboratory tests and x-rays of volunteers. In addition, medical and health information pertaining to Zonolite Mine employees received from W.R. Grace pursuant to requests made under section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9604(e), will be included in this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

CERCLA, 42 U.S.C. 9604(e).

PURPOSE(S):

To support EPA's CERCLA emergency removal process at the Libby Asbestos Site by assessing exposure pathways and exposure outcomes due to amphibole asbestos, thus enabling EPA to provide long-term protection of public health and welfare.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records will be used by and disclosed to: A, F, H, and K

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In file folders and on computer databases. Computer database backup media will be protected in accordance with this notice.

RETRIEVABILITY:

By name, by address, by identifying code numbers, and social security numbers.

SAFEGUARDS:

Computer records are maintained in a secure, password protected computer system. Paper records are maintained in lockable file cabinets. All records are maintained in secure, access-controlled areas or rooms.

RETENTION AND DISPOSAL:

The records will be maintained during the pendency of EPA's investigation and cleanup of the Libby Asbestos Site and for a period in compliance with EPA's records retention requirements. Once these periods have expired, the records will be disposed of in accordance with the applicable records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Ecosystem Protection and Remediation: Chief, Technical Assistance Unit, Suite 500, 999 18th Street, Denver, CO 80202.

NOTIFICATION PROCEDURES:

Individuals who want to know whether this system of records contains a record about them, who want access to their record, or who wants to contest the contents of the record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are set out in 40 CFR part 16.

RECORD SOURCE CATEGORIES:

Exposure assessment subjects and individuals identified in W.R. Grace documents.

EPA/GOVT–1

SYSTEM NAME:

Emissions Inspection and Maintenance Records for Federal Employees Parking at Federal Parking Facilities.

SYSTEM LOCATION:

Personnel or facilities management offices of any federal agency offering federal employees parking in facilities controlled by the federal agency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees routinely permitted to park in facilities controlled by the federal government

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, other personal and location identification at the option of the agency, type of car, license plate or registration number, and demonstration or certification of compliance with state or local emission inspection and maintenance program

AUTHORITY FOR MAINTENANCE OF THE SYSTEM (INCLUDES ANY REVISIONS OR AMENDMENTS):

Section 118(d) of the Clean Air Act Amendment of 1990, 42 U.S.C. 7418.

PURPOSE(S):

To demonstrate that federal employees parking in federally controlled facilities comply with local emission control requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

General routine uses A, B, C, E, F, G, H, I, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be maintained in hard copy files or computer databases.

RETRIEVABILITY:

By name, license plate, or other identifying characteristic.

SAFEGUARDS:

Safeguards will vary by agency, but records will be maintained with the same level of security as other personnel or facilities management records.

RETENTION AND DISPOSAL:

Only records from the current vehicle registration cycle are retained. Records are disposed of when out of date or when an employee is no longer parking in a federal facility.

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel or of Facilities Management of the agency.

NOTIFICATION PROCEDURES:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record, should make a written request to the System Manager.

RECORD ACCESS PROCEDURE:

Requesters will be required to provide adequate identification, such as a driver's license, employee identification card, or other identifying document. Additional identification procedures may be required in some instances in accordance with each agency's Privacy Act regulations.

CONTESTING RECORDS PROCEDURE:

Requests for correction or amendment must identify the record to be changed and the corrective action sought.

RECORD SOURCE CATEGORIES:

Record subjects.

1. List of Addresses for EPA Regional and Other Offices

Region I: One Congress Street, Suite 1100, Boston, MA 02203.
Region II: 290 Broadway, New York, NY 10007.
Region III: 1650 Arch Street, Philadelphia, PA 19103.
Region IV: 61 Forsyth Street, SW., Atlanta, GA 30303.
Region V: 77 West Jackson Boulevard, Chicago, IL 60604.
Region VI: 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202.
Region VII: 726 Minnesota Avenue, Kansas City, KS 66101.
Region VIII: 999 18th Street, Suite 500, Denver, CO 80202.
Region IX: 75 Hawthorne Street, San Francisco, CA 94105.
Region X: 1200 Sixth Avenue, Seattle, WA 98101.

Other EPA Offices

New England Regional Laboratory, 60 Westview Street, Lexington, MA 02173.
Atlantic Ecology Division, 27 Tarzwell Drive, Narragansett, RI 02882.
Criminal Investigation Division, New Haven Resident Office, Robert Giamo Federal Building, 150 Court Street, Room 433, New Haven, CT 06507.
Environmental Services Division, 2890 Woodbridge Avenue, Building 10, Edison NJ 08837.
New Hampshire Resident Office, Hampshire Plaza, 1000 Elm Street, P.O. Box 1507, Manchester, NH 03105.
Communications Division, Niagara Falls Public Information Center, 345 Third Street, Suite 530, Niagara Falls, NY 14303.
Division of Environmental Planning and Protection, Long Island Sound Office, Stamford Government Center, 888 Washington Boulevard, Stamford, CT 06904
Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce De Leon Avenue, Santruce, PR 00907.
Caribbean Environmental Protection Division, Virgin Islands Coordinator Office, Federal Office Building & Courthouse, St. Thomas, VI 00802.
Criminal Investigation Division, Edison Resident Office, 2890 Woodbridge Avenue, Edison, NJ 08837.
Criminal Investigation Division, Buffalo Resident Office, 138 Delaware Avenue, Buffalo, NY 14202.
Criminal Investigation Division, Syracuse Resident Office, Hanley Federal Building, 100 S. Clinton Street, 9th Floor, Syracuse, NY 13261.
Environmental Response Team Center, 2890 Woodbridge Avenue, Edison, NJ 08837.
Urban Watershed Management Branch, 2890 Woodbridge Avenue, Edison, NJ 08837.
Trenton Resident Office, U.S. Courthouse Annex, Room 3050, 402 East State Street, Trenton, NJ 08608.
Office of Analytical Services and Quality Assurance Laboratory, 701 Mapes Road, Fort Meade, MD 20755.
Wheeling Office, 303 Methodist Building, 11th and Chapline Streets, Wheeling, WV 26003.
Quality Assurance Office, 701 Mapes Road, Fort Meade, MD 20755.
Chesapeake Bay Program, Annapolis City Marina, 701 Mapes Road, Fort Meade, MD 20755.
Annapolis Operations, 2530 Riva Road, Annapolis, MD 21401.
Analytical Chemistry Laboratory, Building 701 Mapes Road, Fort Meade, MD 20755.
Washington Area Office, 1100 Wilson Boulevard, Arlington, VA 22209.
Environmental Photographic Interpretation Center, 12201 Sunrise Valley Drive, 555 National Center, Reston, VA 20192.
Criminal Investigation Division, Wheeling Resident Office, Methodist Building, 1060 Chapline Street, Wheeling, WV 26003.
Criminal Investigation Division, Annapolis Resident Office, 701 Mapes Road, Fort Meade, MD 20755.
Science and Ecostytems Support Division, 980 College Station Road, Athens, GA 30605.
South Florida Office, 400 North Congress Avenue, West Palm Beach, FL 33401.

Gulf of Mexico Program Office, Building 1103, Stennis Space Center, MS 39529.
Environmental Chemistry Laboratory, Building 1105, Stennis Space Center, MS 39529.
Criminal Investigation Division, Jackson Resident Office, 245 East Capitol Street, Suite 534, Jackson, MS 39201.
National Air and Radiation Environmental Laboratory, 540 South Morris Avenue, Montgomery, AL 36115.
Criminal Investigation Division, Charleston Resident Office, 170 Meeting Street, Suite 300, Charleston, SC 29402.
National Exposure Research Laboratory, MD–75, Research Triangle Park, NC 27711.
Air Pollution Prevention and Control Division, Research Triangle Park, NC 27711.
Office of Air Quality Planning and Standards, 411 West Chapel Hill Street, Durham, NC 27701.
Environmental Research Laboratory, 960 College Station Road, Athens, GA 30605.
Human Studies Division, Clinical Research Branch, Health Effects Research Laboratory, Mason Farm Road, Chapel Hill, NC 27599.
Criminal Investigation Division, Charlotte Resident Office, 227 West Trade Street, Carillon Building, Charlotte, NC 28202.
National Health and Environmental Effects Research Laboratory, Gulf Ecology Division, 1 Sabine Island Drive, Gulf Breeze, FL 32561.
National Center for Environmental Assessment, 3200 Highway 54, Research Triangle Park, NC 27711.
National Health and Environmental Effects Research Laboratory, Research Triangle Park, NC 27711.
Office of Administration and Resources Management, 79TW Alexander Drive, Research Triangle Park, NC 27711.
Office of Inspector General, Washington Field Division, RTP Sub Office, Catawba Building, Research Triangle Park, NC 27711.
Area Office of Civil Rights, Building 4201, 79 Alexander Drive, Research Triangle Park, NC 27711.
Criminal Investigation Division, Miami Resident Office, Brickell Plaza Federal Building, 909 SE First Street, Suite 700, Miami, FL 33121.
Criminal Investigation Division, Nashville Resident Office, Cordell Hull Building, 2nd Floor, 425 5th Avenue, North, Nashville, TN 37243.
Criminal Investigation Division, Knoxville Resident Office, 800 Market Street, Suite 211, Knoxville, TN 37902.
Criminal Investigation Division, Louisville Resident Office, 600 Martin Luther King, Jr. Place, Louisville, KY 40202.
RTP Financial Management Center, 79 TW Alexander Drive, Administration Building, Research Triangle Park, NC 27711.
Criminal Investigation Division, Tampa Resident Office, 400 North Tampa Street, Rm. 3123, Tampa, FL 33602.
Criminal Investigation Division, Jacksonville Resident Office, 325 W. Adams Street, Suite 303, Jacksonville, FL 32202.
Eastern District Office, 25089 Central Ridge Road, Westlake, OH 44145.
National Exposure Research Laboratory, Microbiological and Chemical Exposure Assessment Research Division, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
National Center for Environmental Assessment Office, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
Emergency Response Section One, 9311 Groh Road, Gross Ile, MI 48138.
Environmental Research Center, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
National Risk Management Research Laboratory, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
ORD Publications Office, Center for Environmental Research Information, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
Cleveland Area Office, Islander Office Park, Building One, 7550 Lucerne Drive, Suite 305, Middleburg Heights, OH 44130.
National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105.
Mid Continent Ecology Division, 6201 Congdon Boulevard, Duluth, MN 55804.
Area Office of Civil Rights, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
Office of Senior Official for Research and Development, 26 West Martin Luther King Drive, Cincinnati, OH 45268.
Research Triangle Park Financial Management Center, 79 TW Alexander Drive, Research Triangle Park, NC 22771.
Criminal Investigation Division, Detroit Resident Office, 9311 Groh Road, Gross Ile, MI 48138.
Criminal Investigation Division, Indianapolis Resident Office, US Courthouse, 46 East Ohio Street, Indianapolis, IN 46204.
Great Lakes Research Station, 9311 Groh Road, Gross Ile, MI 48138.
National Environmental Supercomputing Center, 135 Washington Avenue, Bay City, MI 48708.
Cincinnati Financial Management Center, Cincinnati, OH 45268.
Criminal Investigation Division, Minneapolis Resident Office, 300 South 4th Street, Minneapolis, MN 55415.
Criminal Investigation Division, Chicago Area Office, 300 S. Riverside, Chicago, IL 60606.
USEPA Region 6 Laboratory, Houston Branch, 10625 Fallstone Road, Houston, TX 77099.
U.S. Mexico Border Program Office, 4050 Rio Bravo, El Paso, TX 79902.
USEPA Underground Injection Control, Pawhuska Section, P.O. Box 1495, Pawhuska, OK 74056.
Brownsville Border Office, 3505 Boca Chica, Brownsville, TX 78251.
National Risk Management Research Laboratory, Subsurface Protection and Remediation Division, Robert S. Kerr Environmental Research Center, P.O. Box 1198, Ada, OK 74821.
Criminal Investigation Division, Houston Area Office, 1919 Smith Street, Suite 925, Houston, TX 77002.
Criminal Investigation Division, Albuquerque Resident Office, 3305 Calle Cuervo, NW, #325, Albuquerque, NM 87114
Criminal Investigation Division, Baton Rouge Resident Office, 750 Florida Street, Baton Rouge, LA 70801.
Environmental Services Division, 25 Funston Road, Kansas City, KS 66115.
Criminal Investigation Division St. Louis Area Office, 1222 Spruce, St. Louis, MO 63103.
Criminal Investigation Division, Kansas City Resident Office, US Courthouse, 500 State Avenue, Kansas City, KS 66101.
Montana Operations Office, Federal Building, 301 South Park, Helena, MT 59286.
National Enforcement Investigations Center, Building 53, Denver, CO 80225.
Office of Enforcement Compliance and Assurance, Mobile Source Enforcement, Western Field Office, 12345 West Alameda Parkway, Lakewood, CO 80228.
Center for Strategic Environmental Enforcement, 12345 West Alameda Parkway, Lakewood, CO 80228.
USEPA Region 8, Denver Federal Center, Laboratory Services Program, Building 53, Denver CO 80225.
National Enforcement Training Institute West, 12345 West Alameda Parkway, Lakewood, CO 80228.

Criminal Investigation Division, Helena Resident Office, 301 South Park, Helena, MT 59626.
Criminal Investigation Division, Salt Lake City Resident Office, Wallace F. Bennett Federal Building, 125 South State Street, Salt Lake City, UT 84138.
Pacific Island Contact Office, P.O. Box 50003, 300 Ala Moana Boulevard, Honolulu, HI 96850.
Honolulu Resident Office, 449 South ?Ave., Bldg. 221, 2nd Floor, Pearl Harbor, HI 96860.
San Diego Border Office, 610 West Ash Street, San Diego, CA 92101.
USEPA Region 9 Laboratory, 1337 South 46th Street, Richmond, CA 94804.
Los Angeles Area Office, 600 South Lake Ave., Suite 202, Pasadena, CA 91106.
Area Office of Civil Rights, PO Box 93478, Las Vegas, NV 89193.
Human Resources Office at Las Vegas, PO Box 98516, Las Vegas, NV 89193.
Criminal Investigation Division, Sacramento Resident Office, 501 Eye Street, Suite 9–800, Sacramento, CA 95814.
Office of Inspector General for Audits, Western Division, Sacramento Field Audit Office, 801 I Street, Sacramento, CA 95814.
Criminal Investigation Division, San Diego Resident Office, 610 West Ash Street, San Diego, CA 92101.
Environmental Sciences Division, National Exposure Research Laboratory, P.O. Box 93478, Las Vegas, NV 89193.
Las Vegas Financial Management Center, PO Box 98515, Las Vegas, NV 89193.
Criminal Investigation Division, 600 South Lake Avenue, Pasadena, CA 91106.
Radiation and Indoor Environments National Laboratory, PO Box 98517, Las Vegas, NV 89193.
Criminal Investigation Division, 522 North Central Avenue, Phoenix, AZ 85004.
Alaska Operations Office, Federal Building, 222 West 7th Avenue, Anchorage, AK 99513.
Alaska Operations Office, 410 Willoughby Avenue, Juneau, AK 99801.
Oregon Operations Office, 811 S.W. Sixth Avenue, Portland, OR 97204.
Hanford Project Office, 712 Swift Boulevard, Richland, WA 99352.
Idaho Operations Office, 1435 North Orchard Street, Boise, ID 83706.
Boise Resident Office, 877 West Main St., Suite 201, Boise, ID 83702.
Manchester Laboratory, 7411 Beach Drive East, Port Orchard, WA 98366.
Washington Operations Office, 300 Desmond Drive SE, Lacey, WA 98503.
National Health and Environmental Effects Research Laboratory, Western Ecology Division, 200 S.W. 35th Street, Corvallis, OR 97333.
National Health and Environmental Effects Research Laboratory, Western Ecology Division, Hatfield Marine Science Drive, 211 S.E. Marine Science Drive, Newport, OR 98365.
Criminal Investigation Division, Portland Resident Office, 1001 South West 5th Avenue, Portland, OR 97204.
Criminal Investigation Division, Anchorage Resident Office, 222 West 7th Avenue, Anchorage, AK 99513.

[FR Doc. 01–24485 Filed 9–28–01; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

Office of Communications; Cancellation of an Optional Form by the Office of Personnel Management (OPM)

AGENCY: Office of Communications, GSA.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) cancelled OF 630A, Request to Donate Annual Leave to Leave Recipient Under the Voluntary Leave Transfer Program. The form was only available with FPM Letter 630–33 which no longer exists. OPM developed their own form (OPM 630A) which they are happy to share with you. To obtain a copy of this form, go to the following internet site: *http://www.opm.gov/forms.*

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581

DATES: Effective October 1, 2001.

Dated: September 24, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–24495 Filed 9–28–01; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–51–01]

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: Gonococcal Isolate Surveillance Project (GISP) (0920–0307)—Revision—The National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC) proposes to continue data collection for the Gonococcal Isolate Surveillance Project (OMB No. 0920–0307). This request is a three-year extension of clearance.

The purposes of the Gonococcal Isolate Surveillance Project (GISP) are (1) to monitor trends in antimicrobial susceptibility of strains of Neisseria gonorrhoeae in the United States and (2) to characterize resistant isolates. GISP provides critical surveillance for antimicrobial resistance, allowing for informed treatment recommendations. GISP was begun in 1986 as a voluntary surveillance project and now involves five regional laboratories and 26 publicly funded sexually transmitted disease (STD) clinics around the country. The STD clinics submit up to 25 gonococcal isolates per month to the regional laboratories, which measure susceptibility to a panel of antibiotics. Limited demographic and clinical information corresponding to the isolates are submitted directly by the clinics to CDC.

Data gathered through GISP are used to alert the public health community to changes in antimicrobial resistance in Neisseria gonorrhoeae which may impact treatment choices, and to guide recommendations made in CDC's STD Treatment Guidelines, which are published periodically.

Under the GISP protocol, clinics are asked to provide 25 isolates per month. However, due to low volume at some sites, clinics submit an average of 17 isolates per clinic per month, providing an average of 88 isolates per laboratory per month. The estimated time for clinic personnel to abstract data is 11 minutes per response. Based on previous laboratory experience in analyzing gonococcal isolates, we estimate 88 gonococcal isolates per laboratory each month. The estimated burden for each participating laboratory is one hour per response. Annual burden hours for this data collection is 6,300.

Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Clinic Form 1	26	204 (12 x 17)	11/60
Laboratory Form 2	5	1,056 (12 x 88)	60/60
Laboratory Form 3	5	48 (12 x 4)	12/60

Dated: September 24, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–24436 Filed 9–28–01; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–47–01]

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 Viral Hepatitis B Educational Slide Materials—New—National Center for Infectious Disease (NCID), Centers for Disease Control and Prevention (CDC). The purpose of the proposed study is to assess the usefulness of the Hepatitis B and You, an educational slide set located on the website of the Hepatitis Branch, NCID, CDC. The Hepatitis B and You educational slide set is used to educate persons about hepatitis B in general and more specifically the importance of hepatitis B vaccination to prevent perinatal transmission of hepatitis B virus (HBV). An estimated 1.25 million Americans are chronically infected with HBV and 4,000 to 5,000 die each year due to resultant cirrhosis and liver cancer. The estimated cost associated with HBV infections is $700 million a year in medical care and lost work days. The annualized total burden is 414 hours.

Form name	Number of respondents	Number of responses per respondent	Avg. buden per response (in hours)
Web	1656	1	15/60

Dated: September 24, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1182–FN]

RIN 0938–AK75

Medicare Program; Revision of Payment Rates for End-Stage Renal Disease (ESRD) Patients Enrolled in Medicare+Choice Plans

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final notice.

SUMMARY: This final notice establishes a new payment methodology, effective January 2002, for beneficiaries with End-Stage Renal Disease (ESRD) who are enrolled in Medicare+Choice (M+C) plans. This methodology implements section 605 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA). Section 605 requires the Secretary to increase M+C ESRD payment rates, using appropriate adjustments, to reflect the demonstration rates (including the risk adjustment methodology associated with those rates) of the social health maintenance organization (SHMO) ESRD capitation demonstrations. Briefly, the methodology set forth in this final notice—

Increases the base year rates by 3 percent to reach 100 percent of fee-for-service costs as estimated for the base year for M+C purposes (this adopts the approach used under the ESRD SHMO demonstration); and

Adjusts State per capita rates by age and sex factors, in order to pay more accurately, given differences in costs among ESRD patients.

The effect of the new M+C ESRD payment methodology is to increase Medicare's fiscal year (FY) 2002 M+C ESRD payments by an estimated $35 million (for 9 months of costs, given the effective date of January 2002). M+C ESRD payment increases through FY 2006 are estimated to be $55 million for FY 2003, $55 million for FY 2004, $60 million for FY 2005, and $65 million for FY 2006.

The payment methodology set forth in this notice will govern M+C payments for enrollees with ESRD in 2002.

EFFECTIVE DATE: This final notice is effective January 1, 2002.

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FOR FURTHER INFORMATION CONTACT: Anne Hornsby, (410) 786–1181.

SUPPLEMENTARY INFORMATION:

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I. Background

Section 605 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Pub. L. 106–554, enacted on December 21, 2000) (BIPA) amends section 1853(a)(1)(B) of the Social Security Act (the Act) by adding the following sentence at the end: ''In establishing such rates, the Secretary shall provide for appropriate adjustments to increase each rate to reflect the demonstration rate (including the risk adjustment methodology associated with such rate) of the social health maintenance organization end-stage renal disease capitation demonstrations (established by section 2355 of the Deficit Reduction Act of 1984, as amended by section 13567(b) of the Omnibus Budget Reconciliation Act of 1996), and shall compute such rates by taking into account such factors as renal treatment modality, age, and the underlying cause of the end-stage renal disease.'' This amendment applies to payments for months beginning with January 2002.

Currently, Medicare+Choice (M+C) end-stage renal disease (ESRD) capitation payments are based on State-level rates that are not risk-adjusted. M+C ESRD base payment rates are based on the current M+C payment methodology, which builds on a base year (1997) amount representing 95 percent of projected State average fee-for-service costs, as determined at the time. M+C ESRD rates include the costs of beneficiaries with Medicare as Secondary Payer (MSP) and the costs of beneficiaries who have functioning grafts 3 years or less from date of transplant. Note that for the purpose of M+C payment, ''ESRD beneficiaries'' includes beneficiaries with ESRD, whether entitled to Medicare because of ESRD, disability, or age.

On May 25, 2001, the Secretary announced that he will work closely with all interested parties to explore and implement a risk adjustment process for M+C payments that balances accuracy and administrative burden. The ESRD payment methodology falls under this review of our current risk adjustment system. For this reason, we will implement the age and sex adjusters for calendar year (CY) 2002, while continuing to review other options for subsequent years, including those suggested by the commenters on the proposed notice.

A. ESRD Managed Care Demonstration Project

Beneficiaries with ESRD are the only group eligible for benefits under Parts A and B who are prohibited from enrolling in M+C organizations, although a beneficiary who develops ESRD after enrolling with an organization that offers an M+C plan may remain enrolled with the organization under an M+C plan. In 1993, the Congress required the Secretary to conduct an ESRD Managed Care Demonstration Project to assess whether it is feasible to allow enrollment in managed care for Medicare ESRD patients of all ages and to test risk-adjusted capitation for ESRD beneficiaries. As of December 2000, there were two such Demonstration sites, one in California with approximately 1,200 enrollees and a second in Florida with approximately 600 enrollees.

The ESRD Demonstration introduced 100 percent risk-adjustment into ESRD capitation payments. We calculated separate monthly capitation rates by treatment modality (dialysis, transplant, or functioning graft), and then adjusted the dialysis and functioning graft rates for age (0–19, 20–64, or 65+ years old) and original cause of renal failure (diabetes or other cause).

Further, the Demonstration tested whether offering additional benefits not covered by Medicare enhanced effective treatment of this population. The statute mandated that we pay ESRD Demonstration sites 100 percent of estimated per capita fee-for-service expenditures in that State, rather than the 95 percent of this same amount that was paid to managed care plans outside the Demonstration. To justify the extra 5 percent, ESRD Demonstration sites agreed to provide additional benefits, for example, nutritional supplements.

Finally, the Demonstration did not allow ESRD patients with MSP status to enroll in the sites. Therefore, we excluded fee-for-service beneficiaries with MSP from calculation of the base payment rates. Excluding MSP beneficiaries increased the Demonstration rates about 20 percent over rates paid outside the Demonstration.

B. ESRD Demonstration Experience With the Capitated Payment System

Preliminary assessments revealed that the administrative demands of implementing the risk adjustment methodology employed in the ESRD Demonstration were substantial and complex. CMS and the Demonstration sites experienced difficulty with ensuring accurate and timely collection of data on treatment modality; data problems also occurred with the original cause adjuster. In large part, this was because we had to rely on nonbilling documents to determine payment status. For example, the documentation of a transplant involves a detailed medical form that must travel from transplant center to organ transplant network to us. Often we did not receive these forms timely. Working with the earlier years of the Demonstration sites, we had to create complex processes for retroactive adjustments and reconciliations because of delays in receipt of the appropriate documentation.

This preliminary assessment is based on our analysis of issues that arose during the ESRD Demonstration. The final evaluation of the ESRD Demonstration is forthcoming. Meanwhile, we are pursuing further improvements to the payment system for ESRD beneficiaries enrolled in managed care. The ESRD Demonstration has received an extension until January 1, 2002. Under the terms of the extension granted to the two sites, an unadjusted capitation rate is paid (in contrast to the demonstration, for which rates were risk-adjusted). The extensions are scheduled to terminate December 31, 2001. At that time, the residual demonstration enrollees will be transitioned into the organizations' M+C plans and the extension methodology will be superseded by implementation of the new M+C ESRD payment methodology set forth in this notice.

II. Provisions of the Proposed Notice

On May 1, 2001, we published a proposed notice in the **Federal Register** (66 FR 21770) that proposed to establish a new payment methodology, effective January 2002, for beneficiaries with ESRD who are enrolled in M+C plans. The discussion below summarizes the provisions of that notice.

A. Calculation of State-Level Per Capita ESRD Rates at 100 Percent of State Fee-for-Service Costs

The BIPA requires that M+C ESRD rates be increased to reflect the Demonstration rates. We discussed our approach to reflecting the Demonstration base rate calculations in section II.A. of the May 1, 2001 proposed notice. To summarize, we proposed to increase the 1997 base rate produced by the pre-BIPA M+C ESRD payment methodology by approximately 1 percent to get to 100 percent of actual fee-for-service costs for 1997, thus fulfilling the BIPA mandate that new ESRD rates be increased to reflect the Demonstration rates, which are based on a 100 percent standard.

• Our analysis of the 1997 rates reveals that the national per capita rate promulgated in 1997 (based on September 1996 calculations) is about 4.1 percent higher than our current best estimate of the actual 1997 fee-for-service costs on which the rates are based.

• Under the M+C methodology set forth in the Balanced Budget Act of 1997 (Pub. L. 105–33, enacted on August 5, 1997) (BBA), the original 1997 rates were the basis for all future rates, with no provision for correcting over or under estimates for that year. This means that, on average, in 1997, we paid managed care organizations an amount representing about 99 percent of the actual Medicare Average Annual Per Capita Cost (AAPCC) for 1997, rather than the assumed 95 percent of the AAPCC.

To pay M+C organizations 100 percent of estimated State per capita ESRD fee-for-service costs for 1997, therefore, we proposed to increase the 1997 rates by approximately 1 percent.

See Section II.A. of the proposed notice HCFA–1182–PN (66 FR 21770) for an in-depth discussion of the rationale behind our proposed approach to paying 100 percent of State fee-for-service costs in a base year.

B. Risk Adjustment of the Base Payment Rates by Age and Sex

As noted above, section 605 of BIPA requires that the increase in ESRD rates to reflect Demonstration rates include the risk adjustment methodology associated with those rates. The methodology in place at the time the BIPA was enacted is set forth above in section I.A. Also see Section II.B. of the proposed notice for discussion of our approach to risk adjustment of M+C ESRD payments.

We proposed to adjust M+C ESRD rates only for age and sex. We believe that this reflects the most significant effects of the ESRD Demonstration methodology in effect at the time of the BIPA. Our reasons are presented below. While the Demonstration methodology included several components, the bulk of the effect of risk adjustment is attributable to adjustment for age. To increase the power of the age adjustment compared to the ESRD Demonstration age adjustment, we are changing from a 3-category age classification to the 10-category classification currently used in the M+C payment methodology.

We decided not to create separate rates for treatment modality or adjust for original cause of kidney failure for several reasons. In the proposed notice, we indicated that when we implement the comprehensive risk adjustment model (adding ambulatory and outpatient diagnoses to the existing hospital-diagnosis system), we would incorporate M+C ESRD enrollees into the single risk-adjusted payment system. This allows us to capture co-morbidity information in addition to demographic information and basic disease markers for ESRD beneficiaries.

In addition, research indicates that increased age is the single best correlate of ESRD mortality. The ESRD population enrolled in managed care is on average older than the ESRD fee-for-service population (see table below). (This is due to the current restrictions on ESRD enrollment in M+C organizations.) Our research comparing the 1998 Medicare HMO ESRD population with the fee-for-service population reveals the following contrasts (Eggers 2000).

Age	Percent of ESRD HMO population	Percent of ESRD fee-for-service population
Age 75+	28	15
65–74	41	22
45–64	24	39
0–44	7	24

We reviewed other evidence before selecting an interim risk adjustment methodology based on age and sex, including the following:

• Eggers et al. (2001) found that when taking age into account, M+C organizations were transplanting at the same rates as fee-for-service organizations in 1998.

• A detailed study of capitation models for ESRD (The Lewin Group and URREA 2000) showed that age is a much more important factor predicting 1996 fee-for-service spending for within-year transplant patients, functioning graft patients, and pediatric dialysis patients than it is for adult hemodialysis patients. The study noted, however, that ESRD patients enrolled in Medicare HMOs with Medicare as primary payer are *not* included in the sample of patients analyzed, so we do not know whether the study findings are accurate for the M+C ESRD population, which is on average older than the fee-for-service ESRD population.

Taking into consideration the current enrollment restrictions in the M+C program and the resulting age distribution of M+C ESRD enrollees, we concluded that adjusting for age and sex and using a more detailed age categorization obviates the need to include treatment modality and original cause as factors in this interim methodology. We also stated in the proposed notice that a change in the law to allow ESRD beneficiaries of all ages to enroll in M+C plans would result in moderation of the average payment increases expected from the proposed methodology. Preliminary findings from the ESRD Demonstration, which allowed ESRD beneficiaries of all ages to enroll, indicate that the age distributions at the Demonstration sites were very similar to the ESRD age distribution in fee-for-service Medicare. Thus, under open enrollment, we would expect a shift in the age distribution of the M+C ESRD population toward younger enrollees.

The proposed notice also stated that, although the ESRD Managed Care Demonstration did not allow beneficiaries with MSP to enroll, we are unable to exclude from the M+C program any beneficiaries with MSP who develop ESRD. Therefore, these ESRD beneficiaries with MSP will be

included in the program and payment rates. Due to data limitations, we noted that we did not expect to make separate payment adjustments.

III. Analysis of and Responses to Public Comments on the May 1, 2001, Proposed Notice

We received 6 items of correspondence containing a variety of comments on the proposed ESRD payment methodology. Commenters included managed care organizations and other industry representatives, representatives of physicians and other health care professionals, a research organization, and beneficiary advocacy groups. The comments concerned both parts of the proposed methodology: the 1 percent increase in the 1997 base year rate and the risk adjusters that we proposed.

Comment: Some commenters objected to our proposal to increase the ESRD State base rates by only 1 percent.

In particular, they recommended that, to increase the base payment rates from 95 percent to 100 percent of the average adjusted per capita cost (AAPCC), CMS should increase the 1997 State per capita M+C ESRD rates by 5.26 percent (100/95 = 1.0526).

Response: We have reviewed the arguments supporting the 1 percent increase, which were set forth in the proposed notice and summarized above, and the commenters' argument in favor of a 5.26 percent increase. We also have reviewed the terms and conditions of the ESRD Demonstration. As provided in section 2355 of the Deficit Reduction Act of 1984, as amended by section 13567(b) of the Omnibus Budget Reconciliation Act of 1996, which mandated the SHMO Demonstration, payment was to be based on 100 percent of estimated per capita fee-for-service expenditures in Demonstration States, rather than the 95 percent of this same amount that was paid to managed care plans outside the Demonstration. To justify the extra 5 percent, ESRD Demonstration sites were required to provide additional non-Medicare covered benefits especially needed by the ESRD population, for example, nutritional supplements. The ESRD Demonstration received an extension until January 1, 2002. Under the terms of the extension, the two sites must continue to offer the additional benefits.

While the approach we presented in our proposed notice would reflect the original Demonstration rates in that it would pay 100 percent of our best estimate of fee-for-service costs, the approach recommended by the commenters would come closer to paying the base rate amounts actually paid under the ESRD Demonstration. The BIPA statute requires that ''appropriate'' adjustments be made to ''reflect'' the demonstration *rates,* not necessarily that all M+C organizations be paid the *amounts* paid under the ESRD Demonstration. Even if one were to accept the commenters' premise that payment should be closer to the amounts paid under the Demonstration (rather than our proposal, which more accurately reflects the payment standard provided for in the SHMO demonstration statute), we have determined that a full 5.26 percent increase in the base rates would not be appropriate. This is because the additional benefits required under the Demonstration cannot be required of M+C plans outside this Demonstration, and at least some portion of the additional 5.26 percent paid under the ESRD Demonstration can be attributable to these additional benefits.

Accordingly, we have decided that a midpoint between our proposed 1 percent increase and the commenters' suggested 5.26 percent increase in the base rates is the most appropriate proxy for 100 percent of estimated per capita fee-for-service expenditures for ESRD beneficiaries, and thus the most appropriate way to ''reflect'' the Demonstration rates. Therefore, CMS will increase the ESRD base rates by 3 percent. This increase reflects the Demonstration methodology, and acknowledges that CMS cannot require M+C plans outside this Demonstration to offer the additional benefits that we required in the Demonstration in exchange for capitation rates set at 100 percent of fee-for-service costs. The 3 percent increase also represents the middle ground between two reasonable interpretations of the statute.

Comment: Although commenters were pleased that CMS will introduce age and sex risk adjusters into M+C ESRD payments beginning in 2002, all expressed concern that CMS was not using additional adjusters in order to pay more accurately for high severity cases. In particular, all commenters suggested that we add some combination of the following adjusters: whether diabetes is original cause of ESRD, treatment status (dialysis, transplant, post-transplant functioning graft), and Medicare Secondary Payer (MSP) status.

Response: On May 25, 2001, the Secretary announced that he will work closely with all interested parties to explore and implement a risk adjustment process for M+C payments that balances accuracy and administrative burden. The ESRD payment methodology falls under this review of our current risk adjustment system. For this reason, we will implement the age and sex adjusters for calendar year (CY) 2002, while continuing to review other options for subsequent years, including those suggested by the commenters on the proposed notice. We recognize that MSP status is an issue, and we plan to explore options within our payment system. We also plan to explore the feasibility of payment areas for ESRD enrollees that are smaller than States.

Meanwhile, the age and sex factors for ESRD beneficiaries enrolled in M+C plans that were developed by CMS's OACT and published in the proposed notice will be used in making payments for ESRD beneficiaries starting in January 1, 2002.

IV. Provisions of the Final Notice

We increased the 1997 M+C ESRD State rates by 3.00 percent, and then updated the rates to CY 2002 using the BBA methodology, which resulted in the minimum percentage increase each subsequent year. We will adjust payments with age and sex factors.

Below are two tables presenting the State M+C ESRD rates for CY 2002 and the age/sex factors for calculating M+C ESRD enrollee payments. In the first table, Average DF refers to Average Demographic Factor. Under the provisions of this notice, the Average DFs are average age/sex factors per State for Part A and Part B. ''New 2002 rates'' refer to the ESRD rates that follow from the BIPA mandate and will be implemented January 1, 2002. They are statewide rates standardized by State average DFs (average age and sex factors) and increased by 3.00 percent.

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CY 2002 Medicare+Choice End Stage Renal Disease State Rates

State	Average DF* Part A	Average DF Part B	New 2002 Rates** Part A	New 2002 Rates Part B
ALABAMA	1.0150	1.0027	$ 1,567.49	$ 2,220.99
ALASKA	0.9588	0.9733	$ 1,577.52	$ 2,175.23
ARIZONA	1.0105	0.9998	$ 1,711.35	$ 2,421.92
ARKANSAS	1.0070	0.9969	$ 1,510.80	$ 2,135.97
CALIFORNIA	1.0089	0.9991	$ 1,924.20	$ 2,721.24
COLORADO	0.9861	0.9844	$ 1,650.55	$ 2,314.51
CONNECTICUT	1.0763	1.0381	$ 1,835.45	$ 2,665.25
DELAWARE	1.0269	1.0092	$ 1,815.53	$ 2,586.94
DIST. OF COL.	1.0150	1.0014	$ 2,127.92	$ 3,021.13
FLORIDA	1.0419	1.0159	$ 1,619.19	$ 2,325.01
GEORGIA	0.9992	0.9926	$ 1,658.18	$ 2,336.85
HAWAII	1.0040	0.9967	$ 1,746.72	$ 2,463.57
IDAHO	0.9911	0.9890	$ 1,310.17	$ 1,837.02
ILLINOIS	1.0431	1.0207	$ 1,598.83	$ 2,287.66
INDIANA	1.0524	1.0223	$ 1,456.72	$ 2,099.01
IOWA	1.0627	1.0267	$ 1,357.23	$ 1,966.13
KANSAS	1.0467	1.0184	$ 1,550.87	$ 2,231.48
KENTUCKY	1.0197	1.0041	$ 1,855.46	$ 2,638.87
LOUISIANA	1.0077	0.9968	$ 2,003.87	$ 2,837.15
MAINE	1.0787	1.0372	$ 1,366.82	$ 1,989.61
MARYLAND	1.0263	1.0094	$ 1,892.04	$ 2,693.90
MASSACHUSETTS	1.0895	1.0441	$ 1,809.44	$ 2,644.54
MICHIGAN	1.0523	1.0233	$ 1,569.55	$ 2,259.70
MINNESOTA	1.0787	1.0382	$ 1,556.24	$ 2,263.98
MISSISSIPPI	1.0038	0.9942	$ 1,659.35	$ 2,345.58
MISSOURI	1.0394	1.0155	$ 1,605.04	$ 2,300.05
MONTANA	1.0272	1.0058	$ 1,164.07	$ 1,662.95
NEBRASKA	1.0293	1.0074	$ 1,322.36	$ 1,890.58
NEVADA	0.9661	0.9785	$ 1,676.54	$ 2,317.48
NEW HAMPSHIRE	1.0514	1.0249	$ 1,464.79	$ 2,103.47
NEW JERSEY	1.0523	1.0227	$ 1,821.60	$ 2,624.97
NEW MEXICO	1.0061	0.9997	$ 1,534.39	$ 2,161.52
NEW YORK	1.0294	1.0108	$ 1,983.50	$ 2,829.18
N. CAROLINA	1.0160	1.0019	$ 1,632.70	$ 2,317.94
N. DAKOTA	1.0544	1.0266	$ 1,249.01	$ 1,794.87
OHIO	1.0499	1.0236	$ 1,622.43	$ 2,329.83
OKLAHOMA	1.0170	1.0052	$ 1,451.87	$ 2,056.01
OREGON	0.9826	0.9830	$ 1,664.95	$ 2,329.90
PENNSYLVANIA	1.0655	1.0317	$ 1,884.50	$ 2,725.94
PUERTO RICO	0.9669	0.9762	$ 1,416.61	$ 1,963.42
RHODE ISLAND	1.0746	1.0334	$ 1,674.47	$ 2,438.13

S. CAROLINA	0.9998	0.9933	$ 1,612.85	$ 2,272.56
S. DAKOTA	1.0528	1.0229	$ 1,443.34	$ 2,079.32
TENNESSEE	1.0143	1.0011	$ 1,591.10	$ 2,256.85
TEXAS	1.0028	0.9960	$ 1,799.30	$ 2,536.74
UTAH	0.9577	0.9722	$ 1,211.69	$ 1,669.44
VERMONT	1.0899	1.0444	$ 1,498.68	$ 2,189.63
VIRGIN ISLANDS	0.9634	0.9793	$ 1,300.15	$ 1,789.39
VIRGINIA	1.0254	1.0091	$ 1,595.68	$ 2,269.81
WASHINGTON	1.0018	0.9945	$ 1,640.29	$ 2,313.16
W. VIRGINIA	1.0549	1.0236	$ 1,551.75	$ 2,238.85
WISCONSIN	1.0707	1.0350	$ 1,304.62	$ 1,888.53
WYOMING	0.9928	0.9902	$ 1,299.01	$ 1,822.18
GUAM	0.8000	0.9000	$ 1,616.53	$ 2,010.38

* Average DF refers to Average Demographic Factor
** "New 2002 Rates" follow from the BIPA mandate and are State-wide, standardized by State Average DFs (average age and sex factors), and increased by 3.00 percent.

BILLING CODE 4120–01–C

AGE/SEX DEMOGRAPHIC FACTORS FOR M+C ESRD ENROLLEES

Age	Part A		Part B	
	Male	Female	Male	Female
0–34	.55	.70	.70	.75
35–44	.65	.70	.80	.80
45–54	.70	.85	.85	.90
55–59	.80	.95	.90	1.00
60–64	.90	1.10	.90	1.10
65–69	1.15	1.35	1.10	1.20
70–74	1.25	1.45	1.15	1.25
75–79	1.30	1.55	1.20	1.25
80–84	1.40	1.60	1.20	1.25
85+	1.45	1.60	1.20	1.25

To calculate the payment for a given ESRD enrollee, multiply the appropriate age/sex factors by the standardized statewide M+C ESRD payment rates in the table. (Prior to January 2002, there are no adjustments for age and sex for M+C ESRD beneficiaries.)

Given current enrollment restrictions, we estimate that, under this methodology, the age- and sex-adjusted average ESRD payment per beneficiary will result in a significant increase in payments to M+C organizations for their ESRD enrollees.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

VI. Regulatory Impact Statement

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980, Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually).

We have determined that this final notice is not a major rule with economically significant effects. There are approximately 18,000 ESRD beneficiaries enrolled in M+C plans. The additional cash expenditures for these M+C ESRD beneficiaries under this BIPA provision are estimated to be: $35 million in Fiscal Year (FY) 2002; $55 million in FY 2003; $55 million in FY 2004; $60 million in FY 2005; and $65 million in FY 2006. These estimates assume continuation of the current restrictions on enrollment in the M+C program for ESRD beneficiaries. These estimates include the impact of adjusting for age and sex and the impact of raising the ESRD base rates by 3.00 percent. Since this final notice results in increases in total expenditures of less than $100 million per year, this notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

The RFA requires agencies to analyze the economic impact on small entities, and if an agency finds that a regulation imposes a significant burden on a substantial number of small entities, it must explore options for reducing the burden. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and

government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $7.5 million or less annually. For purposes of the RFA, most managed care organizations are not considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This final notice will have no consequential effect on State, local, or tribal governments, and the private sector cost of this rule falls below these thresholds as well.

We have reviewed this final notice under the threshold criteria of E.O. 13132, Federalism. We have determined that this final notice will not significantly affect the rights, roles, and responsibilities of the States.

We have examined the economic impact of this notice on M+C organizations and find that the overall impact is positive. However, because the number of ESRD patients enrolled in M+C organizations represents a very small fraction of M+C organizations' annual receipts, and because a small number of M+C organizations qualify as small entities under the RFA, the Secretary is certifying that this notice will not have a significant impact on a substantial number of small entities. To our knowledge, no small rural hospitals will be affected by this notice, so the Secretary is also certifying that this notice will not have a significant impact on a substantial number of small rural hospitals.

In accordance with the provisions of E.O. 12866, this final notice was reviewed by OMB.

Works Cited

Eggers, Paul W., Diane L. Frankenfield, Joel W. Greer, William McClellan, William F. Owen, Jr., and Michael V. Rocco, ''Comparison of Mortality and Intermediate Outcomes between Dialysis Patients Enrolled in HMO and Fee for Service,'' February 2001. Under review at the American Journal of Kidney Disease.

Eggers, Paul. ''Outcome of ESRD Patients in HMOs.'' RPA/REF 2000 Annual Meeting. Washington D.C. March 25–27, 2000.

The Lewin Group and University Renal Research and Education Association (URREA). ''Capitation Models for ESRD: Methodology and Results.'' Prepared for Renal Physicians Association, American Society of Nephrology, American Society of Transplant Physicians, American Society for Pediatric Nephrology, and Amgen. January 7, 2000.

Section 1853(a)(1)(B) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(B))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: July 30, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Dated: August 16, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–24494 Filed 9–28–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0384]

Preparation for Global Harmonization Task Force Conference in Barcelona, Spain, Including a Discussion of Guidance Proposed for Comment and Currently Under Development and Possibilities for New Topics; Public Meeting; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is canceling the public meeting for the Global Harmonization Task Force Conference in Barcelona, Spain scheduled for October 1, 2001. The meeting was announced in the **Federal Register** of September 13, 2001 (66 FR 47676). It will be rescheduled at a later date.

FOR FURTHER INFORMATION CONTACT: Kimberly Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001.

Dated: September 25, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–24527 Filed 9–26–01; 3:57 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0370]

Preparation for ICH Meetings in Brussels, Belgium, Including Progress on Implementing of the Common Technical Document; Public Meeting; Cancellation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is canceling the public meeting for the ICH meetings in Brussels, Belgium scheduled for October 5, 2001. The public meeting was announced in the **Federal Register** of September 7, 2001 (66 FR 46801). It will be rescheduled at a later date.

FOR FURTHER INFORMATION CONTACT: Kimberly Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001.

Dated: September 25, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–24528 Filed 9–26–01; 3:57 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps; Notice of Meeting; Cancellation

In **Federal Register** Document 01–23611 appearing on page 48691 in the issue for Friday, September 21, 2001, the meeting scheduled for October 11–14, 2001, has been cancelled.

Dated: September 25, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–24466 Filed 9–28–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–70]

Notice of Submission of Proposed Information Collection to OMB; Survey of Market Absorption of New Apartment Buildings

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 31, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2528–0013) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne__Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of responses, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Survey of Market Absorption of New Apartment Building.

OMB Approval Number: 2528–0013.

Form Numbers: H–31, SOMA–1.

Description of the Need for the Information and Its Proposed Use: The Department of Housing and Urban Development conducts this survey in order to determine if the supply of rental housing is keeping pace with current future needs. Additional information such as asking rent (or price for condominium units) and number of bedrooms is also collected. We will now also begin asking availability of services in ''assisted living'' buildings.

Respondents: Business or other for profit.

Frequency of Submission: Quarterly.

	Number of Respondents	×	Frequency of Response	×	Hours per Response	=	Burden Hours
Reporting Burden:	12,000		4		1		4,000

Total Estimated Burden Hours: 4,000.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 25, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–24525 Filed 9–28–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–M–69]

Notice of Submission of Proposed Information Collection to OMB; Procedure for Obtaining Certificates of Insurance for Capital Program Projects

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 31, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0046) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban development, 451 Seventh street, Southwest, Washington, DC 20410; *e-mail Wayne__Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of responses; (9)

whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Procedure for obtaining certificates of insurance for capital program projects.

OMB Approval Number: 2577–0046.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Public Housing Agencies must obtain certificates of insurance from contractors and subcontractors before beginning work under either the development of a new low-income public housing projects or the modernization of an existing project. The certificates of insurance provide evidence that worker's compensation and general liability, automobile liability insurance are in force before and construction work is started.

Respondents: Business or other for profit, State, Local or Tribial Government.

Frequency of Submission: On Occasion.

	Number of respondents	x	Frequency of response	x	Hours per responses	=	Burden hours
Reporting Burden:	3,000		4		1		12,000

Total Estimated burden Hours 12,000.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 25, 2001.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 01–24526 Filed 6–28–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Final Determination Against Federal Acknowledgment of the Duwamish Tribal Organization

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Final Determination.

SUMMARY: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs (Assistant Secretary) by 209 DM 8. Pursuant to 25 CFR 83.9(h)(1978), notice is hereby given that the Assistant Secretary declines to acknowledge that the Duwamish Tribal Organization (DTO), c/o Cecile Maxwell-Hansen, 14235 Ambaum Blvd., S.W., Burien, Washington 98166, exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group does not satisfy the criteria set forth in 25 CFR 83.7.

DATES: In order to reconcile the conflict between the 1978 and 1994 regulations concerning the deadlines for requesting reconsideration and the effective date of this decision, this determination is final and will become effective 90 days from publication of this notice, unless reconsideration is requested. A petitioner or interested party may request reconsideration under the 1978 regulations 25 CFR 83.10 (a)–(d). Such a request must be filed with the Secretary of the Interior within 30 days to allow her to request, within 60 days of the publication of this notice, that the Assistant Secretary reconsider the decision. Alternatively, the petitioner and interested parties have the option under 25 CFR 83.11 (a)(1994) of requesting reconsideration before the Interior Board of Indian Appeals (IBIA). If a petitioner or interested party requests reconsideration under the 1978 regulations in time for the Secretary to act within 60 days of the date of publication of the decision, the Secretary may decide to refer the matter to the IBIA under 25 CFR 83.10(1994).

A notice of the Proposed Finding not to acknowledge the Duwamish Tribal Organization (DTO) was published in the **Federal Register** on June 28, 1996. The original 120-day comment period provided under the regulations was extended on November 4, 1996, for 120 days; on January 16, 1997, for 150 days; on July 23, 1997, for another 150 days; and on December 16, 1997, for 30 days. The petitioner requested all of these extensions. A 60-day response period commenced after the last extension as provided in the regulations and closed March 23, 1998.

On January 19, 2001, the Acting Assistant Secretary made a preliminary finding that the DTO met the seven mandatory criteria and therefore was entitled to be acknowledged as an Indian tribe within the meaning of Federal law. However, the Acting Assistant Secretary neither signed his recommended final determination nor the required three copies of the **Federal Register** notice before the change in the Administration. Notice of the final determination was not sent to the **Federal Register** before the change in the Administration because of the late time in the day when the decision was made and because there was insufficient time to prepare and finally review for legal sufficiency all the documents necessary to make effective the Acting Assistant Secretary's proposed final determination prior to his leaving office. Until the required notice of the final determination is published in the **Federal Register**, there is no completed agency action.

Because the agency action was still pending within the Department when the new Administration was sworn in and took office, this Administration became responsible for issuing a final determination which is legally sufficient. As part of that responsibility, it was incumbent upon the new Administration to review the decision making documents. This review was also in accordance with the White House memorandum of January 20, 2001, relating to pending matters.

The Bureau of Indian Affairs' (BIA) recommended final determination was that the DTO did not meet all of the mandatory criteria under 25 CFR part 83. Although it is the policy and practice of the Department to require decisions of the Assistant Secretary—Indian Affairs to be reviewed by the Office of the Solicitor for their legal sufficiency, the Acting Assistant Secretary's proposed decision had not been reviewed by that office because of its lateness. Moreover, the Acting Assistant Secretary's proposed decision did not provide an explanation for his proposed modifications to the recommended decision. Therefore, having completed a review of the decision making documents which did have Solicitor's Office review as to their legal sufficiency, the Assistant Secretary concurs with the recommendation of the BIA and publishes this notice of the final determination that the DTO has not submitted sufficient evidence to meet criteria 83.7 (a), (b), and (c), and

therefore does not meet all seven mandatory criteria under Part 83.

This determination is made following a review of the DTO's response to the Proposed Finding (PF), the public comments on the Proposed Finding, and the DTO response to the public comments. This final determination incorporates the evidence considered for the PF, and new documentation and argument received from third parties and the petitioner. The final determination reaches factual conclusions based on a review and reanalysis of the existing record in light of this new evidence. This notice is based on a determination that the group does not satisfy the seven criteria for acknowledgment in 25 CFR 83.7 (a)–(g).

The PF found that the DTO did not meet criterion 83.7(a) because identifications of the treaty ''Duwamish and allied tribes'' for 100 years following the treaty applied to federally recognized tribes of treaty reservations, not to the DTO. Identifications of DTO since 1939 did not portray it as continuously existing from the 1855 treaty tribe or from Duwamish villages which existed as late as 1900. Other evidence established that DTO was founded in 1925. Federal Agent Roblin's creation of a list of unenrolled Indians in 1919 identified individual unenrolled descendants of historical Washington tribes. That list did not recognize a Duwamish Tribe. The DTO claimed that the BIA had ignored evidence in the PF. The BIA cited specific references in the PF which discussed this evidence. The DTO's researcher's published articles, some of which did not discuss DTO, did not change the PF's conclusions. Comments on the PF provide no basis for changing the conclusion that the evidence was not sufficient to show that the petitioner meets criterion (a) at any time before 1939, and did not change the PF for 83.7(a). Therefore, the petitioner does not meet criterion (a).

The PF found that the petitioner did not provide sufficient evidence under criterion (b) to show that DTO represented a continuously existing community from historical times to the present. The DTO submitted new evidence under criterion (b); however, their analysis of this evidence was neither accurate nor complete. They argue that the petitioner's ancestors lived in family enclaves throughout Puget Sound in the 19th century. This evidence does not show the petitioner's ancestors broadly interacting with one another or with other Indians, or maintaining social networks or geographical communities. Other evidence indicates that they did not. Federal censuses showed the petitioner's ancestors scattered throughout Western Washington. A significant portion of DTO's evidence referred to ancestors of people not associated with DTO. The DTO submitted results of a membership survey designed to measure individuals' cultural values, beliefs and activities. The results were general and provided little if any evidence demonstrating DTO members interacting in community activities or cultural events or sharing a belief system that was distinct from surrounding populations. Therefore, the petitioner does not meet (b).

Based on evidence primarily from claims initiatives after 1935, the PF concluded that the DTO evolved from an organization founded in 1925 and was not a continuously existing political organization which had maintained influence over its members throughout history. This evidence demonstrated that the activities of the DTO were not significant to most members, and that participation was limited to a small set of leaders, who were not influenced by the majority of DTO's membership. Much of the evidence submitted in the comments had been addressed and evaluated in the PF or was not relevant to DTO's history because it concerned other groups or people. A report commissioned by the petitioner did not provide new information about the petitioner's specific activities. The petitioner presented claims activities attempting to demonstrate political activities of a tribal organization. This kind of evidence has not been accepted as sufficient evidence under criterion (c) because it concerns individuals rather than group actions. The DTO argued that their leaders displayed traditional characteristics and represented specific regions. These assertions were not supported by the evidence of actual group organization and of the backgrounds and characteristics of DTO's named leaders.

The petitioner submitted considerable analysis of 1915 and 1926 lists of people with the purpose of showing that those listed were part of a continuously existing Duwamish organization. This analysis raised the percentage of individuals appearing on both lists given in the PF; however, it did not alter the conclusion that only a minority of members of the 1915 organization also were members of the 1926 organization. Further analysis by the petitioner of kinship ties of people on these lists also raised the percentage of family lines represented on both lists. This analysis depended in part on assuming that individuals related more distantly than parent, child or sibling interacted and communicated regularly. The Department, however, does not assume that more distantly related kin are in contact and related to each other politically. Thus some of this analysis is not accepted as sufficient evidence under 83.7(c) without evidence of actual political influence and resulting actions to support it.

DTO's discussion of the IRA in 1934 was inaccurate as was its discussion of a 1970's fishing case, which was undertaken by a single person without input from other DTO members. The evidence did not discuss or demonstrate decision-making, conflict resolution, how events and programs are undertaken and run, or the functioning of any other activities which would reveal political processes from 1925 to the present. The evidence and analysis in the response materials were not sufficient to meet 83.7(c).

The DTO met criteria 83.7(d), (e), (f), and (g) for the PF. No significant new evidence was submitted for criteria 83.7(d), (f) or (g). The petitioner submitted as evidence three lists of members not formerly submitted. They did not change the PF that the DTO met criterion (e).

Because all seven criteria are mandatory, a failure to submit sufficient evidence to meet any one criterion requires the Assistant Secretary to decline to acknowledge a petitioning group. The petitioner failed to submit sufficient evidence to meet criteria 83.7 (a), (b) and (c), and therefore does not satisfy the criteria for acknowledgment.

Dated: September 25, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–24511 Filed 9–26–01; 3:32 pm]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Nipmuc Nation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary—Indian Affairs (AS–IA) proposes to determine that The Nipmuc Nation, c/o Mr. Walter Vickers, 156 Worcester-Providence Road, Suite 32, Sutton Square Mall, Sutton, Massachusetts 01590, does not exist as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not satisfy criteria 83.7(a), 83.7(b),

83.7(c), and 83.7(e) and, therefore, does not meet the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.10(i), any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice. As stated in the regulations, 25 CFR 83.10(i), interested and informed parties who submit arguments and evidence to the AS–IA must also provide copies of their submissions to the petitioner.

ADDRESSES: Comments on the proposed finding and/or requests for a copy of the report of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660–MIB. The names and addresses of commenters are generally available to the public.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the AS–IA by 209 DM.

Introduction

The Nipmuc Tribal Council, Hassanamisco Reservation, in Grafton, Massachusetts, submitted a letter of intent to petition for Federal acknowledgment on April 22, 1980, and was designated as petitioner #69. The AS–IA placed the original petitioner #69, the Nipmuc Tribe (or Nipmuc Nation), on active consideration July 11, 1995. A division of the petitioner, after it was already on active consideration, occurred in May 1996, with the submission of a separate letter of intent to petition by the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians, now petitioner #69B. The current petitioner, The Nipmuc Nation, #69A, has continued under the original letter of intent.

This finding has been completed under the terms of the AS–IA's directive of February 7, 2000, published in the **Federal Register** on February 11, 2000 (65 FR 7052). Under the terms of the directive, this finding focuses on evaluating the specific conclusions and description of the group which the petitioner presented, attempting to show that it has met the seven mandatory criteria and maintained a tribal community up until the present. Because evaluation of this petition was begun under the previous internal procedures, this finding includes some analyses which go beyond evaluation of the specific positions of the petitioner. Consistent with the directive, a draft technical report, begun under previous internal procedures, was not finalized.

In this case, general arguments under the criteria were presented in the petitioner's 1984 submission. Petitioner #69A has not presented additional specific arguments which pertain to it alone. The evaluation addresses petition materials submitted in 1984, 1987, 1995, and 1997, which contained materials presenting different arguments in favor of the acknowledgment of petitioner #69 and its successor, #69A, as defined in three different ways: as those associated with the Hassanamisco Reservation; as a joint organization encompassing the Hassanamisco and Chaunbunagungamaug Bands (or the Grafton and Dudley/Webster reservations); and as an umbrella organization of the descendants of all historic Nipmuc bands. It has also been necessary to address the 1996 split between #69A and #69B.

On January 19, 2001, the Acting AS–IA made a preliminary factual finding that the Nipmuc Nation met the seven mandatory criteria and therefore was entitled to be acknowledged as an Indian tribe within the meaning of Federal law. Until the required notice of the proposed finding is published in the **Federal Register**, however, there is no completed agency action. Notice of the proposed finding was not sent to the **Federal Register** before the Acting AS–IA left office because of the late time in the day when the decision was made and because there was insufficient time to finally review for legal sufficiency all the documents necessary to effect the Acting AS–IA's preliminary determination prior to his leaving the office. Because the agency action was still pending within the Department when the new Administration was sworn in and took office, this Administration became responsible for issuing a proposed finding which is legally sufficient. As part of that responsibility, it was incumbent upon the new Administration to review the decision making documents. This review was also in accordance with the White House memorandum of January 20, 2001, relating to pending matters.

The Bureau of Indian Affairs' (BIA) recommended proposed finding was that the Nipmuc Nation did not meet all of the mandatory criteria under 25 CFR part 83. The recommendation had the approval of the Office of the Solicitor as to its legal sufficiency. Although it is the policy and practice of the Department to require decisions of the AS–IA to be reviewed by the Office of the Solicitor for their legal sufficiency, the Acting AS–IA's proposed decision had not been reviewed by that office because of its lateness. Moreover, the Acting AS–IA's proposed decision did not provide an explanation for his proposed modifications to the recommended decision. Therefore, having completed a review of the decision making documents which did have Solicitor's Office review as to their legal sufficiency, the AS–IA concurs with the recommendation of the BIA and publishes this notice of the proposed finding that the Nipmuc Nation does not meet all seven mandatory criteria under Part 83.

Evaluation Under the Criteria in 25 CFR 83.7

Criterion 83.7(a) requires that the petitioner have been identified as an American Indian entity on a substantially continuous basis since 1900. There have been regular external identifications of persons associated with the Hassanamisco Reservation as an entity since 1900. Between 1900 and the late 1970's, there were no external identifications of any continuing Chaubunagungamaug or Dudley/Webster Band. Between the late 1970's and 1996, there were frequent identifications of an entity that comprised both the Hassanamisco and Chaubunagungamaug or Dudley/Webster Bands. Only since 1992 have there been identifications of a Nipmuc entity that comprised more than one or both of the preceding groups. Therefore, the petitioner as self-defined in the three different ways does not meet criterion 83.7(a).

The evidence for 83.7(b) and 83.7(c) has been evaluated in the light of the essential requirement of the Federal acknowledgment regulations under 83.7 to show tribal continuity. Particular documents have been evaluated by examination in the context of evidence of continuity of existence of community and political processes over time. For earlier historical periods, where the nature of the record limits the documentation, the continuity can be seen more clearly by looking at combined evidence than by attempting to discern whether an individual item provides the level of information to show that the petitioner meets a specific criterion at a certain date. Between first sustained contact and 1891 much of the specific evidence cited was evidence for both community and political influence. Under the regulations, evidence about

historical political influence can be used as evidence to establish historical community (83.7(b)(1)(ix)) and vice versa (83.7(c)(1)(iv)). The evaluation is done in accord with the provision of the regulations that, ''Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available * * * Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time * * * '' (83.6(e)).

For the historical Hassanamisco Band centered on the reservation in Grafton, Massachusetts, there is weak but sufficient evidence that it retained community from colonial times until the end of the American Revolution. From the 1780's through 1869, the evidence is insufficient to demonstrate community. From 1869 until the 1960's, most of the evidence in the record pertains only to activities of the Cisco extended family. The evidence does not demonstrate significant social interaction between the Ciscos and the descendants of the other Hassanamisco proprietary families, or between the Ciscos and the families on the Hassanamisco ''Supplementary List'' contained in Massachusetts Superintendent of Indian Affairs John Milton Earle's 1861 Report. From the mid-19th century to the present, the level of social interaction among the descendants of the historical Hassanamisco Band does not meet 83.7(b). There was, for example, no evidence of contact between the Cisco descendants and the Gigger descendants between the late 1930's and 1997, a period of nearly 60 years. On the basis of precedent, the evidence is not sufficient to establish community under 83.7(b).

For the joint entity that was petitioner #69 as it existed from 1980 through 1996, the combined Hassanamisco Band and Chaubunagungamaug Band, the record shows no direct social interaction between the Hassanamisco Nipmuc and the Chaubunagungamaug Nipmuc settlements (reservations) between the 1730's and the 1920's—a period of nearly two centuries. From the 1920's through the 1970's, the evidence in the record showed occasional social interaction between Hassanamisco descendants and Chaubunagungamaug descendants, most frequently in the context of pan-Indian or intertribal activities. From 1978 through 1996, the evidence in the record showed interaction between some Hassanamisco descendants and some Chaubunagungamaug descendants primarily in the context of the formally established Nipmuc organization, and comprising primarily the leaders of the subgroups. On the basis of precedent, the evidence is not sufficient to establish community under 83.7(b).

For petitioner #69A as currently defined, including all persons descended from the historical Nipmuc bands of the early contact period, *i.e.* those persons whom the petitioner considers to be of Nipmuc heritage, there is limited evidence in the 18th century that there continued to be social interaction among off-reservation Nipmuc families in south central Massachusetts, northeastern Connecticut, and northwestern Rhode Island. There is some evidence that the off-reservation Nipmuc upon occasion intermarried with both Hassanamisco descendants and Chaubunagungamaug descendants, although there is no evidence that those two settlements interacted directly with one another. There is insufficient evidence that these contacts continued to be maintained in the first half of the 19th century. Beginning with the 1850 census, there is more evidence that there were limited social ties in the forms of intermarriages and shared households between off-reservation Nipmuc families and Hassanamisco descendants, and off-reservation Nipmuc families and Chaubunagungamaug descendants, though still no clear evidence of direct interaction between the descendants of the two reservations. That is, the documents indicate that both the Hassanamisco descendants and the Chaubunagungamaug descendants maintained more social interaction with various off-reservation Indian families than they did with one another. In the first half of the 20th century, evidence for interaction is limited to pan-Indian and intertribal events, and the contacts shown involved only a few individuals. This evidence is insufficient to meet criterion 83.7(b). From 1950 through 1978, there is insufficient evidence of significant social ties among the families antecedent to the current membership; from 1978 through 1989, the petitioning group was defined with a much smaller membership circle than the current organization. The evidence indicates that the current membership of petitioner #69A is to a considerable extent the result of a deliberate recruitment effort undertaken from 1989 through 1994, and has brought many families that had no significant social ties prior to that time into the organization called the Nipmuc Nation. On the basis of precedent, the evidence is not sufficient to establish community under 83.7(b). Therefore, the petitioner under its self-defined three distinct entities does not meet criterion 83.7(b).

The historical Hassanamisco Band centered on the reservation in Grafton, Massachusetts, provided sufficient evidence of internal political authority or influence from the colonial period to the end of the Revolutionary War through the carryover provisions of § 83.7(b)(2). From 1790 to 1869, there was not sufficient direct evidence of political authority, while the evidence for community was not strong enough to provide for carryover under § 83.7(b)(2). Since 1869, the evidence indicates that the Cisco family, owners of the remaining ''Hassanamisco reservation'' property in Grafton, Massachusetts, existed primarily as a single extended family, with only occasional contact with descendants of other Hassanamisco proprietary families and without the exercise of significant political influence or authority among the descendants of the proprietary families, or between the descendants of the proprietary families and the descendants of the families on Earle's 1861 ''Hassanamisco Supplementary'' list.

As to the joint entity, the Hassanamisco and Chaubunagungamaug Bands, the evidence in the record indicates that from about 1978 through 1996, for the entity that was petitioner #69, there may have been some form of political influence and authority that extended to at least a limited portion of the group's membership, primarily those persons active under the leadership of Walter A. Vickers, on the one hand, and Edwin W. Morse Sr., on the other hand. However, it has presented no evidence that this limited political influence or authority extended to the greatly increased membership that resulted from the activities of NTAP between 1989 and 1994. The evidence in the record does not show that there was any political influence or authority exercised among the group antecedent to Mr. Morse's organization from 1891 to the late 1970's (see proposed finding for petitioner #69B), or that there was significant political influence or authority that comprehended both the Hassanamisco and the Chaubunagungamaug descendants from the late 19th century to the late 1970's.

For the petitioner as now defined, the record does not indicate that from colonial times to the present, any significant political influence or authority has been exercised among the entirety of the wider body of descendants of the colonial Nipmuc

bands as a whole, which is the historical tribe from which it claims continuity.

Therefore, petitioner #69A, however defined, does not meet criterion 83.7(c).

Criterion 83.7(d) requires that the petitioner provide copies of the group's current constitution and by-laws. The Nipmuc Nation submitted such copies certified by the group's governing body. Therefore, the petitioner meets criterion 83.7(d).

Criterion 83.7(e) states that the petitioner's membership must consist of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. The petitioner's governing body certified and submitted a current membership list reflecting, after corrections, a total of 1,602 members.

Under 83.7(e), descent from a historical tribe, petitioner #69A shows 8 percent of its membership descending from Hassanamisco (including both the proprietary families and Earle's 1861 supplementary list), 30 percent of its membership descending from Dudley/Webster (Chaubunagungamaug), and 16 percent of the membership descending from non-reservation Nipmuc. On the other hand, 31 percent of the membership are without currently documented Nipmuc ancestry, but are descended from in-laws or collateral relatives of identified Nipmuc. An additional 11 percent of its membership falls in a family line which asserts, but has not documented, descent from the former Indian ''praying town'' of Natick. One percent of the membership is unascribed to any family line; three percent are not fully documented. As of the issuance of the proposed finding, only 54 per cent of the petitioner's members have documented descent from the historical Nipmuc tribe. On the basis of precedent, this does not meet 83.7(e). Therefore, the petitioner does not meet 83.7(e).

Criterion 83.7(f) states that the petitioner's membership must be composed principally of persons who are not members of any acknowledged North American Indian tribe. No members of the petitioner are known to be enrolled in any federally recognized tribe. Therefore the petitioner meets criterion 83.7(f).

Criterion 83.7(g) states that neither the petitioner nor its members can have been the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. There is no evidence that this petitioner has been subject to congressional legislation terminating a Federal relationship. Therefore the petitioner meets criterion 83.7(g).

Based on this preliminary factual determination, the Nipmuc Nation should not be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.10(h) of the regulations, a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision will be provided to the petitioner and interested parties, and is available to other parties upon written request.

Comments on the proposed finding and/or requests for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, Mail Stop 4660–MIB. Comments on the proposed finding should be submitted within 180 calendar days from the date of publication of this notice. The period for comment on a proposed finding may be extended for up to an additional 180 days at the AS-IA's discretion upon a finding of good cause (83.10(i)). Comments by interested and informed parties must be provided to the petitioner as well as to the Federal Government (83.10(h)). After the close of the 180-day comment period, and any extensions, the petitioner has 60 calendar days to respond to third-party comments (83.10(k)). This period may be extended at the AS-IA's discretion if warranted by the extent and nature of the comments.

After the expiration of the comment and response periods described above, the BIA will consult with the petitioner concerning establishment of a time frame for preparation of the final determination. After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after beginning preparation of the final determination, the AS-IA will publish the final determination of the petitioner's status in the **Federal Register** as provided in 25 CFR 83.10(1).

Dated: September 25, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–24513 Filed 9–26–01; 3:30 pm]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Finding Against Federal Acknowledgment of the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed finding.

SUMMARY: Pursuant to 25 CFR 83.10(h), notice is hereby given that the Assistant Secretary—Indian Affairs (AS–IA) proposes to determine that the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians, 265 West Main Street, c/o Mr. Edwin W. Morse Sr., P.O. Box 275, Dudley, Massachusetts 01501, does not exist as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the petitioner does not satisfy criteria 83.7(a), 83.7(b), and 83.7(c) and, therefore, does not meet the requirements for a government-to-government relationship with the United States.

DATES: As provided by 25 CFR 83.10(i), any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 180 calendar days from the date of publication of this notice. As stated in the regulations, 25 CFR 83.10(i), interested and informed parties who submit arguments and evidence to the AS–IA must also provide copies of their submissions to the petitioner.

ADDRESSES: Comments on the proposed finding and/or requests for a copy of the report of the summary evaluation of the evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, MailStop 4660–MIB. The names and addresses of commenters generally are available to the public.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Chief, Branch of Acknowledgment and Research, (202) 208–3592.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the AS–IA by 209 DM.

Introduction

The Nipmuc Tribal Council, Hassanamisco Reservation, in Grafton, Massachusetts, submitted a letter of intent to petition for Federal acknowledgment on April 22, 1980, and

was designated as petitioner #69. The AS–IA placed the original petitioner #69, the Nipmuc Tribe (or Nipmuc Nation), on active consideration July 11, 1995. The Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians (aka Nipmuck Indian Council of Chaubunagungamaug, or Chaubunagungamaug Band) submitted a letter of intent to petition for Federal acknowledgment on May 31, 1996, withdrawing from petitioner #69, and was designated as petitioner #69B. Petitioner #69B defines its eligible membership as descendants of persons who were listed as Dudley/Webster (Chaubunagungamaug) Indians on either the 1861 *Earle Report* or the 1891 Dudley/Webster disbursement list. Of the alternative spellings of the name of the historical tribe, petitioner #69B prefers the use of ''Nipmuck.''

This finding has been completed under the terms of the AS–IA's directive of February 7, 2000, published in the **Federal Register** on February 11, 2000 (65 FR 7052). Under the terms of the directive, this finding focuses on evaluating the specific conclusions and description of the group which the petitioner presented, attempting to show that it has met the seven mandatory criteria and maintained a tribal community up until the present. Because evaluation of this petition was begun under the previous internal procedures, this finding includes some analyses which go beyond evaluation of the specific positions of the petitioner. Consistent with the directive, a draft technical report, begun under previous internal procedures, was not finalized.

The historical tribe with which the petitioner claims continuity is the Chaubunagungamaug Band, or those Nipmuck Indians associated with the Dudley/Webster reservation, Worcester County, Massachusetts. The reservation and the Indians living on it were under guardians appointed by the Commonwealth of Massachusetts from the late 17th century through 1869. In 1869, Massachusetts terminated the relationship and in 1870 the reservation property was sold. In 1891, the funds remaining from the sale of the property were distributed to the surviving members and to descendants of tribal members who had been alive in 1869.

On January 19, 2001, the Acting AS–IA made a preliminary factual finding that the Chaubunagungamaug Band, or Dudley/Webster Indians, did not meet all seven mandatory criteria and therefore is not entitled to be acknowledged as an Indian tribe within the meaning of Federal law. Until the required notice of the proposed finding is published in the **Federal Register**, however, there is no completed agency action. Notice of the proposed finding was not sent to the **Federal Register** before the Acting AS–IA left office because of the late time in the day when the decision was made. Because the agency action was still pending within the Department when the new Administration was sworn in and took office, this Administration became responsible for issuing a proposed finding which is legally sufficient. As part of that responsibility, it was incumbent upon the new Administration to review the decision making documents. This review was also in accordance with the White House memorandum of January 20, 2001, relating to pending matters. Having completed that review, the AS–IA concurs with the decision of the former Acting Assistant Secretary and the BIA recommendation and publishes this notice of the proposed finding that the Chaubunagungamaug Band, or Dudley/Webster Indians does not meet all seven mandatory criteria under Part 83.

Evaluation Under the Criteria in 25 CFR 83.7

Criterion 83.7(a) requires that the petitioner have been identified as an American Indian entity on a substantially continuous basis since 1900. From 1900 through 1978, the record contains occasional external identifications of individuals and single families as descendants of the historical Chaubunagungamaug, or Dudley/Webster, Nipmuck Indians (the term Pegan Indians was also used, and referred to the same group). However, the documentation for the period from 1900 through 1978 provided no external identifications of the petitioner or any group antecedent to the petitioner as an American Indian entity. Additionally, many of the identifications of Dudley/Webster descendants pertained to persons who have no descendants in the membership of the current petitioner, so that may not be used collectively or in combination to demonstrate the identification of an entity. There are external identifications of the petitioner as an American Indian entity only from 1981 to the present. Therefore, the petitioner does not meet criterion 83.7(a).

The evidence for 83.7(b) and 83.7(c) have been evaluated in the light of the essential requirement of the Federal acknowledgment regulations under 83.7 to show tribal continuity. Particular documents have been evaluated by examination in the context of evidence of continuity of existence of community and political processes over time. For earlier historical periods, where the nature of the record limits the documentation, the continuity can be seen more clearly by looking at combined evidence than by attempting to discern whether an individual item provides the level of information to show that the petitioner meets a specific criterion at a certain date. Between first sustained contact and 1891 much of the specific evidence cited was evidence for both community and political influence. Under the regulations, evidence about historical political influence can be used as evidence to establish historical community (83.7(b)(1)(ix)) and vice versa (83.7(c)(1)(iv)). The evaluation is done in accord with the provision of the regulations that, ''Evaluation of petitions shall take into account historical situations and time periods for which evidence is demonstrably limited or not available. * * * Existence of community and political influence or authority shall be demonstrated on a substantially continuous basis, but this demonstration does not require meeting these criteria at every point in time * * *'' (83.6(e)).

The Chaubunagungamaug Band, or Dudley/Webster Indians, met criterion 83.7(b), on the basis of precedent, from first contact through 1870, largely because of the residence of a significant portion of the group's population on a state-supervised reservation from the 1680's through 1870. For the period from 1870 through 1891, the evidence for community among the Dudley/Webster descendants as a whole is weak but sufficient. The evidence from 1891 through the mid-1970's does not demonstrate community between the extended Morse family, the petitioner's core group, and other Nipmucks of Dudley/Webster descent. For most of the period, there is not even evidence of community between the extended Morse family and other descendants of the Sprague/Henries family line from which it stems. From 1978 through the mid-1990's, the Chaubunagungamaug Band, as an organization, appears to have consisted, essentially, only of the extended Morse family. There is no evidence of significant social interaction between the extended Morse family and the other family lines now included in the membership of #69B for the 1980's. There is some evidence that the petitioner may meet criterion 83.7(b) from 1990 to 1998, but it is not sufficient to demonstrate that the petitioner meets the criterion for this time period. Therefore, the petitioner does not meet criterion 83.7(b).

Although evidence is limited for the period from early contact to the

establishment of the Chaubunagungamaug reservation in the 1680's, the historical Chaubunagungamaug Band, as a portion of the historical Nipmuc tribe, meets criterion 83.7(c) during this time on the basis of precedent. From the late 17th century through 1870, direct evidence of political leadership provided by petitions and similar documents is sparse, but in the context of the existence of a reservation upon which the majority (over 50%) of the Chaubunagungamaug, or Dudley/Webster, Indians resided, the historical Chaubunagungamaug Band meets 83.7(c) from the 1680's through 1870 by carryover from criterion 83.7(b)(2). From 1870 through 1891, the only evidence of political influence or authority is provided by the group's hiring of a lawyer and pursuit of a suit against the State of Massachusetts, which is insufficient under the regulations. From 1891 through 1976, there is no documentary evidence of continuing formal or informal political influence or organization within the petitioner's antecedent group, whether that group be defined as the Dudley/Webster descendants as a whole, or limited to the direct ancestors of the current members of petitioner #69B. For 1977–1980, there is limited evidence that the leaders of the current group began to interact with the Nipmuc group headed by Zara CiscoeBrough and centered on the Hassanamisco Reservation in Grafton, Massachusetts, but no evidence that there was political influence or authority within any organization antecedent to petitioner #69B. During the 1980's, there is evidence that an organization with officers existed, but insufficient evidence that this formal organization exercised political influence or authority over its members who were, additionally, at that period, only a portion of the current petitioner. The evidence in the record for the 1990's is not sufficient to conclude that the petitioner meets 83.7(c) for that period. Therefore, the petitioner does not meet criterion 83.7(c).

Criterion 83.7(d) requires that the petitioner provide copies of the group's current governing document. The Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians submitted its constitution and bylaws. Therefore, the petitioner meets criterion 83.7(d).

Criterion 83.7(e) states that the petitioner's membership must consist of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity. Of the members of #69B, 185 of 212 (87%) descend from the historical Dudley/Webster, or Chaubunagungamaug, reservation and meet the petitioner's own membership requirements. Eighty-seven percent of members showing descent from the historical tribe is within precedents for meeting criterion 83.7(e). Therefore, the petitioner meets criterion 83.7(e).

Criterion 83.7(f) states that the petitioner's membership must be composed principally of persons who are not members of any acknowledged North American Indian tribe. No members of the petitioner are known to be enrolled in any federally recognized tribe. Therefore, the petitioner meets criterion 83.7(f).

Criterion 83.7(g) states that neither the petitioner nor its members can have been the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. There is no evidence that this petitioner has been subject to congressional legislation terminating a Federal relationship. Therefore, the petitioner meets criterion 83.7(g).

Based on this preliminary factual determination, the petitioner known as the Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians should not be granted Federal acknowledgment under 25 CFR part 83.

As provided by 25 CFR 83.10(h) of the regulations, a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision will be provided to the petitioner and interested parties, and is available to other parties upon written request.

Comments on the proposed finding and/or requests for a copy of the report of evidence should be addressed to the Office of the Assistant Secretary—Indian Affairs, Bureau of Indian Affairs, 1849 C Street, NW., Washington, DC 20240, Attention: Branch of Acknowledgment and Research, MailStop 4660–MIB. Comments on the proposed finding should be submitted within 180 calendar days from the date of publication of this notice. The period for comment on a proposed finding may be extended for up to an additional 180 days at the AS–IA's discretion upon a finding of good cause (83.10(i)). Comments by interested and informed parties must be provided to the petitioner as well as to the Federal Government (83.10(h)). After the close of the 180-day comment period, and any extensions, the petitioner has 60 calendar days to respond to third-party comments (83.10(k)). This period may be extended at the AS–IA's discretion if warranted by the extent and nature of the comments.

After the expiration of the comment and response periods described above, the BIA will consult with the petitioner concerning establishment of a time frame for preparation of the final determination. After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after beginning preparation of the final determination, the Assistant Secretary—Indian Affairs will publish the final determination of the petitioner's status in the **Federal Register** as provided in 25 CFR 83.10(1).

Dated: September 25, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–24512 Filed 9–26–01; 3:31 pm]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–027–1220–DG; G 1–0314]

Meeting Notice

AGENCY: Bureau of Land Management (BLM), Burns District.

ACTION: Meeting Notice for the Steens Mountain Advisory Council.

SUMMARY: The Steens Mountain Advisory Council (SMAC) will meet at the Bureau of Land Management (BLM), Burns District Office, HC 74–12533 Hwy 20 West, Hines, Oregon 97738, 8:00 a.m. to 5:00 p.m., local time, on October 22, 2001, and 8:00 a.m. to 4:00 p.m., local time, on October 23, 2001. The SMAC was appointed by the Secretary of Interior on August 14, 2001, pursuant to the Steens Mountain Cooperative Management and Protection Act of 2000 (Act). The SMAC's purpose is to provide representative counsel and advice to the BLM regarding (1) new and unique approaches to management of the land within the bounds of the Steens Mountain Cooperative Management and Protection Area (CMPA), (2) cooperative programs and incentives for landscape management that meet human needs, maintain and improve the ecological and economic integrity of the area, and (3) preparation and implementation of a management plan for the CMPA. This will be the first meeting of the SMAC. Topics to be discussed by the SMAC include operating procedures, establishing meeting guides, Charter, roles and responsibilities, Federal Advisory Committee Act/Management, selection of a chairperson, Federal travel regulations, forming of subcommittees, facilitation needs, actions taken by BLM to implement the Act, Resource

Management Plan/Environmental Impact Statement contracting and planning process, Steens Mountain Cooperative Management and Protection Act of 2000, future meeting dates and other matters as may reasonably come before the SMAC. The entire meeting is open to the public. Information to be distributed to the SMAC is requested 10 days prior to the start of the SMAC meeting. Public comment is scheduled for 11:00 a.m. to 11:30 a.m., local time, on October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the SMAC may be obtained from Rhonda Karges, Management Support Specialist, Burns District Office, HC 74–12533 Hwy 20 West, Hines, Oregon 97738, (541) 573–4433, or *Rhonda_Karges@or.blm.gov* or from the following web site *http://www.or.blm.gov/Steens*.

Dated: September 6, 2001.

Miles R. Brown,

Andrews Resource Area Field Manager.

[FR Doc. 01–24445 Filed 9–28–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–022–01–1060–JJ: G 01–0304]

Oregon: Meeting Notice—Use of Helicopters to Gather Wild Horses

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Burns District Office: Public meeting to discuss the use of helicopters to gather wild horses in Oregon.

SUMMARY: In accordance with Pub. L. 92–195, this notice sets forth the public meeting date to discuss the use of helicopters for gathering wild horses in Oregon for FY02.

EFFECTIVE DATE: October 17, 2001—2 p.m. to 3 p.m.

ADDRESSES: The meeting will take place at the BLM Burns District Office, HC 74–12533 Hwy 20 West, Hines, Oregon.

FOR FURTHER INFORMATION CONTACT: Dean O. Bolstad, Wild Horse Management Specialist, Burns District, Bureau of Land Management, HC 74–12533 Hwy 20 West, Hines, Oregon 97738, telephone (541) 573–4492.

SUPPLEMENTARY INFORMATION: Public comments will be accepted concerning the use of helicopters to gather wild horses in eastern Oregon in FY02. The proposed gathering schedule and approximate dates of gathering will be presented at the meeting. Approximately 800 animals are proposed for removal in Oregon depending on availability of funds.

This meeting is open to the public. Persons interested in making an oral statement at this meeting are asked to notify the District Manager, Burns District Office, HC 74–12533 Hwy 20 West, Hines, Oregon 97738 by September 21, 2001. Written statements must be received by September 25, 2001.

Summary minutes of the meeting will be available for public inspection and duplication within 30 days following the meeting.

Dated: August 30, 2001.

Thomas H. Dyer,

Burns District Manager.

[FR Doc. 01–24446 Filed 9–28–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–1010–01]

Notice of Emergency Temporary Closure for All Motorized Vehicles on Public Land in the Silver Creek Ridge Area, Sublette County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Temporary Closure.

SUMMARY: In response to a request from the Wyoming Game & Fish Department (WYG&F), a temporary closure to all motorized vehicles, including over-the-snow vehicles will be in effect starting November 19, 2001, through January 31, 2002 for the Silver Creek Ridge. A sign at the second irrigation ditch crossing 1.6 miles east of State Route 353 establishes the point beyond which the temporary closure is in effect. The purpose of this closure is to allow elk to migrate free of motorized disturbance through this area. This will assist the WYG&F in decreasing elk depredation on stored agricultural crops and meet WYG&F management objectives. This temporary closure will allow the WYG&F and BLM to assess whether the road closure was effective in meeting the management objectives and reducing of elk depredation on stored agricultural crops.

EFFECTIVE DATES: This closure will be effective November 19, 2001, through January 31, 2002. This closure will remain in effect unless modified or rescinded by the Authorized Officer, (BLM Pinedale Field Manager).

FOR FURTHER INFORMATION CONTACT: Bill Wadsworth, Realty Specialist or Priscilla Mecham, Field Manager, Pinedale Field Office, P.O. Box 768, Pinedale, Wyoming 82941. Telephone (307)–367–5300.

SUPPLEMENTARY INFORMATION: The objective for closure of the Silver Creek Ridge area is to improve the elk management objectives in the area and reduce depredation of stored agricultural crops on adjoining ranches. The WYG&F have been working with adjoining land owners to allow controlled access onto private lands. The adjoining land owners have agreed to allow access onto their private land to hunters only if the temporary closure is placed on the BLM lands. The temporary closure will close most of the Silver Creek Ridge area to all motorized use, including over-the-snow vehicles from November 19, 2001, through January 31, 2002. The WYG&F feels that motorized vehicle use can disrupt the daily activity patterns of the elk thus limiting the harvest. By restricting motorized vehicle use, the elk will move more freely in the Silver Creek Ridge area, and remain undisturbed by motorized vehicles. This closure will also help by reducing resource damage that is caused by motorized vehicle use off-road.

This temporary use closure applies to public lands in Sublette County, Wyoming, located approximately 8 miles east of Boulder, Wyoming. The designation affects all public lands starting at T. 32 N., R. 106 W., Section 24, E½, Sixth Principle Meridian on the Silver Creek Ridge area. Motorized vehicle use designations apply to all motorized vehicles with the exceptions of: (1) Any fire, military, emergency, or law enforcement vehicle when used for emergency purposes or any combat support vehicle when used for national defense purposes; (2) any vehicle whose use is expressly authorized by the BLM under permit, lease, license, or contract; and (3) any government vehicle on official business.

Authority for closure orders is provided under 43 CFR subpart 8364.1. Violations of this closure are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

Dated: September 7, 2001.

Eldon L. Allison, Jr.,

Acting Pinedale Field Manager.

[FR Doc. 01–24447 Filed 9–28–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–934–5700; COC58684]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease, COC58684, for lands in Rio Blanco and Garfield counties, Colorado, were timely filed and were accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $158 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and Bureau of Land Management is proposing to reinstate lease COC58684 effective September 1, 1999, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Beverly A. Derringer,

Supervisory, Land Law Examiner, Oil and Gas Lease Maintenance.

[FR Doc. 01–24448 Filed 9–28–01; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Pub. L. 97–451, the lessee timely filed a petition for reinstatement of oil and gas lease MSES 49470, Monroe County, Mississippi. The lessee paid the required rentals accruing from the date of termination.

The Bureau of Land Management has not issued any leases affecting the lands. The lessee paid the $500 administration fee for the reinstatement of the lease. The lessee has met the requirements for reinstatement of the lease per sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent; and
- The $158 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Ida V. Doup, Chief, Branch of Use Authorization, Division of Resources, Planning, Use and Protection, BLM Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, (703) 440–1541.

Dated: September 7, 2001.

Ida V. Doup,

Chief, Branch Use of Authorization, Division of Resources Planning, Use and Protection.

[FR Doc. 01–24449 Filed 9–28–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Policy Committee of the Minerals Management Advisory Board; Notice and Agenda for Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: The OCS Policy Committee of the Minerals Management Advisory Board will meet at the Wyndham San Diego at Emerald Plaza in San Diego, California.

DATES: Wednesday, October 31, 2001, from 8:30 a.m. to 5:00 p.m. and Thursday, November 1, 2001, from 8:30 a.m. to 4:00 p.m.

ADDRESSES: The Wyndham San Diego at Emerald Plaza, 400 West Broadway, San Diego, California 92101–3504, telephone (619) 239–4500.

FOR FURTHER INFORMATION CONTACT: Ms. Jeryne Bryant at Minerals Management Service, 381 Elden Street, Mail Stop 4001, Herndon, Virginia 20170–4187. She can be reached by telephone at (703) 787–1211 or by electronic mail at *jeryne.bryant@mms.gov.*

SUPPLEMENTARY INFORMATION: The OCS Policy Committee represents the collective viewpoint of coastal States, environmental interests, industry and other parties involved with the OCS Program. It provides policy advice to the Secretary of the Interior through the Director of the MMS on all aspects of leasing, exploration, development, and protection of OCS resources.

The Agenda for October 31st Will Cover the Following Principal Subjects

Status Report. This presentation will provide an update on the status of the resolutions passed at the May 2001 meeting and the draft proposed 5-Year Oil and Gas Leasing Program for 2002–2007.

Oil and Gas Supply/Demand Update. This presentation will provide an update on the oil and gas supply/demand situation since May.

National Energy Policy. This presentation will address issues that are emerging as the Administration implements the national energy policy, OCS related legislation, and new issues throughout the country.

Hard Minerals Update. This presentation will provide an update on subcommittee activities and other pertinent hard minerals information.

Reemergence of Liquefied Natural Gas (LNG). This presentation will address alternative ways of getting natural gas to the consumer, Calypso gas pipeline, reactivation of LNG facilities, etc.

Access for Offshore Energy Development. This presentation will address the Great Lakes drilling proposal to lift moratorium, eastern/western Canadian offshore studies on lifting the moratorium, and the States' perspective on why moratoria is in place.

Alternative Energy—Related Uses of the OCS. This presentation will address alternative energy related uses of the OCS such as floating LNG facilities, proposed offshore LNG terminals, offshore wind farms, etc.

The Agenda for November 1st Will Cover the Following Principal Subjects

Congressional/Legislative Update. This presentation will provide an update on current congressional issues related to the OCS.

MMS Regional Updates. The Regional Directors will highlight activities off the California and Alaska coasts and the Gulf of Mexico.

OCS Scientific Committee Update. This presentation will provide an update on the activities of the Scientific Committee. It will also highlight the activities that are related to energy issues/concerns, ocean issues, hard minerals activities, and any other topics that are relevant to both Committees.

New Technology. This presentation will address the positive technological steps that have been taken to reduce the environmental footprint of oil and gas development.

Ocean and Coastal Policy Initiatives. This presentation will address ocean and coastal policy, directives, and

initiatives; the Ocean Commission; the Coastal Zone Management review; the oil in the sea study; marine protected areas; and any other pertinent topics.

The meeting is open to the public. Approximately 100 visitors can be accommodated on a first-come-first-served basis.

Upon request, interested parties may make oral or written presentations to the OCS Policy Committee. Such requests should be made no later than October 12, 2001, to Jeryne Bryant. Requests to make oral statements should be accompanied by a summary of the statement to be made. Please see **FOR FURTHER INFORMATION CONTACT** section for address and telephone number.

Minutes of the OCS Policy Committee meeting will be available for public inspection and copying at the MMS in Herndon, Virginia.

Authority: Federal Advisory Committee Act, Pub. L. No. 92–463, 5 U.S.C. Appendix 1, and the Office of Management and Budget's Circular No. A–63, Revised.

Dated: September 21, 2001.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 01–24502 Filed 9–28–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Extension and Amendment of Concession Contract; Denali National Park & Preserve, AK

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the National Park Service proposes to extend and amend Concession Contract No. DENA001, with ARAMARK Sports and Entertainment Services, Inc. The extension will for a period of 1 year from October 1, 2001, until October 1, 2002. This action will also delete ''lodging accommodations'' from the authorized services, amend the land and building assignment and require the concession to make an additional year's contribution to the concession capital improvement account.

EFFECTIVE DATE: October 31, 2001.

FOR FURTHER INFORMATION CONTACT: Nick Hardigg, Concession Specialist, Denali National Park & Preserve, PO Box 9, Denali Park, AK 99755, Telephone 907/683–9553.

SUPPLEMENTARY INFORMATION: The hotel (and associated facilities—restaurant, cafe and gift shop) at park headquarters will close after the 2001 operating season and be demolished or reused for other purposes after October 1, 2001, in accordance with the Final Entrance Area and Road Corridor Development Concept Plan for Denali National Park & Preserve.

The National Park Service has determined that the proposed 1-year extension is necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption.

Dated: August 16, 2001.

Richard G. Ring,

Associate Director, Park Operations and Education.

[FR Doc. 01–24524 Filed 9–28–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Extension of Expiring Concession Contracts Up to One Year

AGENCY: National Park Service, Interior.

ACTION: Public Notice, Extension of Expiring Concession Contracts Up to One Year.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the national Park Service proposes to extend the following expiring concession contracts for a period of up to one year.

Concessioner Identification No.	Concessioner name	Park
BRCA001	Bryce Canyon Natural History Association	Bryce Canyon National Park
CHAM001	My Other Squeeze	Chamizal National Monument
CHAM003	Triple ''L'' Rolling Restaurant	Chamizal National Monument
CHAM004	Donut Factory	Chamizal National Monument
CHAM005	Party Time Ice Cream	Chamizal National Monument
CHAM006	Senor Elote	Chamizal National Monument
CHAM007	Coronado Prime Meats	Chamizal National Monument
CHAM008	Mama's Papas	Chamizal National Monument
FOLA001	Fort Laramie Historical Association	Fort Laramie National Historic Site
MEVE001	Aramark Mesa Verde Company	Mesa Verde National Park
ZION004	Zion Natural History Association	Zion National Park

EFFECTIVE DATE: October 31, 2001.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC, 20240, Telephone (202) 565–1210.

SUPPLEMENTARY INFORMATION: All of the listed concession authorizations will expire by their terms on or before September 30, 2001. The National Park Service has determined that the proposed short-term extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. These extensions will allow the National Park Service to complete and issue prospectuses leading to the competitive selection of concessioners for new longer-term concession contracts covering these operations.

Dated: May 2, 2001.

Dale Wilking,

Acting Associate Director, Park Operations and Education.

[FR Doc. 01–24523 Filed 9–28–01; 8:45 am]

BILLING CODE 4312–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–747 (Review)]

Fresh Tomatoes From Mexico

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the suspended investigation on fresh tomatoes from Mexico.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act)

to determine whether termination of the suspended investigation on fresh tomatoes from Mexico would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is November 20, 2001. Comments on the adequacy of responses may be filed with the Commission by December 17, 2001. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1996, the Department of Commerce suspended an antidumping duty investigation on imports of fresh tomatoes from Mexico (61 FR 56618). The Commission is conducting a review to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Mexico.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. For the purpose of the preliminary investigation, the Commission defined the Domestic Like Product as all fresh market tomatoes. Fresh market tomatoes do not include processing tomatoes.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. For the purpose of the preliminary investigation, the Commission defined the Domestic Industry as growers and packers of fresh tomatoes.

(5) The *Order Date* is the date that the investigation was suspended. In this review, the Order Date is November 1, 1996.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are reminded that they are required, pursuant to 19 CFR 201.15, to seek Commission approval if the matter in which they are seeking to appear was pending in any manner or form during their Commission employment. The Commission's designated agency ethics official has advised that a five-year review is the ''same particular matter'' as the underlying original investigation for purposes of 19 CFR 201.15 and 18 U.S.C. 207, the post employment statute for Federal employees. Former employees may seek informal advice from Commission ethics officials with respect to this and the related issue of whether the employee's participation was ''personal and substantial.'' However, any informal consultation will not relieve former employees of the obligation to seek approval to appear from the Commission under its rule 201.15. For ethics advice, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 01–5–065, expiration date July 31, 2002. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 2001. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is December 17, 2001. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided In Response To This Notice Of Institution

As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. grower or packer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. growers and packers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1996.

(7) If you are a U.S. grower or packer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2000 (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product grown or packed in your U.S. facility(ies); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product grown or packed in your U.S. facility(ies).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2000 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have

occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 25, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–24509 Filed 9–28–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Stipulation and Order Modifying Partial Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980

Under 28 CFR 50.7, notice is hereby given that on September 25, 2001, a proposed Stipulation and Order Modifying Partial Consent Decree (''Stipulation'') in *United States* v. *Aerojet-General Corp., et al.,* Civil Action Nos. CIVS–86–0063–EJG and CIVS–86–0064–EJG, was lodged with the United States District Court for the Eastern District of California.

In this action originally brought in 1986 the United States sought recovery under both Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, for cost recovery and injunctive relief relating to the Aerojet Superfund Site (the ''Site'') located near Sacramento, California. The State of California is co-plaintiff in this action. A Partial Consent Decree was entered in 1989 that resolved past costs and provided that Aerojet would perform the remedial investigation/feasibility study at the Site. The Stipulation will (1) speed up the pace of cleanup by dividing the Site into operable units; and (2) remove certain areas from the ambit of the Partial Consent Decree and clarify that EPA does not consider these areas to be part of the Site, while retaining contaminated groundwater and associated contaminated media as part of the Site and subject to the Partial Consent Decree.

The Department of Justice and the State of California will receive for a period of thirty (30) days from the date of this publication comments relating to the Stipulation. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Aerojet-General Corp., et al.,* D.J. Ref. No. 90–7–1–74. Send comments simultaneously to Alex MacDonald, Central Valley Regional Water Quality Control Board, 3443 Routier Road, Sacramento, California 94822.

The Stipulation may be examined at the Office of the United States Attorney, 501 I Street, Suite 10–100, Sacramento, California, 95814, and at U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. A copy of the Stipulation may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $32.75 (25 cents per page reproduction cost) payable to the Consent Decree Library. In requesting a copy exclusive of exhibits, please enclose a check in the amount of $17.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Ellen Mahan,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Environment and Natural Resources Division.

[FR Doc. 01–24492 Filed 9–28–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Vafadari, et al.,* No. 96–143 PHX EHC (D. Ariz.) was lodged on September 7, 2001, with the United States District Court for the District of Arizona. The consent decree settles claims under Sections 104, 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9604, 9607 and 9613, for past and future response costs incurred and to be incurred in connection with the DCE Circuits Site (''DCE Site''), a subsite of the Indian Bend Wash Superfund NPL Site (the ''Indian Bend Wash site'' or the ''IBW site''), on the eastern and southern borders of Phoenix, Arizona. The consent decree will also resolve the United States claims pursuant to Section 3304 and 3306 of the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. 3304 and 3306 with regard to certain allegedly fraudulent conveyances of real property.

In 1998, the United States and Defendants entered into a Consent Decree providing that Defendants Rudi Vafadari (individually and as trustee of the Vafco Trust), Vafoc Trust, Arden Properties, Inc., Sohrab and Parvin Najmi would pay $328,500 to the United States in installments. Mr. Vafadari was also to pay a civil penalty of $10,000. On September 28, 1998, National Mortgage Co., a nonparty, sued Settling Defendants Arden Properties, Inc. and Vafadai in Arizona Superior Court to foreclose on a mortgage on the Site. *See National Mortgage Co.* v. *Vafadari, et al.,* No. CV98–17608 (Az. Sup. Ct. filed Sept. 28, 1998.). On September 29, 1998m Arden Properties, Inc. filed a petition for bankruptcy under Chapter 11 of the Bankruptcy Code. *See In re Arden Properties, Inc.,* No. 98–12312–PHX–RGM (Bankr. D. Ariz.). Pursuant to Arden Properties, Inc.'s plan of reorganization, Arden was to pay National Mortgage $480,000 in installments over fifteen years and the United States the original Consent Decree amount of $338,500 in installments over eight years. Due to Arden Properties' bankruptcy and the automatic stay, the United States never sought entry of the first decree.

The proposed consent decree replaces the previously lodged decree. As part of the settlement, National Mortgage has

dismissed its bankruptcy appeal, and the plan of reorganization has become final. Thus, the United States will receive the original settlement amount under the plan of reorganization. In addition, however, the United States will also receive an additional $15,000 over four years from all defendants (other than Arden Properties) without interest. Moreover, Mr. Vafadari will pay an additional $5,000 to settle the civil penalty claims against him.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Vafadari, et al.,* DOJ Ref.# 90–11–2–413C.

The proposed consent decree may be examined at the office of the United States Attorney, District of Arizona, Room 4000, 230 First Avenue, Phoenix, Arizona and the Region 9 Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–24491 Filed 9–28–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Notice of Information Collection Under Review: Reinstatement, with change, of a previously approved collection for which approval has expired; Violent Criminal Apprehension Program (VICAP) Crime Analysis Report.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI) has submitted the following formation collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** on July 25, 2001, Volume 65, number 143, page 38742.

The purpose of this notice is to allow for an additional 30 days for public comment until October 31, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Comments may also be submitted to Mr. Robert B. Briggs, Department Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 1331 Pennsylvania Avenue, Northwest, Suite 1220, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) Title of the Form/Collection: Violent Criminal Apprehension Program (VICAP) Crime Analysis Report

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: FD–676. Department of Justice, Federal Bureau of Investigation, Violent Criminal Apprehension Program Unit.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State, Local, or Tribal Government. Brief Abstract: Collects data at crime scenes (e.g., unsolved murders) for analysis by VICAP staff of the FBI. Law enforcement agencies reporting similar pattern crimes will be provided information to initiate a coordinated multi-agency investigation to expedite identification and apprehension of violent criminal offenders (e.g., serial murderers).

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 10,000 respondents at an average of one hour per response.

(6) An estimate of the annual total public burden (in hours) associated with the collection: 10,000 total burden hours annually.

If additional information is required contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 1331 Pennsylvania Avenue, Northwest, Washington, DC 20503.

Public comment on this proposed information collection is strongly encouraged.

Dated: September 25, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–24467 Filed 9–28–01; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; (Extension of a currently approved collection) Nomination for Young American Medal for Bravery.

The Department of Justice, Office of Justice Programs has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected

agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 30, 2001.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ellen Wesley, 202–616–3558, Office of Budget and Management Services, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collect; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Nomination for Young American Medal for Bravery

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1673/1, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federal Government, State, Local or Tribal.

Other: Individuals or households; Not-for-profit institutions.

42 U.S.C. 1921 *et seq.* authorizes the Department of Justice to collect information from state governors, chief executives of the U.S. territories, and the mayor of the District of Columbia to implement the Young American Medals Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 20 respondents will complete a 3-hour nomination form.

(6) An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the nominations is 60 annual burden hours.

If additional information is required contract: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW, Washington, DC 20530.

Dated: September 25, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–24468 Filed 9–28–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; (extension of a currently approved collection). Nomination for Young American Medal for Service.

The Department of Justice, Office of Justice Programs has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 30, 2001.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Ellen Wesley, 202–616–3558, Office of Budget and Management Services, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technologies collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Nomination for Young American Medal for Service.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1673/2, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal Government, State, Local or Tribal. Other: Individuals or households; Not-for-profit institutions.

42 U.S.C. 1921 *et seq.* authorizes the Department of Justice to collect information from state governors, chief executives of the U.S. territories, and the mayor of the District of Columbia to implement the Young American Medals Program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 20 respondents will complete a 3-hour nomination form.

(6) An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the nominations is 60 annual burden hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place, 601 D Street, NW, Washington, DC.

Dated: September 25, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–24469 Filed 9–28–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Solicitor; Agency Information Collection Activities: Proposed Collection; Comment Request; Equal Access to Justice Act

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3505(c)(2)(A)]. The program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of the collection requirements on respondents can be properly assessed. Currently the Office of the Solicitor is soliciting comments concerning the proposed extension of the information collection request (ICR) for applications to obtain awards in administrative proceedings subject to the Equal Access to Justice Act.

DATES: Written comments must be submitted by November 30, 2001.

ADDRESSES: Comments are to be submitted to Department of Labor/The Office of Solicitor Attn: Peter Galvin, 200 Constitution Avenue, N.W. (Room N–2428) Washington D.C. 20210). Written comments limited to 10 pages or fewer may be transmitted by facsimile to (202) 693–5539.

FOR FURTHER INFORMATION CONTACT: Contact Peter Galvin, The Office of Solicitor, telephone (202) 693–5514 or Darrin King at (202) 693–4129. Copies of the referenced information collection request are available in room N–1301, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. A copy of the ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King at (202) 693–4129 or E-mail: *King_Darrin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Equal Access to Justice Act provides for the award of fees and expenses to certain parties involved in administrative proceedings with the United States. The statute requires, at 5 U.S.C. sec. 504(a)(2), that a party seeking an award of fees and other expenses in a covered administrative proceeding must submit to the agency ''an application which shows that the party is the prevailing party and is eligible to receive an award'' under the Act. The Department of Labor's regulations implementing the Equal Access to Justice Act contain a subpart which specifies the contents of applications for an award, 29 CFR Part 16, Subpart B.

II. Desired Focus of Comments

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Current Action

This notice requests an extension of the current Office of Management and Budget (OMB) approval of the paperwork requirements for the contents of applications for an award under the Equal Access to Justice Act.

Type of Review: Extension.

Agency: Office of the Solicitor.

Title: Equal Access to Justice Act.

OMB Number: 1225–0013.

Affected Public: Individuals or household; Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 10.

Frequency: On occasion.

Total Responses: 10.

Average Time per Response: 5 hours.

Estimated Total Burden Hours: 50 hours.

Total annualized capital/startup costs: $0.

Total Annualized costs (operation and maintenance): $0.

Comments submitted in response to this notice will be summarized and may be included in the request for OMB approval of the final information collection request. The comments will become a matter of public record.

Dated: September 26, 2001.

Robert A. Shapiro,

Associate Solicitor for Legislation and Legal Counsel.

[FR Doc. 01–24516 Filed 9–28–01; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Penison and Welfare Benefits Administration

Working Group on Increasing Pension Coverage, Participation and Savings Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group assigned by the Advisory Council on Employee Welfare and Pension Benefit Plans to study the issue of increasing pension coverage, participation and savings will hold an open public meeting, via teleconference, on Monday, October 15, 2001, in the conference room in Suite N–5677, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the open meeting, which will run from 11:00 a.m. to approximately 1:30 p.m., is for Working Group members to discuss their findings and/or recommendations concerning the factors which either encourage or inhibit the growth of pension plan coverage and, ultimately, retirement security.

Members of the public are encouraged to file a written statement pertaining to the topic by sending 20 copies on or before October 7, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral

presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrisey by October 7, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 7.

Signed at Washington, DC this 24th day of September 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–24458 Filed 9–28–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Planning for Retirement, Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting, via teleconference, will be held Monday, October 15, 2001, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study planning for retirement.

The session will take place in the conference room in Suite N–5677, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 2 p.m. to approximately 4 p.m., is for working group members to discuss findings and/or recommendations on ways in which individuals can be encouraged to better plan for retirement.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before October 7, 2001, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 7, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 7.

Signed at Washington, DC, this 24th day of September 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 01–24459 Filed 9–28–01; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Challenges to the Employment-Based Healthcare System Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting, via teleconference, will be held Tuesday, October 16, 2001, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study challenges to the employment-based healthcare system.

The session will take place in the conference room in Suite N–5677, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington, D.C. 20210. The purpose of the open meeting, which will run from 11:00 a.m. to approximately 1:30 p.m., is for working group members to discuss their findings and/or recommendations on the weaknesses, strengths and alternatives to employer-based health benefits.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before October 7, 2001, to Sharon Morrisey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrisey by October 7, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 7.

Signed at Washington, DC this 24th day of September 2001.

Ann L. Combs,

Pension and Welfare Benefits Administration.

[FR Doc. 01–24460 Filed 9–28–01; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Computer and Information Science and Engineering (1115).

Date/Time: October 18, 2001: 8:30 a.m. to 5:00 p.m. October 19, 2001: 8:30 a.m. to 2:00 p.m.

Place: The Rebecca Crown Center, 633 Clark Street (Hardin Hall), Northwestern University, Evanston, IL 60208.

Type of Meeting: Open.

Contact Person: Gwen Barber-Blount, Office of the Assistant Director, Directorate for Computer and Information Science and Engineering, National Science Foundation, 4201 Wilson Blvd., Suite 1105, Arlington, VA 22230. Telephone: (703) 292–8900.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities on the CISE community; to provide advice to the Acting Assistant Director/CISE on issues related to long range planning, and to form ad hoc subcommittees to carry out needed studies and tasks.

Agenda: Day 1—Discussion of Information Technology Research and CISE Budget. Day 2—Report from the Acting Assistant Director and complete

writing assignments on recommendations to the Director and Assistant Director.

Dated: September 25, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–24463 Filed 9–28–01; 8:45 am]

BILLING CODE 7555–61–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; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment Nos. 243 and 122 to Facility Operating License Nos. DPR–66 and NPF–73, respectively, issued to FirstEnergy Nuclear Operating Company, *et. al.*, (the licensee), which revised the Technical Specifications (TSs) and Operating Licenses for operation of the Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2) located in Shippingport, Pennsylvania. The amendment is effective as of the date of issuance.

The amendment modified the TSs and OLs to reflect an increased maximum steady-state core power level from 2652 megawatts thermal (MWt) to 2689 MWt, an increase of approximately 1.4 percent. These increases are facilitated by the utilization of the Caldon Leading Edge Flowmeter for feedwater flow measurements.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on June 19, 2001 (66 FR 32963). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the portion of the action related to the power uprate and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (66 FR 47699).

For further details with respect to the action, see (1) The application for amendment dated January 18, 2001 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML010230096), as supplemented by letters dated February 20 (ADAMS Accession No. ML010540305), April 12 (ADAMS Accession No. ML011130105), May 7 (ADAMS Accession No. ML011340076), May 18 (ADAMS Accession No. ML011440046), June 9 (3 letters) (ADAMS Accession Nos. ML011640192, ML011640189, and ML011640086), June 26 (ADAMS Accession No. ML011840215), June 29 (ADAMS Accession No. ML011870434), August 21, (ADAMS Accession No. ML012400228), and September 5, 2001 (ADAMS Accession No. ML012550393), (2) Amendment Nos. 243 and 122 to License Nos. DPR–66 and NPF–73, respectively, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 24th day of September 2001.

For the Nuclear Regulatory Commission.

Lawrence J. Burkhart,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–24496 Filed 9–28–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44846; File No. 4–430]

Order Extending the Deadline for the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the Cincinnati Stock Exchange, the International Securities Exchange, LLC, the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. to Submit Rule Filings Concerning the Implementation of Decimal Pricing in Equity Securities and Options Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934

September 25, 2001.

Notice is hereby given that, pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] the Securities and Exchange Commission (''Commission'') modifies its May 22, 2001 Order[2] to the American Stock Exchange LLC, the Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the Chicago Stock Exchange, Inc., the Cincinnati Stock Exchange, the International Securities Exchange, LLC, the National Association of Securities Dealers, Inc., the New York Stock Exchange, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc. (collectively the ''Participants'') to extend the deadline set forth in the May 22, 2001 Order that requires the Participants to submit rule filings to establish the minimum price variation (''MPV'') in each market for quoting equity securities and options by November 5, 2001.

The Commission's May 22, 2001 Order amended a prior June 8, 2000 Order[3] that had established the framework for the Participants to convert their quotation prices in equity securities and options from fractions to decimals. The May 22, 2001 Order extended the deadline for the Participants to submit studies regarding

[1] Section 11A(a)(3)(B) authorizes the Commission, in furtherance of its statutory directive to facilitate the establishment of a national market system, by rule or order, ''to authorize or require self-regulatory organizations to act jointly with respect to matters as to which they share authority under [the Act] in planning, developing, operating or regulating a national market system (or a subsystem thereof) or one or more facilities thereof.'' 15 U.S.C. 78k–1(a)(3)(B).

[2] Securities Act Release No. 44336 (May 22, 2001), 66 FR 29368 (May 30, 2001).

[3] Securities Act Release No. 42914 (June 8, 2001), 65 FR 38010 (June 19, 2000).

the impact of decimal pricing on systems capacity, liquidity and trading behavior, including an analysis of whether there should be a uniform price increment for securities, from June 8, 2001 to September 10, 2001. The Order also extended the deadline for the Participants to submit the rule filings that would individually establish an MPV for each market from July 9, 2001 to November 5, 2001.

In view of the market disruption caused by the attacks of September 11, 2001, the Commission believes that it is necessary and appropriate to extend the deadline set forth in the May 22, 2001 Order for the Participants to submit their rule filings. The Commission believes that such an extension is necessary to give the Participants adequate time to thoroughly analyze the important investor protection and market integrity issues that need to be addressed in order to preserve the benefits of decimalization.

Therefore, *It Is Ordered,* pursuant to Section 11A(a)(3)(B) of the Exchange Act,[4] that the Participants shall submit their rule filings pursuant to Section 19(b)(2) of the Exchange Act no later than January 14, 2002. All other aspects of the Commission's Orders of May 22, 2001 and June 8, 2000 remain in effect until otherwise ordered by the Commission.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24471 Filed 9–28–01; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78K–1(a)(3)(B).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25172; 812–12290]

iShares, Inc., et al.; Notice of Application

September 25, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit an open-end management investment company, whose portfolios will consist of the component securities of certain equity securities indices, to issue shares of limited redeemability; permit secondary market transactions in the shares of the portfolios at negotiated prices on a national securities exchange, as defined in section 2(a)(26) of the Act (a ''Listing Exchange''); permit certain affiliated persons of the portfolios to deposit securities into, and receive securities from, the portfolios in connection with the purchase and redemption of aggregations of the portfolios' shares; and permit the portfolios to pay redemption proceeds more than seven days after the tender of shares of the portfolios for redemption under certain circumstances.

Applicants: Barclays Global Fund Advisors (the ''Adviser''), iShares, Inc. (the ''Company'') and SEI Investments Distribution Company (''Distributor'').

Filing Dates: The application was filed on October 4, 2000. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 17, 2001 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW, Washington, DC 20549–0609. iShares, Inc., 400 Bellevue Parkway, Wilmington, DE 19809, attn: John Falco, Assistant Secretary; Barclays Global Fund Advisors, c/o Joanne T. Medero, Esq., Barclays Global Investors, 45 Fremont Street, San Francisco, CA 94105; and SEI Investment Distribution Company, One Freedom Valley Drive, Oaks, PA 19456, Attn: William E. Zittelli, Esq.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0579 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Company is an open-end management investment company registered under the Act and is incorporated under the laws of the State of Maryland. The Company is organized as a series fund with multiple series.[1] The Company intends to offer seven new series of shares (each, an ''Index Fund''). The Adviser, an investment adviser registered under the Investment Advisers Act of 1940, will serve as investment adviser for each Index Fund. The Distributor, a broker-dealer unaffiliated with the Adviser and registered under the Securities Exchange Act of 1934 (''Exchange Act''), will serve as the principal underwriter and distributor of each Index Fund's shares.

2. Each Index Fund will invest in a portfolio of securities (''Portfolio Securities'') generally consisting of the component securities of a specified equity securities index (each, an ''Underlying Index'').[2] In the future, applicants may offer additional series of the Company (''Future Index Funds'') based on other equity securities indices. Any Future Index Fund will (a) be advised by the Adviser or an entity controlled by or under common control with the Adviser and (b) comply with the terms and conditions of the order

[1] The Company currently has 28 series operating under the terms of two prior orders. *See* Foreign Fund, Investment Company Act Release Nos. 21737 (Feb. 6, 1996) (notice) and 21803 (March 5, 1996) (order); WEBS Index Fund, Inc., Investment Company Act Release Nos. 23860 (June 7, 1999) (notice) and 23890 (July 6, 1999) (order).

[2] An Index Fund will normally invest at least 95% of its total assets in the component securities of its Underlying Index, and will at all times invest at least 90% of its total assets in such stocks. However, in order to permit the Adviser additional flexibility to comply with the requirements of the Internal Revenue Code and other regulatory requirements and to manage future corporate actions and index changes in the smaller markets, certain Index Funds will at all times invest at least 80% of their assets in such stocks and at least half of the remaining 20% in such stocks or in stocks included in the relevant market, but not in the relevant Underlying Index. Each Index Fund may invest its remaining assets in certain futures, option and swap contracts, cash, money market instruments, money market funds, repurchase agreements, local currency and forward currency exchange contracts, as well as in stocks that are in the relevant market but are not included in the Underlying Index.

The Underlying Indices for the Index Funds are the MSCI Europe Index, the MSCI Emerging Markets (Free) Index, the MSCI Emerging Markets Latin America Index, the MSCI All Country World Ex USA Index, the MSCI All Country Far East (Free) Ex Japan Index, the MSCI Pacific (Free) Ex Japan Index, and the MSCI Israel Index.

(references to ''Index Funds'' include ''Future Index Funds''). No entity that creates, compiles, sponsors or maintains a Underlying Index will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Company, the Adviser, any subadviser to an Index Fund, the Distributor or promoter of an Index Fund.

3. The investment objective of each Index Fund will be to seek to provide investment results that correspond generally to the price and yield performance of publicly traded securities in the aggregate in particular markets, as represented by a particular Underlying Index. It is currently expected that intra-day values of each Underlying Index will be disseminated every 15 seconds throughout the trading day. An Index Fund will utilize as an investment approach a representative sampling strategy. Each Index Fund will seek to hold a representative sample of the component securities of the Underlying Index.[3] Using the representative sampling technique, applicants anticipate that an Index Fund will not track its Underlying Index with the same degree of accuracy as an investment vehicle that invested in every component security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Index Fund will have a tracking error relative to the performance of its respective Underlying Index of no more than 5 percent.

4. Shares of an Index Fund (''iShares'') will be sold in aggregations of 50,000 or more iShares (''Creation Unit Aggregations'') as specified in the relevant prospectus (the ''Relevant Prospectus''). It is currently anticipated that the price of a Creation Unit Aggregation will range from at least $450,000 to approximately $25,000,000. Creation Unit Aggregations may be purchased only by or through a participant that has entered into a participant agreement with the Distributor (''Authorized Participant''). Each Authorized Participant must be a Depository Trust Company (''DTC'') participant. Creation Unit Aggregations generally will be issued in exchange for an in-kind deposit of securities and cash. An Index Fund also may sell Creation Unit Aggregations on a ''cash only'' basis in limited circumstances. An investor wishing to make an in-kind purchase of a Creation Unit Aggregation from an Index Fund will have to transfer to the Fund a ''Portfolio Deposit'' consisting of (a) a portfolio of securities that has been selected by the Adviser to correspond generally to the price and yield performance of the relevant Underlying Index (''Deposit Securities''), (b) a cash payment equal per Creation Unit Aggregation to the dividends accrued on the Portfolio Securities of the Index Fund since the last dividend payment on the Portfolio Securities, net of expenses and liabilities (the ''Dividend Equivalent Payment''), and (c) an amount equal to the difference between (i) the net asset value (''NAV'') per Creation Unit Aggregation of the Index Fund and (ii) the sum of (I) the Dividend Equivalent Payment and (II) the total aggregate market value per Creation Unit Aggregation of the Deposit Securities (the ''Balancing Amount,'' and, together with the Dividend Equivalent Payment, the ''Cash Component'').[4] An investor purchasing a Creation Unit Aggregation from an Index Fund will be charged a fee (''Transaction Fee'') to prevent the dilution of the interests of the remaining shareholders resulting from the Index Fund incurring costs in connection with the purchase of Creation Unit Aggregations.[5] Each Index Fund will disclose the maximum Transaction Fees charged by the Index Fund in the Relevant Prospectus and will disclose the method of calculating the Transaction Fees in its statement of additional information (''SAI'').

5. Orders to purchase Creation Unit Aggregations will be placed with the Distributor who will be responsible for transmitting the orders to the Company. The Distributor will transmit confirmations of acceptance, issue delivery instructions to the Company to implement the delivery of Creation Unit Aggregations, and maintain records of the orders and confirmations. The Distributor also will be responsible for delivering Relevant Prospectuses to purchasers of Creation Unit Aggregations.

6. Persons purchasing Creation Unit Aggregations from an Index Fund may hold the iShares or sell some or all of them in the secondary market. iShares will be listed on the Listing Exchange and traded in the secondary market in the same manner as other equity securities. It is expected that one or more Listing Exchange specialists will be assigned to make a market in iShares. The price of iShares traded on the Listing Exchange will be based on a current bid/offer market, and each Share is expected to have a market value of between $20 and $120. Transactions involving the sale of iShares in the secondary market will be subject to customary brokerage commissions and charges.

7. Applicants expect that purchasers of Creation Unit Aggregations will include institutional investors and arbitrageurs (which could include institutional investors). The Listing Exchange specialist, in providing for a fair and orderly secondary market for iShares, also may purchase iShares for use in its market-making activities on the Listing Exchange. Applicants expect that secondary market purchasers of iShares will include both institutional and retail investors.[6] Applicants believe that arbitrageurs and other institutional investors will purchase or redeem Creation Unit Aggregations to take advantage of discrepancies between the iShares' market price and the iShares' underlying NAV. Applicants expect that this arbitrage activity will provide a market ''discipline'' that will result in a close correspondence between the price at which the iShares trade and their NAV. In other words, applicants do not expect the iShares to trade at a significant premium or discount to their NAV.

8. iShares will not be individually redeemable. iShares will only be redeemable in Creation Unit Aggregations through each Index Fund.

[3] The stocks selected for inclusion in an Index Fund by the Adviser will have aggregate investment characteristics (based on market capitalization and industry weightings), fundamental characteristics (such as return variability, earnings valuation and yield) and liquidity measures similar to those of the Index Fund's Underlying Index taken in its entirety.

[4] On each business day, the Adviser will make available through the Distributor, immediately prior to the opening of trading on the Listing Exchange, the list of the names and the required number of shares of each Deposit Security for each Index Fund that offers in-kind purchases of Creation Unit Aggregations. The Portfolio Deposit will be applicable to purchases of Creation Unit Aggregations until a change in the Portfolio Deposit composition is next announced. In addition, each Index Fund reserves the right to permit or require the substitution of an amount of cash or the substitution of any security to replace any Deposit Security that may be unavailable or unavailable in sufficient quantity for delivery to the Company, or which may be ineligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting. In addition, the Listing Exchange will disseminate at regular intervals (currently expected to be every 15 seconds) throughout the trading day, via the facilities of the Consolidated Tape Association, an amount representing on a per iShare basis, the sum of the Cash Component effective through and including the prior business day, plus the current value of the Deposit Securities.

[5] In situations where an Index Fund permits a purchaser to substitute cash for Deposit Securities, the purchaser may be assessed an additional fee to offset the Index Fund's brokerage and other transaction costs associated with using cash to purchase the requisite Deposit Securities.

[6] iShares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding iShares. Records reflecting the beneficial owners of iShares will be maintained by DTC or its participants.

To redeem, an investor will have to accumulate enough iShares to constitute a Creation Unit Aggregation. An investor redeeming a Creation Unit Aggregation generally will receive (a) a portfolio of Portfolio Securities in effect on the date the request for redemption is made (''Redemption Securities''), which may not be identical to the Deposit Securities applicable to the purchase of Creation Unit Aggregations, and (b) a ''Cash Redemption Payment,'' consisting of an amount calculated in the same manner as the Cash Component, although the actual amounts may differ if the Redemption Securities are not identical to the Deposit Securities. An investor may receive the cash equivalent of a Redemption Security in certain circumstances, such as where a redeeming entity is restrained by regulation or policy from transacting in the Redemption Security. An Index Fund may redeem Creation Unit Aggregations in cash in limited circumstances, such as when it is not possible to effect deliveries of Redemption Securities in the applicable jurisdiction.[7] A redeeming investor will pay a Transaction Fee to offset the Fund's transaction costs, whether the redemption proceeds are in-kind or cash. An additional variable charge, expressed as a percentage of the redemption proceeds, will be made for cash redemptions.

9. Because each Index Fund will redeem Creation Unit Aggregations in-kind, an Index Fund will not have to maintain cash reserves for redemptions. This will allow the assets of each index Fund to be committed as fully as possible to tracking its Underlying Index. Accordingly, applicants state that each Index Fund will be able to track its Underlying Index more closely than certain other investment products that must allocate a greater portion of their assets for cash redemptions.

10. Applicants state that no Index Fund will be marketed or otherwise held out as an ''open-end investment company'' or a ''mutual fund.'' Rather, the designation of the Index Fund in all marketing materials will be limited to the terms ''exchange-traded fund,'' ''investment company,'' ''fund,'' or ''company'' without reference to an ''open-end fund'' or ''mutual fund'' except to contrast the Index Funds with a conventional open-end investment company. Any marketing materials that describe the purchase or sale of Creation Unit Aggregations, or refer to redeemability, will prominently disclose that iShares are not individually redeemable and that owners of iShares may tender iShares for redemption to the Index Funds in Creation Unit Aggregations only. The same type of disclosure will be provided in each Index Fund's Relevant Prospectus, SAI, and all reports to shareholders.[8] The Fund will provide copies of its annual and semi-annual shareholder reports to DTC participants for distribution to beneficial holders of iShares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from section 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act; and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (a)(2) of the Act. Applicants request relief for the Index Funds as well as any Future Index Funds. Any Future Index Funds relying on any order granted pursuant to this application will comply with the terms and conditions in the application.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction, or any class of persons, securities, or transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because iShares will not be individually redeemable, applicants request an order under section 6(c) of the Act that would permit the Company to register each Index Fund as a series of an open-end management investment company and issue iShares that are redeemable in Creation Unit Aggregations. Applicants state that investors may purchase iShares in Creation Unit Aggregations from each Index Fund and redeem Creation Unit Aggregations through each Index Fund. Applicants further state that because the market price of Creation Unit Aggregations will be disciplined by arbitrage opportunities, investors generally should be able to sell iShares in the secondary market at approximately their NAV.

Section 22(d) of the Act and Rule 22c–I under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is being currently offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in iShares will take place at negotiated prices, not at a current offering price described in the Relevant Prospectus, and not at a price based on NAV. Thus, purchases and sales of iShares in the secondary market will not comply with section 22(d) and rule 22c–1. Applicants request an exemption under section 6(c) of the Act from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing iShares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule

[7] Applicants note that certain holders of iShares of a particular Index Fund may be subject to unfavorable tax treatment if they are entitled to receive in-kind redemption proceeds. The Company may adopt a policy with respect to such Index Fund that such holders of iShares may redeem Creation Unit Aggregations solely for cash.

[8] Applicants state that persons purchasing Creation Unit Aggregations will be cautioned in the Relevant Prospectus and/or SAI that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act of 1933 (''Securities Act''). For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it takes Creation Unit Aggregations after placing an order with the Distributor, breaks them down into the constituent iShares, and sells iShares directly to its customers; or if it chooses to couple the creation of a supply of new iShares directly to its customers; or if it chooses to couple the creation of a supply of new iShares with an active selling effort involving solicitation of secondary market demand for iShares. The Relevant Prospectus and/or SAI will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. The Relevant Prospectus or SAI also will state that broker-dealer firms should also note that dealers who are not ''underwriters'' but are participating in a distribution (as contrasted to ordinary secondary trading transactions), and thus dealing with iShares that are part of an ''unsold allotment'' within the meaning of section 4(3)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting iShares to trade in the secondary market at negotiated prices. Applicants state (a) that secondary market trading in iShares would not cause dilution for owners of iShares because such transactions do not directly involve Index Fund assets, and (b) to the extent different prices exist during a given trading day, or from day to day, these variances will occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in iShares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of iShares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that local market delivery cycles for transferring Redemption Securities to redeeming investors, together with local market holiday schedules, will require a delivery process in excess of seven calendar days for certain Index Funds in certain circumstances during the calendar year. Applicants request relief under section 6(c) from section 22(e) so that the Index Funds may pay redemption proceeds up to twelve calendar days after the tender of iShares for redemption. Except as otherwise subsequently disclosed in the SAI for the relevant Index Fund, applicants expect, however, that these Index Funds will be able to deliver redemption proceeds within seven days at all other times.[9] With respect to Future Index Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances exist similar to those described herein.

8. The principal reason for the requested exemption is that settlement of redemptions for the Index Funds is contingent not only on the settlement cycle of the United States market but also on the currently practicable delivery cycles in the local markets for the underlying foreign securities of each Index Fund. Applicants believe that the Index Funds will be able to comply with the delivery requirements of section 22(e) except where the holiday schedule applicable to the specific foreign market will not permit delivery of redemption proceeds within seven calendar days.

9. Applicants state that section 22(e) of the Act was designed to prevent unreasonable, undisclosed, and unforeseen delays in the payment of redemption proceeds. Applicants assert that their requested relief will not lead to the problems section 22(e) was designed to prevent. Delays in the payment of iShares redemption proceeds will occur principally due to local holidays. Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each Index Fund.

Section 17(a) of the Act

10. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person, from selling any security to or purchasing any security from the company. Because purchases and redemptions of Creation Unit Aggregations may be ''in-kind'' rather than cash transactions, section 17(a) may prohibit affiliated persons of an Index Fund from purchasing or redeeming Creation Union Aggregations in-kind. Because the definition of ''affiliated person'' of another person in section 2(a)(3)(A) of the Act includes any person owning five percent or more of an issuer's outstanding voting securities, every purchaser of a Creation Unit Aggregation will be affiliated with the Index Fund so long as fewer than twenty Creation Unit Aggregations are in existence. In addition, any person owning more than 25% of the iShares of an Index Fund may be deemed an affiliated person under section 2(a)(3)(C) of the Act. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b), to permit these affiliated persons of the Index Fund to purchase and redeem Creation Unit Aggregations.

11. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Applicants content that no useful purpose would be served by prohibiting persons with the types of affiliations described above from purchasing or redeeming Creation Unit Aggregations. The deposit procedure for in-kind purchases and redemptions will be the same for all purchases and redemptions, and Deposit Securities and Redemption Securities will be valued under the same objective standards applied to valuing Portfolio Securities. Therefore, applicants state that in-kind purchases and redemptions will afford no opportunity for an affiliated person of an Index Fund to effect a transaction detrimental to the other holders of iShares. Applicants also believe that in-kind purchases and redemptions will not result in abusive self-sealing overreaching by affiliated persons of the Index Fund.

Applicant's Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. Applicants will not register any Future Index Funds, by means of filing a post-effective amendment to the Company's registration statement or by any other means, unless (a) applicants have requested and received with respect to such Future Index Fund, either exemptive relief from the Commission or a no-action letter from the Division of Investment Management of the Commission, or (b) the Future Index Fund will be listed on a national securities exchange without the need for a filing pursuant to rule 19b–4 under the Exchange Act.

2. Each Index Fund's Relevant Prospectus will clearly disclose that, for purposes of the Act, iShares are issued by the Index Fund and that the acquisition of iShares by investments companies is subject to the restrictions of section 12(d)(1) of the Act.

3. As long as the Company operates in reliance on the requested order, the

[9] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

iShares will be listed on a national securities exchange.

4. Neither the Company nor any Index Fund will be advertised or marketed as an open-end fund or a mutual fund. Each Index Fund's Relevant Prospectus will prominently disclose that iShares are not individually redeemable shares and will disclose that the owners of iShares may acquire those iShares from the Index Fund and tender those iShares for redemption to the Index Fund in Creation Unit Aggregations only. Any advertising material that describes the purchase or sale of Creation Unit Aggregations or refers to redeemability will prominently disclose that iShares are not individually redeemable and that owners of iShares may acquire those iShares from the Index Fund and tender those iShares for redemption to the Index Fund in Creation Unit Aggregations only.

5. The website for the Company, which will be publicly accessible at no charge, will contain the following information, or a per iShare basis, for each Index Fund: (a) the prior business day's NAV and the reported closing price, and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters.

6. The Relevant Prospectus and annual report for each Index Fund will also include: (a) the information listed in condition 5(b), (i) in the case of the Relevant Prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately proceeding five years, as applicable; and (b) the following data, calculated on a per iShare basis for one, five and ten year periods (or life of the Index Fund), (i) the cumulative total return and the average annual total return based on NAV and market price, and (ii) the cumulative total return of the relevant Underlying Index.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24472 Filed 9–28–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published Friday, September 28, 2001.

STATUS: Closed meetings.

PLACE: 450 Fifth Street, NW., Washington, DC

TIME AND DATE OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, October 2, 2001 at 10:30 a.m. and Thursday, October 4, 2001 at 10:00 a.m.

CHANGE IN THE MEETING: Additional Items.

The following items have been added to the closed meeting scheduled for Tuesday, October 2, 2001 and Thursday, October 4, 2001: formal orders.

Commissioner Unger, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: September 26, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24563 Filed 9–27–01; 11:08 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44837; File No. SR–CBOE–2001–54]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to a Six Month Extension of the Pilot Program To Eliminate Position and Exercise Limits for OEX, DJX, and SPX Index Options and FLEX Options Overlying These Indexes

September 24, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 24, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' 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 CBOE. The proposed rule changes has been filed by the CBOE as a ''non-controversial'' rule change under Rule 19–4(f)(6).[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE seeks a six month extension of the pilot program that provides for the elimination of position and exercise limits for S&P 500 Index (''SPX''), S&P 100 Index (''OEX''), Dow Jones Industrial Average (''DJX'') index options as well as for FLEX options overlying these indexes. 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 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 22, 1999, the Commission approved a two-year pilot program (''Pilot Program'') that allowed for the elimination of position and exercise limits for options on the SPX, OEX, and DJX as well as for FLEX options overlying these indexes.[4] On January 30, 2001 and again on May 22, 2001, the Commission extended the Pilot Program and additional four months.[5] The purpose of this proposed rule change is

[1] 15 U.S.C. 78(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 40969 (January 22, 1999), 64 FR 49111 (February 1, 1999) (approving SR–CBOE–99–23) (''Approval Order'').

[5] *See* Securities Exchange Act Release No. 43867 (January 22, 2001), 66 FR 8250 (January 30, 2001) (notice of filing and immediate effectiveness of SR–CBOE–2001–01) and Securities Exchange Act Release No. 44335 (May 22, 2001) 66 FR 29369 (May 30, 2001) (notice of filing and immediate effectiveness of SR–CBOE–2001–26).

to request a six-month extension of the Pilot Program until March 22, 2002 to allow the Commission additional time to consider the Exchange's separate application for permanent approval of the Pilot Program.[6]

The Approval Order required the Exchange to submit a report to the Commission on the status of the Pilot Program so that the Commission could use this information to evaluate any consequences of the program and to determine whether to approve the elimination of position and exercise limits for these products on a permanent basis.[7] The CBOE submitted the required report to the Commission on December 21, 2000.[8] The report indicated that during the review period, CBOE did not discover any instances where an account maintained an unusually large unhedged position. Data gathered for the report indicated that only 12 accounts established positions in excess of 10% of the standard limit applicable to each index at the time the Pilot Program was approved. These positions were all in SPX and most were established by firms and market makers. All of the accounts were hedged, although to different degrees. CBOE's analysis did not discover any aberrations caused by large unhedged positions during the life of the Pilot Program. For this reason, the Exchange believes that its experience with the Pilot Program has been positive. Accordingly, CBOE has requested that the effectiveness of the Pilot Program be extended six months. As part of the extension request, CBOE has represented that it will update the Commission on any problems that develop with the Pilot Program during the extension, if any, including any compliance issues, and whether there are any large unhedged positions that raise regulatory concerns.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[9] in general and in particular with Section 6(b)(5)[10] in that it is designed to promote just and equitable principles of trade as well as to protect investors and the public interest, by allowing for the extension of a Pilot Program that has enabled more business to be transacted on the exchanges that might otherwise have been transacted in the OTC market without the benefit of Exchange transparency and the guarantee of The Options Clearing Corporation. The Exchange also believes that the proposed rule change is consistent with Section 11A of the Act[11] in that it will enhance competition by allowing the Exchange to compete better with the OTC market in options and with entities not subject to position limit rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder[13] because the proposed rule change: (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 the filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest.[14]

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.

The Exchange has requested that the rule change be accelerated to become operative on September 24, 2001, because such action will allow the Exchange to continue the Pilot Program without interruption while the Commission determines whether to approve the Pilot Program on a permanent basis. The Commission finds that accelerating the operative date of the rule change to prevent interruption of the Pilot Program while the Commission considers the permanent approval request is consistent with the protection of investors and the public interest, and thus designates September 24, 2001 as the operative date of the filing.[15]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to SR–CBOE–2001–54 and should be submitted by October 22, 2001.

[6] By separate filing (SR–CBOE–2001–22), CBOE requests permanent approval of the Pilot Program.

[7] In the Approval Order, the Commission stated: ''CBOE will provide the Commission with a report detailing the size and different types of strategies employed with respect to positions established in those classes not subject to position limits. In addition, the report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the pilot program. The Commission expects that CBOE will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop.''

[8] Letter from Patricia L. Cerny, Director, Office of Trading Practices, CBOE, to Elizabeth King, Division of Market Regulation, Commission, dated December 21, 2000.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k–1.

[12] 15 U.S.C. 78f(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[14] The Commission has determined to waive the requirement the CBOE provide the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[15] The Commission reiterates the expectation that the CBOE will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in component stocks, should any unanticipated adverse market effects develop. *See* note 7, *supra.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24473 Filed 9–28–01; 8:45 am]

BILLING CODE 8010–01–M

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44840; File No. SR–ISE–00–11]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 by the International Securities Exchange LLC Relating to Membership Qualifications

September 24, 2001.

On November 28, 2000, the International Securities Exchange LLC (''ISE'' or ''Exchange''), filed with the Securities and Exchange Commission (''SEC'' or ''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 revise ISE Rule 302, ''Qualification of Members.'' On July 2, 2001, the ISE filed Amendment No. 1 to the proposal.[3] The proposal, as amended, would eliminate the requirement in current ISE Rule 302(b) that an ISE member be organized under the laws of one of the states of the United States or under other laws that the ISE's Board of Directors approves. In addition, the proposal would revise ISE Rule 302(b) to provide that an ISE member that does not maintain an office in the United States responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the ISE must: (1) Prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and U.S. dollars; (2) reimburse the ISE for any expense incurred in connection with examinations of the member to the extent that such expenses exceed the cost of examining a member located within the continental United States; and (3) ensure the availability of an individual fluent in English and knowledgeable in securities and financial matters to assist representatives of the ISE during examinations.

The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on July 24, 2001.[4] No comments were received regarding the proposal, as amended. This order approved the proposed rule change, as amended.

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 exchange and, in particular, the requirements of Section 6 of the Act[5] and the rules and regulations thereunder.[6] Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act[7] because it is designed to facilitate the examination of foreign-based ISE members, thereby helping to ensure that foreign-based members comply with the ISE's rules and the federal securities laws.

For the foregoing reasons, the Commission finds that the proposal, as amended, 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,[8] that the proposed rule change (SR–ISE–00–11), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24475 Filed 9–28–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 eliminated a provision that would have amended ISE Rule 302 to state that an ISE member must be a member of at least one other national securities exchange registered under Section 6 of the Act, 15 U.S.C. 78f, or a national securities association registered under Section 15A of the Act, 15 U.S.C. 78o–3, that is designated responsibility for examining the ISE member for compliance with applicable financial responsibility rules pursuant to Rule 17d–1 under the Act, 17 CFR 240.17d–1. Amendment No. 1 notes that all ISE members currently are required to be members of another self-regulatory organization and that it would be necessary for the ISE to submit a rule change to the Commission before permitting any ISE member to be a member solely of the ISE.

[4] *See* Securities Exchange Act Release No. 44567 (July 18, 2001), 66 FR 38445.

[5] 15 U.S.C. 78f.

[6] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44826; File No. SR–Phlx-2001–75]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Listing and Trading of Trust Issued Receipts

September 20, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 17, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change, and amended such proposed rule change on September 10, 2001,[3] as described in Items I and II below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to approve the proposal and Amendment No. 1 on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 under the Act,[4] proposes to amend Phlx Rule 803(j) to adopt generic listing standards to allow for the listing and trading of trust issued receipts (''TIRs'') pursuant to Rule 19b–4(e) under the Act[5] and to provide eligibility requirements for a component security that became part of a trust when the security was either: (a) Distributed by a company already included as a component security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a component security and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Phlx additionally proposes to amend Phlx Rule 803(j) to provide eligibility requirements for a component security that became part of a trust when the security was either: (a) Distributed by a company already included as a component security in the series of TIRs; or (b) received in exchange for the securities of a company previously included as a component security and that are no longer outstanding due to a merger, consolidation, corporate combination or other event. *See* letter from John Dayton, Assistant Secretary and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), SEC, dated September 7, 2001 (''Amendment No. 1'').

[4] 17 CFR 240.19b–4.

[5] 17 CFR 240.19b–4(e).

that are no longer outstanding due to a merger, consolidation, corporate combination or other event. Below is the text of the proposed rule change. Proposed new language is in italics.[6]

* * * * *

Rule 803. Criteria for Listing—Tier I

Rule 803(a)—(i) No Change.

(j) Trust Issued Receipts.

(1)–(11) No Change.

* * * * *

Commentary

.01 The Exchange may approve a series of Trust Issued Receipts for listing and trading on the Exchange pursuant to Rule 19b–4(e) under the Securities Exchange Act of 1934 (''Exchange Act''), provided each of the component securities satisfies the following criteria:

Eligibility Criteria for Component Securities Represented by a series of Trust Issued Receipts:

(1) *each component security must be registered under Section 12 of the Exchange Act;*

(ii) *each component security must have a minimum public float of a least $150 million;*

(iii) *each component security must be listed on a national securities exchange or traded through the facilities of Nasdaq and be a reported national market system security;*

(iv) *each component security must have an average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period;*

(v) *each component security must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million; and*

(vi) *the most heavily weighted component security may not initially represent more than 20% of the overall value of the Trust Issued Receipt.*

.02 The eligibility requirements for component securities that are represented by a series of Trust Issued Receipts and that became part of the Trust Issued Receipt when the security was either: (a) distributed by a company already included as a component security in the series of Trust Issued Receipts; or (b) received in exchange for the securities of a company previously included as a component security that is no longer outstanding due to a merger, consolidation, corporate combination or other event, shall be as follows:

(i) *the component security must be listed on a national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;*

(ii) *the component security must be registered under section 12 of the Exchange Act; and;*

(iii) *the component security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Classification represented by component securities included in the Trust Issued Receipt at the time of the distribution or exchange.*

II. Self-Regulatory Organization's Statement of the Purpose of, 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 III below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule is to amend Phlx Rule 803(j) to provide generic standards that permit listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of TIRs pursuant to Rule 19b–4(e) under the Act.[7] This procedure would allow the Phlx to begin trading qualifying products without the need for notice and comment and Commission approval under Section 19(b) of the Act,[8] thus promoting competition and benefiting the public interest, and, at the same time, reducing the Exchange's regulatory burden.

The Phlx believes that its proposal supplements its existing rules[9] with generic listing criteria means, in part, to ensure that no security underlying a TIR will be readily susceptible to manipulation, while permitting sufficient flexibility in the construction of various TIRs to meet investors' needs. The Phlx further believes that the additional criteria are meant to ensure sufficient liquidity for investors seeking to purchase and deposit the underlying securities with the trustee to create a new TIR.

Thus, under the proposal, the Phlx could list or trade, pursuant to Rule 19b–4(e), any TIR product that meets the following additional criteria: (1) Each component security in the TIR must be registered under Section 12 of the Act;[10] (2) each component security underlying the TIR must have a minimum public float of at least $150 million: (3) each component security underlying the TIR must be listed on a national securities exchange or traded through the facilities of Nasdaq as a reported national market system security; (4) each component security underlying the TIR must have and average daily trading volume of at least 100,000 shares during the preceding sixty-day trading period; and (5) component security underlying the TIR must have an average daily dollar value of shares traded during the preceding sixty-day trading period of at least $1 million. In addition, no underlying security may initially represent more than 20% of the overall value of the TIR.

Furthermore, the Phlx will comply with the recordkkeeping requirements of Rule 19b–4(e), and will file Form 19b–4(e) for each TIR listed, or admitted to trading pursuant to UTP, under the rule within five business days of commencement of trading.[11]

Finally, the rules relating to the distribution of securities by issuers whose securities are included in a TIR have been recently revised to provide that: (1) If a company whose securities

[6] The Phlx made non-substantive changes by correcting the numbering of its Rule 803(j) and deleting a typographical error from its rule text. *See* telephone conversation on September 14, 2001 between John Dayton, Assistant Secretary and Counsel, Phlx, and Cyndi Nguyen, Attorney, Division, SEC.

[7] Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that includes the new derivative securities product and the SRO has a surveillance program for the product class. 17 CFR 240.19b–4(e).

[8] 15 U.S.C. 78s(b).

[9] Existing Phlx rules provide that TIRs will be listed and traded, or traded pursuant to UTP, subject to application of the following criteria: (a) Initial Listing—For each trust, the Exchange will establish a minimum number of TIRs required to be outstanding at the time of commencement of trading on the Exchange; (b) Continued Listing—Following the initial twelve month period after formation of a trust and commencement of trading on the Exchange, the Exchange will consider the suspension of trading in or removal from listing of a trust upon which a series of TIRs is based under any of the following circumstances: (i) if the trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of TIRs for 30 or more consecutive trading days; (ii) if the trust has fewer than 50,000 receipts issued and outstanding; (iii) if the market value of all TIRs issued and outstanding is less than $1,000,000; or (iv) if such other event shall occur or condition exists which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable. *See* Phlx Rule 803(j).

[10] 15 U.S.C. 781.

[11] 17 CFR 240.19b–4(e).

are included in a series to TIRs distributes a security, the distributed security will remain in the trust as a component security if it is listed for trading on a national securities exchange or through the facilities of Nasdaq and its Standard & Poor's Sector Classification is the same as the Sector Classification represented by the other component securities in the trust at the time of the distribution; and (2) if the securities of a company that are included in a series of TIRs are no longer outstanding as a result of a merger, consolidation, corporate combination or other event, any securities received in exchange for those securities will remain in the trust as component securities if they are listed for trading on a national securities exchange or through the facilities of Nasdaq and their Standard & Poor's Sector Classification is the same as the Sector Classification represented by the other component securities in the trust at the time of the merger, consolidation, corporate combination or other event.

As a result of this change, a security that is automatically deposited into the trust as a result of a distribution or a corporate event may remain in the trust even though it does not meet all of the initial eligibility requirements set forth in Commentary 0.01 to Phlx Rule 803(j). For example, securities distributed by an issuer or exchanged in a merger generally do not have measurable price and trading histories, and may not have a minimum public float of $150 million. There is a requirement to review the securities that are represented by TIRs on an ongoing basis to determine whether component securities continue to meet the initial eligibility requirements. Accordingly, the Exchange also proposes to amend Phlx Rule 803(j) to provide eligibility requirements for a component security that became part of a trust when the security was either: (1) Distributed by a company already included as a component security in the series of TIRs; or (2) received in exchange for the securities of a company previously included as a component security and that are no longer outstanding due to a merger, consolidation, corporate combination of other event. The eligibility requirements for such component securities are as follows:

- Such component security must be listed on national securities exchange or traded through the facilities of Nasdaq and a reported national market system security;
- Such component security must be registered under Section 12 of the Exchange Act; and
- Such component security must have a Standard & Poor's Sector Classification that is the same as the Standard & Poor's Sector Classification represented by component securities already included in the TIR at the time of the distribution or exchange.[12]

The Exchange believes that it is appropriate in these limited situations to provide alternate eligibility criteria for component securities. To reduce the number of distributions of securities from the TIR which cause inconvenience and increased transaction and administrative costs for investors, it is useful to allow certain securities that are received as part of a distribution from a company or as the result of a merger, consolidation, corporate combination or other event to remain in the TIR. The proposed eligibility requirements ensure that component securities included in a TIR as a result of a distribution or exchange event are widely held (having been distributed to all of the shareholders holding the original component security), traded through the facilities of an exchange of Nasdaq and registered under Section 12 of the Act.[13]

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(5)[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest by allowing the Exchange to list and trade, or trade pursuant to UTP, TIRs which meet the criteria in the proposed rule, thus creating another marketplace for such products which should promote additional competition in such products. Furthermore, the Exchange believes Amendment No. 1 should enhance competition by enabling the Phlx to better compete with other markets trading TIRs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to file number SR–Phlx–2001–75 and should be submitted by October 22, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of section 6(b)(5) of the Act.[16] Specifically, the Commission finds that the proposal to provide generic standards to permit listing and trading of TIRs pursuant to Rule 19b–4(e) will further the intent of that rule by facilitating commencement of trading in these securities without the need for notice and comment and Commission approval under section 19(b) of the Act. By establishing generic standards, the proposal should reduce the Phlx's regulatory burden, as well as benefit the public interest, by enabling the Phlx to bring qualifying products to the market more quickly. Accordingly, the Commission finds that the Phlx's proposal and Amendment No. 1 will prevent fraudulent and manipulative

[12] *See* Amendment No. 1, *supra,* note 3.

[13] 15 U.S.C. 781.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(5).

acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, in general, protect investors and the public interest consistent with Section 6(b)(5) of the Act.[17]

Rule 19b–4(e) of the Act provides that the listing and trading of a new derivative securities product by an SRO shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4, if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures, and listing standards for the product class that includes the new derivative securities product and the SRO has a surveillance program for the product class.[18]

As described above, the Commission has previously approved Phlx rules that permit the listing and trading of individual TIRs on the Exchange or pursuant to UTP.[19] In approving these securities for trading, the Commission considered their structure, their usefulness to investors and the markets, and the Exchange's rules and surveillance programs that govern their trading. The Commission concluded then that securities approved for listing under those rules would allow investors to: (1) Respond quickly to changes in the overall securities markets generally and for the industry represented by a particular trust; (2) trade, at a price disseminated on a continuous basis, a single security representing a portfolio of securities that the investor owns beneficially; (3) engage in hedging strategies similar to those used by institutional investors; (4) reduce transaction costs for trading a portfolio of securities; and (5) retain beneficial ownership of the securities underlying the TIR. The Commission believes, for the reasons set forth below, that additional TIRs that satisfy the proposed generic standards and, therefore, can be listed under Rule 19b–4(e) without prior Commission approval, should produce the same benefits to the Phlx and to investors.

The Commission further believes that adopting generic listing standards for these securities and applying Rule 19b–4(e) should fulfill the intended objective of that rule by allowing those TIR products that satisfy the generic standards to start trading, without the need for notice and comment and Commission approval. The Phlx's ability to rely on Rule 19b–4(e) potentially reduces the time frame for bringing these securities to the market or for permitting the trading of these securities pursuant to UTP, and thus enhances investors' opportunities. The Commission notes that while the proposal reduces the Exchange's regulatory burden, the Commission maintains regulatory oversight over any products listed under the generic standard through regular inspection oversight.

The Commission finds that the Phlx's proposal contains adequate rules and procedures to govern the listing and trading of TIRs pursuant to Rule 19b–4(e) on the Phlx, or pursuant to UTP. As the Commission noted in its previous review and approval of Phlx Rule 803(j), all TIR products listed under the generic standards will be subject to the full panoply of the Phlx rules and procedures that now govern both the trading of TIRs and the trading of equity securities on the Phlx, including, among others, rules and procedures governing the priority, parity and precedence of orders, responsibilities of the specialist, account opening and customer suitability requirements, and the election of a stop or limit order.[20]

The Commission further finds that: (1) By requiring that the underlying securities in a TIR are registered under section 12 of the Act and listed on a national securities exchange or Nasdaq and (2) by establishing minimum values for the number of outstanding receipts, average daily trading volume, average daily dollar volume, and public float, the Exchange's proposed listing criteria will help to ensure that a minimum level of liquidity will exist to allow for the maintenance of fair and orderly markets for those TIR products listed and traded pursuant to Rule 19b–4(e). The Commission believes that the listing criteria will help to ensure that no security underlying a TIR will be readily susceptible to manipulation, while permitting sufficient flexibility in the construction of various TIRs to meet investor's needs. The Commission further believes that these criteria should serve to ensure that the underlying securities of such TIR are well capitalized and actively traded, which will help to ensure that U.S. securities markets are not adversely affected by the listing and trading of new TIRs under Rule 19b–4(e). Accordingly, the Commission finds that this criteria is consistent with section 6(b)(5) of the Act, because they serve to prevent fraudulent or manipulative acts, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.[21]

Additionally, as the Commission noted in its previous review and approval of Phlx Rule 803(j), the Exchange's delisting criteria allows it to consider the suspension of trading and the delisting of a TIR if an event occurs that makes further dealings in such securities inadvisable. This will give the Phlx flexibility to delist TIRs if circumstances warrant. The proposal also relies on procedures to halt trading in TIRs in certain enumerated circumstances that were approved previously by the Commission.[22]

The Commission notes that, in connection with its previous review and approval of Phlx Rule 803(j), it approved the Exchange's minimum price increments, its surveillance procedures, and its disclosure and prospectus delivery requirements for TIRs.[23] In accord with these previous findings, the Commission believes that these rules, which will govern the trading of TIR products listed pursuant to Rule 19b–4(e), will provide adequate safeguards to prevent manipulative acts and practices and to protect investors and the public interest. Further, the Commission believes that the proposal will ensure that investors have information that will allow them to be adequately apprised of the terms, characteristics, and risk of trading TIRs.

Furthermore, the Phlx will file Form 19b–4(e) with the Commission within five business days of commencement of trading a TIR under the generic standards, and will comply with all Rule 19b–4(e) recordkeeping requirements.

The Commission believes that the Phlx's proposed rule governing the listing and trading of TIRs pursuant to Rule 19b–4(e) provides adequate safeguards to prevent manipulative acts and practices and to protect investors

[17] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[18] *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) (File No. S7–13–98).

[19] *See* Securities Exchange Act Release No. 43773 (December 27, 2000), 66 FR 838 (January 4, 2001) (SR–Phlx–00–31).

[1] Id.

[21] 15 U.S.C. 78f(b)(5).

[22] *See* supra note 19.

[23] Id.

and the public interest, consistent with section 6(b)(5) of the Act.[24]

Finally, the Commission believes that the Amendment No. 1 to provide an alternate eligibility criteria for component securities received as part of a distribution or as a result of a merger, consolidation, corporate combination or other event to remain in the trust should enhance competition by enabling the Phlx to better compete with other markets trading TIRs and notes that the Commission has previously approved similar listing standards modifications for the American Stock Exchange, Inc.[25]

Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[26] to approve the proposal, as amended, on an accelerated basis prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[27]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[28] that the proposed rule change, as amended, (SR–Phlx–2001–75), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24474 Filed 9–28–01; 8:45 am]

BILLING CODE 8010–01–M

[24] 15 U.S.C. 78f(b)(5).

[25] *See* Securities Exchange Act Release No. 44309 (May 16, 2001), 66 FR 28587 (May 23, 2001) (SR–Amex–2001–04).

[26] 15 U.S.C. 78f(b)(5).

[27] 15 U.S.C. 78s(b)(2).

[28] 15 U.S.C. 78s(b)(2).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44844; File No. SR–Phlx–2001–68]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. Regarding Notification of Changes in Business Operations and the Minor Rule Violation Enforcement and Reporting Plan

September 25, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on July 19, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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. On September 20, 2001, the Phlx amended the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt an Equity Floor Procedure Advice (''EFPA'') and an Options Floor Procedure Advice (''OFPA''), with fine schedules under the minor rule violation enforcement and reporting plan (''Minor Rule Plan'')[4] containing the requirements for notification established in Phlx Rule 610, ''Notification of Changes in Business Operations.'' Additionally, the Exchange proposes to amend Phlx Rule 610 to require at least ten business days prior notification of a change in business operations. The same ten business day notification requirement is proposed for the OFPA and EFPA and, therefore, establishes consistency with the proposed OFPA, EFPA and Phlx Rule 610. The text of the proposed rule change is below. Additions are in italics.

F–33 Failure to Provide Notification of Changes in Business Operations

Any member or member organization for which the Exchange is the Designated Examining Authority (''DEA''), that operates as a specialist, floor broker and/or Registered Options Trader (''ROT''), shall provide prior written notification to the Examinations Department of any change in the business operations of such member or member organization which would cause the member or member organization to be subject to additional or modified net capital requirements, examination schedules or other registration, examination or regulatory requirements.

For the purposes of this Advice, the appropriate time frame for notification is at least 10 business days prior to the change in business operations.

FINE SCHEDULE (Implemented on a three-year running calendar basis)

F–33
1st Occurrence $250.00
2nd Occurrence $500.00
3rd Occurrence $1000.00
4th and Thereafter Sanction is discretionary with Business Conduct Committee

* * * * *

Notification of Changes in Business Operations

Rule 610. Any member or member organization for which the Exchange is the Designated Examining Authority (''DEA''), that operates as a specialist, floor broker and/or Registered Options Trader (''ROT''), shall provide prior written notification to the Examinations Department of any change in the business operations of such member or member organization which would cause the member or member organization to be subject to additional or modified net capital requirements, examination schedules or other registration, examination or regulatory requirements.

For the purposes of this Rule, the appropriate time frame for notification is at least 10 business days prior to the change in business operations.

* * * * *

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 Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to provide for the issuance of fines for failure to notify the Exchange of certain changes in business operations for minor infractions without the need for formal disciplinary action.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* September 19, 2001 letter from Linda S. Christie, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, and attachments (''Amendment No. 1''). Amendment No. 1 completely replaces and supersedes the original proposal.

[4] SEC Rule 19d–1(c)(1) requires prompt reporting to the Commission of any final disciplinary action. 17 CFR 240.19d–1(c)(1). However, minor rule violations not exceeding $2,500.00 are not deemed final and therefore are not subject to the same reporting requirements. *See also* Phlx Rule 970.

The Phlx believes this should streamline the sanctioning process and make it more efficient for all parties involved.

Phlx Rule 610 requires members or member organizations for which the Exchange is the designated examining authority operating as a specialist, floor broker or Registered Options Trader (''ROT'') to provide prior written notification to the Phlx Department of Examinations (''Department'') of any change in certain of its business operations which would cause the member or member organization to be subject to certain additional or modified regulatory or financial requirements.[5] The Exchange also proposes to amend Phlx Rule 610 to require at least ten business days prior notification to a change in business operations. The requirement for ten business days prior notification is consistent with the proposal for the OFPA and EFPA.

Currently, when a violation of Phlx Rule 610 is detected, the Department sends a letter of inquiry to the member or member organization and makes a formal request that begins an examination. If a violation is found, the Department sends a recommendation to the Exchange's Business Conduct Committee (''Committee''). The Committee considers the matter and may determine to issue a statement of charges.[6] This action is reportable on a member's Form U–4 or member organization's Form BD (Uniform Application for Broker-Dealer Registration) because it is a disciplinary action. By adopting a fine schedule under the Minor Rule Plan, the Department can issue fines for minor infractions without the need for formal disciplinary action.

The Exchange believes that it is appropriate to add the requirements of Phlx Rule 610 to its Minor Rule Plan. The Exchange's Minor Rule Plan is intended to provide a response to a violation of Exchange rules when a meaningful sanction is needed, but initiation of a disciplinary proceeding pursuant to Phlx Rule 960.2 is not suitable because such a proceeding would be more costly and time consuming than would be warranted given the nature of the violation.[7] Therefore, the inclusion of the requirements of Phlx Rule 610 in the Minor Rule Plan should make the Exchange's disciplinary system more efficient. If the Exchange determines that a violation of Phlx Rule 610 is not minor in nature, the Exchange may initiate full disciplinary proceedings in accordance with Phlx Rule 960.2.

2. Statutory Basis

The Phlx believes the proposed rule change is consistent with Section 6 of the Act[8] in general, and furthers the objectives of Section 6(b)(5)[9] in particular, in that it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, and specifically with Section 6(b)(6) of the Act[10] which requires that the rules of an exchange provide that its members be disciplined appropriately for violations of an exchange's rules and the Act, by providing the Exchange the ability to impose sanctions in a more efficient manner that are proportionate to the nature of the violation.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change would impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–68 and should be submitted by October 22, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–24476 Filed 9–28–01; 8:45 am]

BILLING CODE 8010–01–M

[5] *See* Phlx Rule 610. Securities Exchange Act Release No. 43546 (November 9, 2000), 65 FR 69983 (November 21, 2000)(SR–Phlx–00–47).

[6] *See* Phlx Rule 960.3. The Committee could also determine that a less formal sanction, such as a letter of caution, is appropriate.

[7] Phlx Rule 960.2 governs the initiation of disciplinary proceedings by the Exchange for violations within the disciplinary jurisdiction of the Exchange.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(6).

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3791]

Bureau of Consular Affairs; Designation of Certain Posts for Special Fee Payment Procedures

This public notice identifies additional posts designated by the Deputy Assistant Secretary for Visa Services for two purposes related to the payment of immigrant visa fees. The first purpose relates to the revised procedure for payment of the fee for the processing of the application for an immigrant visa set forth in the **FEDERAL REGISTER** on September 8, 2000, (65 FR 54598). The effective date of that notice was stayed until January 1, 2001 by a public notice in the Federal Register of December 14, 2000, (65 FR 78243).

The second purpose is to identify the posts for which a fee pursuant to Item 61 of the Schedule of Fees for Consular Services (22 CFR 22.1) will be assessed for advance review of and assistance with the Affidavit of Support that is required in certain immigrant visa cases. Notice of this fee requirement was added to the visa regulation pertaining

to the Affidavit of Support requirement in 22 CFR 40.41(b), and was effective January 1, 2001.

The Department will publish further public notices as additional designations are made.

The Deputy Assistant Secretary for Visa Services hereby designates the Foreign Service posts in the following cities for participation in the new immigrant visa application processing fee payment system and the fee for review of and assistance with the Affidavit of Support required under section 213A of the Immigration and Nationality Act The effective date of this notice is October 1, 2001.

Abidjan, Cote D'Ivoire
Accra, Ghana
Addis Ababa, Ethiopia
Algiers, Algeria
Antananarivo, Madagascar
Cairo, Egypt
Cotonou, Benin
Casablanca, Morocco
Dakar, Senegal
Dar-es-Salaam, Tanzania
Djibouti, Djibouti
Harare, Zimbabwe
Johannesburg, South Africa
Kinshasa, Democratic Republic of the Congo
Lagos, Nigeria
Libreville, Gabon
Lilongwe, Malawi
Lome, Togo
Lusaka, Zambia
Monrovia, Liberia
Nairobi, Kenya
Niamey, Niger
Ouagadougou, Burkina Faso
Praia, Cape Verde Islands
Tunis, Tunisia
Yaounde, Cameroon

Dated: September 4, 2001.

Wayne G. Griffith,

Deputy Assistant Secretary for Visa Services, U.S. Department of State.

[FR Doc. 01–24490 Filed 9–28–01; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During Week Ending September 14, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–10601
Date Filed: September 10, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC3 0512 dated 7 September 2001
Mail Vote 144—Resolution 010o
TC3 Special Passenger Amending Resolution between Korea (Rep. of) and Japan,
Intended Effective Date: 1 October 2001

Docket Number: OST–2001–10602
Date Filed: September 10, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC1 0197 dated 21 August 2001
TC1 Longhaul between USA and Chile Resolutions r1–r15
MINUTES—PTC1 0199 dated 31 August 2001
TABLES—PTC1 Fares 0066 dated 24 August 200
Intended Effective Date: 1 January 2002

Docket Number: OST–2001–10618
Date Filed: September 11, 2001
Parties: Members of the International Air Transport Association
Subject:
PTC1 0194 dated 21 August 2001
TC1 Caribbean Resolutions r1–r12
PTC1 0196 dated 21 August 2001
TC1 Within South America Resolutions r13–r25
MINUTES—PTC1 0198 dated 31 August 2001
TABLES—PTC1 Fares 0063 dated 21 August 2001
TC1 Caribbean Specified Fares Tables,
PTC1 Fares 0064 dated 21 August 2001
TC1 Within South America Specified Fares Tables
Intended effective date: 1 January 2002

Docket Number: OST–2001–10631
Date Filed: September 13, 2001
Parties: Members of the International Air Transport Association
Subject:
Mail Vote 139
PTC12 CAN–EUR 0075 dated 7 September 2001
TC12 North Atlantic Canada-Europe Passenger Agreement r1–r26
MINUTES—PTC12 CAN–EUR 0073 dated 24 July 2001
TABLES—PTC12 CAN–EUR Fares 0025 dated 7 September 2001
Intended effective date: 1 November 2001

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–24477 Filed 9–28–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Federal Advisory Committee Act; Rapid Response Teams on Airport Security and Aircraft Security

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Transportation's Rapid Response Teams on Airport Security and Aircraft Security will meet on an as-needed basis throughout the rest of September 2001. The purpose of the meetings is to review and evaluate means for improving the security of airports and aircraft against unlawful interference in light of the terrorist incidents of September 11, 2001. All meetings will be closed to the public because matters related to aviation security will be discussed. The bases for closing the meetings are section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c)(3) and (4).

FURTHER INFORMATION: Questions regarding these meetings should be directed to David Tochen, Deputy Assistant General Counsel, Committee Management Officer, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590, phone number (202) 366–9161.

Issued on September 21, 2001.

Rosalind A. Knapp,

Acting General Counsel.

[FR Doc. 01–24479 Filed 9–28–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Agency Information Collection Activities Under OMB Review: OMB Control No. 2126–NEW (Graduated Commercial Driver's License (CDL) Survey)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; request for comments.

SUMMARY: The FMCSA announces that the Information Collection Request (ICR) described in this notice is being sent to the Office of Management and Budget (OMB) for review and approval. The FMCSA is requesting OMB's approval for a new information collection as described below. The Federal Highway Administration (FHWA) published a **Federal Register** notice offering a 60-day comment period on this information

collection on July 19, 1999 (64 FR 38699). At that time, the Office of Motor Carrier Safety was a part of the Federal Highway Administration (FHWA). Rulemaking, enforcement, and other activities of that former office are now being continued by the FMCSA. The comments that were received are addressed below. We are required to send ICRs to OMB under the Paperwork Reduction Act.

DATES: Please submit comments by October 31, 2001.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, *Attention:* DOT Desk Officer. We particularly request your comments on whether the collection of information is necessary for the FMCSA to meet its goal of reducing truck crashes, including whether the information is useful to this goal; the accuracy of the estimate of the burden of the information collection; ways to enhance the quality, utility and clarity of the information collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. OMB wants to receive comments within 30 days of publication of this notice in order to act on the ICR quickly.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond (202) 366–9579, Office of Safety Programs, State Programs Division (MC–ESS), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Graduated Commercial Driver's License (CDL) Survey.

Background: The House Conference on the FY 1996 Department of Transportation and Related Agencies Appropriation Act (Public Law 104–50, H. Rep. 104–286) directed the FHWA to contract with the Transportation Research Institute (TRI) of the American Trucking Associations Foundation, Inc. to perform applied research to address a number of highway safety issues, such as: driver fatigue and alertness; the application of emerging technologies to ensure safety, productivity and regulatory compliance; and commercial driving licensing, training and education. The amount allocated was to be not less than $4 million. A survey of industry opinion pertaining to a graduated CDL is one of these projects under the congressionally mandated cooperative agreement with the TRI.

Section 4019 of the Transportation Equity Act for the 21st Century (Public Law 105–178) directed the Secretary of Transportation to identify the benefits and costs of a graduated CDL system as part of a review of the current CDL testing procedures and to identify methods to improve the testing and licensing standards. The trucking industry alone projects a need for 300,000 new and replacement drivers every year until the turn of the century. In addition to those newly entering the truck-driving field, others are constantly transitioning from one type of commercial motor vehicle operation to another. For example, moving from straight trucks to combinations, from tractor-semis to doubles or even triples, from hauling general commodities to motor vehicles or even hazardous materials, moving from school buses to transit buses or motor coaches, or moving back and forth between various trucks and buses.

A graduated or provisional CDL program might go beyond today's CDL requirements to provide for safer introduction of new drivers into the industry and assure the measured progression of drivers, by proper training and supervision, into more complex driving jobs.

Before considering the recommendation and development of a provisional CDL program, it is necessary to better identify the need for and quantify the potential benefits and costs of such a program. TRI, in cooperation with representatives of all segments of the truck and bus industries, will survey representatives of the motor carrier (truck and bus) industry, drivers, driver training schools, insurance companies, and driver licensing and law enforcement agencies, using approximately 15 short response questions with the ability to add narrative comments, about the need for, benefits of, potential acceptance of, institutional barriers to and practicality of a graduated commercial driver licensing system and the likely improvements in highway safety, employment opportunities and transportation efficiency. The questions for the written survey will be based on information gathered during previously conducted focus group sessions and will include the importance of certain elements in a graduated driver licensing program such as training, driving record, driving experience, age, testing and restrictions.

Over the past two years the survey questionnaire was drafted and received extensive review and comments by FMCSA staff and the Technical Review Committee that are working on this study. This review/comments/revision process was conducted several times until a questionnaire was developed that would accomplish the data collection goals of this study.

The study data will be compiled and statistically evaluated. The results of the evaluation and conclusions will be presented in a final report that will address the potential benefits, costs and feasibility of implementing a graduated or provisional CDL program. The results will be used by the FHWA in evaluating the potential for pilot testing the graduated CDL concept and developing a rulemaking based on the results of the pilot study.

Comments Received: The comments that were received in response to the July 19, 1999, **Federal Register** notice are addressed as follows:

Margaret O'Donnell: This comment was a request to participate in the survey and was not pertinent to the issue of whether or not there was a need to conduct the survey. *Georgia Motor Trucking Association:* This comment was in favor of conducting the survey as a way to gauge industry interest in and potential acceptance of a Graduated CDL.

Bill Wetherald: This comment asked what the minimum age for a CDL would be under the Graduated CDL scenario and expressed concern over younger drivers. It did not specifically address the need for a survey.

Association of Publicly Funded Truck Driving Schools: This comment addressed the Association's stand on younger drivers and was not pertinent to the issue of whether or not a survey was needed.

Advocates for Highway and Auto Safety: The Advocates object to this information collection for the following reasons: 1) Because the survey is being administered by TRI; 2) because they feel FMCSA has prejudiced the outcome by mentioning a lower age limit for a CDL in the **Federal Register** Notice; and, 3) because they believe highway safety groups should be included in the survey population. Each of these concerns will be addressed individually.

The Advocates claim that FMCSA was not legislatively directed to award the graduated CDL study to TRI. In fact, FMCSA was Congressionally directed during FY' 96 to contract with TRI to perform applied research for an amount not less than $4 million to address safety issues of concern such as driver fatigue and alertness; the application of emerging technologies to ensure safety; productivity and regulatory compliance; licensing; and commercial driver

training and education. The Graduated CDL survey fulfills part of this mandate.

The Advocates claim that FMCSA has prejudiced the outcome of the survey by mentioning lowering the age for a commercial drivers license in the **Federal Register** notice. The survey was designed to eliminate any bias as to the age when drivers should be granted a commercial drivers license. The survey asks two questions about age; one being the minimum age at which an applicant should be eligible to receive a graduated CDL and the second being the minimum age at which the holder of a graduated CDL should be eligible to graduate to an unrestricted CDL. Respondents are asked to fill in a blank with the age for both questions. The survey design has been carefully reviewed by the FMCSA Contracting Officer's Technical Representative (COTR) and the Technical Review Committee (TRC) for the study to ensure that there are no conflicts of interest concerning any of the survey questions, including those about age. Both the COTR and the TRC will be closely involved in the data analysis and final report to further insure no conflict of interest regarding any of the factors involved in a Graduated CDL.

Lastly, the Advocates object to the fact that no public safety groups are included in the survey population. In fact, Advocates is one of five public safety groups that are to be included in the survey population.

E. Robert Barr: This comment addresses implementation of a Graduated CDL with regards to younger drivers and their training. It does not specifically address the need to conduct the survey and therefore is not pertinent to this submittal.

Driver Training & Development Alliance: This comment is in support of conducting a survey on the concept of a Graduated CDL as a first step in the process of determining the viability of such a system.

Tri-Bell Industries: This comment is in favor of a Graduated CDL program for reasons of supplying the industry with better-trained drivers. However, it does not specifically address whether or not a survey should be conducted, and therefore is not pertinent to this information collection.

International Brotherhood of Teamsters: The IBT objects to the conduct of the survey because they have not been given the opportunity to review the survey instrument or survey plan. The intent of this first notice was simply to ask whether or not an information collection should take place. Once a survey package is submitted to OMB, notice will be published giving IBT an opportunity to comment on the survey plan and instrument.

American Automobile Association: This comment supports conduct of the Graduated CDL survey as a ''first step in exploring the benefits of a graduated CDL system as a highway safety measure.''

Insurance Institute For Highway Safety: This comment requests that additional parties be added to the survey population—namely nonprofit safety groups and knowledgeable university researchers. The survey plan for the Graduated CDL survey does in fact include the following highway safety groups in its survey population: AAA; Insurance Institute for Highway Safety; National Safety Council; Advocates for Highway and Auto Safety; and Citizens for Reliable and Safe Highways. This survey is intended to gauge the need for, and potential acceptance of, a Graduated CDL by the motor carrier industry. The survey population has been expanded to include those who would be directly affected by a Graduated CDL—law enforcement, licensing agencies, driver training schools, insurance companies and associations representing highway safety concerns. However, since the intent of the survey is expressly stated for the motor carrier industry and safety-related groups, we do not believe, as the Insurance Institute does, that ''knowledgeable university researchers'' should also be included in the survey population.

At such time as the FMCSA determines that designing a pilot test of a Graduated CDL scenario is needed, such notice will be appropriate for university researchers to comment on the design of that study.

California Department of Motor Vehicles: This comment supports a survey to ''determine the need and feasibility of a graduated commercial driver license (CDL).''

Respondents: The respondents to the planned survey will include approximately 2,000 selected representatives of the motor carrier (truck and bus) industry, drivers, driver training schools, insurance companies, and driver licensing and law enforcement agencies.

Average Burden Per Response: The estimated average burden per response is 15 minutes. This includes the time needed for reading the survey instructions, searching existing data sources, completing the survey instrument and returning the information by mail or transmission by facsimile.

Estimated Total Annual Burden: The estimated total annual burden is 500 hours.

Frequency: The survey will be conducted once.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Issued on: September 25, 2001.

Stephen E. Barber,

Associate Administrator for Enforcement and Program Delivery.

[FR Doc. 01–24433 Filed 9–28–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for a Waiver of Compliance

In accordance with Title 49, Code of Federal Regulations (CFR), Sections 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of Federal railroad safety regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Michigan State Trust for Railway Preservation, Inc.

[Docket Number FRA–2001–10379]

Michigan State Trust for Railway Preservation, Inc. (''MSTP'') and the Institute for Steam Railroading, in conjunction with the Tuscola and Saginaw Bay Railway (TSBY) seek a waiver of compliance from Title 49, part 240 of the Code of Federal Regulations (49 CFR part 240)—Qualification and Certification of Locomotive Engineers. Specifically, MSTP requests relief from that part of the regulation (49 CFR 240.201(d)) which provides that only certified persons may operate locomotives and trains. MSTP plans to offer noncertified persons the opportunity to operate a locomotive when participating in its ''engineer-for-an-hour'' program. The waiver would only apply to persons participating in the program.

The MSTP is a nonprofit educational corporation. It owns and operates in 1941 Lima-built steam locomotive. The locomotive, ex-Pere Marquette No. 1225, has operated approximately 5200 miles since 1988 over the general railroad system of transportation. The MSTP is located at the steam locomotive restoration facility (Institute for Steam Railroading) in Owosso, Michigan. The

MSTP gains access to TSBY trackage at this location. It does not own or control any trackage with the exception of two lead tracks extending from siding tracks, each approximately 130 feet in length. These tracks are leased from the TSBY. The MSTP plans to conduct this program in either of two locations. The first is the San Yard, between Mile Post (MP) 105.2, on the TSBY track at the point where it meets the Central Michigan Railroad west of Legion Road, to MP 106.1, south of the highway/railroad grade crossing at Gould and Corunna Road. The second location is at the Henderson, Michigan Grain Elevator, on the St. Charles Branch of the TSBY between MP 70.2 and MP 69.2, north of the highway/railroad grade crossing at Riley Road. The proposed dates of operation will be three consecutive weekends between the months of June and September.

MSTP's argument for granting this waiver is twofold. First, ''to accomplish a part of our mission statement, i.e., to operate the locomotive in an effort to educate the public as to what steam power looked, sounded, smelled, and felt like by providing a hands-on approach.'' Second, ''to generate needed interest and revenue so that we may continue to educate the public about steam locomotive technology, in an effort that the next generation will keep the knowledge, and the 1225, alive into the future.''

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket No. FRA–2001–10379) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours at the above facility. All written communications are also accessible on the Internet at *http://dms.dot.gov.*

Issued in Washington, D.C. on September 21, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 01–24478 Filed 9–28–01; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34079]

San Jacinto Rail Limited—Construction Exemption—and The Burlington Northern and Santa Fe Railway Company—Operation Exemption—Build-Out to the Bayport Loop Near Houston, Harris County, Texas

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: On August 30, 2001, the San Jacinto Rail Limited (San Jacinto) and The Burlington Northern and Santa Fe Railway (BNSF) filed a petition with the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority for construction by San Jacinto and operation by BNSF of a new rail line near Houston, Harris County, Texas. The project would involve approximately 12.8 miles of new rail line. Because the construction and operation of this project has the potential to result in significant environmental impacts, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. The purpose of this Notice of Intent is to notify individuals and agencies interested in or affected by the proposed project of the decision to require an EIS. SEA will hold public scoping meetings as part of the EIS process. Meeting dates and locations will be announced at a later date.

SUPPLEMENTARY INFORMATION:

Background

The proposed project, known as the Bayport Loop Build-Out includes approximately 12.8 miles of new rail line connecting plastics and chemical production facilities located in the Bayport Industrial District in southeast Houston, Texas, with the former Galveston, Henderson and Houston Railroad (GH&H) line, now owned by the Union Pacific Railroad Company (UP), near the southeast corner of Ellington Field at Texas State Highway 3. As a result of the new construction, BNSF would have access to the facilities located in the Bayport Loop using the new line, and the facilities would be provided with a choice of rail providers in the area. The EIS will analyze the potential impacts of the proposed route, the ''no-build'' alternative, and possible alternative routes.

Environmental Review Process

The National Environmental Policy Act (NEPA) process is intended to assist the Board and the public in identifying and assessing the potential environmental consequences of a proposed action before a decision on the proposed action is made. SEA is responsible for ensuring that the Board complies with NEPA and related environmental statutes. The first stage of the EIS process is scoping. Scoping is an open process for determining the scope of environmental issues to be addressed in the EIS. SEA will soon develop and make available a draft scope of study for the EIS and provide a period for the submission of written comments on it. Concurrently, scoping meetings will be held to provide further opportunities for public involvement and input into the scoping process. The dates and locations for the scoping meetings will be announced at a later date. Following the issuance of a draft scope and the comment period, SEA will issue a final scope of study for the EIS.

After issuing the final scope of study, SEA will prepare a Draft EIS (DEIS) for the project. The DEIS will address those environmental issues and concerns identified during the scoping process. It will also contain SEA's preliminary recommendations for environmental mitigation measures. The DEIS will be made available upon its completion for public and agency review and comment. SEA will prepare a Final EIS (FEIS) that considers comments on the DEIS from the public and agencies. In reaching its decision in this case, the Board will take into account the DEIS, the FEIS, and all environmental comments that are received.

FOR FURTHER INFORMATION CONTACT: Dana G. White, Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW, Washington, DC 20412–0001, or call SEA's toll-free number for this project at 1–888–229–7857 (TDD for the hearing impaired 1–800–877–8339). The website for the Surface Transportation Board is *www.stb.dot.gov.*

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 01–24398 Filed 9–28–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106388–98]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG–106388–98, Education Tax Credits.

DATES: Written comments should be received on or before November 30, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Education Tax Credits.

OMB Number: 1545–1630.

Regulation Project Number: REG–106388–98.

Abstract: Internal Revenue Code section 25A allows individual taxpayers to claim a tax credit for certain educational expenses. This regulation provides that a taxpayer must elect to claim these education credits by attaching Form 8863, Education Credits (Hope and Lifetime Learning Credits) to the taxpayer's return for the year in which the credit is claimed.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

The estimated burden for the collection of information in this regulation is reflected in the burden of Form 8863.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 24, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–24438 Filed 9–28–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0043]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to confirm marital status and dependency of children.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–0043'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Title: Declaration of Status of Dependents, VA Form 21–686c.

OMB Control Number: 2900–0043.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to obtain information to confirm marital status and existence of any dependent child(ren). The information is used by VA to determine eligibility to benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 56,500 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 226,000.

Dated: September 19, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–24499 Filed 9–28–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0215]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine the address of a child attaining the age of majority and to determine the child's status for benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0215'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Title: Request for Information to Make Direct Payment to Child Reaching Majority, VA Form Letter 21–863.

OMB Control Number: 2900–0215.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 21–863 is used by VA adjudicators to determine the address of a child attaining the age of majority and to determine the child's status. Title 38, CFR 3.403 provides direct payment to a child, if competent, from the date the child reaches the age of majority. Title 38, CFR 3.667 provides that a child may be paid from a child's 18th birthday based upon school attendance. This form letter solicits information needed to determine eligibility to benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,767 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 22,600.

Dated: September 19, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–24500 Filed 9–28–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0168]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to audit accountings of fiduciaries.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 30, 2001.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: irmnkess@vba.va.gov. Please refer to ''OMB Control No. 2900–0168'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Title: Request for Estate Information, VA Form Letter 21–439.

OMB Control Number: 2900–0168.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used in VA's Fiduciary and Field Examination Program, which is responsible for carrying out a Congressional mandate that VA maintains supervision of the distribution and use of VA benefits paid to a fiduciary on behalf of a beneficiary who is incompetent, a minor or under legal disability. Title 38, U.S.C., Section 5503(b)(1)(A), requires discontinuance of benefits when an estate reaches a specific limit and other conditions exist. The information collected is used to determine whether an estate exceeds the limit and discontinuance is warranted.

Affected Public: Individuals or households, Business or other for-profit and Not-for-profit institutions.

Estimated Annual Burden: 2,300 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 13,800.

Dated: September 19, 2001.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–24501 Filed 9–28–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0138]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before October 31, 2001.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0138.''

SUPPLEMENTARY INFORMATION: *Title:* Request for Details of Expenses, VA Form 21–8049.

OMB Control Number: 2900–0138.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8049 is used to gather information to determine the amounts of any deductible expenses paid by the claimant and/or commercial life insurance received to adjust the annual income which determines the payable rate of pension.

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 **Federal Register** document with a 60-day comment period soliciting comments on this collection of information was published on July 6, 2001, at pages 35698–35699.

Affected Public: Individuals or households.

Estimated Annual Burden: 5,700 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 22,800.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Pleas refer to ''OMB Control No. 2900–0138'' in any correspondence.

Dated: September 19, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–24497 Filed 9–28–01; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,
October 1, 2001

Part II

Department of Housing and Urban Development

24 CFR Part 985
Revisions to SEMAP Lease-Up Indicator; Interim Rule

Tenant-Based Section 8 Program, Procedures; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 985

[Docket No. FR–4604–I–01]

RIN 2577–AC21

Revisions to SEMAP Lease-Up Indicator

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule revises the way HUD measures and verifies performance under the lease-up indicator for the Section 8 Management Assessment Program (SEMAP). Specifically, the interim rule revises the lease-up standard to measure the number of units leased against the number of units reserved and under Annual Contributions Contract (ACC), instead of against the number of units budgeted. This revised standard is consistent with established HUD policy on voucher renewals and unit allocations as formulated during negotiated rulemaking pursuant to the Quality Housing and Work Responsibility Act of 1998. In addition, this interim rule also revises the SEMAP regulations to provide for automated signature of the required SEMAP certification.

DATES: *Effective Date:* October 31, 2001. *Comments Due Date:* November 30, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this interim rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, 451 Seventh Street, SW, Room 4210, Washington, DC 20410; telephone: (202) 708–0477 (this is not a toll-free number). Persons with hearing or speech-impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. The Section 8 Management Assessment Program (SEMAP)

HUD's regulations at 24 CFR part 985 describe the policies and procedures governing the Section 8 Management Assessment Program (SEMAP). SEMAP provides for objective measurement of the performance of a public housing agency (PHA) in key areas of the Section 8 tenant-based assistance program. SEMAP enables HUD to ensure program integrity and accountability by identifying PHA management capabilities and deficiencies and by improving risk assessment to effectively target monitoring and program assistance. PHAs can use the SEMAP performance analysis to assess their own program operations.

B. Revisions to the SEMAP "Lease-Up" Indicator

Under the current SEMAP regulation at § 985.3(n), HUD determines the percent of units leased during the last completed PHA fiscal year by: (1) taking the unit months under Housing Assistance Payments (HAP) contract as shown on the PHA's latest approved year-end operating statement divided by 12; and (2) dividing by the number of units budgeted as shown on the PHA's approved budget for the same PHA fiscal year. On October 21, 1999 (64 FR 56894), HUD published its final rule implementing the statutory merger of the Section 8 tenant-based certificate and voucher programs into a new Housing Choice Voucher program. (The regulations for the new merged voucher program are located in 24 CFR part 982.) Due to the replacement of certificate funding with voucher funding, HUD has found that its data for the number of units budgeted, as shown on the PHA's approved certificate and voucher budgets for the last completed PHA fiscal year, often do not accurately reflect the number of units a PHA reasonably could have expected to lease during the fiscal year, and so are an inaccurate denominator for properly determining the lease-up rate. The number of budgeted units has been found to be unreliable for determining lease-up principally because HUD did not require that PHAs revise their certificate budgets downward late in the PHA fiscal year when certificate funding was replaced with voucher funding. Consequently, recent certificate program budgets may overstate the number of units PHAs actually expected to lease.

Due to changes in the method of funding the Section 8 tenant-based program in 1999 (in particular the replacement of certificate funding increments with voucher funding), and the resulting changes in procedures concerning PHA certificate and voucher budgets, the current SEMAP lease-up standard and HUD's verification method for lease-up is no longer workable. Accordingly, HUD is issuing this interim rule, which revises the way HUD measures and verifies performance under the SEMAP lease-up indicator.

This interim rule provides that a PHA's performance under the SEMAP indicator will be measured by: (1) taking the unit months under HAP contract, as shown on the PHA's last year-end operating statement recorded in HUDCAPS (the HUD accounting system); and (2) dividing by the number of unit months available for leasing, based on the number of reserved units for which HUD has obligated funding under Annual Contributions Contract (ACC), and adjusted to exclude funding increments obligated during the last PHA fiscal year and not available for leasing for the entire PHA fiscal year and any units for litigation. In the event a PHA has not leased the percent of units needed to attain the points specified for the SEMAP lease-up rating due to escalating housing assistance payments and insufficient allocated budget authority to support that percent of lease-up, HUD will consider, alternatively, whether the PHA has expended that percent of allocated budget authority.

The method of verification of lease-up described in this interim rule is consistent with the policy established in HUD's October 21, 1999 (64 FR 56882) final rule for the renewal of expiring ACCs in the tenant-based Section 8 programs, and in HUD's April 19, 2000 (65 FR 21088) **Federal Register** notice on unit allocations, which requires that PHAs assist the number of families that equals the number of units under ACC with the PHA. Elsewhere in today's **Federal Register**, HUD is also publishing an amendment to the April 19, 2000 notice, to ensure a single consistent standard for lease-up of voucher assistance.

C. Signature of SEMAP Certification

This interim rule also amends § 985.101(a)(1) to remove the requirement that the SEMAP certification must be signed by the board of commissioners chairperson or by the chief executive officer of the unit of government. HUD is presently automating the SEMAP certification form for submission by PHAs via the Internet. As a result, it has become impractical to require the signatures of

the board chairperson and chief executive officer of the unit of government. Automated signature authorization by the PHA executive director or, where the PHA is a unit of local government or a state, by the Section 8 program director, is sufficient.

II. Justification for Interim Rulemaking

It is HUD's policy to publish rules for public comment before their issuance for effect, in accordance with its own regulations on rulemaking found at 24 CFR part 10. Part 10 provides, however, that prior public procedure will be omitted if HUD determines that it is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.0). HUD finds that in this case prior comment is unnecessary.

This interim rule amends § 985.3(n) only to make a technical change to the SEMAP lease-up standard and the way HUD will verify a PHA's performance under the SEMAP lease-up indicator. The change corrects a method that has become unworkable due to changes in program policy, procedure and data quality. Further, the new lease-up standard and verification method described in this interim rule conforms to established program policy for Section 8 tenant-based program fund and unit utilization, which were developed with extensive public participation using negotiated rulemaking procedures. Promulgation of this interim rule will ensure a single consistent standard for lease-up of voucher assistance.

Although HUD has determined that it is unnecessary for HUD to solicit public comment before issuing this rule for effect, HUD is issuing these amendments on an interim basis and invites public comment on the interim rule. All public comments will be considered in the development of the final rule.

III. Findings and Certifications

Environmental Impact

This interim rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, in accordance with 24 CFR 50.19(c)(1) of the Department's regulations, this interim rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this interim rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

(1) *A Substantial Number of Small Entities Will Not be Affected.* The interim rule is exclusively concerned with public housing agencies that administer assistance under section 8 of the United States Housing Act of 1937. Specifically, the interim rule revises the way HUD measures and verifies PHA performance under the lease-up indicator for the Section 8 Management Assessment Program (SEMAP). Under the definition of ''Small governmental jurisdiction'' in section 601(5) of the RFA, the provisions of the RFA are applicable only to those few public housing agencies that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial

(2) *No Significant Economic Impact.* The interim regulatory amendments will not change the amount of funding available under the Section 8 voucher program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This interim rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This interim rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Program numbers assigned to the Section 8 Management Assessment Program are 14.855 and 14.857.

List of Subjects in 24 CFR Part 985

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons described in the preamble, HUD amends 24 CFR part 985 as follows:

PART 985—SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

1. The authority citation for part 985 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f, and 3535(d).

2. Revise § 985.3(n) to read as follows:

§ 985.3 Indicators, HUD verification methods and ratings.

* * * * *

(n) *Lease-up.* (1) This indicator shows whether the PHA enters HAP contracts for the number of units reserved under ACC for at least one year.

(2) *HUD verification method:* (i) Percent of units leased during the last completed PHA fiscal year as determined by taking unit months under HAP contract as shown on the PHA's last year-end operating statement recorded in the HUD accounting system, and dividing by the number of unit months available for leasing, based on the number of reserved units for which

HUD has obligated funding under ACC and adjusted to exclude units associated with funding increments obligated during the last PHA fiscal year and units obligated for litigation.

(ii) In the event a PHA has not leased the percent of units needed to attain the points specified under paragraph (n)(3) of this section due to escalating housing assistance payments and insufficient allocated budget authority to support that percent of lease-up, HUD will consider alternatively, whether the PHA has expended that percent of allocated budget authority.

(3) *Rating:* (i) The percent of units leased during the last PHA fiscal year was 98 percent or more, or the percent of allocated budget authority expended during the last PHA fiscal year was 98 percent or more. 20 points.

(ii) The percent of units leased during the last PHA fiscal year was 95 to 97 percent, or the percent of allocated budget authority expended during the last PHA fiscal year was 95 to 97 percent. 15 points.

(iii) The percent of units leased during the last PHA fiscal year was less than 95 percent, and the percent of allocated budget authority expended during the last PHA fiscal year was less than 95 percent. 0 points.

3. Revise 985.101(a)(1) to read as follows:

§ 985.101 SEMAP certification.

(a) * * *

(1) The certification must be approved by PHA board resolution and signed by the PHA executive director. If the PHA is a unit of local government or a state, a resolution approving the certification is not required, and the certification must be executed by the Section 8 program director.

* * * * *

Dated: August 28, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–24434 Filed 9–28–01; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4459–N–09]

Tenant-Based Section 8 Program: Procedures for Determining Baseline Unit Allocations, Verifying Unit Allocations, Accessing, Using, Restoration of and Recapture of Program Reserves and Transfers of Baseline Unit Allocations; Amendment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On October 21, 1999, HUD published its final rule specifying the method HUD will use in allocating housing assistance available to renew expiring contracts with public housing agencies (PHAs) for Section 8 tenant-based housing assistance. As required by statute, the final rule was developed using negotiated rulemaking procedures. On April 19, 2000, HUD published a **Federal Register** notice, also developed during the negotiated rulemaking process, which provides guidance on several topics relating to the October 21, 1999 final rule, including the procedures for verifying unit allocations; the accessing, using, restoration of and recapture of program reserves in the Annual Contributions Contract (ACC) Reserve Account; and the transfer of baseline unit allocations. This notice amends the procedures described in the April 19, 2000 notice regarding the annual year-end assessment of a PHA's leasing rate and use of budget authority to determine whether HUD should transfer unexpended budget authority to other PHAs.

FOR FURTHER INFORMATION CONTACT: Robert Dalzell, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4204, Washington, DC 20410; telephone (202) 708–1380. (This is not a toll-free number.) Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On October 21, 1999 (64 FR 56882), HUD published its final rule specifying the method HUD will use in allocating housing assistance available to renew expiring contracts with public housing agencies (PHAs) for Section 8 tenant-based housing assistance. As required by statute, the final rule was developed using negotiated rulemaking procedures. On April 19, 2000 (65 FR 21088), HUD published a **Federal Register** notice, also developed during the negotiated rulemaking process. The April 19, 2000 notice provides guidance on several topics relating to the October 21, 1999 final rule, including the procedures for verifying unit allocations; the accessing, using, restoration of and recapture of program reserves in the Annual Contributions Contract (ACC) Reserve Account; and the transfer of baseline unit allocations.

The voucher utilization standard established by the April 19, 2000 notice provides that PHAs should assist a number of families equalling the number of units under ACC. The April 19, 2000 notice provides that annually, at the time of processing the PHA's year-end statement, HUD will assess each PHA's leasing rate and use of budget authority. Under the April 19, 2000 notice, the assessment excludes units for litigation and for on-schedule public housing relocation and replacement. The assessment also excludes units awarded to a PHA for which the ACC effective date is less than 8 months prior to the end of the PHA's fiscal year.

II. This Amendment

This notice amends the procedures described in the April 19, 2000 notice regarding the annual year end assessment of a PHA's leasing rate and use of budget authority to determine whether HUD should transfer unexpended budget authority to other PHAs. HUD has determined that the revision is necessary for purposes of administrative ease. So that HUD will not have to individually consider a PHA's progress in implementing its public housing demolition and disposition schedule when measuring voucher utilization, HUD has determined to keep the number of relocation and replacement vouchers in the number of units under ACC when determining the leasing rate. This means a PHA is expected to use those vouchers during the ACC term in the PHA fiscal year. If a PHA has not used vouchers obligated for public housing relocation and replacement because, under demolition or disposition plans, the vouchers are not needed until a future date, the PHA should ask its HUD financial analyst to revise the ACC effective date for those vouchers to an appropriate date in the future. Alternatively, the PHA may be able to use the relocation/replacement vouchers on an interim basis, in accordance with HUD procedures for interim use, provided the PHA can ensure that turnover vouchers will be available when needed for the required relocation and replacement. It is the PHA's responsibility to either use the relocation/replacement vouchers or to request a change in the ACC effective date for those vouchers.

Under the April 19, 2000 notice, the year end assessment of the leasing rate excludes units awarded to a PHA for which the ACC effective date is less than 8 months prior to the end of the PHA's fiscal year. This amendment changes that provision to exclude units awarded to a PHA for which the ACC effective date is during the last PHA fiscal year. This change makes the assessment simpler, easier to understand and easier to program in a computer system.

III. Conforming Amendment to SEMAP Regulations

Elsewhere in today's **Federal Register**, HUD is publishing an amendment to its Section 8 Management Assessment Program (SEMAP) regulations at 24 CFR part 985. The amendment revises the SEMAP lease-up indicator to conform to the policy established in the October 21, 1999 final rule on renewal of expiring ACCs and in the April 19, 2000 notice on unit allocations, and ensures a single consistent standard for lease-up of voucher assistance.

Accordingly, in the notice entitled ''Tenant-Based Section 8 Program: Procedures for Determining Baseline Unit Allocations, Accessing, Using, Restoration of and Recapture of Program Reserves and Transfers of Baseline Unit Allocations,'' 00–9733, beginning at 65 FR 21088, in the issue of Wednesday, April 19, 2000, the following amendment is made:

1. On page 21091, beginning in the second column, section VI.B. is revised to read as follows:

IV. Reduction of Adjusted Baseline Number of Units and Budget Authority

* * * * *

B. In performing the assessment, HUD will exclude units (and their associated budget authority) awarded to the PHA for litigation purposes and for any funding increments whose effective date is during the fiscal year for which HUD is processing the year end statement.

* * * * *

Dated: August 28, 2001.

Mel Martinez,

Secretary.

[FR Doc. 01–24435 Filed 9–28–01; 8:45 am]

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October 1, 2001

Part III

Department of Labor

Office of Labor-Management Standards

29 CFR Part 470

Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees; Proposed Rule

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 470

RIN 1215–AB33

Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Labor.

ACTION: Notice of proposed rule-making; request for comments.

SUMMARY: This Notice of Proposed Rule-Making (NPRM) proposes a regulation to implement Executive Order 13201, which was signed by President George W. Bush on February 17, 2001. Executive Order 13201 (''the Executive Order,'' ''the Order,'' or ''EO 13201'') requires non-exempt Government contractors and subcontractors to post notices informing their employees that under Federal law, those employees have certain rights related to union membership and use of union dues and fees. The Order also provides the text of contractual provisions that Federal Government contracting departments and agencies must include in every Government contract, except for collective bargaining agreements and contracts for purchases under the Simplified Acquisition Threshold. These provisions include the language of the required notices, and explain the sanctions, penalties, and remedies that may be imposed if the contractor or subcontractor fails to comply with its obligations under the Order. Covered Government contractors and subcontractors must include these same provisions in their nonexempt subcontracts and purchase orders, so that the provisions will be binding upon each subcontractor or vendor.

The Proposed Rule would provide the text of the required contractual provisions, explain exemptions, and set forth procedures for ensuring compliance with the Order; it also would contain other related requirements. This NPRM invites comments on the Proposed Rule.

DATES: Comment Period: Comments must be received on or before November 30, 2001.

ADDRESSES: Comments should be sent to Don Todd, Deputy Assistant Secretary for Labor-Management Programs, Office of Labor-Management-Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–5605, Washington, DC 20210.

As a convenience to commenters, comments transmitted by facsimile (FAX) machine will be accepted. The telephone number of the FAX receiver is (202) 693–1340. To assure access to the FAX equipment, only comments of five or fewer pages will be accepted via FAX transmittal. Receipt of submissions, whether by U.S. mail or FAX transmittal, will not be acknowledged.

Comments will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Don Todd, Deputy Assistant Secretary for Labor-Management Programs, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–2321, Washington, DC 20210, (202) 693–0200 (this is not a toll-free number). Individuals with hearing impairments may call 1–800–877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The preamble to the Proposed Rule is organized as follows:

I. Background—provides a brief description of the development of the Proposed Rule.

II. Authority—cites the legal authority supporting the Proposed Rule, Departmental redelegation authority, and interagency coordination authority.

III. Overview of the Rule—summarizes pertinent aspects of the regulatory text, and describes the purposes and application of that text.

IV. Regulatory Procedure—sets forth the applicable regulatory requirements and requests comments on specific issues.

I. Background

Executive Order 13201 (66 FR 11221, February 22, 2001) is designed to promote economy and efficiency in Government procurement by requiring Government contractors to inform their workers that Federal labor laws give those workers certain rights related to union membership and use of union dues and fees. The Order provides the text of a contract clause that Government contracting departments and agencies must include in all nonexempt Government contracts and subcontracts. That clause requires contractors to post a notice, the exact language of which is included in the clause. The clause also requires contractors to include the same clause in their nonexempt subcontracts and purchase orders, and describes generally the sanctions, penalties, and remedies that may be imposed if the contractor fails to satisfy its obligations under the Order and the clause.

The text of the notice informs employees that they cannot be required to join, or maintain membership in, a union in order to keep their jobs; that under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay dues and fees to the union; and that, even where such union-security agreements exist, employees who are not union members can only be required to pay their share of union costs relating to certain specific activities. The notice also provides a general description of the remedies to which employees may be entitled if these rights have been violated, and provides contact information for further information about those rights and remedies.

The Order contains requirements similar, but not identical, to those included in Executive Order 12800, issued on April 13, 1992, by former President George H. W. Bush. *See* 57 FR 12985 (April 14, 1992); 57 FR 13413 (April 16, 1992). That earlier Order, in turn, was intended to inform employees of their rights under the decisions of the United States Supreme Court in *Communications Workers of America* v. *Beck,* 487 U.S. 735 (1988), and related cases. In *Beck,* the Court held that a union may not use fees and dues that it collects from bargaining unit employees who have not joined the union to finance activities that are not ''germane'' to the union's representational purposes. Examples of activities the Court considered ''germane'' include collective bargaining, contract administration, and grievance adjustment. *Beck,* 487 U.S. at 745, 760.

During 1992, the Department of Labor (''the Department'') issued a Notice of Proposed Rule-Making (NPRM) and Final Rule implementing Executive Order 12800. *See* 57 FR 33403 *et seq.* (July 24, 1992) (NPRM); 57 FR 49588 *et seq.* (November 2, 1992) (Final Rule). However, Executive Order 12800 was revoked on February 1, 1993, by Executive Order 12836. 58 FR 7045 (published February 3, 1993). The Final Rule was therefore withdrawn. *See* 58 FR 15402 (March 22, 1993).

This Proposed Rule, authorized by Section 1 of Executive Order 13201, is based largely upon the November 2, 1992, Final Rule implementing the earlier Order. Most substantive differences between the Proposed Rule and the 1992 Final Rule are necessitated by the differences between the two Executive Orders. The Department has made a few changes to the language of the earlier Final Rule in order to make

the Proposed Rule more consistent with the regulations and procedures of the Office of Federal Contract Compliance Programs (OFCCP). This NPRM provides that OFCCP, under the supervision of the Deputy Assistant Secretary for Federal Contract Compliance, would conduct compliance evaluations and complaint investigations under the Order and the Rule. *See* Section II(B) of this preamble, ''Departmental Authorization.'' Each substantive difference between the earlier Final Rule and this Proposed Rule is discussed below in section III, ''Overview of the Rule.''

In addition to such substantive changes, the Department has revised certain sections of the 1992 Final Rule to comply with Executive Order 12988 (February 5, 1996). That Order requires Federal agencies to draft their regulations to be simple and easy to understand. Accordingly, the Department has drafted the Proposed Rule to make it easier to read. For example, the Department has reworded the headings of regulatory sections into the form of questions. Also, the Department has replaced ambiguous or confusing words with plainer language; for example, the word ''shall'' has been replaced in the Proposed Rule by the terms ''must,'' ''will,'' ''is/are,'' or similar words, as appropriate. Other specific provisions that would differ from the 1992 Final Rule are discussed below in section III.

While this NPRM was being prepared, the Department issued an Interim Procedural Notice (IPN) to provide guidance to contractors and subcontractors about how to comply with Executive Order 13201 pending the publication of a Final Rule implementing the Order. 66 FR 19988 (April 18, 2001). The IPN authorizes covered contractors to fulfill their posting obligations under the Order by replicating the text of the notice set forth in the Order and posting it in conspicuous places in and about their plants and offices, including all places where notices to employees are customarily posted. As noted below in section 470.2(e) of the Proposed Rule, the Department is printing an employee notice poster that will be provided by the contracting agency or may be obtained directly from the Department at the addresses listed in that section. The Rule proposes that once the Department's official employee notice poster is available, contractors may only fulfill their posting obligations by using that official poster or by making and using exact duplicate copies of that poster.

II. Authority

A. Legal Authority

The legal authority for the Notice of Proposed Rule-Making is Executive Order 13201, issued pursuant to the Constitution and laws of the United States, including the Federal Property and Administrative Services Act, 40 U.S.C. 471 *et seq.*

B. Departmental Authorization

Section 1(b) of Executive Order 13201 delegates responsibility for the administration and enforcement of the Order to the Secretary of Labor, and directs the Secretary to adopt rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of the Order. Section 9 of the Order authorizes the Secretary to delegate any function or duty under the Order to any officer in the Department of Labor or to any other officer in the executive branch of the Government, with the consent of the head of the department or agency in which that officer serves.

Using that delegation authority, Secretary's Order 3–2001, issued March 26, 2001, and published in the **Federal Register** on April 3, 2001 (66 FR 17762), delegates and assigns responsibility for the administration and enforcement of EO 13201 to the Assistant Secretary for Employment Standards. The Assistant Secretary, in turn, has delegated general responsibility for the administration and enforcement of the Executive Order to the Deputy Assistant Secretary for Labor-Management Programs. Under this delegation, the Deputy Assistant Secretary for Labor-Management Programs has specific responsibility for granting and withdrawing exemptions and waivers under this part, and for referring for administrative enforcement cases against contractors that have been found to have violated the provisions of the Order or this part.

The Assistant Secretary has conveyed responsibility for conducting compliance evaluations and complaint investigations under the Order and this part to the Deputy Assistant Secretary for Federal Contract Compliance.

C. Interagency Coordination

The Civilian Agency Acquisition Council has been requested to insert language implementing the Executive Order into the Federal Acquisition Regulation (FAR).

III. Overview of the Rule

This Proposed Rule would add a new subchapter C and part 470 to Volume 29 of the Code of Federal Regulations (CFR).

Preamble, Subpart A

Subpart A would contain definitions, the employee notice clause, and exemptions.

Sec. 470.1 What definitions apply to this part?

The proposed definitions contained in this section would be derived, for the most part, from the definitions of the same terms, either in OFCCP's regulations at 41 CFR 60–1.3 (which deals with certain obligations of Federal contractors regarding equal employment opportunity, and the procedures used to enforce those obligations), or in the November 2, 1992, Final Rule that implemented Executive Order 12800 (''the earlier Final Rule''). *See* 57 FR 49588, 49595. With certain exceptions explained below, any substantive differences between the text of a definition in this Proposed Rule and the text of the definition on which it is based are necessitated by differences between Executive Order 13201, which authorizes this NPRM, and Executive Order 12800, which authorized the earlier Final Rule. In addition, pursuant to Executive Order 12988, stylistic or phrasing changes have been made to particular proposed definitions to clarify their meaning or make their wording consistent with the wording of similar definitions in other regulations; such proposed changes are also explained below.

Assistant Secretary: The substance of this definition would be based on the definition of the same term in the corresponding section of the earlier Final Rule, and would be consistent with the delegation in Secretary's Order 3–2001. The structure of the Department has been changed since 1992, when the earlier Rule was promulgated; because of those changes, the authority under EO 13201 is now delegated to the Assistant Secretary for Employment Standards, as discussed in section I(B) of this preamble.

Collective bargaining agreement: Section 2(a) of EO 13201 exempts from the requirements of the Order those agreements that meet this definition. As required by section 2(a) of the Order, this definition would be based on the definition of the same term in the Civil Service Reform Act, 5 U.S.C. 7103(a)(8). Because that statutory definition, in turn, references the definition of the term ''collective bargaining'' in 5 U.S.C. 7103(a)(12), the proposed definition would incorporate the relevant portions of the latter statutory definition as well. The Department has revised and reorganized the language of these two statutory definitions in order to make

the proposed definition more understandable.

Construction: The definition of this term would be identical to the definition of the same term in the earlier Final Rule, except that, to make the definition easier to understand, the phrase ''as used in paragraphs (d) and (j) of this section'' would be omitted. The definition also would be substantively consistent with the definition of the term ''construction work'' in 41 CFR 60–1.3.

Construction work site: This definition would be identical to the definition of the same term in the earlier Final Rule.

Contract, contracting agency, and contractor: These definitions would be identical to the definitions of the same terms in the earlier Final Rule.

Department: This definition would be identical to the definition of the same term in the earlier Final Rule, and would be consistent with the delegation of authority in section 1(b) of EO 13201.

Employee notice clause: This term was used, but not defined, in the earlier Final Rule. The Proposed Rule would use the term as a shorthand method of referring to the clause that EO 13201 requires Government contracting departments and agencies, contractors, and subcontractors to include in their non-exempt contracts.

Government: This definition would be identical to the definition of the same term in the earlier Final Rule.

Government contract: This definition would be identical to the definition of the same term in 41 CFR 60–1.3, with one exception. OFCCP's definition of the term excludes ''Federally assisted construction contracts'; the Proposed Rule would delete the word ''construction'' to signify that all Federally assisted contracts (not just construction contracts) would be exempt from the requirements of the Executive Order.

Labor organization: This definition would be identical to the definition of the same term in the earlier Final Rule.

Modification: This definition would be substantively similar to the definition of the same term in the earlier Final Rule. The proposed definition has been rewritten slightly to make it easier to understand. This revision is not intended to change the meaning of the definition; the Department intends that the definition would be interpreted in the same way as the corresponding definition in the earlier Final Rule.

Person: This definition would be identical to the definition of the same term in the earlier Final Rule, except that, to make the definition easier to understand, the phrase ''as used in paragraphs (j), (o), (r), and (s) of this section'' would be omitted.

Prime contractor: This definition would be similar to the definition of the same term in the earlier Final Rule. The second part of the definition would state that ''for purposes of subparts B and C,'' the term would apply to any person who has held a contract subject to the Order. In the earlier Final Rule, this second part of the definition, which would have the effect of authorizing the Department to take appropriate action against a prime contractor who may not hold a Government contract at the time the action is being taken, applied only for purposes of subpart B of this part. In this Proposed Rule, the Department would apply the second part of the definition to subpart C in order to ensure that the provisions of section 470.22, which authorize sanctions and penalties for intimidation and interference, would apply to former as well as current prime contractors.

Related rules, regulations, and orders of the Secretary of Labor: This definition would be based on the definition of the same term in the earlier Final Rule. The difference between the old and new definitions would reflect two facts addressed above in the discussion of the definition of the term Assistant Secretary: first, that the structure of the Department has been changed since 1992, when the earlier Rule was promulgated; and second, that because of those changes, the authority under EO 13201 is now delegated to the Assistant Secretary for Employment Standards, who has re-delegated that authority to the Deputy Assistant Secretaries for Labor-Management Programs and for Federal Contract Compliance, as discussed in section I(B) of this preamble.

Subcontract: This definition would be identical to the definition of the same term in 41 CFR 60–1.3.

Subcontractor: This definition would be identical to the definition of the same term in the earlier Final Rule, except that the second clause of the definition would apply to subparts B and C of this part, for the same reasons explained above in the discussion of the definition of ''prime contractor.''

Union: This definition would state that the term ''union'' is defined in the same way as the term ''labor organization.'' The earlier Final Rule equated these two terms as well.

Union-security agreement: This definition would be identical to the definition of the same term in the earlier Final Rule.

United States: This definition would be identical to the definition of the same term in 41 CFR 60–1.3, except that the phrase ''shall include'' would be replaced by ''includes.''

Sec. 470.2 Under the Executive Order, what employee notice clause must be included in Government contracts?

Subsection 470.2(a): This subsection would implement the requirements of section 2(a) of EO 13201. The text of the employee notice clause provided in the subsection would be identical to the text provided in the Executive Order, with three exceptions.

First, paragraph 1 of the clause set forth in section 2(a) of the Order states that, in notices posted in the plants or offices of carriers subject to the Railway Labor Act (''RLA''), ''the last sentence'' of the notice should not be included. It appears that the Order adopted the quoted phrase because it was included in the 1992 Executive Order. In that earlier Order, ''the last sentence'' of the notice provided contact information for the National Labor Relations Board (''NLRB''), which does not have jurisdiction over carriers subject to the RLA. However, EO 13201 added a sentence to the end of the notice; that sentence provides the URL for the NLRB's website. The reference in section 2(a) of the Order to ''the last sentence'' of the notice apparently fails to take into account that additional sentence. In the interest of clarity, and to implement the implicit intent of the Executive Order to exclude the posting of NLRB related information in Railway Labor Act related work sites, the Proposed Rule would replace the phrase ''the last sentence'' with the phrase ''the last two sentences'' in the text of the notice.

Second, paragraph 4 of the clause in the Executive Order requires a contractor to pass down only the provisions of paragraphs 1 through 3 of the clause to its subcontractors and vendors. The same requirement was included in the July 1992 NPRM implementing the earlier Executive Order. *See* 57 FR 33403, 33405. In response, the Associated General Contractors of America (AGC) observed that, since paragraphs 1 through 3 of the clause do not themselves require pass-down, first-tier subcontractors and vendors would not be required to pass down the clause further. 57 FR 49588, 49591 (discussion of section 470.2(a)(4)). As the AGC noted, this result contradicted the NPRM's requirement that the clause be included in the contract document of each tier. *Id.* The Department noted in its response that the intent of Executive Order 12800 was clearly that the clause ''flow down beyond the first tier level''; otherwise there would have been no

reason for the provision, in section 3(b)(v) of that Order, that authorized the Secretary to exempt ''subcontractors below an appropriate tier.'' *Id.* As a result, the Department revised the clause in the earlier Final Rule to require pass-down of paragraphs 1 through 4, rather than only paragraphs 1 through 3. *Id.*

Similarly, Executive Order 13201 contains a provision at section 3(b)(v) that authorizes the Secretary to exempt subcontractors below an appropriate tier. Therefore, for the same reasons discussed in the previous paragraph, the Proposed Rule would revise paragraph 4 of the employee notice clause to require contractors to pass down paragraphs 1 through 4 of the clause to their subcontractors and vendors, rather than only paragraphs 1 through 3.

Third, the words ''Provided'' and ''that'' would be deleted from the final sentence in section 4 of the clause, and the word ''shall'' would be changed to ''must'' throughout the clause, in order to make the clause easier to understand. This revision is not intended to change the meaning of the clause; the clause would be interpreted in the same way as the corresponding material in the Executive Order.

Paragraph 470.2(b): This paragraph is subject to the relevant provisions of the Paperwork Reduction Act of 1995 (PRA) at 44 U.S.C. 3507(d), and will be reviewed by the Office of Management and Budget (OMB) under those provisions. The paragraph would be identical to the corresponding paragraph in the earlier Final Rule, except that the heading of the paragraph would be revised to more accurately describe the contents of the paragraph.

Paragraph 470.2 (c): This paragraph would be identical to the corresponding paragraph in the earlier Final Rule.

Paragraph 470.2 (d): This paragraph would be identical to the corresponding paragraph in the earlier Final Rule, except that the title of the office to which requests for copies of the poster should be directed would be updated.

Sec. 470.3 What contracts are exempt from the employee notice clause requirement?

The exemptions in this section are either required or authorized by the Executive Order.

Paragraph 470.3(a): This paragraph would exempt, from the requirements of part 470, contracts for purchases below the Simplified Acquisition Threshold, as that threshold is defined in the Office of Federal Procurement Policy Act, 41 U.S.C. 403. This exemption is required by section 2(a) of the Executive Order. Subparagraphs (1) and (2) would be modeled on the parallel section in the earlier Final Rule. *See* 57 FR 49588, 49596. Consistent with plain-language guidelines, the relevant language from the earlier Final Rule has been slightly rewritten for the Proposed Rule, to improve the subparagraphs' clarity. This revision is not intended to change the meaning of these subparagraphs; they would be interpreted in the same way as the corresponding provisions of the earlier Final Rule.

At the time this Rule is being proposed, Congress has set the Simplified Acquisition Threshold at $100,000. Therefore, except as provided in subparagraphs (1) and (2), contracts for purchases of less than that amount would not need to include the employee notice clause. If Congress were to amend the threshold after the Proposed Rule is published, this paragraph would be read to exempt contracts for purchases below the amended amount.

Paragraph 470.3(b): This paragraph would exempt, from the requirements of part 470, Government contracts that result from solicitations issued before April 18, 2001, the effective date of the Order. This exemption would be based on section 14 of the Executive Order, which provides that the Order applies to contracts resulting from solicitations issued on or after that date.

Paragraph 470.3(c): This paragraph would permit the Deputy Assistant Secretary for Labor-Management Programs, upon written request, to exempt contracting agencies or persons from including the employee notice clause in particular contracts, subcontracts, or purchase orders, where special circumstances in the national interest require such exemption. Such exemptions are authorized by section 3(a) of the Executive Order.

Paragraph 470.3(d): This paragraph would permit the Deputy Assistant Secretary for Labor-Management Programs to withdraw the exemption for a specific contract or subcontract, or group of contracts or subcontracts, when, in his or her judgment, such a withdrawal is necessary or appropriate to achieve the purposes of the Executive Order. This subparagraph would be similar to the parallel subparagraph, 470.3(c), in the earlier Final Rule; the title of the Departmental officer authorized to withdraw exemptions would be updated to reflect changes in the structure of the Department.

Sec. 470.4 What contractors or facilities are exempt from the posting requirements?

Paragraph 470.4(a): This paragraph is authorized by section 3(b)(iv) of EO 13201, and would be identical to the parallel paragraph in the earlier Final Rule.

Paragraph 470.4(b): This paragraph is authorized by section 3(b)(iii) of EO 13201, and would be identical to the parallel paragraph in the earlier Final Rule.

Paragraph 470.4(c): This paragraph is authorized by section 3(b)(ii) of EO 13201, and would be identical to the parallel paragraph in the earlier Final Rule, except that the phrase ''in jurisdictions'' would be inserted before the word ''where'' to conform the language of the regulation to that of the Executive Order.

Paragraph 470.4(d): As with paragraph 470.2(b), discussed above, this paragraph is subject to the provisions of the PRA, and will be reviewed by OMB. The contents of the paragraph are authorized by section 3(c) of EO 13201, and would be modeled on 41 CFR 60–1.5(b)(2). The Proposed Rule revises the language of that subparagraph to conform to the requirements of EO 13201 and the current structure of the Department of Labor, and to clarify the meaning of the paragraph.

Paragraph 470.4(e): This paragraph is authorized by section 3(b)(i) of EO 13201, and would be identical to the parallel paragraph in the earlier Final Rule.

Subpart B—Compliance Evaluations, Complaint Investigations, and Enforcement Procedures

Sec. 470.10 How will the Department determine whether a contractor is in compliance with the Executive Order and this part?

This section would be substantively similar to the parallel section in the earlier Final Rule. *See* 57 FR 49588, 49597. The differences between the two sections would be necessitated by the requirements of EO 13201 or result from changes in OFCCP's general practice and procedures, including changes in the terminology used by OFCCP to refer to those practices and procedures. For example, the process of determining whether a contractor is in compliance with its obligations is now called a ''compliance evaluation.'' The term encompasses compliance reviews, as well as off-site record reviews and compliance checks. *See* 41 CFR 60–1.20(a). Therefore, the term ''compliance evaluation'' would replace ''compliance review'' throughout the section in the Proposed Rule. Additionally, references to ''the Department'' would be modified to clarify that the Deputy Assistant Secretary for Federal Contract Compliance has responsibility for

conducting compliance evaluations, and subparagraph 470.10(b)(2) would be modified to include the requirements of section 14 of EO 13201.

Sec. 470.11 What are the procedures for filing and processing a complaint?

Paragraph 470.11(a) and (b): As with paragraphs 470.2(b) and 470.4(d), discussed above, these paragraphs are subject to the provisions of the PRA, and will be reviewed by OMB. The paragraphs would contain the same substantive requirements as the parallel sections in the earlier Final Rule. *See* 57 FR 49588, 49597. The Proposed Rule would revise the language of those previous sections to improve their clarity, correct punctuation errors, and make them more consistent with OFCCP's regulations at 41 CFR 60–1.22 and 1.23.

Paragraphs 470.11(c)–(d): These paragraphs would be substantively similar to the corresponding paragraphs in the earlier Final Rule. *See* 57 FR 49588, 49597. They would also be consistent with OFCCP's regulations at 41 CFR 60–1.24(a) and (b). The Proposed Rule would revise the paragraphs slightly to make them easier to understand, and to clarify that the Deputy Assistant Secretary for Federal Contract Compliance has responsibility for conducting complaint investigations. None of the revisions to the paragraphs is intended to change the meaning of the paragraphs; the paragraphs would be interpreted in the same way as the corresponding provisions of the earlier Final Rule.

Sec. 470.12 What are the procedures to be followed when a violation is found during a complaint investigation or compliance evaluation?

Paragraph 470.12(a): This paragraph would contain the same substantive requirements as the corresponding paragraph in the earlier Final Rule, and would be consistent with OFCCP's regulation at 41 CFR 60–1.24(c)(2). For the reasons explained in the discussion of section 470.10 above, the Proposed Rule would replace the term ''compliance review'' with ''compliance evaluation.'' *See* 57 FR 49588, 49597. The Proposed Rule would also revise the paragraph slightly to make it easier to understand. This revision is not intended to change the meaning of the paragraph; the paragraph would be interpreted in the same way as the corresponding provision of the earlier Final Rule.

Paragraph 470.12(b): This paragraph would contain the same substantive requirements as the corresponding paragraph in the earlier Final Rule. The Proposed Rule would add examples of ways in which a contractor that has violated the Order or the Rule might correct such a violation. The corrective action that the Deputy Assistant Secretary would require in a given case would depend on the type of violation. The addition of the examples would be made to clarify the Rule, and is not intended to change the meaning of the paragraph; the paragraph would be interpreted in the same way as the corresponding paragraph in the earlier Final Rule.

Paragraphs 470.12(c) and (d): These paragraphs would be identical to the corresponding paragraphs in the earlier Final Rule, except that the title of the official responsible for processing a violation would be updated. These paragraphs also would be consistent with OFCCP's regulations at 41 CFR 60–1.24(c)(3) and (5), respectively.

Sec. 470.13 Under what circumstances, and how, will enforcement proceedings under the Executive Order be conducted?

This section would be identical to the corresponding section in the earlier Final Rule, with two exceptions. First, for the reasons explained above in the discussion of section 470.10, the terms ''compliance review'' and ''on-site review'' would be replaced with ''compliance evaluation.'' Second, the title of the official responsible for referring cases for enforcement would be updated.

The post-hearing procedures that would be set forth in this section for imposing sanctions or penalties would be consistent with section 6 of the Executive Order.

Sec. 470.14 What sanctions and penalties may be imposed for noncompliance, and what procedures will the Department follow in imposing such sanctions and penalties?

This section would be similar to the corresponding section of the earlier Final Rule. *See* 57 FR 49588, 49597–98. Substantive differences between the two sections are explained below.

Paragraph 470.14(a): In this paragraph, references to the ''affected contracting agency'' would be changed to the plural ''affected contracting agencies,'' to indicate that a particular contractor may hold contracts with more than one Federal agency, and that all affected agencies should be notified when the Department intends to impose sanctions and penalties against such a contractor.

Paragraph 470.14(b): Except for the replacement of the word ''shall'' by ''will,'' this paragraph would contain language identical to that of the second sentence of paragraph 470.14(a) of the earlier Final Rule. The sentence would be placed in a separate paragraph in order to make the section easier to understand. This change is not intended to alter the meaning of the sentence; the sentence would be interpreted in the same way as the corresponding sentence in the earlier Final Rule.

Paragraph 470.14(c): Except for the replacement of the word ''shall'' by ''will,'' this paragraph would contain language identical to that of the corresponding paragraph in the earlier Final Rule, paragraph 470.14(b).

Paragraph 470.14(d): Except for the replacement of the word ''shall'' by ''must,'' this paragraph would contain language identical to that of the corresponding paragraph in the earlier Final Rule, paragraph 470.14(c).

Paragraph 470.14(e): Except for the replacement of the word ''shall'' by ''must'' and an update to a citation, this paragraph would contain language identical to that of the final sentence of paragraph 470.14(e) in the earlier Final Rule. The Proposed Rule would move the sentence, which explains what contracting agencies must do when the Assistant Secretary exercises his or her authority under paragraph 470.14(d), to make this section easier to understand.

Paragraph 470.14(f): Except for the replacement of the word ''shall'' by ''will,'' this paragraph would contain language identical to that of the first sentence of paragraph 470.14(d) in the earlier Final Rule. To make the Rule easier to understand, the material discussed in the second sentence of that earlier paragraph would be moved to section 470.15 of the Rule.

Sec. 470.15 Under what circumstances must a contractor be provided the opportunity for a hearing?

This section is authorized by section 5(b) of the Executive Order. Paragraph 470.15(b) would contain material similar to that in the second sentence of paragraph 470.14(d) of the earlier Final Rule. The Proposed Rule would revise the relevant language of the Order and the earlier Final Rule to make it easier to understand. These changes are not intended to alter the meaning of this section; the section would be interpreted in the same way as section 5(b) of the Executive Order.

Sec. 470.16 Under what circumstances may a contractor be reinstated?

This section would contain language similar to that found in the corresponding section of the earlier Final Rule. The Proposed Rule would revise the section to make it easier to

understand. These changes are not intended to alter the meaning of this section; the section would be interpreted in the same way as the corresponding section of the earlier Final Rule.

Subpart C—Ancillary Matters

This subpart would address miscellaneous matters as discussed below.

Sec. 470.20 What authority under this Rule or the Executive Order may the Secretary delegate, and under what circumstances?

This section would contain language similar to that found in the corresponding section, section 470.21, of the earlier Final Rule. The Proposed Rule would place this section at the beginning of subpart C so that the subpart would follow a more logical order. The section would explain what functions and duties the Secretary of Labor is authorized to delegate to another government officer under section 9 of the Executive Order. The section that was numbered 470.20 in the earlier Final Rule, and that would follow this section under the Proposed Rule, would discuss one of the functions the Secretary has chosen to delegate under the Order.

The Proposed Rule would revise the section slightly to correct an apparent grammatical error in the corresponding section of the earlier Final Rule, and to make the section easier to understand. These changes are not intended to alter the meaning of this section; the section would be interpreted in the same way as section 9 of the Executive Order and the corresponding section of the earlier Final Rule.

Sec. 470.21 Who will make rulings and interpretations under the Executive Order and this part?

This section would be identical to the corresponding section, section 470.20, of the earlier Final Rule.

Sec. 470.22 What actions may the Assistant Secretary take in the case of intimidation and interference?

This section would contain material and language similar to that of the corresponding section of the earlier Final Rule. The Proposed Rule would revise the language of that earlier section slightly, in order to replace the term ''compliance review'' with ''compliance evaluation'' (for the reasons discussed above in section 470.10 of this preamble), and to make the section easier to understand. These changes are not intended to alter the meaning of this section; the section would be interpreted in the same way as the corresponding section of the earlier Final Rule.

Sec. 470.23 What other provisions apply to this part?

Paragraph 470.23(a): This paragraph would be identical to the corresponding paragraph in the earlier Final Rule, except that the Executive Order number would be updated.

Paragraph 470.23(b): This paragraph, which would require contracting agencies to cooperate with and assist the Assistant Secretary and Deputy Assistant Secretaries in carrying out their duties under the Executive Order and this part, would contain the same substantive requirements as the first sentence of paragraph 470.14(e) of the earlier Final Rule. Because section 470.14 of this Proposed Rule would deal with sanctions and penalties, the material in that sentence would be moved to this general section to indicate that contracting agencies must cooperate with and assist the Assistant Secretary and Deputy Assistant Secretaries in carrying out all of their duties under the Order and this part, not just those duties relating to sanctions and penalties.

Paragraph 470.23(c): The language of this paragraph would be identical to the language of the corresponding paragraph, paragraph 470.23(b), of the earlier Final Rule, with two exceptions. First, the reference to section 11 of the Executive Order would be updated to section 13, to correspond with the text of the current Order, EO 13201. Second, the final clause of the earlier paragraph would be deleted, because section 13 of the current Order does not include or authorize that language.

IV. Regulatory Procedures

Executive Order 12866

This Notice of Proposed Rule-Making constitutes an ''other significant regulatory action'' within the meaning of Executive Order 12866, and therefore the Department has provided a cost-benefit analysis below. However, the implementation of the Proposed Rule would not have an annual effect of $100 million or more on the economy, nor would it adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. Therefore, the Department has concluded that this NPRM is not ''economically significant'' as defined in section 3(f)(1) of EO 12866.

With regard to the benefits that would result from the Proposed Rule: Section 1(a) of Executive Order 13201 states that ''[w]hen workers are better informed of their rights, including their rights under the Federal labor laws, their productivity is enhanced.'' On that basis, the Order and the Proposed Rule, which are intended to ensure that employees of Government contractors are informed of certain rights regarding union dues and fees, are designed to promote economy and efficiency in Government procurement.

In the Department's view, the only costs that contractors would incur under the Proposed Rule would result from the notice posting requirement in section 470.2(a) of the Rule, and the requirement in section 470.4(d) of the Rule that contractors apply in writing for waivers from the posting requirement for facilities that do not perform work on Government contracts. For the posting requirement, the Department has concluded, based on both OFCCP's historical experience and the fact that the Department will supply the required employee notice poster at no cost, that the annualized costs would be negligible.

OFCCP receives few requests from contractors for waivers of regulatory requirements for facilities not connected with Government contracts (see 41 CFR 60–741(b)(3)). For those few contractors that do request waivers, the cost consists of drafting a letter and sending the letter to DOL to request the waiver. Based on that experience, the Department estimates that under the Proposed Rule, one-tenth of one percent (.1%) of Federal contractors annually would be likely to submit requests for waivers. Given a total of 200,000 supply, services, and construction contractors who would be subject to the Proposed Rule, the Department estimates that 200 contractors per year (.1% of 200,000) would be likely to request a waiver under the Rule.

The Department estimates that it would take an average of one hour to prepare and mail each waiver request under the Proposed Rule. Of that hour, 20 percent of the burden would be assumed by executive, administrative, or managerial staff, and 80 percent would be assumed by administrative support staff. In the publication ''Employer Costs for Employee Compensation'' (USDL 99–173), the Bureau of Labor Statistics (BLS) lists average compensation for executive, administrative, and managerial positions as $35.18 per hour, and for administrative support as $16.63 per hour. Based on this information and on current postage rates, the Department has calculated the total estimated annualized cost to contractors that

would request waivers under the Proposed Rule as follows:

Executive, Administrative, and Managerial—200 × .20 × $35.18 = $1,407.20
Administrative Support—200 × .80 × $16.63 = $2,660.80
Postage—200 × .34 = $68.00
Total annualized cost estimate—$4,136.00

Dividing the total annualized cost estimate of $4,136.00 by the estimated total number of Government supply, service, and construction contractors (200,000), the Department calculates that the estimated average cost per Federal contractor establishment under the Proposed Rule would be $.02.

The Office of Management and Budget (OMB) has reviewed the NPRM for consistency with the President's priorities and the principles set forth in EO 12866.

Regulatory Flexibility Act

The Proposed Rule presented in this NPRM would not substantially change existing obligations for Federal contractors; it would merely require certain contractors to post notices informing their employees of certain rights those employees already hold under Federal law, and to include clauses in contracts with subcontractors and vendors, requiring those subcontractors and vendors to post the same notices. Accordingly, the Proposed Rule would not have a significant economic impact on a substantial number of small business entities. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to that effect. Therefore, under the Regulatory Flexibility Act, 5 U.S.C. 605(b), a regulatory flexibility analysis is not required.

Unfunded Mandates Reform

For purposes of the Unfunded Mandates Reform Act of 1995, as well as EO 12875, Enhancing the Intergovernmental Partnership, the Rule proposed in this NPRM would not include any Federal mandate that might result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than $100 million in any one year.

Paperwork Reduction Act

Certain sections of this Proposed Rule, including sections 470.2(b), 470.4(d), and 470.11(a) and (b), contain information collection requirements. As required by the Paperwork Reduction Act (PRA), the Department has submitted a copy of these sections to OMB for its review.

The Proposed Rule would also require contractors to post notices, investigate complaints, and, where appropriate, file requests for waivers. The application of the PRA to those requirements is discussed below.

The Proposed Rule would impose certain minimal burdens associated with the posting of the employee notice poster required by the Executive Order and section 470.2(a) of the Rule. As noted in section 470.2(d), the Department will supply the poster, and contractors will be permitted to make and post exact duplicate copies thereof. Under the regulations implementing the PRA, ''[t]he public disclosure of information originally supplied by the Federal government to [a] recipient for the purpose of disclosure to the public'' is not considered a ''collection of information'' under the Act. 5 CFR 1320.3(c)(2). Therefore, the posting requirement is not subject to the PRA.

The Proposed Rule would also impose certain burdens associated with the filing and processing of a complaint on both the complainant and the contractor. The burdens for the complainant are described in the PRA package the Department will submit to OMB. With regard to the burdens for the contractor, the regulations implementing the PRA exempt from the requirements of the Act any information collection requirements imposed by an administrative agency during the conduct of an administrative action against specific individuals or entities. See 5 CFR 1320.4. Once the agency opens a case file or equivalent about a particular party, this exception applies during the entire course of the investigation, before or after formal charges or complaints are filed or formal administrative action is initiated. *Id.* Therefore, this exemption would apply to the Department's investigation of complaints alleging violations of the Order or this Rule.

Finally, section 470.4(d) of this Rule would permit a contractor to apply in writing for a waiver from the requirement to post the employee notice contained in section 470.2(a). For the Department's analysis of the burdens that would be imposed on contractors as a result of this requirement, see the discussion of Executive Order 12866 above.

The Department invites the public to comment on whether each of the proposed collections of information: (1) Ensures that the collection of information is necessary to the proper performance of the agency, including whether the information will have practical utility; (2) estimates the projected burden, including the validity of the methodology and assumptions used, accurately; (3) enhances the quality, utility, and clarity of the information to be collected; and (4) minimizes the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). Comments must be submitted by November 30, 2001 to: Desk Officer for the Department of Labor, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.

Executive Order 13132 (Federalism)

The Department has reviewed this Proposed Rule in accordance with Executive Order 13132 regarding federalism, and has determined that the Rule does not have ''federalism implications.'' Some States do hold Federal contracts that do not involve the provision of Federal assistance to those States. However, as described above in the discussion of other regulatory procedures, the Department has concluded that the impact of requirements of posting notices, and requesting waivers that would be imposed by the Rule on those States would be negligible. Therefore, the Rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Executive Order 13084 (Consultation and Coordination With Indian Tribal Governments)

The Department certifies that this Proposed Rule does not impose substantial direct compliance costs on Indian tribal governments.

Request for Comments

This Proposed Rule would implement Executive Order 13201. The Department invites comments about the NPRM from interested parties, including current and potential Government contractors, subcontractors, and vendors, and current and potential employees of such entities; labor organizations; public interest groups; Federal contracting agencies; and the public.

Clarity of This Regulation

Executive Order 12988 and the President's Memorandum of June 1, 1998, require each Federal agency to write all rules in plain language. The

Department invites comments on how to make this Proposed Rule easier to understand. For example:

—Have we organized the material to suit your needs?
—Are the requirements in the Rule clearly stated?
—Does the Rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the Rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the Rule easier to understand?

List of Subjects in 29 CFR Part 470

Administrative practice and procedure, Government contracts, Unions.

Accordingly, OLMS proposes to amend 29 CFR chapter IV by adding a new subchapter C, consisting of part 470, as set forth below.

Signed at Washington, DC, this 6 day of September, 2001.

Joe N. Kennedy,

Acting Assistant Secretary for Employment Standards.

Don Todd,

Deputy Assistant Secretary for Labor-Management Programs.

A new subchapter C, consisting of part 470, is added to 29 CFR chapter IV to read as follows:

Subchapter C—Employee Rights Concerning Payment of Union Dues or Fees

PART 470—OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS; NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Subpart A—Preliminary Matters

Sec.
470.1 What definitions apply to this part?
470.2 Under the Executive Order, what employee notice clause must be included in Government contracts?
470.3 What contracts are exempt from the employee notice clause requirement?
470.4 What contractors or facilities are exempt from the posting requirements?

Subpart B—Compliance Evaluations, Complaint Investigations, and Enforcement Procedures

470.10 How will the Department determine whether a contractor is in compliance with the Executive Order and this part?
470.11 What are the procedures for filing and processing a complaint?
470.12 What are the procedures to be followed when a violation is found during a complaint investigation or compliance evaluation?
470.13 Under what circumstances, and how, will enforcement proceedings under the Executive Order be conducted?
470.14 What sanctions and penalties may be imposed for noncompliance, and what procedures will the Department follow in imposing such sanctions and penalties?
470.15 Under what circumstances must a contractor be provided the opportunity for a hearing?
470.16 Under what circumstances may a contractor be reinstated?

Subpart C—Ancillary Matters

470.20 What authority under this part or the Executive Order may the Secretary delegate, and under what circumstances?
470.21 Who will make rulings and interpretations under the Executive Order and this part?
470.22 What actions may the Assistant Secretary take in the case of intimidation and interference?
470.23 What other provisions apply to this part?

Authority: 40 U.S.C. 471 *et seq.*; E.O. 13201 (66 FR 11221, February 22, 2001).

Subpart A—Preliminary Matters

§ 470.1 What definitions apply to this part?

Assistant Secretary means the Assistant Secretary for Employment Standards, United States Department of Labor, or his or her designee.

Collective bargaining agreement, for purposes of § 470.2, means an agreement entered into by the representative of a Federal agency and the exclusive representative of employees in an appropriate unit in the agency, as a result of those representatives performing their mutual obligation to:

(1) Meet at reasonable times; and

(2) Consult and bargain in a good-faith effort to reach agreement, with respect to the conditions of employment affecting the employees in the unit; and

(3) Execute, if requested by either party, a written document incorporating any collective bargaining agreement reached through such meetings, consultation, and bargaining.

Construction means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term *construction* also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

Construction work site means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair, and any temporary location or facility at which a contractor or subcontractor meets a demand or performs a function relating to the contract or subcontract.

Contract means, unless otherwise indicated, any Government contract or subcontract.

Contracting agency means any department, agency, establishment, or instrumentality in the executive branch of the Government, including any wholly owned Government corporation, which enters into contracts.

Contractor means, unless otherwise indicated, a prime contractor or subcontractor, at any tier.

Department means the U.S. Department of Labor.

Employee notice clause means the contract clause that Government contracting departments and agencies must include in all nonexempt Government contracts and subcontracts pursuant to Executive Order 13201.

Government means the Government of the United States of America.

Government contract means any agreement or modification thereof between any contracting agency and any person for the purchase, sale, or use of personal property or nonpersonal services. The term ''personal property,'' as used in this part, includes supplies, and contracts for the use of real property (such as lease arrangements), unless the contract for the use of real property itself constitutes real property (such as easements). The term ''nonpersonal services'' as used in this part includes, but is not limited to, the following services: utilities, construction, transportation, research, insurance, and fund depository. The term *Government contract* does not include: (1) Agreements in which the parties stand in the relationship of employer and employee; and (2) Federally assisted contracts.

Labor organization means any organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

Modification of a contract means any alteration in the terms and conditions of that contract, including amendments, renegotiations, and renewals.

Order or *Executive Order* means Executive Order 13201 (66 FR 11221, February 22, 2001).

Person means any natural person, corporation, partnership, unincorporated association, State or local government, and any agency,

instrumentality, or subdivision of such a government.

Prime contractor means any person holding a contract with a contracting agency, and, for the purposes of subparts B and C of this part, includes any person who has held a contract subject to the Executive Order.

Related rules, regulations, and orders of the Secretary of Labor, as used in § 470.2, means rules, regulations, and relevant orders of the Assistant Secretary for Employment Standards, or his or her designee, issued pursuant to the Executive Order or this part.

Secretary means the Secretary of Labor, U.S. Department of Labor, or his or her designee.

Subcontract means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the purchase, sale or use of personal property or nonpersonal services which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken or assumed.

Subcontractor means any person holding a subcontract and, for the purposes of subparts B and C of this part, any person who has held a subcontract subject to the Executive Order.

Union means a labor organization as defined in section.

Union-security agreement means an agreement entered into between a contractor and a labor organization which requires certain employees of the contractor to pay uniform periodic dues, initiation fees, or other payments to that labor organization as a condition of employment.

United States as used in this part includes the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Wake Island.

§ 470.2 Under the Executive Order, what employee notice clause must be included in Government contracts?

(a) *Government contracts.* Except in contracts exempted in accordance with § 470.3 and collective bargaining agreements as defined in § 470.1, all Government contracting agencies must, to the extent consistent with law, include the following provisions in Government contracts, including contracts resulting from solicitations issued on or after April 18, 2001:

''1. During the term of this contract, the contractor agrees to post a notice, of such size and in such form as the Secretary of Labor will prescribe, in conspicuous places in and about its plants and offices, including all places where notices to employees are customarily posted. The notice must include the following information (except that the last two sentences must not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151–188)).

''Notice to Employees

''Under Federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

''If you do not want to pay that portion of dues or fees used to support activities not related to collective bargaining, contract administration, or grievance adjustment, you are entitled to an appropriate reduction in your payment. If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

''For further information concerning your rights, you may wish to contact the National Labor Relations Board (NLRB) either at one of its Regional offices or at the following address: National Labor Relations Board, Division of Information, 1099 14th Street, NW, Washington, D.C. 20570.

''To locate the nearest NLRB office, see NLRB's website at *www.nlrb.gov.*''

''2. The contractor will comply with all provisions of Executive Order 13201 of February 17, 2001, and related rules, regulations, and orders of the Secretary of Labor.

''3. In the event that the contractor does not comply with any of the requirements set forth in paragraphs (1) or (2) above, this contract may be cancelled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in or adopted pursuant to Executive Order 13201 of February 17, 2001. Such other sanctions or remedies may be imposed as are provided in Executive Order 13201 of February 17, 2001, or by rule, regulation, or order of the Secretary of Labor, or as are otherwise provided by law.

''4. The contractor will include the provisions of paragraphs (1) through (4) herein in every subcontract or purchase order entered into in connection with this contract unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13201 of February 17, 2001, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any such subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance: However, if the contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.''

(b) *Inclusion by reference.* The employee notice clause need not be quoted verbatim in a contract, subcontract, or purchase order. The clause may be made part of the contract, subcontract, or purchase order by citation to 29 CFR part 470.

(c) *Adaptation of language.* The Assistant Secretary may make such changes in the contractual provisions of the Executive Order as may be necessary to reflect Acts of Congress, clarifications in the law by the courts, or otherwise to fully and accurately inform employees of their rights under the Executive Order.

(d) *Obtaining employee notice poster.* The required employee notice poster, printed by the Department, will be provided by the Federal contracting agency or may be obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–5605, Washington, DC 20210, or from any field office of the Department's Office of Labor-Management Standards or Office of Federal Contract Compliance Programs. Additionally, contractors may reproduce and use exact duplicate copies of the Department's official poster.

§ 470.3 What contracts are exempt from the employee notice clause requirement?

(a) *Transactions below the Simplified Acquisition Threshold.* The requirements of this part do not apply to Government contracts for purchases that fall below the Simplified Acquisition Threshold, as that threshold is defined in the Office of Federal Procurement Policy Act, 41 U.S.C. 403. Therefore, the employee notice clause need not be included in contracts for purchases below that threshold, *provided that*—

(1) No agency, contractor, or subcontractor is permitted to procure supplies or services in a way designed to avoid the applicability of the Order and this part; and

(2) The employee notice clause must be included in contracts and

subcontracts for indefinite quantities, unless the contracting agency or contractor has reason to believe that the amount to be ordered in any year under such a contract or subcontract will be less than the Simplified Acquisition Threshold.

(b) *Government contracts resulting from solicitations issued before April 18, 2001.* Pursuant to section 14 of the Order, the requirements of this part do not apply to Government contracts that result from solicitations issued before April 18, 2001, the effective date of the Order.

(c) *Specific contracts.* The Deputy Assistant Secretary for Labor-Management Programs may exempt a contracting agency or any person from requiring the inclusion of any or all of the employee notice clause in any specific contract, subcontract, or purchase order when the Deputy Assistant Secretary deems that special circumstances in the national interest so require. Requests for such exemptions must be in writing, and must be directed to the Deputy Assistant Secretary for Labor-Management Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S–2321, Washington, D.C. 20210.

(d) *Withdrawal of exemption.* When any contract or subcontract is of a class exempted under this section, the Deputy Assistant Secretary for Labor-Management Programs may withdraw the exemption for a specific contract or subcontract or group of contracts or subcontracts when, in the Deputy Assistant Secretary's judgment, such action is necessary or appropriate to achieve the purposes of the Order.

§ 470.4 What contractors or facilities are exempt from the posting requirements?

(a) *Number of employees.* The requirement to post the employee notice given in § 470.2(a) (hereafter in this part referred to as the posting requirement) does not apply to contractors and subcontractors that employ fewer than 15 persons.

(b) *Union representation.* The posting requirement does not apply to contractor establishments or construction work sites where no union has been formally recognized by the contractor or certified as the exclusive bargaining representative.

(c) *State law.* The posting requirement does not apply to contractor establishments or construction work sites in jurisdictions where state law forbids enforcement of union-security agreements.

(d) *Work not performed under Government contracts.* Upon the written request of the contractor, the Deputy Assistant Secretary for Labor-Management Programs may waive the posting requirements with respect to any of a contractor's facilities if the Deputy Assistant Secretary finds that the contractor has demonstrated that:

(1) The facility is in all respects separate and distinct from activities of the contractor related to the performance of a contract; and

(2) Such a waiver will not interfere with or impede the effectuation of the Executive Order.

(e) *Work outside the United States.* The posting requirement does not apply to work performed outside the United States that does not involve the recruitment or employment of workers within the United States.

Subpart B—Compliance Evaluations, Complaint Investigations and Enforcement Procedures

§ 470.10 How will the Department determine whether a contractor is in compliance with the Executive Order and this part?

(a) The Deputy Assistant Secretary for Federal Contract Compliance may conduct a compliance evaluation to determine whether a contractor holding a nonexempt contract is in compliance with the requirements of this part. Such an evaluation may be limited to compliance with this part or may be included in a compliance evaluation conducted under other laws, Executive Orders, and/or regulations enforced by the Department.

(b) During such an evaluation, a determination will be made whether:

(1) The employee notice is posted in conspicuous places in and about each of the contractor's establishments and/or construction work sites not exempted under § 470.4, including all places where notices to employees are customarily posted; and

(2) The provisions of the employee notice clause are included in nonexempt Government contracts, including contracts resulting from solicitations issued on or after April 18, 2001.

(c) The results of the evaluation will be documented in the evaluation record, which will include findings regarding the contractor's compliance with the requirements of the Executive Order and this part and, as applicable, conciliation efforts made, corrective action taken and/or enforcement recommended.

§ 470.11 What are the procedures for filing and processing a complaint?

(a) *Filing complaints.* An employee of a covered contractor may file a complaint alleging that the contractor has failed to post the employee notice as required by the Executive Order and this part; and/or has failed to include the employee notice clause in nonexempt subcontracts or purchase orders. Complaints may be filed with the Office of Labor-Management Standards (OLMS) or the Office of Federal Contract Compliance Programs (OFCCP) at 200 Constitution Avenue, NW, Washington, DC 20210, or with any OLMS or OFCCP field office.

(b) *Contents of complaints.* The complaint must be in writing and must include the name, address, and telephone number of the complainant, the name and address of the contractor alleged to have violated the Executive Order, an identification of the alleged violation and the establishment or construction work site where it is alleged to have occurred, and any other pertinent information that will assist in the investigation and resolution of the complaint. The complainant must sign the complaint.

(c) *Referrals.* The Department will refer complaints alleging use of union dues or fees for purposes unrelated to a collective bargaining agreement, and/or seeking a refund or future adjustment of such dues or fees, to the National Labor Relations Board or other appropriate agency.

(d) *Complaint investigations.* In investigating complaints filed with the Department under paragraph (a) of this section, the Deputy Assistant Secretary for Federal Contract Compliance will evaluate the allegations of the complaint and develop a case record. The record will include findings regarding the contractor's compliance with the requirements of the Executive Order and this part, and, as applicable, a description of conciliation efforts made, corrective action taken, and/or enforcement recommended.

§ 470.12 What are the procedures to be followed when a violation is found during a complaint investigation or compliance evaluation?

(a) If any complaint investigation or compliance evaluation indicates a violation of the Executive Order or this part, the Department will make reasonable efforts to secure compliance through conciliation.

(b) The contractor must correct the violation found by the Department (for example, by posting the required employee notice, and/or by amending its subcontracts or purchase orders with nonexempt subcontractors and vendors to include the employee notice clause), and must commit, in writing, not to repeat the violation, before the contractor may be found to be in

compliance with the Executive Order or this part.

(c) If a violation cannot be resolved through conciliation efforts, the Deputy Assistant Secretary for Labor-Management Programs may proceed in accordance with § 470.13.

(d) For reasonable cause shown, the Deputy Assistant Secretary may reconsider, or cause to be reconsidered, any matter on his or her own motion or pursuant to a request.

§ 470.13 Under what circumstances, and how, will enforcement proceedings under the Executive Order be conducted?

(a) *General.* (1) Violations of the Executive Order may result in administrative proceedings to enforce the Order. The bases for a finding of a violation may include, but are not limited to:

(i) The results of a compliance evaluation;

(ii) The results of a complaint investigation;

(iii) A contractor's refusal to allow a compliance evaluation or complaint investigation to be conducted; or

(iv) A contractor's refusal to provide information as required by the Executive Order and the regulations in this part.

(2) If a determination is made that the Executive Order or the regulations in this part have been violated, and the violation has not been corrected through conciliation, the Deputy Assistant Secretary for Labor-Management Programs may refer the matter to the Solicitor of Labor for institution of administrative enforcement proceedings.

(b) *Administrative enforcement proceedings.* (1) Administrative enforcement proceedings will be conducted under the control and supervision of the Solicitor of Labor, under the hearing procedures set forth in 29 CFR part 18, Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges.

(2) Unless otherwise provided by the Office of the Solicitor in its complaint, all hearings will be conducted in accordance with the rules for expedited proceedings at 29 CFR 18.42.

(3) The administrative law judge will certify his or her recommended decision issued pursuant to 29 CFR 18.57 to the Assistant Secretary. The decision will be served on all parties and amici.

(4) Within 10 days (25 days in the event that the proceeding is not expedited) after receipt of the administrative law judge's recommended decision, either party may file exceptions to the decision. Exceptions may be responded to by the other parties within 7 days (25 days if the proceeding is not expedited) after receipt. All exceptions and responses must be filed with the Assistant Secretary.

(5) After the expiration of time for filing exceptions, the Assistant Secretary will issue a final administrative order. In an expedited proceeding, unless the Assistant Secretary issues a final administrative order within 30 days after the expiration of time for filing exceptions, the administrative law judge's recommended decision will become the final administrative order. If the Assistant Secretary determines that the contractor has violated the Executive Order or the regulations in this part, the final administrative order may enjoin the violations, require the contractor to provide appropriate remedies and, subject to the procedures in § 470.14, impose appropriate sanctions and penalties.

§ 470.14 What sanctions and penalties may be imposed for noncompliance, and what procedures will the Department follow in imposing such sanctions and penalties?

(a) Before imposing the sanctions and penalties described in paragraph (d) of this section, the Assistant Secretary will consult with the affected contracting agencies, and provide the heads of those agencies the opportunity to respond and provide written objections.

(b) If the contracting agency provides written objections, those objections must include a complete statement of reasons for the objections, among which reasons must be a finding that, as applicable, the completion of the contract, or further contracts or extensions or modifications of existing contracts, is essential to the agency's mission.

(c) The sanctions and penalties described in this section, however, will not be imposed if:

(1) The head of the contracting agency continues personally to object to the imposition of such sanctions and penalties, or

(2) The contractor has not been afforded an opportunity for a hearing.

(d) In enforcing the Order and this part, the Assistant Secretary may:

(1) Direct a contracting agency to cancel, terminate, suspend, or cause to be canceled, terminated or suspended, any contract or any portions thereof, for failure of the contractor to comply with its contractual provisions as required by section 2 of the Executive Order and the regulations in this part. Contracts may be canceled, terminated, or suspended absolutely, or continuance of contracts may be conditioned upon compliance.

(2) Issue an order of debarment under section 6(b) of the Order providing that one or more contracting agencies must refrain from entering into further contracts, or extensions or other modification of existing contracts, with any noncomplying contractor.

(e) Whenever the Assistant Secretary has exercised his or her authority pursuant to paragraph (d) of this section, the contracting agency must report the actions it has taken to the Assistant Secretary within such time as the Assistant Secretary will specify.

(f) Periodically, the Assistant Secretary will publish and distribute, or cause to be published and distributed, to all executive agencies a list of the names of contractors that have, in the judgment of the Assistant Secretary under § 470.13(b)(5), failed to comply with the provisions of the Executive Order and this part, or of related rules, regulations, and orders of the Secretary of Labor, and as a result have been declared ineligible for future contracts or subcontracts under the Executive Order and the regulations in this part.

§ 470.15 Under what circumstances must a contractor be provided the opportunity for a hearing?

A contractor must be given the opportunity for a hearing before the Assistant Secretary:

(a) Issues an order debarring the contractor from further Government contracts under section 6(b) of the Executive Order and § 470.14(d)(2); or

(b) Includes the contractor on a published list of noncomplying contractors under section 6(c) of the Executive Order and § 470.14(f).

§ 470.16 Under what circumstances may a contractor be reinstated?

Any contractor or subcontractor debarred from or declared ineligible for further contracts or subcontracts under the Executive Order may request reinstatement in a letter to the Assistant Secretary. If the Assistant Secretary finds that the contractor or subcontractor has come into compliance with the Order and this part and has shown that it will carry out the Order and this part, the contractor or subcontractor may be reinstated.

Subpart C—Ancillary Matters

§ 470.20 What authority under this Part or the Executive Order may the Secretary delegate, and under what circumstances?

Consistent with section 9 of the Executive Order, the Secretary may delegate any function or duty of the Secretary under the Order to any officer

in the Department of Labor or to any other officer in the executive branch of the Government, with the consent of the head of the department or agency in which that officer serves.

§ 470.21 Who will make rulings and interpretations under the Executive Order and this part?

Rulings under or interpretations of the Executive Order or the regulations contained in this part will be made by the Assistant Secretary or his or her designee.

§ 470.22 What actions may the Assistant Secretary take in the case of intimidation and interference?

The sanctions and penalties contained in § 470.14 may be exercised by the Assistant Secretary against any contractor or subcontractor who fails to take all necessary steps to ensure that no person intimidates, threatens, or coerces any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in a compliance evaluation, complaint investigation, hearing, or any other activity related to the administration of the Executive Order or the regulations in this part.

§ 470.23 What other provisions apply to this part?

(a) The regulations in this part implement Executive Order 13201 only, and do not modify or affect the interpretation of any other Department of Labor regulations or policy.

(b) Consistent with section 8 of the Executive Order, each contracting department and agency must cooperate with the Assistant Secretary, the Deputy Assistant Secretary for Labor-Management Programs, and/or the Deputy Assistant Secretary for Federal Contract Compliance, and must provide such information and assistance as the Assistant Secretary or Deputy Assistant Secretary may require, in the performance of his or her functions under the Executive Order and the regulations in this part.

(c) Consistent with section 13 of the Executive Order, nothing contained in the Executive Order or this part, or promulgated pursuant to the Executive Order or this part, is intended to confer any substantive or procedural right, benefit, or privilege enforceable at law by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

[FR Doc. 01–24320 Filed 9–28–01; 8:45 am]

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Federal Register

Monday,
October 1, 2001

Part IV

Department of Housing and Urban Development

24 CFR Part 888

Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program—Fiscal Year 2002; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR–4680–N–02]

Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program—Fiscal Year 2002

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Final Fiscal Year (FY) 2002 Fair Market Rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs annually to be effective on October 1 of each year. FMRs are used for the Housing Choice Voucher program, the Moderate Rehabilitation Single Room Occupancy program, the project-based voucher program, and any other programs requiring their use. Today's notice provides final FY 2002 FMRs for all areas that reflect the estimated 40th and 50th percentile rent levels trended to April 1, 2002.

EFFECTIVE DATE: The FMRs published in this notice are effective on October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, is responsible for fair market rent implementation policies. His telephone number is (202) 708–0477. For technical information on the methodology used to develop fair market rents or a listing of all fair market rents, please call HUD USER at 1–800–245–2691 or access the information on the HUD Web site, http:\\www.huduser.org/datasets/fmr.html. Further questions on the methodology may be addressed to Marie L. Lihn, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0590, Extension 5866 (e-mail: Marie L. Lihn@hud.gov). Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TTY) by contacting the Federal Information Relay Service at 1–800–877–8339. (Other than the ''800'' TTY number, telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Housing assistance payments are limited by FMRs established by HUD for different areas. In the voucher program, the FMR is used to determine the ''payment standard'' (the maximum monthly subsidy) for assisted families (see Section 982.503). In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

How HUD Sets FMRs

HUD Standard for Setting the FMR

FMRs are gross rent estimates that include both shelter rent paid by the tenant to the landlord and the cost of tenant-paid utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units in neighborhoods and low enough to serve as many families as possible. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area (see 24 CFR 888.113, as amended by interim rule published October 2, 2000 at 65 FR 58870, effective December 1, 2000). FMRs are based on the distribution of rents for units that are occupied by recent movers—renter households who moved into their units within the past 15 months. Rents for units less than two years old and public housing units are not included. Rents for subsidized housing units are adjusted by adding back the amount of the subsidy.

HUD sets FMRs either at the 40th percentile rent or at the 50th percentile rent. For most FMR areas, the FMR is set at the 40th percentile rent—that is, the rent for 40 percent of standard rental housing units is at or below this dollar amount. For some FMR areas, the FMR is set at the 50th percentile rent—that is, the median rent—the rent for 50 percent of standard units is at or below this dollar amount.

When HUD Sets FMRs at the 50th Percentile Rent

On October 2, 2000 (65 FR 58870), HUD published an interim rule (effective December 1, 2000) that provides authority for HUD to set 50th percentile FMRS in metropolitan areas where a higher FMR (i.e., exceeding the 40th percentile FMR) is needed to promote residential choice, help families move closer to areas of job growth, and deconcentrate poverty. The rule provides (§ 888.113(c)) that HUD will set FMRs at the 50th percentile rent for all unit sizes in each metropolitan FMR area that meets all of the following criteria:

- The FMR area contains at least 100 census tracts;
- 70 percent or fewer of the census tracts with at least 10 two bedroom rental units are census tracts in which at least 30 percent of the two bedroom rental units have gross rents at or below the two bedroom FMR set at the 40th percentile rent; and
- 25 percent or more of the tenant-based rental program participants in the FMR area reside in the 5 percent of the census tracts within the FMR area that have the largest number of program participants.

On January 2, 2001 (66 FR 162), HUD first established 50th percentile FMRs for 39 fair market rent areas, based on the criteria specified in the interim rule.

Schedule B of this Notice lists the FY 2002 FMRs for all areas of the United States including:

- the 39 FMR areas where the FMR is set at the 50th percentile rent, and
- FMR areas, where the FMR is set at the 40th percentile rent.

An asterisk in Schedule B identifies each of the 39 FMR areas for which HUD has set 50th percentile FMRs. HUD has set 50th percentile FMRs for the following metropolitan FMR areas:

Albuquerque, NM
Atlanta, GA
Austin-San Marcos, TX
Baton Rouge, LA
Bergen-Passaic, NJ
Buffalo-Niagara Falls, NY
Chicago, IL
Cleveland-Lorain-Elyria, OH
Dallas, TX
Denver, CO
Detroit, MI
Fort Lauderdale, FL
Fort Worth-Arlington, TX
Grand Rapids-Muskegon-Holland, MI
Houston, TX
Kansas City, MO–KS
Las Vegas, NV–AZ
Miami, FL
Minneapolis-St. Paul, MN–WI
Newark, NJ
Norfolk-Virginia Beach-Newport News, VA–NC
Oakland, CA
Oklahoma City, OK
Orange County, CA
Philadelphia, PA–NJ
Phoenix-Mesa, AZ
Richmond-Petersburg, VA
Sacramento, CA
Salt Lake City-Ogden, UT
San Antonio, TX
San Diego, CA
San Jose, CA
St. Louis, MO–IL
Tampa-St. Petersburg-Clearwater, FL
Tulsa, OK
Ventura, CA

Washington, DC–MD–VA
West Palm Beach-Boca Raton, FL
Wichita, KS

Data Sources

HUD has used the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) The 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) The Bureau of the Census' American Housing Surveys (AHS), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or on HUD regional rent change factors developed from regional RDD surveys. Area-specific annual average CPI data are available for 99 metropolitan FMR areas. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD regions. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

Utility Costs

HUD's standard methodology for incorporating changes in utility costs in determination of the FMRs relies on the most current CPI data on annual changes in residential utility costs. Annual rather than point-to-point monthly comparisons (e.g., July 1999 to July 2000) are used because monthly utility price indices are volatile and often not reflective of the annualized cost of utilities. The annual cost indices take into account changes in prices and consumption patterns over the course of a year.

In developing the FMRs for FY 2002, HUD has determined that the standard methodology does not adequately capture the unusual increases in natural gas prices that occurred at the end of calendar year 2000. (The standard methodology does capture increases in fuel oil prices.) The standard FMR methodology captures a 17 percent increase in natural gas prices from 1999 to 2000, but December 1999 to December 2000 prices increased by an average of 37 percent. Department of Energy projections for 2002 are similar to the December 2000 prices. For purposes of estimating FY 2002 FMRs, HUD has therefore modified the natural gas inflation component to use December-to-December costs when available, and to use second half to second half of the year figures for CPI areas where December 2000 data were not available. This is a one-time change made to respond to unusual circumstances; HUD expects to return to the standard methodology next year.

For these three reasons, the impact of this change is modest for most areas:

- First, the change accounts for increases in the price of natural gas per unit of consumption, but not for increases in consumption associated with the unusually cold winter of 2000–2001.
- Second, on a national level, natural gas comprises only 27 percent of utility costs, and utility costs typically average 8–15 percent of total rent costs in metropolitan areas. This means, for instance, that a 50 percent increase in natural gas prices only increases FMRs by a little over 1 percent in the typical metropolitan area.
- Third, since FMRs reflect monthly housing costs, the increase in FMRs due to this methodological change is spread across the course of an entire year rather than just the December-February heating season.

State Minimum FMRs

With the exception of areas with 50th percentile FMRs, FMRs are established at the higher of the local 40th percentile rent level or the Statewide average of nonmetropolitan counties, subject to a ceiling rent cap. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

Bedroom Size Adjustments

FMRs have been calculated separately for each bedroom size category. In areas where FMRs are based on the State minimums, the rents for each bedroom size are the higher of the rent for the area or for the Statewide average of nonmetropolitan counties for that bedroom size. For all other FMR areas, the bedroom intervals are based on data for the specific area.

Exceptions to bedroom size intervals that are below normal ranges have been made for several areas (usually small nonmetropolitan counties). For these areas, the intervals used are based on the typical minimum ratios found after outliers have been excluded.

Higher bedroom size intervals are used for three-bedroom and larger size units than would result from using the actual market relationships. This is done to assist the largest, most difficult to house families in finding program-eligible units. The FMRs for unit sizes larger than 4 bedroom are calculated by adding 15 percent to the 4 bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4 bedroom FMR, and the FMR for a 6 bedroom unit is 1.30 times the 4 bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

Public Comments

In response to the May 9, 2001 (66 FR 23770) proposed FMRs, HUD received 25 public comments covering 23 FMR areas. Rental housing survey information of some form was provided for 15 of those FMR areas. All survey information submitted was evaluated and, based on that review, the FMRs for 10 areas are being revised upward. The information submitted for the other FMR areas was not considered sufficient to provide a basis for revising the FMRs.

Areas with approved FMR increases are:

Flagstaff, AZ
Kanabec County, MN
Mille Lacs County, MN
Modesto, CA MSA
Olympia, WA (Manufactured Home Space FMRs only)
Pine County, MN
Salem, OR (Manufactured Home Space FMRs only)
St Mary's County, MD (Manufactured Home Space FMRs only)
Tooele, UT
Vallejo-Fairfield-Napa, CA PMSA (Manufactured Home Space FMRs only)

Three commenters expressed concern about the impact of higher utilities on FMRs: the Michigan State Housing Development Authority noted that while FY 2001 FMRs were based on frozen natural gas rates, these rates will be deregulated for most of FY 2002; the Cuyahoga Metropolitan Housing Authority noted that utility increases have taken up most of the increase in the FMR over the past year; and the Rochester Housing Authority noted that increases in FMRs have not kept pace with natural gas increases. As noted previously, these concerns were taken into consideration in developing FY 2002 FMRs.

Four commenters requested changes to their FMR area geographic coverage: the Housing Authority of the city of Santa Barbara (CA) requested a north/

south split in the county; the Amherst Housing Authority (MA) requested that the Springfield MSA be subdivided by placing the towns of Amherst, Northampton, and Sunderland in a separate, new, FMR area; the Housing Authority of the City of Charlotte (NC) asked that Charlotte-Mecklenburg stand alone when calculating FMRs; and the Housing Authority of the City of Dallas (TX) suggested the removal of the rural counties of Ellis, Hunt, Kaufman and Rockwall from the Dallas metropolitan FMR area. HUD does not support splitting FMR areas. FMR areas are intended to correspond to housing market areas, which HUD defines based on the Office of Management and Budget's metropolitan area definitions. While there often are large differentials between rents in the highest and lowest cost sections of an FMR area, current FMR exception rules permit geographic area exceptions sufficient to account for these differences, especially now that exceptions can, in special cases, exceed the previous 120 percent limit.

RDD Surveys

This notice makes effective two of the proposed three FMR decreases that were based on RDD surveys conducted in the first two months of 2001:

Dallas, TX (HUD FMR Area)
Newark, NJ PMSA

In the preamble for the proposed FMRs, Hartford (CT) was mistakenly listed as a decrease.

Comments on the proposed decrease for Dallas (TX) were provided by the Housing Authority of the City of Dallas. A review of these comments led to a request for the PHA to replace its outdated utility schedule. Use of this schedule eliminated most of the proposed FMR decrease.

No comment was received for:
Newark, NJ PMSA

There was a proposed decrease for the Detroit (MI) PMSA based on a winter 2001 RDD. Use of an updated utility schedule for Detroit (MI), submitted by the PHA, produced a rent estimate within the confidence interval that included the current FMR, thereby eliminating the proposed reduction.

Summer RDDs

Based on RDDs conducted by HUD the summer of 2001, FMRs for the following areas are being increased by more than the normal adjustments:

New Orleans, LA
Boston, MA–NH MSA
Portland, ME MSA
Buffalo-Niagara Falls, NY
Memphis, TN–AR–MS

Summer 2001 RDDs also were done for the following areas, but they resulted in no change in the FMRs:

Charlotte-Gastonia-Rock Hill, NC–SC
Anchorage, AK MSA
Syracuse, NY MSA

There were no summer 2001 RDDs that showed FMRs needed to be reduced.

American Housing Survey

There were no AHS surveys with results that alter proposed FY 2002 FMRs.

FMR Area Definition Changes

There were no changes in OMB metropolitan area definitions affecting the FY 2002 FMRs.

Manufactured Home Space Surveys

FMRs used to establish payment standard amounts for the rental of manufactured home spaces in the Housing Choice Voucher program are 40 percent of the applicable Section 8 existing housing program FMR for a two-bedroom unit. HUD will consider public comments requesting modifications of these manufactured home space FMRs where commentors claim that the 40 percent FMRs are inadequate. In order to be accepted as a basis for revising the FMRs, comments must contain statistically valid survey data showing the 40th percentile manufactured home space rent (including the cost of utilities) for the entire FMR area. Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the other FMRs.

HUD Rental Housing Survey Guides

HUD recommends the use of professionally-conducted RDD telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of $14,000–$20,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if local rents are thought to be significantly different than the FMR proposed by HUD. In addition, HUD has developed a simplified version of the RDD survey methodology for smaller, nonmetropolitan HAs. This methodology is designed to be simple enough to be done by the HA itself, rather than by professional survey organizations, at a cost of about $5,000.

HAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. HAs are cautioned that the resulting FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on its relationship to the combined rent of the group of FMR areas.

HAs that plan to use the RDD survey technique may obtain a copy of the appropriate survey guide by calling HUD USER on 1–800–245–2691. Larger HAs should request ''Random Digit Dialing Surveys; A Guide to Assist Larger Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller HAs should obtain ''Rental Housing Surveys; A Guide to Assist Smaller Housing Agencies in Preparing Fair Market Rent Comments.'' These guides are also available on the Internet at http://www.huduser.org/datasets/fmr.html.

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the small HA survey guide. Other survey methodologies are acceptable if they provide statistically reliable, unbiased estimates of the 40th percentile gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means of verification for determining whether the sample is representative of the FMR area's rental housing stock. All survey results must be fully documented.

The cost of an RDD survey may vary, depending on the characteristics of the telephone system used in the FMR area. RDDs (and simplified telephone surveys) of some non-metropolitan areas have been unusually expensive because of telephone system characteristics. An HA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations HUD is prepared to relax normal sample size requirements.

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are amended as follows:

Dated: September 26, 2001.

Mel Martinez,

Secretary.

Fair Market Rents for the Housing Choice Voucher Program Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. *Metropolitan Areas*—FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition. The FMRs shown in Schedule B incorporate OMB's most current definitions of metropolitan areas, with the exceptions discussed in paragraph (b). HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions.

b. *Exceptions to OMB Definitions*—The exceptions are counties deleted from several large metropolitan areas whose revised OMB metropolitan area definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the ''Metropolitan FMR Areas'' listing:

Metropolitan Area and Counties Deleted

Chicago, IL
DeKalb, Grundy and Kendall Counties
Cincinnati–Hamilton, OH–KY–IN
Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana
Dallas, TX
Henderson County
Flagstaff, AZ–UT
Kane County, UT
New Orleans, LA
St. James Parish
Washington, DC–MD–VA–WV
Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren Counties in Virginia

c. *Nonmetropolitan Area FMRs*—FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands and the Pacific Islands.

d. *Virginia Independent Cities*—FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas, including the independent cities, are as follows:

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND INDEPENDENT CITIES INCLUDED WITH COUNTY

County	Cities
Allegheny	Clifton Forge and Covington
Augusta	Staunton and Waynesboro
Carroll	Galax
Frederick	Winchester
Greensville	Emporia
Henry	Martinsville
Montgomery	Radford
Rockbridge	Buena Vista and Lexington
Rockingham	Harrisonburg
Southhampton	Franklin
Wise	Norton

2. Bedroom Size Adjustments

Schedule B shows the FMRs for 0–bedroom through 4–bedroom units. The FMRs for unit sizes larger than 4 bedrooms are calculated by adding 15 percent to the 4–bedroom FMR for each extra bedroom. For example, the FMR for a 5–bedroom unit is 1.15 times the 4–bedroom FMR, and the FMR for a 6–bedroom unit is 1.30 times the 4 bedroom FMR. FMRs for single–room–occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

3. FMRs for Manufactured Home Spaces

FMRs for manufactured home spaces in the Housing Choice Voucher program are 40 percent of the two–bedroom Housing Choice Voucher program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been modified on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base–year estimates that are updated annually using the same data used to estimate the Housing Choice Voucher program FMRs. The FMR area definitions used for the rental of manufactured home spaces are the same as the area definitions used for the other FMRs.

4. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

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SCHEDULED—FY 2002 FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM

Area name	Space rent
California:	
Los Angeles, CA	$412
Orange County, CA PMSA	502
Riverside-San Bernardino, CA	327
San Diego, CA MSA	498
Vallejo-Fairfield-Napa, CA PMSA	420
Colorado:	
Boulder-Longmont, CO PMSA	388
Denver, CO PMSA	369
Maryland:	
Hagerstown, MD MSA	231
St. Marys County, MD	363

SCHEDULED—FY 2002 FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES IN THE SECTION 8 HOUSING CHOICE VOUCHER PROGRAM—Continued

Area name	Space rent
Nevada:	
Reno, NV	405
New York:	
Newburgh, NY MSA	309
Rochester, NY	252
Utica-Rome, NY	226
Oregon:	
Deschutes County, OR	267
Portland-Vancouver, OR	303
Salem, OR PMSA	374
Washington:	
Olympia, WA	429

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	271	321	401	560	634	Calhoun
Aurburn-Opelika, Al MSA	270	378	485	630	796	Lee
Birmingham, AL MSA	414	467	543	738	817	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	366	407	489	638	693	Russell
Decatur, AL MSA	360	364	458	594	710	Lawrence, Morgan
Dothan, AL MSA	326	333	415	570	578	Dale, Houston
Florence, AL MSA	306	351	451	563	631	Colbert, Lauderdale
Gadsden, AL MSA	271	331	383	497	611	Etowah
Huntsville, AL MSA	378	442	545	726	865	Limestone, Madison
Mobile, AL MSA	396	442	507	683	802	Baldwin, Mobile
Montgomery, AL MSA	414	441	522	711	856	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	357	382	507	698	738	Tuscaloosa

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	253	302	359	466	535
Bullock	253	302	359	466	535
Chambers	253	302	359	466	536
Chilton	263	302	359	466	535
Clarke	253	302	359	466	535
Cleburne	253	302	359	466	535
Conecuh	253	302	359	466	535
Covington	253	302	359	466	535
Cullman	253	302	359	478	581
Dekalb	253	302	359	466	535
Fayette	253	302	359	466	535
Geneva	253	302	359	466	535
Hale	253	302	359	466	535
Jackson	274	302	359	466	572
Lowndes	253	302	359	466	535
Marengo	253	302	359	466	535
Marshall	291	302	367	508	601
Perry	253	302	359	466	535
Pike	304	353	422	547	637
Sumter	253	302	359	466	535
Tallapoosa	254	302	359	466	535
Washington	253	302	359	466	535
Winston	253	302	359	466	535

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bibb	253	302	359	485	582
Butler	253	302	359	466	535
Cherokee	253	302	359	466	535
Choctaw	253	302	359	466	535
Clay	253	302	359	466	535
Coffee	253	356	463	644	723
Coosa	253	302	359	466	535
Crenshaw	253	302	359	466	535
Dallas	253	302	359	466	535
Escambia	253	302	359	466	535
Franklin	253	302	359	466	535
Greene	253	302	359	466	535
Henry	253	302	359	466	535
Lamar	253	302	359	466	535
Macon	277	311	415	519	582
Marion	253	302	359	466	535
Monroe	253	302	359	466	535
Pickens	253	302	359	466	535
Randolph	253	302	359	466	535
Talladega	253	302	359	466	535
Walker	253	313	369	477	606
Wilcox	253	302	359	466	535

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

A L A S K A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	519	613	812	1130	1334	Anchorage

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	538	606	685	854	1118
Bethel	695	869	1101	1379	1543
Dillingham	671	683	908	1136	1272
Haines	501	620	706	960	989
Kenai Peninsula	455	580	699	971	1147
Kodiak Island	715	786	1022	1277	1656
Matanuska-Susitna	481	651	732	994	1175
North Slope	804	823	1018	1414	1648
Pr.Wales-Outer Ketchikan	375	597	687	952	1007
Skagway-Yakutat-Angoon	459	467	605	758	851
Valdez-Cordova	562	689	765	976	1163
Wrangell-Petersburg	409	603	733	934	1026

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aleutian West	461	522	584	733	821
Bristol Bay	558	644	723	1006	1094
Fairbanks North Star	423	576	756	1040	1226
Juneau	748	864	1100	1464	1521
Ketchikan Gateway	549	672	900	1253	1318
Lake & Peninsula	429	696	782	976	1096
Nome	707	875	983	1368	1544
Northwest Arctic	851	957	1074	1495	1764
Sitka	591	703	788	1098	1296
Southeast Fairbanks	471	495	597	747	838
Wade Hampton	402	605	683	853	955
Yukon-Koyukuk	536	604	682	852	986

A R I Z O N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ	576	623	808	1084	1302	Coconino
*Las Vegas, NV-AZ MSA	554	658	783	1090	1288	Mohave
*Phoenix-Mesa, AZ MSA	500	605	760	1057	1245	Maricopa, Pinal
Tucson, AZ MSA	406	486	647	899	1060	Pima
Yuma, AZ MSA	391	453	603	838	844	Yuma

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Apache	376	396	503	656	780
Gila	376	396	503	656	780
Greenlee	376	396	503	656	780
Navajo	376	396	503	656	780
Yavapai	400	416	557	776	854
Cochise	376	396	503	656	780
Graham	376	396	503	656	780
La Paz	376	396	503	656	780
Santa Cruz	376	416	517	656	780

A R K A N S A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	321	403	531	717	742	Benton, Washington
Fort Smith, AR-OK MSA	349	353	464	621	652	Crawford, Sebastian
Jonesboro, AR MSA	378	411	483	666	703	Craighead
Little Rock-North Little Rock, AR MSA	395	439	521	721	842	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	443	517	607	843	885	Crittenden

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Pine Bluff, AR MSA	302	359	472	595	772	Jefferson
Texarkana, TX-Texarkana, AR MSA	322	393	480	633	671	Miller

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas	273	296	380	518	562
Baxter	249	317	421	542	660
Bradley	249	296	380	503	562
Carroll	293	320	380	503	601
Clark	273	296	385	503	607
Cleburne	283	296	380	503	569
Columbia	249	296	380	503	562
Cross	259	327	380	510	602
Desha	249	296	380	503	562
Franklin	261	296	380	503	562
Garland	249	317	424	592	700
Greene	267	296	380	503	562
Hot Spring	249	296	380	503	562
Independence	262	303	380	503	562
Jackson	258	296	380	503	562
Lafayette	261	296	380	503	562
Lee	274	296	380	503	562
Little River	249	296	386	535	631
Madison	285	296	386	503	562
Mississippi	284	308	412	543	609
Montgomery	249	296	380	503	562
Newton	249	296	380	503	562
Perry	249	296	380	503	562
Pike	249	296	380	503	562
Polk	249	296	380	503	562
Prairie	249	296	380	503	562
St. Francis	249	302	380	513	604
Searcy	249	296	380	503	562
Sharp	249	296	380	503	562
Union	312	329	396	532	651
White	249	296	380	519	562
Yell	259	296	380	503	562

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashley	249	296	380	503	594
Boone	295	300	398	555	655
Calhoun	249	296	380	503	562
Chicot	249	296	380	503	562
Clay	249	296	380	503	562
Cleveland	249	296	380	503	562
Conway	249	308	412	514	577
Dallas	249	296	380	503	562
Drew	249	322	431	595	606
Fulton	258	296	380	503	562
Grant	259	308	380	503	567
Hempstead	249	296	380	503	562
Howard	249	296	380	503	562
Izard	249	296	380	503	562
Johnson	249	296	380	503	562
Lawrence	249	296	380	503	562
Lincoln	269	296	386	515	562
Logan	261	296	380	503	562
Marion	249	296	380	503	562
Monroe	253	296	380	503	562
Nevada	249	296	380	519	562
Ouachita	291	296	380	523	617
Phillips	249	296	380	503	562
Poinsett	249	296	380	503	562
Pope	249	325	412	571	659
Randolph	249	296	380	503	562
Scott	249	296	380	503	562
Sevier	272	296	380	503	562
Stone	249	296	380	503	562
Van Buren	249	296	380	503	620
Woodruff	249	296	380	503	562

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C A L I F O R N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	386	433	544	756	837	Kern
Chico-Paradise, CA MSA	353	454	604	828	990	Butte
Fresno, CA MSA	400	448	535	745	859	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	543	650	823	1110	1325	Los Angeles
Merced, CA MSA	421	475	576	797	940	Merced
Modesto, CA MSA	500	537	655	913	1077	Stanislaus
*Oakland, CA PMSA	819	991	1243	1704	2035	Alameda, Contra Costa
*Orange County, CA PMSA	812	887	1097	1527	1699	Orange
Redding, CA MSA	400	444	557	773	910	Shasta
Riverside-San Bernardino, CA PMSA	482	537	656	910	1076	Riverside, San Bernardino
*Sacramento, CA PMSA	503	566	709	983	1159	El Dorado, Placer, Sacramento
Salinas, CA MSA	567	663	800	1111	1166	Monterey
*San Diego, CA MSA	708	809	1012	1408	1660	San Diego
San Francisco, CA PMSA	1067	1382	1747	2396	2536	Marin, San Francisco, San Mateo
*San Jose, CA PMSA	1131	1289	1592	2182	2451	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA MSA	584	659	836	1162	1372	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	660	732	928	1293	1460	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	739	880	1175	1634	1914	Santa Cruz
Santa Rosa, CA PMSA	694	787	1020	1418	1673	Sonoma
Stockton-Lodi, CA MSA	475	537	690	960	1132	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	704	800	975	1354	1598	Napa, Solano
*Ventura, CA PMSA	706	812	1027	1366	1592	Ventura
Visalia-Tulare-Porterville, CA MSA	391	416	542	756	863	Tulare
Yolo, CA PMSA	504	575	712	986	1165	Yolo
Yuba City, CA MSA	348	407	522	728	842	Sutter, Yuba

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alpine	319	479	542	753	811
Calaveras	385	447	595	829	976
Del Norte	327	448	595	830	978
Humboldt	330	457	598	835	987
Inyo	331	447	573	752	811
Lake	360	458	611	770	1002
Mariposa	345	439	564	739	871
Modoc	349	391	503	701	811
Nevada	400	547	729	1013	1173
San Benito	550	647	810	1129	1320
Siskiyou	335	391	503	701	811
Trinity	359	391	503	701	811

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Amador	441	485	648	903	1006
Colusa	349	391	503	701	811
Glenn	319	391	503	701	811
Imperial	361	451	555	774	811
Kings	370	431	538	748	880
Lassen	391	396	514	701	811
Mendocino	442	533	653	910	916
Mono	487	584	777	1081	1278
Plumas	352	391	503	701	811
Sierra	319	429	528	733	865
Tehama	334	391	503	701	811
Tuolumne	353	482	643	896	1055

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	592	708	909	1266	1492	Boulder
Colorado Springs, CO MSA	467	502	668	931	1100	El Paso
*Denver, CO PMSA	561	671	893	1238	1462	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	462	570	703	978	1154	Larimer
Grand Junction, CO MSA	424	441	551	743	885	Mesa
Greeley, CO PMSA	496	548	690	957	1132	Weld
Pueblo, CO MSA	447	464	579	780	930	Pueblo

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa	401	417	520	702	837
Baca	401	417	520	702	837
Chaffee	401	417	520	702	837
Clear Creek	401	468	529	737	869
Costilla	401	417	520	702	837
Custer	401	417	520	702	837
Dolores	401	417	520	702	837
Elbert	444	491	562	702	921
Garfield	466	499	631	789	1033
Grand	477	481	609	762	923
Hinsdale	401	425	520	702	837
Jackson	401	417	520	702	837
Kit Carson	401	417	520	702	837
La Plata	524	580	764	1065	1256
Lincoln	401	417	520	702	837
Mineral	401	417	520	702	837
Montezuma	401	417	520	702	837
Morgan	401	417	520	702	837
Ouray	401	417	526	702	852
Phillips	401	417	520	702	837
Prowers	401	417	520	702	837
Rio Grande	401	417	520	702	837
Saguache	401	417	520	702	837
San Miguel	738	1067	1173	1464	1890
Summit	517	619	794	1104	1359
Washington	401	417	520	702	837

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Archuleta	480	525	621	839	997
Bent	401	417	520	702	837
Cheyenne	401	417	520	702	837
Conejos	401	417	520	702	837
Crowley	401	417	520	702	837
Delta	401	417	520	702	837
Eagle	540	588	785	1092	1287
Fremont	401	417	520	702	837
Gilpin	401	534	678	895	990
Gunnison	401	417	520	702	837
Huerfano	401	417	520	702	837
Kiowa	401	417	520	702	837
Lake	401	417	520	702	837
Las Animas	401	429	520	702	837
Logan	401	417	520	702	837
Moffat	401	417	520	702	837
Montrose	401	417	526	730	860
Otero	401	417	520	702	837
Park	401	445	579	803	914
Pitkin	602	824	1098	1448	1646
Rio Blanco	401	417	520	702	837
Routt	401	485	641	891	1051
San Juan	401	417	520	702	837
Sedgwick	401	417	520	702	837
Teller	401	476	634	881	889
Yuma	401	417	520	702	837

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	499	649	782	978	1219	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	674	806	1007	1329	1533	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT MSA	465	579	741	930	1128	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	575	706	873	1118	1296	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	518	627	764	955	1092	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 7

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	970	1135	1384	1855	2049	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT PMSA	490	660	819	1020	1144	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT PMSA	485	587	732	914	1024	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	381	617	697	968	1141	Hartland town
Litchfield	444	605	806	1006	1145	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	657	745	994	1384	1632	Chester town, Deep River town, Essex town Westbrook town
New London	557	682	775	1000	1268	Lyme town, Voluntown town
Tolland	381	617	697	968	975	Union town
Windham	439	537	697	873	1094	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	511	565	644	835	950	Kent
Wilmington-Newark, DE-MD PMSA	472	623	727	986	1192	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex	449	477	609	800	854

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Washington, DC-MD-VA	707	804	943	1285	1550	District of Columbia

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

F L O R I D A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	407	477	610	810	860	Flagler, Volusia
*Fort Lauderdale, FL PMSA	526	619	767	1067	1254	Broward
Fort Myers-Cape Coral, FL MSA	437	504	608	850	886	Lee
Fort Pierce-Port Lucie, FL MSA	487	534	691	899	969	Martin, St. Lucie
Fort Walton Beach, FL MSA	425	464	527	714	842	Okaloosa
Gainesville, FL MSA	425	464	564	773	913	Alachua
Jacksonville, FL MSA	487	545	657	867	965	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	407	446	504	625	682	Polk
Melbourne-Titusville-Palm Bay, FL MSA	407	476	596	797	929	Brevard
*Miami, FL PMSA	498	626	781	1072	1243	Dade
Naples, FL MSA	454	640	771	1071	1194	Collier
Ocala, FL MSA	425	464	527	691	811	Marion
Orlando, FL MSA	528	599	714	937	1144	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	425	464	527	672	720	Bay
Pensacola, FL MSA	425	464	527	704	829	Escambia, Santa Rosa
Punta Gorda, FL MSA	425	488	649	900	1062	Charlotte
Sarasota-Bradenton, FL MSA	426	541	688	885	963	Manatee, Sarasota
Tallahassee, FL MSA	434	482	634	828	998	Gadsden, Leon
*Tampa-St. Petersburg-Clearwater, FL MSA	484	576	713	948	1148	Hernando, Hillsborough, Pasco, Pinellas
*West Palm Beach-Boca Raton, FL MSA	554	646	800	1062	1315	Palm Beach

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baker	399	436	494	613	665
Calhoun	399	436	494	613	665
Columbia	399	436	494	613	665
Dixie	399	436	494	613	665
Gilchrist	399	436	494	613	665
Gulf	399	436	494	613	665
Hardee	399	436	494	613	665
Highlands	399	436	494	615	687
Indian River	399	499	641	802	898
Jefferson	399	436	494	613	665
Levy	399	436	494	613	665
Madison	399	436	494	613	665
Okeechobee	399	436	494	613	671
Sumter	399	436	494	613	665
Taylor	399	436	494	613	666
Wakulla	399	436	494	613	665
Washington	399	436	494	613	665

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bradford	399	436	494	613	665
Citrus	399	436	494	613	665
Desoto	399	436	494	613	665
Franklin	399	436	494	613	665
Glades	399	436	494	613	665
Hamilton	399	436	494	613	665
Hendry	399	436	508	637	714
Holmes	399	436	494	613	665
Jackson	399	436	494	613	665
Lafayette	399	436	494	613	665
Liberty	399	436	494	613	665
Monroe	571	644	828	1141	1358
Putnam	399	436	494	613	665
Suwannee	399	436	494	613	665
Union	399	436	494	613	665
Walton	399	436	494	635	794

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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G E O R G I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	317	371	453	618	670	Dougherty, Lee
Athens, GA MSA	390	421	544	743	895	Clarke, Madison, Oconee
*Atlanta, GA MSA	677	753	878	1171	1416	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett Henry, Newton, Paulding, Pickens, Rockdale, Spalding Walton
Augusta-Aiken, GA-SC MSA	400	478	564	766	906	Columbia, Mcduffie, Richmond
Chattanooga, TN-GA MSA	383	447	537	694	790	Catoosa, Dade, Walker
Columbus, GA-AL MSA	366	407	489	638	693	Chattahoochee, Harris, Muscogee
Macon, GA MSA	410	456	531	732	752	Bibb, Houston, Jones, Peach, Twiggs
Savannah, GA MSA	382	474	552	744	774	Bryan, Chatham, Effingham

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Appling	290	349	427	553	629
Bacon	290	349	427	553	629
Baldwin	290	371	453	580	633
Ben Hill	290	349	427	553	637
Bleckley	290	349	427	553	629
Brooks	290	349	427	553	629
Burke	290	349	427	553	629
Calhoun	290	349	427	553	629
Candler	290	349	427	553	629
Chattooga	290	349	427	553	629
Clinch	290	349	427	553	629
Colquitt	290	349	427	553	629
Crawford	290	349	427	553	629
Dawson	290	378	502	628	774
Dodge	290	349	427	553	629
Early	290	349	427	553	629
Elbert	290	349	427	553	629
Evans	290	349	427	553	629
Floyd	290	349	428	564	629
Gilmer	290	349	427	553	629
Glynn	404	453	512	688	843
Grady	296	349	427	553	629
Habersham	311	349	427	553	634
Hancock	290	349	427	553	629
Hart	290	349	427	553	629
Irwin	290	349	427	553	629
Jasper	290	349	432	587	629
Jefferson	290	349	427	553	637

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Atkinson	290	349	427	553	629
Baker	290	349	427	553	629
Banks	290	349	427	553	629
Berrien	290	349	427	553	629
Brantley	290	349	427	553	629
Bulloch	349	354	456	587	745
Butts	290	384	509	681	714
Camden	405	459	513	714	844
Charlton	290	349	427	553	629
Clay	290	349	427	553	629
Coffee	290	349	427	553	637
Cook	290	349	427	553	629
Crisp	293	349	427	553	629
Decatur	290	349	427	553	629
Dooly	290	349	427	553	629
Echols	290	349	427	553	629
Emanuel	290	349	427	553	629
Fannin	290	349	427	553	629
Franklin	290	349	427	553	629
Glascock	290	349	427	553	629
Gordon	344	349	435	561	717
Greene	290	349	427	553	629
Hall	307	466	548	687	766
Haralson	290	349	427	553	629
Heard	290	349	427	553	629
Jackson	322	349	438	553	721
Jeff Davis	290	349	427	553	629
Jenkins	290	349	427	553	629

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

G E O R G I A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Johnson	290	349	427	553	629
Lanier	290	349	427	553	629
Liberty	360	402	458	636	641
Long	290	378	427	553	629
Lumpkin	290	391	439	588	721
Macon	290	349	427	553	629
Meriwether	290	349	427	553	629
Mitchell	290	349	427	553	629
Montgomery	290	349	427	553	629
Murray	290	349	427	553	629
Pierce	290	349	427	553	629
Polk	290	349	427	578	629
Putnam	290	349	427	553	637
Rabun	290	349	427	553	629
Schley	290	349	427	553	629
Seminole	290	349	427	553	629
Stewart	290	349	427	553	629
Talbot	290	349	427	553	629
Tattnall	290	349	427	553	629
Telfair	290	349	427	553	629
Thomas	290	359	427	553	629
Toombs	290	349	427	553	629
Treutlen	290	349	427	553	629
Turner	290	349	427	553	629
Upson	300	349	427	553	629
Warren	290	349	427	553	629
Wayne	300	349	427	553	629
Wheeler	290	349	427	553	629
Whitfield	290	381	458	585	690
Wilkes	290	349	427	553	629
Worth	290	349	427	553	629

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lamar	290	358	427	553	676
Laurens	297	349	427	553	629
Lincoln	290	349	427	553	629
Lowndes	324	393	475	666	737
Mcintosh	290	349	427	553	629
Marion	290	349	427	553	629
Miller	290	349	427	553	629
Monroe	290	349	427	562	629
Morgan	290	349	442	553	629
Oglethorpe	290	349	427	553	629
Pike	337	364	462	643	648
Pulaski	290	349	427	553	629
Quitman	290	349	427	553	629
Randolph	290	349	427	553	629
Screven	290	349	427	553	629
Stephens	290	349	427	553	629
Sumter	290	354	427	553	629
Taliaferro	290	349	427	553	629
Taylor	290	349	427	553	629
Terrell	290	349	427	553	629
Tift	290	349	427	553	629
Towns	290	349	427	553	629
Troup	290	395	444	555	629
Union	290	349	445	558	629
Ware	320	359	427	553	664
Washington	290	349	427	553	629
Webster	290	349	427	553	629
White	290	349	427	553	643
Wilcox	290	349	427	553	629
Wilkinson	290	349	427	553	629

H A W A I I

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	596	714	840	1135	1227	Honolulu

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

H A W A I I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hawaii	464	605	696	924	1138
Maui	749	929	1133	1464	1658
Kauai	592	885	1077	1426	1542

I D A H O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	405	461	561	779	921	Ada, Canyon
Pocatello, ID MSA	291	337	433	589	697	Bannock

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	289	335	432	572	678
Benewah	289	335	432	572	678
Blaine	447	492	655	913	1075
Bonner	332	411	509	705	812
Boundary	289	335	432	572	678
Camas	289	335	432	572	678
Cassia	289	335	432	572	678
Clearwater	289	335	432	572	678
Elmore	289	335	432	572	678
Fremont	289	335	432	572	678
Gooding	289	335	432	572	678
Jefferson	297	335	432	572	678
Kootenai	367	432	565	786	930
Lemhi	289	335	432	572	678
Lincoln	289	335	432	572	678
Minidoka	289	335	432	572	678
Oneida	290	335	432	572	678
Payette	289	335	432	572	678
Shoshone	289	335	432	572	678
Twin Falls	289	335	437	576	678
Washington	289	335	432	572	678
Bear Lake	289	335	432	572	678
Bingham	307	335	432	572	678
Boise	289	372	432	572	678
Bonneville	294	370	509	685	835
Butte	289	335	432	572	678
Caribou	289	335	432	572	678
Clark	289	335	432	572	678
Custer	289	335	432	572	678
Franklin	289	335	432	572	678
Gem	289	335	432	572	678
Idaho	289	335	432	572	678
Jerome	289	335	432	572	678
Latah	289	335	432	572	687
Lewis	289	335	432	572	678
Madison	289	335	432	572	678
Nez Perce	294	335	432	572	678
Owyhee	289	335	432	572	678
Power	289	335	432	572	678
Teton	315	335	432	584	692
Valley	300	335	432	572	678

I L L I N O I S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	358	436	584	812	857	Mclean
Champaign-Urbana, IL MSA	394	483	626	858	1028	Champaign
*Chicago, IL	623	747	891	1114	1247	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	293	405	502	648	703	Henry, Rock Island

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 12

I L L I N O I S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Decatur, IL MSA	285	369	475	641	664	Macon
De Kalb County, IL	480	559	708	984	1139	Dekalb
Grundy County, IL	420	486	645	851	906	Grundy
Kankakee, IL PMSA	383	463	616	788	865	Kankakee
Kendall County, Il	579	660	795	1107	1113	Kendall
Peoria-Pekin, IL MSA	397	437	586	781	959	Peoria, Tazewell, Woodford
Rockford, IL MSA	381	487	594	746	870	Boone, Ogle, Winnebago
*St. Louis, MO-IL MSA	396	482	625	814	899	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	328	406	542	721	820	Menard, Sangamon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	274	307	395	519	630
Bond	274	307	395	519	582
Bureau	274	345	405	519	582
Carroll	274	307	395	519	582
Christian	294	307	397	521	582
Clay	274	307	395	519	582
Crawford	274	307	395	519	582
De Witt	278	307	395	523	582
Edgar	274	307	395	519	582
Effingham	274	316	395	519	582
Ford	260	366	475	611	667
Fulton	282	315	407	534	600
Greene	274	307	395	519	582
Hancock	274	307	395	519	582
Henderson	274	307	395	519	582
Jackson	332	333	421	597	668
Jefferson	275	322	403	549	582
Johnson	274	307	395	519	582
La Salle	332	389	519	701	786
Lee	305	313	420	524	589
Logan	306	326	434	543	680
Macoupin	274	307	395	519	582
Marshall	274	307	395	519	582
Massac	275	307	395	519	582
Montgomery	274	307	395	519	582
Moultrie	274	307	395	533	582
Piatt	274	333	433	590	606
Pope	274	307	395	519	582
Putnam	274	307	395	519	582

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alexander	274	307	395	519	582
Brown	274	307	395	519	582
Calhoun	274	307	395	519	582
Cass	275	307	395	519	582
Clark	274	307	395	519	582
Coles	289	344	458	608	719
Cumberland	274	307	395	519	582
Douglas	292	307	395	519	582
Edwards	274	307	395	519	582
Fayette	274	307	395	519	582
Franklin	274	307	395	519	582
Gallatin	274	307	395	519	582
Hamilton	274	308	395	519	582
Hardin	274	307	395	519	582
Iroquois	274	307	395	519	582
Jasper	274	309	395	519	582
Jo Daviess	303	328	395	519	582
Knox	274	307	395	519	602
Lawrence	274	307	395	519	582
Livingston	274	337	450	580	633
Mcdonough	274	312	395	519	624
Marion	279	307	395	519	582
Mason	274	307	395	519	590
Mercer	274	307	395	519	582
Morgan	274	347	461	615	647
Perry	275	307	395	519	582
Pike	274	307	395	519	582
Pulaski	274	307	395	519	582
Randolph	274	307	395	519	582

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 13

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Richland	274	307	395	519	582
Schuyler	274	307	395	519	582
Shelby	274	307	395	519	582
Stephenson	289	331	419	523	587
Vermilion	274	349	436	545	611
Warren	289	307	395	519	582
Wayne	274	307	395	519	582
Whiteside	289	329	438	548	618

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Saline	274	307	395	519	582
Scott	274	307	395	519	582
Stark	274	307	395	519	582
Union	274	307	395	519	582
Wabash	274	307	395	519	616
Washington	274	328	437	547	710
White	274	307	395	519	582
Williamson	274	307	397	552	582

I N D I A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	389	503	669	931	1099	Monroe
Cincinnati, OH-KY-IN	335	430	576	772	834	Dearborn
Elkhart-Goshen, IN MSA	393	448	566	724	831	Elkhart
Evansville-Henderson, IN-KY MSA	336	400	520	649	727	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	336	428	533	687	745	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	427	561	700	879	982	Lake, Porter
Indianapolis, IN MSA	384	481	578	724	812	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	362	427	557	717	781	Howard, Tipton
Lafayette, IN MSA	366	465	619	861	1018	Clinton, Tippecanoe
Louisville, KY-IN MSA	358	460	565	779	821	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	374	466	553	749	884	Delaware
Ohio County, IN	312	351	449	579	637	Ohio
South Bend, IN MSA	337	449	589	736	826	St. Joseph
Terre Haute, IN MSA	304	356	454	566	632	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	420	451	545	680	896
Blackford	295	333	439	549	616
Carroll	295	333	426	548	603
Crawford	295	333	426	548	603
Decatur	295	361	461	597	649
Fayette	312	353	450	579	681
Franklin	295	333	426	548	674
Gibson	295	333	426	548	603
Greene	295	333	426	548	603
Jackson	363	380	469	621	667
Jay	295	333	426	548	603

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Benton	295	333	426	548	603
Brown	295	392	517	718	743
Cass	295	333	426	548	603
Daviess	295	333	426	548	603
Dubois	295	333	426	548	622
Fountain	295	333	426	548	603
Fulton	326	341	426	573	603
Grant	311	333	426	550	603
Henry	325	365	467	602	660
Jasper	295	359	426	548	603
Jefferson	295	333	426	548	603

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

I N D I A N A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Jennings	308	333	426	548	603
Kosciusko	295	391	472	613	662
La Porte	301	364	487	624	681
Marshall	351	356	472	594	662
Miami	295	333	426	548	603
Newton	308	333	426	548	603
Orange	295	333	426	548	603
Parke	295	333	426	548	630
Pike	295	333	426	548	603
Putnam	321	374	460	618	623
Ripley	295	333	426	556	631
Spencer	295	333	426	548	603
Steuben	362	408	488	611	681
Switzerland	295	333	426	548	603
Wabash	295	333	426	548	603
Washington	295	333	426	548	603
White	295	333	426	548	666

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Knox	322	356	462	587	647
Lagrange	301	347	442	575	669
Lawrence	295	333	426	552	603
Martin	295	333	426	548	603
Montgomery	425	447	557	708	783
Noble	341	348	433	557	618
Owen	295	333	426	548	631
Perry	295	333	426	548	603
Pulaski	295	333	426	548	603
Randolph	295	333	426	548	603
Rush	304	333	426	548	631
Starke	295	333	426	548	603
Sullivan	295	333	426	548	603
Union	295	333	426	548	603
Warren	295	333	426	548	603
Wayne	357	400	514	660	726

I O W A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	286	404	520	723	777	Linn
Davenport-Moline-Rock Island, IA-IL MSA	293	405	502	648	703	Scott
Des Moines, IA MSA	372	470	580	752	790	Dallas, Polk, Warren
Dubuque, IA MSA	305	372	478	612	746	Dubuque
Iowa City, IA MSA	360	464	597	828	979	Johnson
Omaha, NE-IA MSA	352	481	608	797	895	Pottawattamie
Sioux City, IA-NE MSA	358	430	536	668	763	Woodbury
Waterloo-Cedar Falls, IA MSA	335	429	536	713	838	Black Hawk

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	278	343	430	547	603
Allamakee	278	343	430	553	633
Audubon	278	343	430	547	603
Boone	278	365	430	553	655
Buchanan	292	343	430	547	603
Butler	295	343	430	547	603
Carroll	278	343	430	547	603
Cedar	278	348	430	547	603
Cherokee	278	343	430	547	603

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	278	343	430	547	603
Appanoose	278	343	430	547	607
Benton	285	343	430	547	603
Bremer	278	343	430	547	641
Buena Vista	293	343	430	547	603
Calhoun	278	343	430	547	603
Cass	278	343	430	547	603
Cerro Gordo	278	364	450	600	630
Chickasaw	278	343	430	547	603

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 15

I O W A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clarke	285	343	430	547	603
Clayton	278	343	430	547	603
Crawford	278	343	430	547	603
Decatur	278	343	430	547	603
Des Moines	278	355	455	571	637
Emmet	278	343	430	547	637
Floyd	302	343	430	547	603
Fremont	305	343	430	547	635
Grundy	278	343	430	547	620
Hamilton	317	360	436	547	610
Hardin	278	343	430	547	603
Henry	278	352	447	559	633
Humboldt	278	343	430	547	603
Iowa	278	343	430	547	603
Jasper	278	352	446	557	625
Jones	287	343	430	547	603
Kossuth	278	343	430	547	603
Louisa	278	343	430	547	603
Lyon	278	343	430	547	603
Mahaska	278	343	430	547	603
Marshall	306	378	474	602	665
Mitchell	278	343	430	547	603
Monroe	278	362	430	547	635
Muscatine	317	393	521	693	728
Osceola	278	343	430	547	603
Palo Alto	278	343	430	547	603
Pocahontas	278	343	430	547	603
Ringgold	278	343	430	547	603
Shelby	278	343	430	547	603
Story	362	439	519	716	821
Taylor	278	343	430	547	604
Van Buren	278	343	430	547	603
Washington	278	343	430	547	635
Webster	278	343	437	550	612
Winneshiek	278	343	430	547	603
Wright	278	343	430	547	603

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clay	278	343	430	547	603
Clinton	278	343	437	547	611
Davis	278	343	430	547	603
Delaware	278	343	430	547	603
Dickinson	278	343	430	547	603
Fayette	278	343	430	547	603
Franklin	285	343	430	547	603
Greene	278	343	430	547	603
Guthrie	278	343	430	547	634
Hancock	278	343	430	547	603
Harrison	278	343	430	547	603
Howard	278	343	430	547	630
Ida	285	343	430	547	603
Jackson	278	343	434	547	607
Jefferson	278	351	467	608	768
Keokuk	278	343	430	547	603
Lee	278	343	444	556	624
Lucas	278	343	430	547	603
Madison	278	343	448	574	629
Marion	278	382	467	584	655
Mills	278	371	438	550	613
Monona	278	343	430	547	603
Montgomery	305	345	430	547	603
O'Brien	278	343	430	547	603
Page	278	343	430	547	603
Plymouth	278	343	450	562	630
Poweshiek	293	365	467	584	655
Sac	278	343	430	547	603
Sioux	278	343	430	547	603
Tama	278	343	430	547	603
Union	278	343	430	547	635
Wapello	278	343	435	547	608
Wayne	278	343	430	547	603
Winnebago	278	349	430	547	603
Worth	278	343	430	547	612

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Kansas City, MO-KS MSA	443	557	671	927	1028	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	370	443	568	791	911	Douglas
Topeka, KS MSA	347	399	520	703	792	Shawnee
*Wichita, KS MSA	362	435	582	787	851	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	283	321	412	531	591
Atchison	283	321	412	531	633
Barton	283	321	412	531	591
Brown	283	321	412	531	591
Chautauqua	283	321	412	531	591
Cheyenne	283	321	412	531	591
Clay	283	321	412	531	591
Coffey	292	321	412	531	617
Cowley	302	321	412	544	591
Decatur	283	321	412	531	591
Doniphan	283	321	412	531	591
Elk	283	321	412	531	591
Ellsworth	283	321	412	531	591
Ford	325	385	478	603	679
Geary	348	366	457	591	640
Graham	283	321	412	531	591
Gray	283	321	412	531	591
Greenwood	283	321	412	531	591
Harper	283	321	412	531	591
Hodgeman	283	321	412	531	591
Jefferson	283	321	419	556	591
Kearny	315	321	423	570	626
Kiowa	283	321	412	531	591
Lane	283	321	412	531	591
Linn	283	321	412	531	591
Lyon	283	321	412	531	630
Marion	283	321	412	531	591
Meade	283	321	412	531	591
Montgomery	283	321	412	531	591
Morton	283	345	412	531	591
Neosho	283	321	412	531	591
Norton	283	321	412	531	591
Osborne	283	321	412	531	592
Pawnee	283	321	412	531	591

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	283	321	412	531	591
Barber	283	321	412	531	591
Bourbon	283	321	412	531	591
Chase	283	321	412	531	591
Cherokee	283	321	412	531	591
Clark	283	321	412	531	591
Cloud	283	321	412	531	591
Comanche	283	321	412	531	591
Crawford	283	321	419	531	591
Dickinson	283	321	412	531	591
Edwards	283	321	412	531	591
Ellis	283	321	412	531	591
Finney	371	396	507	661	836
Franklin	318	334	430	551	672
Gove	283	321	412	531	591
Grant	293	372	426	583	636
Greeley	283	321	412	531	591
Hamilton	283	321	412	531	591
Haskell	283	329	412	531	591
Jackson	283	321	412	531	591
Jewell	283	321	412	531	591
Kingman	283	321	412	531	591
Labette	283	321	412	531	591
Lincoln	283	321	412	531	591
Logan	283	321	412	531	591
Mcpherson	285	321	412	531	591
Marshall	283	321	412	531	591
Mitchell	283	321	412	531	591
Morris	283	321	412	531	591
Nemaha	283	321	412	531	591
Ness	283	321	412	531	591
Osage	283	321	412	531	591
Ottawa	283	321	412	531	591
Phillips	283	321	412	531	591

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pottawatomie	283	321	412	531	604
Rawlins	283	321	412	531	591
Republic	283	321	412	531	591
Riley	351	387	515	643	781
Rush	283	321	412	531	591
Saline	370	383	504	697	705
Seward	341	372	495	620	691
Sherman	283	321	412	531	591
Stafford	283	321	412	531	591
Stevens	283	322	412	531	607
Thomas	283	321	412	531	591
Wabaunsee	283	321	412	531	591
Washington	283	321	412	531	591
Wilson	283	321	412	531	591

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pratt	283	321	412	542	591
Reno	283	321	412	531	641
Rice	283	321	412	531	591
Rooks	283	321	412	531	591
Russell	283	321	412	531	591
Scott	283	321	412	542	623
Sheridan	283	321	412	531	591
Smith	283	321	412	531	591
Stanton	283	321	412	531	591
Sumner	283	321	412	556	591
Trego	283	321	412	531	591
Wallace	283	321	412	531	591
Wichita	283	321	423	531	659
Woodson	283	321	412	531	591

K E N T U C K Y

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	335	430	576	772	834	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	355	397	467	636	654	Christian
Evansville-Henderson, IN-KY MSA	336	400	520	649	727	Henderson
Gallatin County, KY	282	383	470	589	769	Gallatin
Grant County, KY	280	333	441	616	729	Grant
Huntington-Ashland, WV-KY-OH MSA	317	372	458	584	644	Boyd, Carter, Greenup
Lexington, KY MSA	360	448	548	748	845	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	358	460	565	779	821	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	314	325	427	573	600	Daviess
Pendleton County, KY	282	327	435	547	611	Pendleton

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	258	315	373	493	541
Anderson	284	301	390	486	546
Barren	258	312	373	481	541
Bell	258	301	376	481	541
Bracken	258	301	373	481	541
Breckinridge	258	301	373	481	541
Caldwell	258	301	373	481	541
Carlisle	258	301	373	481	541
Casey	258	301	373	481	541
Clinton	258	301	373	481	541

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	258	301	373	481	541
Ballard	258	301	373	481	541
Bath	258	301	373	481	541
Boyle	307	311	415	519	582
Breathitt	258	301	373	481	541
Butler	258	301	373	481	541
Calloway	258	301	373	481	541
Carroll	258	301	373	481	541
Clay	258	301	373	481	541
Crittenden	258	301	373	481	541

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Cumberland	258	301	373	481	541
Elliott	258	301	373	481	541
Fleming	258	301	373	481	541
Franklin	258	380	465	600	758
Garrard	258	301	373	481	541
Grayson	258	301	373	481	541
Hancock	258	301	373	485	575
Harlan	258	392	446	583	688
Hart	258	301	373	481	541
Hickman	258	301	373	481	541
Jackson	258	301	373	481	541
Knott	258	301	373	481	541
Larue	258	301	373	481	541
Lawrence	258	301	373	481	541
Leslie	258	301	373	481	541
Lewis	258	301	373	481	541
Livingston	298	301	401	557	561
Lyon	258	301	373	481	541
Mccreary	258	301	373	481	541
Magoffin	258	301	373	481	541
Marshall	258	307	373	481	579
Mason	258	301	373	481	541
Menifee	258	301	373	481	541
Metcalfe	258	301	373	481	541
Montgomery	258	301	373	481	541
Muhlenberg	258	301	373	481	541
Nicholas	258	301	373	481	541
Owen	258	301	373	481	554
Perry	289	301	388	484	543
Powell	258	301	373	481	541
Robertson	258	301	373	481	541
Rowan	258	301	373	481	561
Shelby	259	341	382	533	541
Spencer	258	307	373	481	541
Todd	258	301	373	481	541
Trimble	258	301	373	481	541
Warren	258	334	445	556	643
Wayne	258	301	373	481	541
Whitley	258	301	373	481	541

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Edmonson	258	301	373	481	541
Estill	258	301	373	481	541
Floyd	272	330	373	516	593
Fulton	258	301	373	481	541
Graves	258	301	373	481	541
Green	258	301	373	481	541
Hardin	320	329	412	554	657
Harrison	258	302	382	481	589
Henry	258	301	373	481	541
Hopkins	258	301	373	481	546
Johnson	258	301	373	481	541
Knox	258	356	457	572	703
Laurel	337	381	452	609	631
Lee	258	301	373	481	541
Letcher	258	301	373	481	541
Lincoln	258	301	373	481	541
Logan	258	301	373	491	541
Mccracken	292	314	393	503	645
Mclean	258	301	373	481	541
Marion	258	301	373	481	541
Martin	258	301	373	481	541
Meade	267	331	382	504	628
Mercer	258	301	373	491	541
Monroe	258	301	373	481	541
Morgan	258	301	373	481	541
Nelson	283	301	384	481	541
Ohio	258	301	373	481	541
Owsley	258	301	373	481	541
Pike	277	316	384	481	567
Pulaski	283	301	382	482	541
Rockcastle	258	301	373	481	541
Russell	258	301	373	481	541
Simpson	258	322	378	482	541
Taylor	311	368	412	551	623
Trigg	258	301	373	481	541
Union	258	301	373	481	541
Washington	258	305	373	481	541
Webster	258	301	373	481	541
Wolfe	258	301	373	481	541

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

L O U I S I A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	293	366	459	636	646	Rapides
*Baton Rouge, LA MSA	337	418	519	720	850	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	289	338	433	601	712	Lafourche, Terrebonne
Lafayette, LA MSA	306	353	419	577	683	Lafayette, Acadia, St. Landry, St. Martin
Lake Charles, LA MSA	337	392	496	651	815	Calcasieu
Monroe, LA MSA	316	355	473	637	662	Ouachita
New Orleans, LA	446	512	637	867	1050	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	288	326	434	541	606	St. James
Shreveport-Bossier City, LA MSA	357	405	509	681	836	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allen	282	305	376	493	549
Avoyelles	282	305	376	493	552
Bienville	282	305	376	499	590
Cameron	282	305	376	493	549
Claiborne	282	305	376	493	549
De Soto	282	305	376	493	554
East Feliciana	282	305	376	493	549
Franklin	282	305	376	493	554
Iberia	297	310	385	493	549
Jackson	282	305	376	493	549
La Salle	282	305	376	493	554
Madison	282	305	376	493	549
Natchitoches	300	308	397	550	554
Red River	282	305	376	493	554
Sabine	282	313	376	493	580
St. Mary	308	329	414	564	588
Tensas	282	305	376	493	549
Vermilion	282	305	376	493	549
Washington	282	305	376	493	549
West Feliciana	282	366	490	612	687

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Assumption	308	331	392	493	549
Beauregard	342	373	442	578	636
Caldwell	282	305	376	493	549
Catahoula	282	305	376	493	549
Concordia	282	305	376	493	549
East Carroll	282	305	376	493	549
Evangeline	282	305	376	493	549
Grant	282	305	376	493	549
Iberville	282	305	376	493	566
Jefferson Davis	282	305	376	493	558
Lincoln	331	333	415	569	683
Morehouse	282	305	376	493	549
Pointe Coupee	282	305	376	493	596
Richland	282	305	376	493	554
St. Helena	282	305	376	493	549
Tangipahoa	301	313	402	528	562
Union	282	305	376	493	554
Vernon	322	360	410	531	627
West Carroll	282	305	376	493	549
Winn	282	305	376	493	549

M A I N E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	366	447	573	749	804	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Waldo county towns of Winterport town
Lewiston-Auburn, ME MSA	337	407	523	655	743	Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	482	621	817	1023	1145	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach
Portsmouth-Rochester, NH-ME PMSA	534	640	822	1055	1293	York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	338	419	555	694	777	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	338	398	509	648	746	
Cumberland	496	505	673	914	1050	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	346	398	509	648	746	
Hancock	364	447	553	697	774	
Kennebec	352	439	528	663	746	
Knox	338	436	565	755	795	
Lincoln	440	490	557	775	914	
Oxford	338	398	509	648	746	
Penobscot	338	398	509	648	746	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Piscataquis	338	398	509	648	746	
Sagadahoc	476	545	673	894	1105	
Somerset	354	405	509	648	765	
Waldo	338	398	509	648	746	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	338	398	509	648	746	
York	419	478	640	802	897	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	461	564	688	911	1042	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	594	798	930	1229	1535	Columbia
Cumberland, MD-WV MSA	351	422	522	690	788	Allegany
Hagerstown, MD PMSA	363	436	544	712	813	Washington
*Washington, DC-MD-VA	707	804	943	1285	1550	Calvert, Charles, Frederick, Montgomery, Prince George's
Wilmington-Newark, DE-MD PMSA	472	623	727	986	1192	Cecil

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Caroline	387	417	521	683	775
Garrett	345	462	521	679	855
St. Mary's	557	661	762	1063	1214
Talbot	456	483	644	807	1058
Worcester	345	417	522	724	775

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Dorchester	345	446	521	679	775
Kent	349	430	575	717	865
Somerset	411	461	521	722	854
Wicomico	389	449	580	736	812

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	518	694	927	1161	1300	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 22

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	887	999	1250	1563	1835	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA	499	657	806	1002	1143	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 23

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA	390	548	712	915	994	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA	540	652	821	1025	1261	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA	548	708	855	1071	1198	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA PMSA	524	640	728	909	1021	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA	338	480	591	742	919	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA MSA	397	541	650	816	1006	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA	421	520	657	821	1010	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT PMSA	485	587	732	914	1024	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	504	691	921	1152	1290	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	402	488	576	789	946	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	681	692	922	1153	1293	
Franklin	433	536	686	860	1038	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	437	596	795	1057	1304	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	612	620	827	1037	1160	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	774	1037	1383	1729	1935	
Worcester	487	508	677	848	948	Athol town, Hardwick town, Hubbardston town New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	512	619	765	1003	1125	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	398	402	528	660	740	Berrien
*Detroit, MI PMSA	458	621	751	939	1052	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	398	452	568	724	794	Genesee
*Grand Rapids-Muskegon-Holland, MI MSA	435	509	622	778	871	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	313	421	534	666	747	Jackson
Kalamazoo-Battle Creek, MI MSA	370	447	563	705	787	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	417	490	634	828	957	Clinton, Eaton, Ingham

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I C H I G A N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Saginaw-Bay City-Midland, MI MSA	364	401	534	666	747	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcona	305	348	441	573	653
Alpena	305	348	441	573	657
Arenac	305	348	441	573	653
Barry	305	377	500	628	703
Branch	354	362	444	607	653
Charlevoix	371	375	475	646	669
Chippewa	305	348	441	573	653
Crawford	334	348	450	616	653
Dickinson	305	375	463	578	653
Gladwin	305	348	441	573	653
Grand Traverse	404	433	577	722	810
Hillsdale	305	348	441	573	653
Huron	305	348	441	573	653
Iosco	305	348	441	573	692
Isabella	341	364	487	657	799
Keweenaw	305	348	441	573	653
Leelanau	414	447	523	683	858
Mackinac	305	348	441	573	653
Marquette	305	348	441	573	653
Mecosta	305	348	441	597	708
Missaukee	321	348	441	573	653
Montmorency	305	348	441	573	653
Oceana	326	348	441	573	653
Ontonagon	305	348	441	573	653
Oscoda	305	348	441	573	653
Presque Isle	305	348	441	573	653
St. Joseph	305	356	441	575	653
Schoolcraft	305	348	441	573	653
Tuscola	332	362	483	603	674

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alger	305	348	441	573	653
Antrim	305	366	441	573	653
Baraga	305	348	441	573	653
Benzie	318	348	441	592	653
Cass	305	348	443	605	653
Cheboygan	321	348	441	573	670
Clare	316	348	441	573	653
Delta	305	348	441	573	653
Emmet	341	408	483	633	674
Gogebic	305	348	441	573	653
Gratiot	318	348	441	573	653
Houghton	305	348	441	573	653
Ionia	374	379	474	591	665
Iron	305	348	441	573	653
Kalkaska	305	348	442	575	727
Lake	308	348	441	573	653
Luce	305	348	441	573	653
Manistee	305	348	441	573	653
Mason	305	348	441	573	653
Menominee	305	348	441	573	653
Montcalm	365	412	521	677	772
Newaygo	352	377	442	573	653
Ogemaw	317	349	441	573	653
Osceola	305	348	441	573	653
Otsego	312	379	477	664	769
Roscommon	337	348	441	573	653
Sanilac	305	359	441	575	653
Shiawassee	305	383	461	642	688
Wexford	305	353	457	599	708

M I N N E S O T A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	295	380	487	651	758	St. Louis
Fargo-Moorhead, ND-MN MSA	355	488	590	819	877	Clay
Grand Forks, ND-MN MSA	367	437	575	793	885	Polk

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
La Crosse, WI-MN MSA	299	385	489	655	793	Houston
*Minneapolis-St. Paul, MN-WI MSA	524	674	862	1166	1321	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	343	482	631	872	979	Olmsted
St. Cloud, MN MSA	341	442	522	659	841	Benton, Stearns

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aitkin	284	368	490	615	685
Beltrami	280	359	479	628	671
Blue Earth	382	461	574	735	933
Carlton	280	341	433	542	620
Chippewa	280	341	433	542	620
Cook	332	341	445	608	633
Crow Wing	280	341	455	569	715
Douglas	280	341	433	542	620
Fillmore	280	341	433	542	620
Goodhue	323	416	554	707	776
Hubbard	286	341	433	542	620
Jackson	280	341	433	542	620
Kandiyohi	345	436	530	665	801
Koochiching	339	345	459	573	751
Lake	280	341	433	542	620
Le Sueur	280	341	433	542	668
Lyon	280	341	433	542	642
Mahnomen	280	341	433	542	620
Martin	280	341	433	542	620
Mille Lacs	362	416	529	736	867
Mower	280	341	433	542	620
Nicollet	352	375	499	663	701
Norman	280	341	433	542	620
Pennington	280	341	433	578	620
Pipestone	280	341	433	542	620
Red Lake	280	354	433	542	620
Renville	280	341	433	542	620
Rock	280	341	433	542	620
Sibley	280	341	433	542	620
Stevens	318	403	455	569	638
Todd	280	341	433	542	620
Wabasha	303	369	467	586	669
Waseca	365	400	509	638	729

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Becker	280	401	451	565	633
Big Stone	280	341	433	542	620
Brown	280	362	433	542	620
Cass	280	341	433	542	620
Clearwater	280	341	433	542	620
Cottonwood	280	341	433	542	620
Dodge	280	341	433	542	620
Faribault	280	341	433	542	620
Freeborn	280	341	441	580	622
Grant	280	341	433	542	620
Itasca	359	363	473	591	663
Kanabec	342	432	559	698	783
Kittson	280	341	433	542	620
Lac qui Parle	280	341	433	542	620
Lake of the Woods	280	341	433	542	620
Lincoln	280	341	433	542	620
Mcleod	333	429	571	709	797
Marshall	280	341	433	542	620
Meeker	334	392	497	625	714
Morrison	310	341	433	542	620
Murray	280	341	433	542	620
Nobles	280	341	433	542	620
Otter Tail	280	341	433	542	620
Pine	351	387	492	619	704
Pope	280	341	433	542	620
Redwood	280	341	433	542	620
Rice	332	453	605	754	845
Roseau	339	345	452	583	636
Steele	332	385	513	641	718
Swift	280	341	433	542	620
Traverse	280	341	433	542	620
Wadena	280	341	433	542	620
Watonwan	280	341	433	542	620

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wilkin	280	341	433	542	620
Yellow Medicine	280	341	433	542	620
Winona	327	425	539	673	754

M I S S I S S I P P I

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	413	484	557	776	915	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	300	368	451	605	721	Forrest, Lamar
Jackson, MS MSA	411	468	573	761	804	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	443	517	607	843	885	Desoto

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	257	305	380	485	619
Amite	257	305	378	485	546
Benton	257	305	378	485	546
Calhoun	257	305	378	485	546
Chickasaw	257	305	378	485	546
Claiborne	257	305	378	485	546
Clay	257	305	378	485	551
Copiah	257	305	378	485	546
Franklin	260	305	378	485	546
Greene	257	305	378	485	546
Holmes	257	305	378	485	546
Issaquena	270	371	493	617	691
Jasper	257	305	378	485	546
Jefferson Davis	257	305	378	485	546
Kemper	259	305	378	485	546
Lauderdale	257	331	417	541	585
Leake	257	305	378	485	546
Leflore	257	305	378	486	584
Lowndes	317	342	405	508	573
Marshall	257	305	378	485	554
Montgomery	257	305	378	485	546
Newton	257	305	378	485	546
Oktibbeha	315	328	401	557	658
Pearl River	270	305	378	487	546
Pike	261	305	378	485	546
Prentiss	260	305	378	485	546
Scott	257	305	378	485	546
Simpson	260	305	378	485	546

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcorn	257	305	378	485	546
Attala	257	305	378	485	546
Bolivar	292	305	393	491	560
Carroll	257	305	378	485	546
Choctaw	257	305	378	485	546
Clarke	257	305	378	485	546
Coahoma	299	305	402	505	564
Covington	257	305	378	485	546
George	257	305	378	485	546
Grenada	257	306	378	515	546
Humphreys	257	305	378	485	546
Itawamba	257	305	378	485	546
Jefferson	257	305	378	485	546
Jones	257	305	378	485	546
Lafayette	260	356	475	595	665
Lawrence	257	305	378	485	546
Lee	321	346	417	521	585
Lincoln	257	305	378	485	546
Marion	257	305	378	485	546
Monroe	257	305	378	485	546
Neshoba	257	305	378	485	546
Noxubee	261	305	378	485	546
Panola	266	305	378	485	546
Perry	257	305	378	485	546
Pontotoc	257	305	378	485	546
Quitman	257	305	378	485	546
Sharkey	261	305	378	485	546
Smith	257	305	378	485	546

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Stone	257	305	378	485	546
Tallahatchie	257	305	378	485	546
Tippah	257	305	378	485	546
Tunica	257	305	378	485	546
Walthall	257	305	378	485	546
Washington	278	330	441	570	628
Webster	259	305	378	485	546
Winston	257	305	378	485	546
Yazoo	261	305	378	485	546

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sunflower	284	309	378	485	580
Tate	257	347	401	503	660
Tishomingo	257	305	378	485	546
Union	257	305	378	485	546
Warren	257	336	419	579	694
Wayne	257	305	378	485	546
Wilkinson	257	305	378	485	546
Yalobusha	259	305	378	485	546

M I S S O U R I

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	273	384	500	695	819	Boone
Joplin, MO MSA	266	308	408	538	578	Jasper, Newton
*Kansas City, MO-KS MSA	443	557	671	927	1028	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	255	310	414	522	580	Andrew, Buchanan
*St. Louis, MO-IL MSA	396	482	625	814	899	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	279	354	458	632	658	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	251	313	415	523	627
Audrain	267	288	371	501	579
Barton	251	288	371	481	553
Benton	282	288	384	481	553
Butler	251	288	371	481	553
Callaway	295	299	399	506	656
Cape Girardeau	258	317	421	561	688
Carter	251	288	371	481	553
Chariton	251	288	371	481	553
Cole	251	331	440	587	616
Crawford	274	331	372	491	553
Dallas	251	288	371	481	553
Dekalb	259	288	371	488	553
Douglas	251	288	371	481	553
Gasconade	251	288	371	481	553
Grundy	251	288	371	481	553
Henry	285	290	388	486	637
Holt	251	288	371	481	553
Howell	251	288	371	481	553

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Atchison	251	288	371	481	553
Barry	251	297	371	481	553
Bates	251	288	371	481	564
Bollinger	251	288	371	481	553
Caldwell	251	290	391	489	553
Camden	330	333	444	617	726
Carroll	251	288	371	481	553
Cedar	251	288	371	481	553
Clark	251	288	371	481	553
Cooper	251	288	371	481	553
Dade	251	288	371	481	553
Daviess	251	288	371	481	553
Dent	251	288	371	481	553
Dunklin	251	288	371	481	553
Gentry	251	288	371	481	553
Harrison	251	288	371	481	553
Hickory	251	288	371	481	553
Howard	251	288	371	481	555
Iron	251	288	371	481	553

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 29

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Johnson	300	336	438	580	686
Laclede	251	288	371	486	553
Lewis	251	288	371	481	553
Livingston	251	288	372	481	553
Macon	269	310	398	518	594
Maries	251	288	371	481	553
Mercer	251	288	371	481	553
Mississippi	251	288	371	481	553
Monroe	251	288	371	481	553
Morgan	251	288	371	481	553
Nodaway	264	320	394	500	603
Osage	251	288	371	481	553
Pemiscot	251	288	371	481	553
Pettis	268	315	421	530	634
Pike	251	288	371	481	581
Pulaski	251	351	394	522	581
Ralls	251	288	371	481	553
Reynolds	251	288	371	481	553
St. Clair	251	288	371	481	553
St. Francois	274	345	437	548	718
Schuyler	251	288	371	481	553
Scott	300	303	405	547	630
Shelby	251	288	371	481	553
Stone	290	309	385	491	553
Taney	283	313	410	553	650
Vernon	251	288	371	494	553
Wayne	251	288	371	481	553
Wright	251	288	371	481	553

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Knox	251	288	371	481	553
Lawrence	265	295	371	481	553
Linn	251	288	371	481	553
Mcdonald	251	288	371	481	553
Madison	251	288	371	481	553
Marion	251	288	371	481	553
Miller	274	331	371	486	574
Moniteau	251	288	371	481	553
Montgomery	265	305	392	509	584
New Madrid	251	288	371	481	553
Oregon	251	288	371	481	553
Ozark	251	288	371	481	553
Perry	303	308	412	548	576
Phelps	259	311	398	541	586
Polk	251	289	371	481	579
Putnam	251	288	371	481	553
Randolph	251	288	371	481	553
Ripley	251	288	371	481	553
Ste. Genevieve	251	297	384	491	622
Saline	251	288	382	481	553
Scotland	251	288	371	481	553
Shannon	251	288	371	481	553
Stoddard	251	288	371	481	553
Sullivan	251	288	371	481	553
Texas	251	288	371	481	553
Washington	292	355	397	496	556
Worth	251	288	371	481	553

M O N T A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	346	402	537	722	876	Yellowstone
Great Falls, MT MSA	346	400	527	686	816	Cascade
Missoula, MT MSA	346	406	540	696	885	Missoula

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

083101

M O N T A N A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	311	359	474	615	719
Blaine	311	359	474	615	719
Carbon	354	415	539	701	818
Chouteau	311	359	474	615	719
Daniels	311	381	474	615	719
Deer Lodge	311	359	474	615	719
Fergus	311	359	474	615	719
Gallatin	383	447	599	769	983
Glacier	311	359	474	615	719
Granite	311	359	474	615	719
Jefferson	328	359	474	615	719
Lake	338	359	474	615	719
Liberty	311	359	474	615	719
Mccone	311	378	474	615	719
Meagher	311	381	474	615	719
Musselshell	316	359	474	615	719
Petroleum	311	359	474	615	719
Pondera	311	379	474	615	719
Powell	316	359	474	615	719
Ravalli	311	359	474	615	719
Roosevelt	325	359	474	615	719
Sanders	311	359	474	615	719
Silver Bow	311	359	474	615	719
Sweet Grass	335	359	474	615	719
Toole	317	359	474	615	719
Valley	311	359	474	615	719
Wibaux	311	381	474	615	719

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Big Horn	311	359	474	615	719
Broadwater	311	359	474	615	766
Carter	311	381	474	615	719
Custer	311	359	474	615	719
Dawson	311	359	474	615	719
Fallon	311	359	474	615	719
Flathead	311	360	481	671	790
Garfield	311	359	474	615	719
Golden Valley	311	379	474	615	719
Hill	321	359	474	615	719
Judith Basin	311	381	474	615	719
Lewis and Clark	345	404	538	748	885
Lincoln	338	359	474	615	719
Madison	317	359	474	615	719
Mineral	311	359	474	615	734
Park	311	359	474	615	727
Phillips	311	359	474	615	719
Powder River	311	364	474	615	719
Prairie	311	359	474	615	719
Richland	311	388	474	615	719
Rosebud	311	359	474	615	719
Sheridan	320	359	474	615	719
Stillwater	317	359	474	615	719
Teton	311	359	474	615	719
Treasure	311	359	474	615	719
Wheatland	311	359	474	615	719

N E B R A S K A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	326	419	552	733	856	Lancaster
Omaha, NE-IA MSA	352	481	608	797	895	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	358	430	536	668	763	Dakota

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 31

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	260	348	460	576	690
Arthur	250	321	410	524	596
Blaine	250	321	410	524	596
Box Butte	270	321	410	525	619
Brown	250	321	410	524	608
Burt	250	321	410	524	596
Cedar	250	321	410	524	596
Cherry	250	337	410	527	620
Clay	250	321	410	524	596
Cuming	250	338	410	524	596
Dawes	266	321	410	528	623
Deuel	250	321	410	524	596
Dodge	250	321	422	556	596
Fillmore	250	321	410	524	596
Frontier	280	321	410	524	596
Gage	250	322	417	531	596
Garfield	250	321	410	524	596
Grant	250	321	410	524	596
Hall	298	394	525	690	774
Harlan	250	321	410	525	596
Hitchcock	250	321	410	524	596
Hooker	250	336	410	525	596
Jefferson	250	321	410	524	596
Kearney	250	321	410	524	623
Keya Paha	250	321	410	524	596
Knox	250	333	410	524	596
Logan	250	321	410	524	624
Mcpherson	250	321	410	525	596
Merrick	250	321	410	524	596
Nance	250	321	410	524	596
Nuckolls	250	321	410	524	596
Pawnee	250	321	410	528	596
Phelps	279	321	410	525	623
Platte	250	321	410	572	596
Red Willow	250	321	410	524	606
Rock	250	329	410	524	596
Saunders	250	321	410	524	596
Seward	309	321	418	524	596
Sherman	250	323	410	524	624
Stanton	250	321	410	524	596

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Antelope	250	337	410	527	596
Banner	250	321	410	525	596
Boone	250	321	410	524	620
Boyd	250	335	410	524	596
Buffalo	268	389	488	608	735
Butler	250	321	410	524	596
Chase	250	338	410	524	625
Cheyenne	279	321	410	524	596
Colfax	271	334	410	524	596
Custer	279	323	410	524	619
Dawson	273	334	410	528	596
Dixon	278	321	410	524	596
Dundy	250	321	410	524	596
Franklin	250	321	410	529	596
Furnas	250	321	410	524	620
Garden	250	334	410	527	623
Gosper	250	321	410	524	603
Greeley	250	321	410	524	606
Hamilton	250	321	410	528	596
Hayes	250	336	410	524	620
Holt	250	321	410	524	596
Howard	250	321	410	524	596
Johnson	250	325	410	524	596
Keith	250	321	410	524	596
Kimball	250	321	410	525	623
Lincoln	256	334	410	524	596
Loup	250	321	410	524	622
Madison	256	336	444	575	701
Morrill	250	323	410	524	620
Nemaha	250	321	410	524	596
Otoe	250	321	410	524	624
Perkins	250	321	410	524	596
Pierce	250	321	410	524	596
Polk	250	321	410	524	596
Richardson	250	321	410	524	596
Saline	250	335	410	524	596
Scotts Bluff	254	333	422	524	620
Sheridan	250	321	410	524	597
Sioux	250	321	410	524	623
Thayer	250	337	410	524	596

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Thomas	250	321	410	524	596
Valley	250	321	410	524	596
Webster	250	321	410	524	596
York	250	321	415	524	596
Thurston	250	321	410	524	596
Wayne	285	321	410	524	620
Wheeler	250	321	410	525	596

N E V A D A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Las Vegas, NV-AZ MSA	554	658	783	1090	1288	Clark, Nye
Reno, NV MSA	509	590	758	1056	1248	Washoe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Churchill	459	466	622	857	1018
Elko	416	476	635	838	1043
Eureka	338	551	621	773	865
Lander	341	529	621	776	1017
Lyon	404	483	621	864	1018
Pershing	470	476	635	794	908
White Pine	339	467	621	838	880
Douglas	411	600	753	1045	1163
Esmeralda	442	551	621	774	868
Humboldt	497	521	629	824	881
Lincoln	339	509	621	777	869
Mineral	343	469	625	818	1023
Storey	476	482	635	883	1043
Carson City	357	487	651	906	1069

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	887	999	1250	1563	1835	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	540	652	821	1025	1261	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	548	708	855	1071	1198	Hillsborough county towns of Pelham town
Manchester, NH PMSA	441	629	785	981	1100	Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA	519	723	897	1221	1453	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	534	640	822	1055	1293	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

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N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town
						Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town Somersworth city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	454	525	690	933	1134	
Carroll	379	521	694	869	1084	
Cheshire	471	559	715	932	1105	
Coos	325	398	509	664	786	
Grafton	419	505	673	869	1099	
Hillsborough	446	557	742	982	1182	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Merrimack	469	560	699	896	1000	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Rockingham	487	570	763	1058	1221	Deerfield town, Northwood town, Nottingham town
Strafford	431	585	780	978	1095	Middleton town, New Durham town, Strafford town
Sullivan	453	460	598	785	837	

N E W J E R S E Y

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	528	602	800	1003	1145	Atlantic, Cape May
*Bergen-Passaic, NJ PMSA	735	896	1050	1399	1726	Bergen, Passaic
Jersey City, NJ PMSA	629	742	865	1099	1209	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	732	802	1001	1359	1570	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	644	771	978	1300	1525	Monmouth, Ocean
*Newark, NJ PMSA	593	758	913	1150	1452	Essex, Morris, Sussex, Union, Warren
*Philadelphia, PA-NJ PMSA	553	679	839	1050	1317	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	531	741	903	1222	1476	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	510	621	748	933	1049	Cumberland

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

N E W M E X I C O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Albuquerque, NM MSA	439	522	654	901	1063	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	306	385	457	627	738	Dona Ana
Santa Fe, NM MSA	443	628	775	1041	1178	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Catron	285	333	413	555	627
Cibola	296	323	413	555	627
Curry	285	331	433	555	627
Eddy	292	322	413	555	645
Guadalupe	285	322	413	555	631
Hidalgo	285	322	413	555	627
Lincoln	322	331	436	574	718
Mckinley	285	358	455	566	635
Otero	285	322	413	576	627
Rio Arriba	333	340	418	555	627
San Juan	321	344	430	596	707
Sierra	285	322	413	555	627
Taos	489	495	660	825	1086
Union	285	347	413	555	627

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Chaves	285	323	426	587	627
Colfax	285	331	413	555	627
Debaca	285	323	413	555	627
Grant	337	385	492	660	744
Harding	285	322	413	555	627
Lea	285	322	413	555	627
Luna	313	344	441	591	667
Mora	285	322	413	555	627
Quay	285	412	464	581	650
Roosevelt	285	322	413	555	627
San Miguel	315	322	425	555	627
Socorro	285	322	413	555	643
Torrance	312	337	413	555	627

N E W Y O R K

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	410	505	621	779	870	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	368	413	515	654	734	Broome, Tioga
*Buffalo-Niagara Falls, NY PMSA	426	504	608	758	851	Erie, Niagara
Dutchess County, NY PMSA	623	790	977	1269	1483	Dutchess
Elmira, NY MSA	368	413	507	641	765	Chemung
Glens Falls, NY MSA	368	479	584	731	817	Warren, Washington
Jamestown, NY MSA	368	413	497	641	734	Chautauqua
Nassau-Suffolk, NY PMSA	837	1008	1230	1712	1833	Nassau, Suffolk
New York, NY PMSA	785	874	993	1242	1391	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	753	982	1196	1554	1855	Westchester
Newburgh, NY-PA PMSA	499	647	793	1006	1147	Orange
Rochester, NY MSA	396	515	626	803	877	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	394	474	588	751	832	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	367	412	495	640	731	Herkimer, Oneida

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

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N E W Y O R K continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allegany	368	413	496	641	733
Chenango	391	413	496	641	733
Columbia	459	483	619	810	867
Delaware	368	413	496	641	788
Franklin	368	413	496	641	733
Greene	368	476	571	737	900
Jefferson	395	466	548	686	768
Otsego	368	434	500	645	820
Schuyler	398	423	503	700	825
Steuben	380	432	496	649	733
Tompkins	480	516	663	925	1090
Wyoming	368	413	496	641	733

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	368	413	496	641	733
Clinton	368	413	534	667	748
Cortland	368	439	549	686	813
Essex	368	418	525	657	733
Fulton	368	413	496	641	733
Hamilton	368	442	508	641	733
Lewis	368	413	496	641	733
St. Lawrence	368	413	496	641	733
Seneca	392	421	509	658	733
Sullivan	476	534	651	900	912
Ulster	451	627	754	982	1236
Yates	368	413	496	641	733

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	359	434	566	738	795	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	534	602	678	894	1070	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	393	447	501	694	824	Cumberland
Goldsboro, NC MSA	357	412	499	643	751	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	426	486	578	797	811	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	441	448	580	783	957	Pitt
Hickory-Morganton, NC MSA	406	442	513	648	768	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	367	428	485	672	794	Onslow
*Norfolk-Virginia Beach-Newport News, VA-NC MSA	490	552	652	911	1070	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	545	662	777	1042	1230	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	344	371	451	598	660	Edgecombe, Nash
Wilmington, NC MSA	471	517	633	866	1033	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	303	354	424	546	647
Ashe	303	349	424	546	620
Beaufort	303	349	424	546	620
Bladen	303	349	424	546	620
Carteret	343	376	458	636	708
Cherokee	303	349	424	546	620
Clay	303	349	424	546	620
Columbus	303	349	424	546	620
Dare	314	498	573	786	804
Gates	303	349	424	546	620

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anson	303	349	424	546	620
Avery	338	381	463	581	649
Bertie	303	349	424	546	620
Camden	303	387	515	644	723
Caswell	303	349	424	546	620
Chowan	303	349	424	546	620
Cleveland	383	449	536	710	784
Craven	303	379	456	596	638
Duplin	303	349	424	546	620
Graham	303	349	424	546	620

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

N O R T H C A R O L I N A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Granville	319	349	424	561	635
Halifax	303	349	424	546	620
Haywood	315	358	436	586	637
Hertford	303	349	424	546	620
Hyde	303	349	424	546	620
Jackson	370	426	518	725	947
Lee	303	387	458	593	642
Mcdowell	303	369	442	604	716
Martin	303	349	424	546	620
Montgomery	303	349	424	546	620
Northampton	303	349	424	546	620
Pasquotank	349	374	465	647	653
Perquimans	303	349	424	546	620
Polk	390	495	554	703	799
Robeson	303	356	424	546	620
Rutherford	372	425	516	665	755
Scotland	303	349	424	546	620
Surry	303	349	424	546	620
Transylvania	350	375	474	628	671
Vance	320	362	424	546	620
Washington	303	349	424	546	620
Wilkes	344	388	436	603	677
Yancey	303	355	424	546	639

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Greene	303	349	424	546	620
Harnett	342	395	479	620	700
Henderson	392	403	499	663	763
Hoke	303	349	424	546	620
Iredell	408	419	552	691	772
Jones	303	349	424	546	620
Lenoir	303	349	424	546	620
Macon	303	361	424	546	620
Mitchell	303	396	455	621	649
Moore	348	420	502	686	822
Pamlico	303	349	424	546	620
Pender	365	442	511	659	805
Person	303	349	455	593	695
Richmond	303	349	424	546	620
Rockingham	303	349	424	546	620
Sampson	303	349	424	546	620
Stanly	303	349	430	581	620
Swain	303	349	424	546	620
Tyrrell	303	349	424	546	620
Warren	303	349	424	546	620
Watauga	395	474	599	816	983
Wilson	316	349	429	546	620

N O R T H D A K O T A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	361	405	539	751	888	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	355	488	590	819	877	Cass
Grand Forks, ND-MN MSA	367	437	575	793	885	Grand Forks

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	239	300	387	503	587
Benson	271	300	387	503	587
Bottineau	239	300	387	503	587
Burke	260	300	387	503	587
Dickey	260	300	387	503	587
Dunn	239	300	387	503	587
Emmons	239	300	387	503	587
Golden Valley	239	308	408	511	587

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barnes	239	302	399	522	587
Billings	260	300	387	503	587
Bowman	239	300	387	503	587
Cavalier	239	309	410	512	632
Divide	239	300	387	503	587
Eddy	239	300	387	503	587
Foster	239	300	389	503	587
Grant	239	300	387	503	587

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

N O R T H D A K O T A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Griggs	239	300	387	503	587
Kidder	239	300	387	503	587
Logan	239	300	387	503	587
Mcintosh	239	300	387	503	587
Mclean	253	300	387	503	587
Mountrail	264	300	387	503	587
Oliver	239	300	387	503	587
Pierce	239	300	387	518	587
Ransom	244	300	387	503	587
Richland	251	300	394	503	587
Sargent	239	300	387	503	587
Sioux	239	300	387	503	587
Stark	239	300	387	503	587
Stutsman	285	300	391	545	642
Traill	251	320	387	503	587
Ward	239	329	438	592	706
Williams	239	300	387	503	587

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hettinger	239	300	387	503	587
Lamoure	260	300	387	503	587
Mchenry	239	300	387	503	587
Mckenzie	239	300	387	503	587
Mercer	239	300	387	503	587
Nelson	239	300	387	503	587
Pembina	239	300	387	510	606
Ramsey	246	329	438	549	717
Renville	276	300	387	506	598
Rolette	258	330	397	503	587
Sheridan	239	300	387	503	587
Slope	239	300	387	503	587
Steele	239	300	387	503	587
Towner	273	308	408	511	673
Walsh	318	340	422	528	591
Wells	254	300	387	503	587

O H I O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	410	497	638	798	895	Portage, Summit
Brown County, OH	312	367	458	593	654	Brown
Canton-Massillon, OH MSA	302	393	501	627	704	Carroll, Stark
Cincinnati, OH-KY-IN	335	430	576	772	834	Clermont, Hamilton, Warren
*Cleveland-Lorain-Elyria, OH PMSA	467	587	726	924	1040	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	412	487	626	794	913	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA	402	451	575	743	834	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	337	480	615	769	861	Butler
Huntington-Ashland, WV-KY-OH MSA	317	372	458	584	644	Lawrence
Lima, OH MSA	302	362	476	607	665	Allen, Auglaize
Mansfield, OH MSA	302	362	460	574	643	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	319	383	438	568	616	Washington
Steubenville-Weirton, OH-WV MSA	302	356	446	568	634	Jefferson
Toledo, OH MSA	377	459	561	722	784	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	329	361	446	568	634	Belmont
Youngstown-Warren, OH MSA	354	417	522	656	747	Columbiana, Mahoning, Trumbull

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

O H I O continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	293	348	434	553	620
Athens	406	458	538	705	865
Clinton	335	430	516	719	725
Darke	322	348	437	553	620
Erie	293	391	488	658	799
Gallia	293	348	434	553	620
Hancock	372	377	476	608	666
Harrison	293	348	434	553	620
Highland	293	348	434	553	620
Holmes	293	348	434	553	620
Jackson	293	348	434	553	620
Logan	344	349	450	606	631
Meigs	293	348	434	553	620
Monroe	293	348	434	553	620
Morrow	293	348	434	553	620
Noble	293	348	434	553	628
Paulding	293	348	434	553	620
Pike	308	367	456	583	651
Putnam	304	348	434	553	620
Sandusky	293	381	488	616	680
Seneca	294	348	434	557	620
Tuscarawas	293	348	455	569	638
Van Wert	293	353	434	553	620
Wayne	293	388	477	606	668
Wyandot	293	348	434	553	620

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashland	293	348	458	572	641
Champaign	293	358	465	580	650
Coshocton	293	348	434	553	620
Defiance	348	396	522	658	731
Fayette	318	348	434	553	620
Guernsey	293	348	434	553	620
Hardin	293	348	434	553	620
Henry	338	374	467	603	685
Hocking	293	348	434	553	620
Huron	340	370	461	608	647
Knox	345	380	487	629	696
Marion	293	348	434	553	620
Mercer	293	348	434	553	638
Morgan	293	354	434	553	620
Muskingum	293	348	434	553	620
Ottawa	293	434	498	678	725
Perry	293	348	434	553	620
Preble	301	357	444	569	636
Ross	340	355	434	553	620
Scioto	293	348	434	553	620
Shelby	293	358	477	596	668
Union	293	406	536	670	775
Vinton	293	348	434	553	620
Williams	326	364	453	579	648

O K L A H O M A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	310	314	417	580	664	Garfield
Fort Smith, AR-OK MSA	349	353	464	621	652	Sequoyah
Lawton, OK MSA	384	386	491	682	747	Comanche
*Oklahoma City, OK MSA	401	436	566	786	879	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
*Tulsa, OK MSA	370	442	578	805	949	Creek, Osage, Rogers, Tulsa, Wagoner

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

O K L A H O M A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adair	260	298	372	495	567
Atoka	260	298	372	495	567
Beckham	264	298	372	495	567
Bryan	260	298	372	495	567
Carter	260	300	375	522	567
Choctaw	260	298	372	495	567
Coal	260	298	372	495	567
Craig	260	298	372	508	601
Delaware	260	298	372	495	578
Ellis	260	298	372	495	567
Grady	285	298	386	524	633
Greer	260	298	372	495	567
Harper	260	298	372	495	567
Hughes	260	298	372	495	567
Jefferson	260	298	372	495	567
Kay	288	304	400	558	654
Kiowa	260	298	372	495	567
Le Flore	260	298	372	495	567
Love	260	298	376	495	567
Mcintosh	260	298	372	495	567
Marshall	260	298	372	495	567
Murray	260	298	372	495	567
Noble	260	298	372	495	567
Okfuskee	260	298	372	495	567
Ottawa	279	298	372	495	567
Payne	346	409	523	723	810
Pontotoc	260	298	372	495	567
Roger Mills	260	298	372	495	567
Stephens	264	298	372	495	590
Tillman	260	298	372	495	567
Washita	260	298	372	495	567
Woodward	260	298	372	495	567

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	260	298	372	495	567
Beaver	260	302	372	495	567
Blaine	260	298	372	495	567
Caddo	260	298	372	495	567
Cherokee	272	308	372	495	576
Cimarron	260	298	372	495	567
Cotton	260	298	372	495	567
Custer	260	298	382	531	612
Dewey	260	298	372	495	567
Garvin	260	298	372	495	571
Grant	260	298	372	495	567
Harmon	260	298	372	495	567
Haskell	260	298	372	495	567
Jackson	260	337	411	540	609
Johnston	260	298	372	495	567
Kingfisher	260	307	381	498	567
Latimer	260	298	372	495	567
Lincoln	278	298	372	495	567
Mccurtain	260	298	372	495	567
Major	260	312	372	516	567
Mayes	260	302	402	508	567
Muskogee	282	316	372	514	567
Nowata	260	298	372	495	567
Okmulgee	264	298	372	495	567
Pawnee	293	298	386	496	567
Pittsburg	260	298	372	495	567
Pushmataha	260	298	372	495	567
Seminole	260	298	372	495	567
Texas	260	309	372	496	567
Washington	260	357	434	576	672
Woods	260	298	372	495	567

O R E G O N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Corvallis, OR MSA	401	520	660	992	1053	Benton
Eugene-Springfield, OR MSA	347	476	620	866	1000	Lane
Medford-Ashland, OR MSA	356	467	624	868	967	Jackson

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

O R E G O N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Portland-Vancouver, OR-WA PMSA	492	606	747	1038	1127	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR PMSA	417	492	630	867	908	Marion, Polk

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Baker	323	382	496	683	761
Coos	323	394	523	728	761
Curry	323	439	582	746	917
Douglas	323	382	496	683	813
Grant	323	382	496	683	761
Hood River	379	426	579	754	892
Josephine	323	392	504	683	795
Lake	323	382	496	683	761
Linn	387	460	597	821	915
Morrow	323	382	496	683	761
Tillamook	323	382	496	683	761
Union	323	382	496	683	761
Wasco	393	487	544	741	833

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Clatsop	372	441	577	787	885
Crook	323	382	496	683	761
Deschutes	399	458	613	854	988
Gilliam	323	407	496	683	761
Harney	323	382	496	683	761
Jefferson	323	382	496	683	761
Klamath	323	382	496	683	808
Lincoln	392	398	530	737	802
Malheur	323	382	496	683	761
Sherman	323	382	496	683	761
Umatilla	323	382	496	683	761
Wallowa	323	382	496	683	761
Wheeler	323	382	496	683	761

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	389	528	628	818	918	Carbon, Lehigh, Northampton
Altoona, PA MSA	297	377	452	590	660	Blair
Erie, PA MSA	301	393	463	598	668	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	357	457	586	739	824	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	301	383	460	598	668	Cambria, Somerset
Lancaster, PA MSA	396	485	605	790	850	Lancaster
Newburgh, NY-PA PMSA	499	647	793	1006	1147	Pike
*Philadelphia, PA-NJ PMSA	553	679	839	1050	1317	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	398	487	588	736	822	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	313	463	571	713	804	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	301	421	505	630	761	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	330	383	460	598	668	Mercer
State College, PA MSA	433	530	656	859	919	Centre
Williamsport, PA MSA	301	385	463	598	668	Lycoming
York, PA MSA	336	460	571	712	797	York

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

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P E N N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	296	399	529	686	868
Bedford	296	377	451	589	658
Cameron	296	377	451	589	658
Clearfield	296	377	451	589	658
Crawford	296	377	451	589	658
Forest	296	377	451	589	658
Fulton	296	377	451	589	658
Huntingdon	296	377	451	589	658
Jefferson	296	377	451	589	658
Lawrence	296	377	451	589	658
Mifflin	329	377	451	589	658
Montour	350	377	474	658	777
Potter	296	377	451	589	658
Snyder	356	377	452	589	658
Susquehanna	354	377	451	589	699
Union	357	475	593	742	829
Warren	296	377	451	589	658

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Armstrong	300	398	451	589	740
Bradford	300	381	464	608	666
Clarion	296	377	451	589	658
Clinton	296	377	451	589	658
Elk	296	377	451	589	658
Franklin	296	377	457	630	658
Greene	296	377	451	589	658
Indiana	340	379	451	589	658
Juniata	296	377	451	589	658
Mc Kean	296	379	451	589	658
Monroe	474	565	698	953	1065
Northumberland	313	396	483	642	715
Schuylkill	296	377	470	589	658
Sullivan	296	377	451	589	658
Tioga	296	377	451	589	658
Venango	296	377	451	589	658
Wayne	297	459	541	690	886

R H O D E I S L A N D

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	518	627	764	955	1092	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA MSA	397	541	650	816	1006	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	588	685	880	1102	1232	Middletown town, Newport city, Portsmouth town
Washington	695	782	879	1134	1249	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	400	478	564	766	906	Aiken, Edgefield
Charleston-North Charleston, SC MSA	422	490	562	747	871	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	534	602	678	894	1070	York
Columbia, SC MSA	452	498	572	756	871	Lexington, Richland
Florence, SC MSA	343	381	495	617	693	Florence
Greenville-Spartanburg-Anderson, SC MSA	406	492	555	699	822	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	443	451	577	722	809	Horry
Sumter, SC MSA	362	401	455	623	740	Sumter

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Abbeville	298	347	422	542	620
Bamberg	298	347	422	542	620
Beaufort	425	521	600	749	839
Chester	298	347	422	542	620
Clarendon	298	347	422	542	620
Darlington	298	347	422	542	620
Fairfield	298	399	455	566	635
Greenwood	299	347	422	542	620
Jasper	298	347	422	542	620
Lancaster	312	348	422	542	620
Lee	298	347	422	542	620
Marion	298	347	422	542	620
Newberry	298	347	422	542	620
Orangeburg	298	347	422	542	620
Union	298	347	422	542	620

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allendale	298	347	422	542	620
Barnwell	313	347	424	542	620
Calhoun	298	347	422	542	620
Chesterfield	298	347	422	542	620
Colleton	298	347	422	542	620
Dillon	298	347	422	542	620
Georgetown	298	379	425	542	645
Hampton	298	347	422	542	620
Kershaw	298	347	422	542	620
Laurens	298	347	422	542	620
Mccormick	298	347	422	542	660
Marlboro	298	347	422	542	620
Oconee	298	347	422	542	620
Saluda	298	347	422	542	620
Williamsburg	298	347	422	542	620

S O U T H D A K O T A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	374	445	593	806	976	Pennington
Sioux Falls, SD MSA	361	500	634	802	921	Lincoln, Minnehaha

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

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S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aurora	265	355	442	584	676
Bennett	265	352	442	584	676
Brookings	283	450	498	674	795
Brule	265	352	442	584	676
Butte	306	417	554	724	853
Charles Mix	265	352	442	584	676
Clay	295	391	491	650	807
Corson	265	352	442	584	676
Davison	296	374	470	630	721
Deuel	265	352	442	584	676
Douglas	294	352	442	584	676
Fall River	302	352	442	584	676
Grant	265	352	442	584	676
Haakon	265	360	442	584	676
Hand	265	352	442	584	676
Harding	265	360	442	584	676
Hutchinson	265	352	442	584	676
Jackson	265	357	442	584	676
Jones	265	352	442	584	676
Lake	265	357	442	584	676
Lyman	265	352	442	584	676
Mcpherson	265	352	442	584	676
Meade	372	420	560	733	865
Miner	265	357	442	584	676
Perkins	265	352	442	584	676
Roberts	265	352	442	584	676
Shannon	265	357	442	584	676
Stanley	265	360	442	584	676
Todd	292	352	442	584	676
Turner	265	352	442	584	676
Walworth	265	360	442	584	676
Ziebach	265	352	442	584	676

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beadle	265	352	442	584	676
Bon Homme	294	352	442	584	676
Brown	292	387	486	643	744
Buffalo	265	352	442	584	682
Campbell	265	352	442	584	676
Clark	265	352	442	584	676
Codington	305	404	509	673	779
Custer	265	352	442	584	676
Day	296	352	442	584	676
Dewey	265	352	442	584	676
Edmunds	265	352	442	584	676
Faulk	265	352	465	584	676
Gregory	266	352	442	584	676
Hamlin	265	352	442	584	676
Hanson	269	368	490	616	690
Hughes	301	364	482	634	751
Hyde	265	358	442	584	676
Jerauld	265	355	442	584	676
Kingsbury	288	352	442	584	676
Lawrence	304	437	550	753	852
Mccook	265	352	442	584	676
Marshall	313	352	442	584	676
Mellette	316	357	442	584	676
Moody	265	352	442	584	676
Potter	265	352	442	584	676
Sanborn	265	352	442	584	676
Spink	287	352	449	584	676
Sully	265	352	442	584	676
Tripp	265	352	442	584	676
Union	278	352	442	584	676
Yankton	265	352	442	584	676

T E N N E S S E E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	383	447	537	694	790	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	355	397	467	636	654	Montgomery
Jackson, TN MSA	275	363	487	673	677	Madison, Chester

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

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T E N N E S S E E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA	319	381	471	611	724	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	319	392	493	658	789	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	443	517	607	843	885	Fayette, Shelby, Tipton
Nashville, TN MSA	447	535	660	898	1007	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bedford	246	317	388	488	543
Bledsoe	246	289	364	480	538
Campbell	248	289	364	480	538
Carroll	246	300	364	480	538
Clay	250	289	364	480	538
Coffee	246	344	387	538	613
Cumberland	260	289	379	527	538
Dekalb	246	289	364	480	538
Fentress	246	289	364	480	538
Gibson	246	289	364	480	538
Grainger	250	289	364	480	538
Grundy	246	289	364	480	538
Hancock	246	289	364	480	538
Hardin	246	289	364	480	538
Henderson	246	289	364	480	538
Hickman	291	296	392	516	548
Humphreys	246	301	364	480	538
Jefferson	269	289	375	480	595
Lake	246	289	364	480	538
Lawrence	246	289	364	480	538
Lincoln	246	289	369	480	538
Mcnairy	246	289	364	480	538
Marshall	290	316	412	520	579
Meigs	246	289	364	480	538
Moore	246	289	364	480	538
Obion	286	290	371	492	538
Perry	246	291	364	480	538
Polk	246	289	364	480	538
Rhea	246	308	364	485	538
Scott	246	289	364	480	538
Smith	246	289	364	480	538
Trousdale	246	303	402	505	661
Warren	274	289	374	480	538

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Benton	266	303	364	480	538
Bradley	246	311	415	561	682
Cannon	246	289	364	480	538
Claiborne	246	289	364	480	538
Cocke	246	289	364	480	538
Crockett	246	289	364	480	538
Decatur	246	289	364	480	538
Dyer	308	312	416	520	649
Franklin	258	289	364	502	590
Giles	246	314	389	486	544
Greene	246	289	364	480	538
Hamblen	246	290	381	506	538
Hardeman	246	289	364	480	538
Haywood	259	301	401	502	561
Henry	246	289	364	480	538
Houston	246	289	364	480	538
Jackson	246	289	364	480	538
Johnson	246	289	364	480	538
Lauderdale	246	289	368	480	538
Lewis	246	289	364	480	538
Mcminn	246	289	364	482	538
Macon	246	289	364	480	538
Maury	353	360	480	601	670
Monroe	246	289	364	480	538
Morgan	246	289	364	480	538
Overton	246	289	364	480	538
Pickett	246	289	364	480	538
Putnam	300	303	389	535	575
Roane	266	289	364	491	590
Sequatchie	246	289	364	480	538
Stewart	246	289	364	480	538
Van Buren	246	289	364	480	538
Wayne	246	289	364	480	538

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 45

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Weakley	267	289	364	480	538
White	250	289	364	480	538

T E X A S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	350	389	502	676	822	Taylor
Amarillo, TX MSA	296	373	464	647	763	Potter, Randall
*Austin-San Marcos, TX MSA	551	667	887	1233	1457	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	337	408	496	658	696	Hardin, Jefferson, Orange
Brazoria, TX PMSA	491	547	683	952	1120	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	310	391	488	611	763	Cameron
Bryan-College Station, TX MSA	394	458	579	808	953	Brazos
Corpus Christi, TX MSA	369	453	578	787	931	Nueces, San Patricio
*Dallas, TX	548	631	810	1120	1325	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	416	466	552	764	907	El Paso
*Fort Worth-Arlington, TX PMSA	502	546	707	988	1164	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	482	495	620	861	1017	Galveston
Henderson County, TX	306	364	445	606	728	Henderson
*Houston, TX PMSA	487	548	709	988	1165	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	415	432	547	760	836	Bell, Coryell
Laredo, TX MSA	336	387	508	635	715	Webb
Longview-Marshall, TX MSA	333	375	460	628	685	Gregg, Harrison, Upshur
Lubbock, TX MSA	319	403	523	728	807	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	288	383	439	547	614	Hidalgo
Odessa-Midland, TX MSA	319	368	491	683	791	Ector, Midland
San Angelo, TX MSA	296	378	458	629	742	Tom Green
*San Antonio, TX MSA	413	477	616	857	1014	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	296	404	488	624	746	Grayson
Texarkana, TX-Texarkana, AR MSA	322	393	480	633	671	Bowie
Tyler, TX MSA	370	409	499	691	731	Smith
Victoria, TX MSA	366	370	468	649	731	Victoria
Waco, TX MSA	322	394	519	690	727	Mclennan
Wichita Falls, TX MSA	355	396	478	636	750	Archer, Wichita

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 46

T E X A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anderson	347	391	438	610	616
Angelina	315	366	412	571	674
Armstrong	289	334	436	547	616
Austin	289	334	402	552	616
Bandera	310	334	402	547	616
Bee	289	334	402	540	616
Borden	289	334	402	540	616
Brewster	289	334	402	544	652
Brooks	289	334	402	540	616
Burleson	289	334	422	571	696
Calhoun	309	334	402	557	659
Camp	391	396	495	619	692
Cass	289	334	402	540	616
Cherokee	322	335	410	540	616
Clay	289	340	402	540	629
Coke	289	334	402	540	616
Collingsworth	289	334	402	540	616
Comanche	289	334	402	540	616
Cooke	313	334	423	576	639
Crane	289	334	402	540	616
Crosby	289	334	402	540	616
Dallam	289	334	402	540	616
Deaf Smith	289	334	402	540	627
Dewitt	289	334	402	540	616
Dimmit	289	334	402	540	616
Duval	289	334	402	540	616
Edwards	289	334	402	540	616
Falls	289	334	402	540	616
Fayette	289	334	402	540	616
Floyd	289	334	402	540	616
Franklin	289	334	402	557	616
Frio	289	334	402	540	616
Garza	289	334	402	540	616
Glasscock	289	334	402	540	616
Gonzales	289	334	402	540	616
Grimes	289	334	402	544	642
Hall	289	334	402	540	616
Hansford	289	334	402	540	633
Hartley	289	334	402	540	616
Hemphill	289	372	416	581	616

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Andrews	289	334	402	540	616
Aransas	289	356	473	659	663
Atascosa	289	334	402	540	616
Bailey	289	334	402	540	616
Baylor	289	334	402	540	616
Blanco	289	334	425	593	626
Bosque	289	334	402	540	616
Briscoe	289	334	402	540	616
Brown	289	334	403	542	662
Burnet	367	424	522	726	849
Callahan	289	334	402	540	616
Carson	289	334	402	540	616
Castro	291	334	402	540	616
Childress	289	334	402	540	616
Cochran	289	334	402	540	616
Coleman	289	334	402	540	616
Colorado	289	334	402	540	616
Concho	289	334	402	540	616
Cottle	289	334	402	540	616
Crockett	289	334	402	540	616
Culberson	289	334	402	540	616
Dawson	289	334	402	540	616
Delta	289	346	402	540	616
Dickens	289	334	402	540	616
Donley	289	334	402	540	616
Eastland	289	334	402	540	616
Erath	299	339	438	567	616
Fannin	293	334	402	542	616
Fisher	289	334	402	540	616
Foard	289	334	402	540	616
Freestone	289	334	402	540	616
Gaines	295	334	402	540	616
Gillespie	289	364	471	648	661
Goliad	289	334	402	540	616
Gray	316	334	429	540	637
Hale	289	334	402	540	616
Hamilton	289	334	402	540	616
Hardeman	289	334	402	540	616
Haskell	289	334	402	540	616
Hill	289	334	402	540	616

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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T E X A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hockley	295	344	402	545	616
Houston	289	334	402	540	616
Hudspeth	348	393	438	550	723
Irion	289	334	402	540	616
Jackson	289	335	402	540	616
Jeff Davis	289	334	402	540	616
Jim Wells	289	334	402	540	625
Karnes	289	334	402	540	616
Kenedy	289	334	402	540	616
Kerr	289	374	467	651	767
King	289	334	402	540	616
Kleberg	351	364	443	619	729
Lamar	289	359	421	589	696
Lampasas	289	334	402	547	646
Lavaca	289	334	402	540	616
Leon	289	371	415	540	684
Lipscomb	289	334	402	540	616
Llano	289	372	495	620	813
Lynn	289	334	402	540	616
Mcmullen	289	334	402	540	616
Marion	289	334	402	540	639
Mason	289	334	402	540	616
Maverick	289	334	402	540	616
Menard	289	334	402	540	616
Mills	289	334	402	540	616
Montague	289	334	402	540	616
Morris	289	334	402	540	616
Nacogdoches	304	368	476	595	704
Newton	289	334	402	540	616
Ochiltree	289	334	402	540	616
Palo Pinto	289	334	402	540	641
Parmer	289	334	402	540	616
Polk	322	352	410	552	669
Rains	289	374	452	628	633
Real	289	334	402	540	616
Reeves	289	334	402	540	616
Roberts	289	337	402	540	616
Runnels	289	334	402	540	616
Sabine	289	334	402	540	616
San Jacinto	302	341	402	540	631

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Hopkins	337	363	425	593	639
Howard	308	334	402	544	616
Hutchinson	289	334	416	581	686
Jack	289	334	402	540	616
Jasper	289	334	411	547	671
Jim Hogg	289	334	402	540	616
Jones	289	334	402	540	616
Kendall	289	421	473	659	779
Kent	289	334	402	540	616
Kimble	289	334	438	549	616
Kinney	289	334	402	540	616
Knox	289	334	402	540	616
Lamb	289	334	402	540	616
La Salle	289	334	402	540	616
Lee	327	368	413	577	647
Limestone	289	334	402	540	616
Live Oak	289	334	402	540	616
Loving	289	334	402	540	616
Mcculloch	297	334	402	540	616
Madison	289	343	402	540	635
Martin	289	334	402	540	616
Matagorda	334	365	452	628	633
Medina	289	334	402	540	616
Milam	289	334	402	540	616
Mitchell	289	334	402	540	616
Moore	289	339	402	540	627
Motley	289	334	402	540	616
Navarro	346	364	437	555	616
Nolan	297	334	402	540	616
Oldham	289	334	436	547	640
Panola	289	340	402	540	616
Pecos	289	334	402	544	642
Presidio	289	334	402	540	616
Reagan	368	374	497	625	816
Red River	289	372	416	540	616
Refugio	289	334	402	540	616
Robertson	289	383	426	540	616
Rusk	301	334	402	540	616
San Augustine	289	334	402	540	616
San Saba	289	334	402	540	616

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

T E X A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Schleicher	289	334	402	540	616
Shackelford	289	334	402	540	616
Sherman	289	334	402	540	616
Starr	289	334	402	540	616
Sterling	289	334	402	540	616
Sutton	289	334	402	540	616
Terrell	289	334	402	540	616
Throckmorton	289	334	402	540	616
Trinity	300	339	402	540	616
Upton	289	334	402	540	616
Val Verde	289	384	451	563	664
Walker	390	414	507	672	710
Washington	359	366	489	610	802
Wheeler	289	334	402	540	616
Willacy	289	334	402	540	616
Wise	289	337	405	564	616
Yoakum	289	381	467	584	767
Zapata	289	334	402	540	616

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Scurry	289	334	417	583	688
Shelby	289	334	402	540	616
Somervell	331	372	416	571	616
Stephens	289	334	402	540	616
Stonewall	289	334	402	540	616
Swisher	289	334	402	540	616
Terry	289	334	402	540	616
Titus	307	382	432	596	616
Tyler	289	334	430	540	708
Uvalde	289	334	402	540	616
Van Zandt	309	334	417	569	688
Ward	289	334	402	540	616
Wharton	289	334	402	540	616
Wilbarger	289	334	402	540	636
Winkler	289	334	402	540	616
Wood	289	334	416	581	686
Young	289	334	402	540	625
Zavala	289	334	402	540	616

U T A H

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	328	404	505	676	814	Kane
Provo-Orem, UT MSA	454	479	593	822	972	Utah
*Salt Lake City-Ogden, UT MSA	490	568	721	1003	1175	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaver	311	381	477	638	767
Cache	346	426	534	713	858
Daggett	338	462	613	769	861
Emery	311	381	477	638	767
Grand	311	381	477	638	767
Juab	311	381	477	638	767
Morgan	311	381	477	638	767
Rich	311	381	477	638	767
Sanpete	311	381	477	638	767
Summit	460	568	708	955	1162
Uintah	311	381	477	638	767
Washington	383	472	626	837	1024

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Box Elder	346	384	481	643	775
Carbon	334	381	477	638	767
Duchesne	311	381	477	638	767
Garfield	311	381	477	638	767
Iron	317	432	538	673	791
Millard	311	381	477	638	767
Piute	311	381	477	638	767
San Juan	311	381	477	638	767
Sevier	315	381	477	638	767
Tooele	382	485	586	784	942
Wasatch	311	395	477	638	767
Wayne	311	381	477	638	767

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

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V E R M O N T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	499	610	815	1111	1341	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	444	535	623	868	974	
Bennington	401	506	651	827	964	
Caledonia	386	462	563	710	814	
Chittenden	408	658	742	1032	1216	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	369	445	550	692	795	
Franklin	444	503	616	782	899	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	382	460	570	717	824	Alburg town, Isle La Motte town, North Hero town
Lamoille	354	493	587	804	922	
Orange	368	482	595	785	880	
Orleans	342	411	509	641	736	
Rutland	406	526	642	806	902	
Washington	381	473	638	799	896	
Windham	439	508	675	856	942	
Windsor	473	535	669	859	1017	

V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	448	530	677	900	1009	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	335	472	611	839	856	Clarke
Culpeper County, VA	401	584	679	898	1076	Culpeper
Danville, VA MSA	306	385	452	607	732	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	319	381	471	611	724	Scott, Washington, Bristol city
King George County, VA	406	539	606	842	848	King George
Lynchburg, VA MSA	363	401	461	607	732	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
*Norfolk-Virginia Beach-Newport News, VA-NC MSA	490	552	652	911	1070	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 50

V I R G I N I A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
*Richmond-Petersburg, VA MSA	525	595	693	963	1137	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	308	385	500	641	798	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	327	448	597	783	977	Warren
*Washington, DC-MD-VA	707	804	943	1285	1550	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Accomack	356	386	450	597	720
Amelia	300	379	445	597	720
Augusta	300	390	473	622	758
Bland	300	379	445	597	720
Buchanan	300	379	445	597	720
Caroline	426	431	577	765	806
Charlotte	300	379	445	597	720
Cumberland	300	413	478	597	720
Essex	300	423	499	695	820
Franklin	300	379	445	597	720
Giles	300	379	445	597	720
Greensville	300	390	445	597	720
Henry	300	379	445	597	720
King and Queen	300	431	485	607	720
Lancaster	376	422	476	634	772
Louisa	300	392	482	670	720
Madison	301	448	504	632	827
Middlesex	300	381	445	597	720
Nelson	300	379	445	597	720
Northumberland	300	379	445	597	720
Orange	334	453	607	845	991
Patrick	300	379	445	597	720
Pulaski	300	379	445	597	720
Richmond	300	401	449	597	738
Rockingham	300	417	527	722	847
Shenandoah	396	406	500	693	787
Southampton	300	379	445	597	720
Sussex	300	379	445	597	720

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	313	379	445	597	720
Appomattox	300	379	445	597	720
Bath	300	379	445	597	720
Brunswick	300	379	445	597	720
Buckingham	300	379	445	597	720
Carroll	300	379	445	597	720
Craig	300	379	445	597	720
Dickenson	300	379	445	597	720
Floyd	300	379	445	597	720
Frederick	408	471	566	775	928
Grayson	300	379	445	597	720
Halifax	300	379	445	597	720
Highland	300	379	445	597	720
King William	300	413	461	597	720
Lee	300	379	445	597	720
Lunenburg	300	379	445	597	720
Mecklenburg	300	379	445	597	720
Montgomery	309	406	477	662	783
Northampton	300	379	445	597	720
Nottoway	300	379	445	597	720
Page	349	394	445	597	720
Prince Edward	337	381	445	597	720
Rappahannock	304	494	556	771	909
Rockbridge	300	379	445	597	720
Russell	300	379	445	597	720
Smyth	300	379	445	597	720
Surry	312	379	445	597	720
Tazewell	300	379	445	597	720

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	300	406	539	679	878
Wythe	314	379	445	597	720
Wise	300	379	445	597	720

W A S H I N G T O N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	410	532	708	978	1159	Whatcom
Bremerton, WA PMSA	476	549	711	961	1168	Kitsap
Olympia, WA PMSA	489	600	750	1032	1218	Thurston
Portland-Vancouver, OR-WA PMSA	492	606	747	1038	1127	Clark
Richland-Kennewick-Pasco, WA MSA	512	585	701	976	1145	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	548	667	845	1173	1386	Island, King, Snohomish
Spokane, WA MSA	328	446	539	733	820	Spokane
Tacoma, WA PMSA	423	504	672	934	1056	Pierce
Yakima, WA MSA	369	454	564	756	789	Yakima

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	327	392	509	672	746
Chelan	327	392	509	672	746
Columbia	327	392	509	672	746
Douglas	382	404	509	672	746
Garfield	327	392	509	672	746
Grays Harbor	334	392	515	694	801
Kittitas	327	392	509	672	746
Lewis	327	392	509	672	746
Mason	371	460	566	744	801
Pacific	327	392	509	672	746
San Juan	404	551	735	969	1153
Skamania	327	392	509	672	746
Wahkiakum	327	392	509	672	746
Whitman	353	401	534	741	878
Asotin	327	392	509	672	746
Clallam	381	471	600	772	844
Cowlitz	367	410	529	734	746
Ferry	327	392	509	672	746
Grant	352	392	509	672	746
Jefferson	327	422	520	704	746
Klickitat	327	392	509	672	746
Lincoln	327	392	509	672	746
Okanogan	327	392	509	672	746
Pend Oreille	327	392	509	672	895
Skagit	446	544	643	803	897
Stevens	327	392	509	672	746
Walla Walla	327	392	509	682	806

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	440	470	554	692	777	Berkeley
Charleston, WV MSA	299	406	515	707	773	Kanawha, Putnam
Cumberland, MD-WV MSA	351	422	522	690	788	Mineral
Huntington-Ashland, WV-KY-OH MSA	317	372	458	584	644	Cabell, Wayne
Jefferson County, WV	446	494	611	795	901	Jefferson

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	319	383	438	568	616	Wood
Steubenville-Weirton, OH-WV MSA	302	356	446	568	634	Brooke, Hancock
Wheeling, WV-OH MSA	329	361	446	568	634	Marshall, Ohio

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	267	339	379	487	567
Braxton	267	325	379	487	567
Clay	267	325	379	487	567
Fayette	267	325	379	487	567
Grant	267	325	379	487	567
Hampshire	267	325	381	501	567
Harrison	293	361	417	520	623
Lewis	267	356	379	487	567
Logan	273	325	379	490	581
Marion	267	337	416	532	614
Mercer	267	325	379	487	567
Monongalia	336	372	452	623	737
Morgan	363	409	458	576	641
Pendleton	267	325	379	487	567
Pocahontas	267	325	379	487	567
Raleigh	308	363	423	544	637
Ritchie	267	325	379	487	567
Summers	267	325	379	487	567
Tucker	267	325	379	487	567
Upshur	267	325	381	487	567
Wetzel	301	325	409	510	644
Wyoming	267	325	379	487	567

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Boone	267	325	379	487	567
Calhoun	267	325	379	487	567
Doddridge	276	325	379	487	567
Gilmer	293	325	379	487	567
Greenbrier	267	368	393	489	567
Hardy	267	325	379	487	567
Jackson	267	334	379	519	567
Lincoln	267	325	379	487	567
Mcdowell	267	325	379	487	567
Mason	267	325	379	487	583
Mingo	267	325	379	487	575
Monroe	267	325	379	487	567
Nicholas	267	325	379	487	567
Pleasants	275	325	379	487	582
Preston	267	342	379	487	567
Randolph	267	325	379	487	567
Roane	267	325	379	487	567
Taylor	326	352	386	487	567
Tyler	267	325	399	499	567
Webster	267	325	379	487	567
Wirt	267	325	379	487	567

W I S C O N S I N

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	336	414	526	663	765	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	295	380	487	651	758	Douglas
Eau Claire, WI MSA	363	395	518	664	748	Chippewa, Eau Claire
Green Bay, WI MSA	398	439	563	782	786	Brown
Janesville-Beloit, WI MSA	370	467	578	724	812	Rock
Kenosha, WI PMSA	427	530	650	894	1006	Kenosha
La Crosse, WI-MN MSA	299	385	489	655	793	La Crosse
Madison, WI MSA	460	578	699	970	1145	Dane

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING

W I S C O N S I N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	401	524	658	826	923	Milwaukee, Ozaukee, Washington, Waukesha
*Minneapolis-St. Paul, MN-WI MSA	524	674	862	1166	1321	Pierce, St. Croix
Racine, WI PMSA	358	443	585	755	826	Racine
Sheboygan, WI MSA	321	413	504	630	782	Sheboygan
Wausau, WI MSA	394	407	509	695	770	Marathon

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	290	339	432	550	621	Ashland	316	352	432	550	621
Barron	290	339	432	550	621	Bayfield	290	339	432	550	621
Buffalo	290	339	432	550	621	Burnett	290	339	432	550	621
Clark	290	339	432	550	621	Columbia	290	345	453	594	667
Crawford	290	339	432	550	621	Dodge	368	373	490	615	685
Door	290	360	446	574	697	Dunn	290	339	443	592	731
Florence	290	339	432	550	621	Fond du Lac	337	457	541	735	758
Forest	290	339	432	550	621	Grant	294	339	432	550	621
Green	295	339	432	580	621	Green Lake	290	339	432	550	621
Iowa	301	339	432	567	621	Iron	290	339	432	550	621
Jackson	290	339	432	550	621	Jefferson	290	385	499	646	706
Juneau	296	339	432	550	621	Kewaunee	290	339	432	550	621
Lafayette	295	339	432	550	621	Langlade	290	339	432	550	621
Lincoln	290	339	432	550	621	Manitowoc	293	339	432	550	621
Marinette	290	339	432	550	621	Marquette	290	339	432	550	621
Menominee	290	339	432	550	621	Monroe	290	339	432	575	621
Oconto	290	339	432	550	621	Oneida	290	340	432	554	665
Pepin	290	339	432	550	621	Polk	290	339	439	550	621
Portage	354	373	484	604	747	Price	290	339	432	550	621
Richland	290	339	432	550	621	Rusk	290	339	432	550	621
Sauk	340	352	468	583	654	Sawyer	290	339	432	550	621
Shawano	295	339	432	550	621	Taylor	290	339	432	550	621
Trempealeau	290	339	432	550	621	Vernon	290	339	432	550	621
Vilas	290	339	432	550	621	Walworth	303	426	553	721	810
Washburn	290	339	432	550	621	Waupaca	290	339	432	550	652
Waushara	290	339	432	550	621	Wood	314	361	447	561	630

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom.

W Y O M I N G

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	339	393	503	689	814	Natrona
Cheyenne, WY MSA	383	480	641	820	995	Laramie

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Albany	322	402	537	746	881
Campbell	331	352	451	600	708
Converse	306	352	451	598	688
Fremont	306	352	451	598	688
Hot Springs	306	352	451	598	688
Lincoln	306	352	451	598	688
Park	306	352	451	598	695
Sheridan	306	352	451	598	695
Sweetwater	318	352	451	600	708
Uinta	321	352	451	599	724
Weston	306	352	451	598	688

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Big Horn	306	352	451	598	688
Carbon	306	352	451	598	688
Crook	306	352	451	598	688
Goshen	306	352	451	598	688
Johnson	306	352	451	598	688
Niobrara	306	352	451	598	688
Platte	306	352	451	598	688
Sublette	340	383	451	598	688
Teton	407	519	690	927	1011
Washakie	306	352	451	598	688

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	712	855	1013	1270	1428

P U E R T O R I C O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	221	269	320	397	448	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	239	290	341	427	481	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	280	335	396	499	555	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	262	320	380	472	532	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	260	319	376	470	528	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	351	428	505	632	710	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 55

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
						Naguabo Municipio, Naranjito Municipio Rio Grande Municipio, San Juan Municipio Toa Alta Municipio, Toa Baja Municipio Trujillo Alto Municipio, Vega Alta Municipio Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio.....	207	256	300	379	419	Aibonito Municipio.....	207	256	300	379	419
Arroyo Municipio.....	207	256	300	379	419	Barranquitas Municipio..	207	256	300	379	419
Ciales Municipio.....	207	256	300	379	419	Coamo Municipio.....	207	256	300	379	419
Culebra Municipio.....	207	256	300	379	419	Guanica Municipio.....	207	256	300	379	419
Guayama Municipio.....	207	256	300	379	419	Isabela Municipio.....	207	256	300	379	419
Jayuya Municipio.....	207	256	300	379	419	Lajas Municipio.....	207	256	300	379	419
Lares Municipio.....	207	256	300	379	419	Las Marias Municipio....	207	256	300	379	419
Maricao Municipio.....	207	256	300	379	419	Maunabo Municipio.....	207	256	300	379	419
Orocovis Municipio.....	207	256	300	379	419	Patillas Municipio.....	207	256	300	379	419
Quebradillas Municipio..	207	256	300	379	419	Rincon Municipio.....	207	256	300	379	419
Salinas Municipio.....	207	256	300	379	419	San Sebastian Municipio.	207	256	300	379	419
Santa Isabel Municipio..	207	256	300	379	419	Utuado Municipio.....	207	256	300	379	419
Vieques Municipio.....	207	256	300	379	419						

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. Croix.....	495	600	708	884	990	St. Johns/St. Thomas....	635	770	907	1134	1269

* 50th percentile FMRs are indicated by an * before the MSA name.
Note: The FMRs for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. 083101

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Federal Register

Monday,
October 1, 2001

Part V

Department of Labor

Establishment of the Office of the 21st Century Workforce and Delegation of Authority and Assignment of Responsibility to Its Director and Others; Notice

DEPARTMENT OF LABOR

Office of the Secretary

[SECRETARY'S ORDER 6–2001]

Establishment of the Office of the 21st Century Workforce and Delegation of Authority and Assignment of Responsibility to Its Director and Others

1. *Purpose.* This Order establishes the Office of the 21st Century Workforce, which shall serve as a focal point for the identification and study of issues relating to the workforce of the United States, for the gathering and dissemination of information relating to such issues, and for the development of strategies for effectively addressing such issues; delegates authority and assigns responsibility to its Director; and directs that all components of the Department of Labor (DOL) have the responsibility to work cooperatively with the Office of the 21st Century Workforce to ensure that their missions efficiently and effectively address the needs and concerns of the workforce.

2. *Authority.* This Order is issued pursuant to 5 U.S.C. 301, and Executive Order 13218, ''21st Century Workforce Initiative'' (EO 13218) (June 20, 2001).

3. *Background.* The Office of the 21st Century Workforce has responsibility, under EO 13218, to gather and disseminate information relating to workforce issues. Among the issues to be addressed by the Office of the 21st Century Workforce are the identification of the ways in which DOL may: streamline and update the information and services made available to the workforce by the Department; eliminate duplicative or overlapping rules and regulations; and identify statutory and regulatory barriers to assisting the workforce in successfully adapting to the challenges of the 21st Century.

EO 13218 established the President's Council of the 21st Century Workforce (Council), and designates the Secretary of Labor as the chairperson of the Council, and as an ex officio member representing the views of the Federal Government. The membership of the Council will include individuals who represent the views of business and labor organizations, Federal, State and local governments, academicians and educators, and such other associations and entities as the President determines are appropriate. The Council is to provide information and advice to the President through the Secretary of Labor, the Office of the 21st Century Workforce, and other appropriate Federal officials relating to issues affecting the 21st Century workforce.

DOL, under EO 13218, is responsible for making available appropriate funding and administrative support to assist the Council in carrying out the functions prescribed under EO 13218, including ''necessary office space, equipment, supplies, staff and services'' and, to the extent permitted by law, providing the Council with such information as it may need for purposes of carrying out its functions. Under EO 13218, the Secretary of Labor shall perform the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.), as amended, except that of reporting to the Congress, with respect to the Council, in accordance with the guidelines and procedures established by the Administrator of General Services.

4. *Delegation of Authority and Assignment of Responsibility.*

a. *The Director of the Office of the 21st Century Workforce* is delegated authority and assigned responsibility for:

(1) Identifying and studying issues relating to the workforce of the United States and developing strategies for effectively addressing such issues;

(2) Gathering and disseminating information relating to workforce issues by conducting summits, conferences, field hearings, meetings, and other appropriate forums designed to encourage the participation of organizations and individuals interested in such issues, including business and labor organizations, academicians, employers, employees, and public officials at the local, State and Federal levels;

(3) Advising and assisting the Secretary of Labor by identifying ways in which the Department of Labor may: streamline and update the information and services made available to the workforce by the Department; eliminate duplicative or overlapping rules and regulations; and identify statutory and regulatory barriers to assist the workforce in successfully adapting to the challenges of the 21st Century; and

(4) Promoting coordination among DOL agencies with the President's Council of the 21st Century Workforce.

b. *The Assistant Secretary for Administration and Management* is delegated authority and assigned responsibility to assure that any transfer of resources affecting this Order is fully consistent with the budget policies of the Department and that consultation and negotiation, as appropriate, with representatives of any employees affected by this exchange of responsibilities is conducted. The Assistant Secretary for Administration and Management is also responsible for providing or assuring that appropriate administrative and management support is furnished, as required, for the efficient and effective operation of these programs.

c. *The Solicitor of Labor* is delegated authority and assigned responsibility for providing legal advice and counsel to the Office of the 21st Century Workforce and other DOL agencies on all matters arising in the administration of this Order.

d. *DOL Agency Heads* are responsible for coordinating with the Office of the 21st Century Workforce on policies and activities which may relate to the purposes or responsibilities of the Office of the 21st Century Workforce. This coordination shall include such actions as:

(1) Assisting the Office of the 21st Century Workforce in identifying and studying issues relating to the workforce of the United States, in gathering and disseminating information relating to such issues, and in developing strategies for effectively addressing such issues;

(2) Providing the Office of the 21st Century Workforce with information relating to workforce issues necessary for conducting summits, conferences, field hearings, meetings, and other appropriate forums designed to encourage the participation of organizations and individuals interested in such issues, including business and labor organizations, academicians, employers, employees, and public officials at the local, State and Federal levels;

(3) Assisting the Office of the 21st Century Workforce in identifying ways in which the DOL may streamline and update the information and services made available to the workforce by the DOL, eliminate duplicative or overlapping rules and regulations, and identify statutory and regulatory barriers to assisting the workforce in successfully adapting to the challenges of the 21st Century; and

(4) Coordinating with the Office of the 21st Century Workforce on matters or programs related to such additional issues relating to the workforce and affecting the duties of the President's Council of the 21st Century Workforce as may arise.

5. *Reservation of Authority and Responsibility.*

a. The submission of reports and recommendations to the President and the Congress concerning the administration of statutory or administrative provisions is reserved to the Secretary.

b. This Secretary's Order does not affect the authorities or responsibilities of the Office of Inspector General under

the Inspector General Act of 1978, as amended, or under Secretary's Order 2–90 (January 31, 1990).

c. This Order does not affect the authorities and responsibilities assigned by any other Secretary's Order.

6. *Effective Date.* This Order is effective immediately.

Dated: September 25, 2001.

Elaine L. Chao,

Secretary of Labor.

[FR Doc. 01–24457 Filed 9–28–01; 8:45 am]

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Federal Register

Monday,
October 1, 2001

Part VI

Department of Commerce

Bureau of Export Administration

15 CFR Parts 742 and 744

India and Pakistan: Lifting of Sanctions, Removal of Indian and Pakistani Entities, and Revision in License Review Policy; Final Rule

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 742 and 744

[Docket No. 010927238–1238–01]

RIN 0694–AC50

India and Pakistan: Lifting of Sanctions, Removal of Indian and Pakistani Entities, and Revision in License Review Policy

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: On September 22, 2001, President George W. Bush waived sanctions placed on India and Pakistan in May 1998, including those sanctions implemented by regulations issued on November 19, 1998 (63 FR 64322). This rule implements the waiver of these sanctions by removing the policy of denial for exports and reexports of items controlled for Nuclear Proliferation (NP) and Missile Technology (MT) reasons to India and Pakistan and restoring the use of License Exceptions for these items for entities not listed on the Entity List. In addition, this rule removes the supplementary measures taken in connection with the sanctions by removing a large number of Indian and Pakistani entities from the Entity List. The license requirements and review policy for the entities that remain on the list are set forth on the list itself.

DATES: This rule is effective October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Director, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 102(b) of the Arms Export Control Act, President Clinton reported to the Congress on May 13, 1998, with regard to India, and on May 30, 1998, with regard to Pakistan, his determinations that those states had each detonated a nuclear explosive device. The President directed that the relevant agencies and instrumentalities of the United States take the necessary actions to implement the sanctions described in section 102(b)(2) of that Act. In light of the President's directive, the Bureau of Export Administration (BXA) adopted certain regulations to implement the sanctions, as well as certain supplementary measures to enhance the sanctions on November 19, 1998 (63 FR 64322).

On September 22, 2001, in Presidential Determination No. 2001–28, and pursuant to section 9001(b) of the Department of Defense Appropriations Act, 2000 (Public Law 106–79), President George W. Bush determined and certified to the Congress that the application to India and Pakistan of the sanctions and prohibitions contained in subparagraphs (B), (C), and (G) of section 102(b)(2) of the Arms Export Control Act would not be in the national security interest of the United States. Furthermore, pursuant to section 9001(a) of the Department of Defense Appropriations Act, 2000 (Public Law 106–79), the President waived, with respect to India and Pakistan, to the extent not already waived, the application of any sanction contained in sections 101 or 102 of the Arms Export Control Act.

Based on this Presidential Determination, this rule implements the lifting of these sanctions by removing section 742.16 of the Export Administration Regulations (EAR), which sets forth the policy of denial for exports and reexports of items controlled for Nuclear Proliferation (NP) and Missile Technology (MT) reasons to India and Pakistan. A license will continue to be required to India and Pakistan for these items, but the license review policy will revert to a case-by-case review, as set forth in sections 742.3 and 742.5 of the EAR for nuclear- and missile-controlled items, respectively. Also, exports of these items to India and Pakistan, other than exports to entities listed on the Entity List, are again eligible for the use of License Exceptions as provided in Part 740 of the EAR.

In light of the President's determination, this rule also removes the supplementary measures, implemented in 1998, by removing sections 744.11, ''Restrictions on certain government, parastatal, and private entities in Pakistan and India,'' and 744.12 , ''Restrictions on certain military entities in Pakistan and India,'' from the EAR. This rule also revises the list of Indian and Pakistani entities on the Entity List pursuant to section 744.1(c) of the EAR. License requirements for Indian and Pakistani entities on the Entity List are contained in Supplement No. 4 to Part 744 of the EAR. The license review policy for export and reexports to all Indian and Pakistani listed entities of items classified as EAR99 (items that are subject to the EAR, but are not listed on the Commerce Control List) is presumption of approval, and the license review policy for items listed on the Commerce Control List is case-by-case.

The removal of entities from the Entity List eliminates the existing license requirements in Supplement No. 4 to Part 744 for exports to those entities. The removal of entities from the Entity List does not relieve exporters or reexporters of their obligations under part 744 of the EAR, which provides that a license is required even when one would not otherwise be necessary, if an exporter knows, has reason to know, or is otherwise informed by BXA that the item will be used in activities related to nuclear, chemical, or biological weapons, or missile delivery systems. BXA strongly urges the use of Supplement No. 3 to part 732 of the EAR, ''BXA's 'Know Your Customer' Guidance and Red Flags'' when exporting or reexporting to India and Pakistan.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (66 FR 44025, August 22, 2001) continues the Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be significant for purposes of E.O. 12866.

2. This rule contains and involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA–748P; and 0694–0111, ''India Pakistan Sanctions,'' which carries a burden hour estimate of 40 minutes to prepare and submit electronically and 45 minutes to submit manually on form BXA–748P. Notwithstanding any other provision of law, no person is required to respond nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications as this term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective

date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044 or E-mailed to scook@bxa.doc.gov.

List of Subjects

15 CFR Part 742

Exports, Foreign trade.

15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, parts 742 and 744 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citation for 15 CFR part 742 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp., p. 408.

2. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp., p. 408.

PART 742—[AMENDED]

§ 742.16 [Removed]

3. Section 742.16 is removed and reserved.

PART 744—[AMENDED]

§ 744.1 [Amended]

4. Section 744.1 is amended by revising the last sentence in paragraph (c) to read as follows: ''No License Exceptions are available for exports or reexports to listed entities of specified items, except License Exceptions for items listed in § 740.2(a)(5) of the EAR destined to listed Indian or Pakistani entities intended to ensure the safety of civil aviation and safe operation of commercial passenger aircraft.''

§§ 744.11 and 744.12 [Removed]

5. Sections 744.11 and 744.12 are removed and reserved.

6. Supplement No. 4 to part 744 is amended by removing Appendixes A and B and by revising the country ''India'' and ''Pakistan'' entries to read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	Federal Register citation
*	* *	*	*	* *
India	Bharat Dynamics Limited	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/01/01]
	The following subordinates of Defense Research and Development Organization (DRDO). Armament Research and Development Establishment (ARDE). Defense Research and Development Lab (DRDL), Hyderabad. Missile Research and Development Complex. Solid State Physics Laboratory.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	The following Department of Atomic Energy entities. Bhabha Atomic Research Center (BARC). Indira Gandhi Atomic Research Center (IGCAR). Indian Rare Earths Nuclear reactors (including power plants), fuel reprocessing and enrichment facilities, heavy water production facilities and their collocated ammonia plants.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Indian Space Research Organization (ISRO) headquarters in Bangalore, and the following subordinate entities. ISRO Telemetry, Tracking and Command Network (ISTRAC). ISRO Inertial Systems Unit (IISU), Thiruvananthapuram. Liquid Propulsion Systems Center. Solid Propellant Space Booster Plant (SPROB). Space Applications Center, (SAC), Ahmadabad. Sriharikota Space Center (SHAR). Vikram Sarabhai Space Center (VSSC), Thiruvananthapuram.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
*	* *	*	*	* *
Pakistan	Abdul Qader Khan Research Laboratories, a.k.a. Khan Research Laboratories (KRL), a.k.a. Engineering Research Laboratories (ERL), Kahuta.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Al Technique Corporation of Pakistan, Ltd.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Allied Trading Co	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	ANZ Importers and Exporters, Islamabad.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Defence Science and Technology Organization (DESTO), Rawalpindi.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	High Technologies, Ltd., Islamabad.	For all items subject to the EAR.	Case-by-case for all items listed ion the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Karachi CBW Research Institute, University of Karachi's Husein Ebrahim Jamal Research Institute of Chemistry (HEJRIC).	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 [Insert FR Cite, 10/1/01]
	Lastech Associates, Islamabad	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Machinery Master Enterprises, Islamabad.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Maple Engineering Pvt. Ltd. Consultants, Importers and Exporters.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Orient Importers and Exporters, Islamabad.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	Federal Register citation
	Pakistan Atomic Energy Commission (PAEC), and the following subordinate entities. National Development Complex (NDC). Nuclear reactors (including power plants), fuel reprocessing and enrichment facilities, all uranium processing, conversion and enrichment facilities, heavy water production facilities and any collocated ammonia plants. Pakistan Institute for Nuclear Science and Technology (PINSTECH).	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	People's Steel Mills, Karachi	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Prime International	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Space and Upper Atmospheric Research Commission (SUPARCO).	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Technical Services, Islamabad ..	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	The Tempest Trading Company, Islamabad.	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Unique Technical Promoters	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]
	Wah Chemical Product Plant	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 [Insert FR Cite, 10/1/01]
	Wah Munitions Plant, a.k.a. Explosives Factory, Pakistan Ordnance Factories (POF).	For all items subject to the EAR.	Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.	63 FR 64322, 11/19/98 65 FR 14444, 03/17/00 [Insert FR Cite, 10/1/01]

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Dated: September 27, 2001.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 01–24648 Filed 9–28–01; 8:45 am]

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001

Title	Stock Number	Price	Revision Date
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6]July 1, 2000
*1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	[6]July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–042–00108–7)	49.00	July 1, 2000
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–042–00113–3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
*125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
*300–399	(869–044–00124–1)	40.00	July 1, 2001
*400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–042–00128–1)	24.00	July 1, 2000
300–End	(869–042–00129–0)	43.00	July 1, 2000
***37**	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
*0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–042–00133–8)	28.00	July 1, 2000
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
*53–59	(869–044–00138–1)	28.00	July 1, 2001
60	(869–042–00139–7)	66.00	July 1, 2000
*61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
*64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–042–00144–3)	47.00	July 1, 2000
81–85	(869–042–00145–1)	36.00	July 1, 2000
86	(869–042–00146–0)	66.00	July 1, 2000
87-99	(869–044–00150–1)	54.00	July 1, 2001
136–149	(869–042–00148–6)	42.00	July 1, 2000
150–189	(869–042–00149–4)	38.00	July 1, 2000
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–042–00156–7)	46.00	July 1, 2000
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–042–00159–1)	37.00	July 1, 2000
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
100–185	(869–042–00194–0)	57.00	Oct. 1, 2000
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000

Title	Stock Number	Price	Revision Date
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..

TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 2001

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
Oct 1	Oct 16	Oct 31	Nov 15	Nov 30	Dec 31
Oct 2	Oct 17	Nov 1	Nov 16	Dec 3	Dec 31
Oct 3	Oct 18	Nov 2	Nov 19	Dec 3	Jan 2
Oct 4	Oct 19	Nov 5	Nov 19	Dec 3	Jan 2
Oct 5	Oct 22	Nov 5	Nov 19	Dec 4	Jan 3
Oct 9	Oct 24	Nov 8	Nov 23	Dec 10	Jan 7
Oct 10	Oct 25	Nov 9	Nov 26	Dec 10	Jan 8
Oct 11	Oct 26	Nov 13	Nov 26	Dec 10	Jan 9
Oct 12	Oct 29	Nov 13	Nov 26	Dec 11	Jan 10
Oct 15	Oct 30	Nov 14	Nov 29	Dec 14	Jan 14
Oct 16	Oct 31	Nov 15	Nov 30	Dec 17	Jan 14
Oct 17	Nov 1	Nov 16	Dec 3	Dec 17	Jan 15
Oct 18	Nov 2	Nov 19	Dec 3	Dec 17	Jan 16
Oct 19	Nov 5	Nov 19	Dec 3	Dec 18	Jan 17
Oct 22	Nov 6	Nov 21	Dec 6	Dec 21	Jan 22
Oct 23	Nov 7	Nov 23	Dec 7	Dec 24	Jan 22
Oct 24	Nov 8	Nov 23	Dec 10	Dec 24	Jan 22
Oct 25	Nov 9	Nov 26	Dec 10	Dec 24	Jan 23
Oct 26	Nov 13	Nov 26	Dec 10	Dec 26	Jan 24
Oct 29	Nov 13	Nov 28	Dec 13	Dec 28	Jan 28
Oct 30	Nov 14	Nov 29	Dec 14	Dec 31	Jan 28
Oct 31	Nov 15	Nov 30	Dec 17	Dec 31	Jan 29