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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.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 410, 550, 551, and 630

RIN 3206–AI50

Firefighter Pay

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations on computing pay for Federal firefighters. These regulations implement a 1998 law that established a new approach for calculating basic pay, overtime pay, and other entitlements for Federal employees whose positions are classified in the Fire Protection and Prevention Series, GS–0081, and who have regular tours of duty averaging at least 53 hours per week.

EFFECTIVE DATE: May 2, 2002.

FOR FURTHER INFORMATION CONTACT: Bryce Baker by telephone at (202) 606–2858; by fax at (202) 606–0824; or by e-mail to *payleave@opm.gov.*

SUPPLEMENTARY INFORMATION: On November, 23, 1998, the Office of Personnel Management (OPM) issued interim regulations implementing new firefighter pay provisions established by the Federal Firefighters Overtime Pay Reform Act (section 628 of the Treasury and General Government Appropriations Act, 1999, as incorporated in section 101(h) of Public Law 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, October 21, 1998). The law provided that these provisions became effective on the first day of the first pay period beginning on or after October 1, 1998. The intent of this legislation was to address concerns about the complexity of firefighter pay computations by establishing a more rational and equitable method of compensation.

Review of Comments on Interim Regulations

OPM received a number of comments from individuals and agencies regarding the interim regulations. A summary of the substantive comments received and a description of the revisions made in the regulations as a result of the comments are presented below.

Section 410.402(b)(6)—Pay During Training

An agency requested clarification regarding firefighter pay entitlements during training when firefighters continue performing work during their regular tour of duty but, in addition, participate in agency-sanctioned training on what would normally be nonwork days. The firefighter pay reform law added a new provision, 5 U.S.C. 4109(d), which states that firefighters covered by 5 U.S.C. 5545b are entitled to pay for their regular tour of duty during training. This provision was intended to establish a guaranteed floor for pay during training. It does not block payment of a higher amount of pay if the employee is entitled to that higher amount based on actual hours of work (using the appropriate pay computation method based on the work schedule actually in effect).

The interim regulation at § 410.402(b)(6) requires that the guaranteed pay provision be applied on a weekly basis. Thus, the agency must compare the employee's pay for the regular weekly tour of duty to the pay to which the employee would be entitled based on actual hours of work in that week. (We note that title 5 premium pay during training is generally prohibited, subject to specific exceptions, as provided in § 410.402. These restrictions do not apply to FLSA overtime pay; however, that pay is payable only for qualifying training hours as described in § 551.423.)

Accordingly, we have revised § 410.402(b)(6) to clarify that a firefighter remains entitled to pay for actual hours of work if that amount is higher than the guaranteed floor. Finally, as an aid to users of the regulations, we are also adding a new paragraph (d) to § 550.1306 to provide a direct cross reference to the pay protection provision in the training regulations in part 410.

An agency asked for clarification regarding the treatment of newly hired firefighters who go through initial basic training with a 40-hour basic workweek. The pay-protection-during-training provision applies only to employees who are covered by 5 U.S.C. 5545b when the training starts. If the agency has not yet established a regular tour of duty of 53 hours or more per week, the firefighters are not yet covered by section 5545b. Furthermore, the pay protection provision applies only when hours in the regular tour of duty (as in effect immediately before the training) are reduced. (*See* § 410.402(b)(6).) We conclude, therefore, that there is no need for additional changes in this paragraph.

Section 550.1302—Definition of Firefighter/Coverage

Firefighters who are part of the ''China Lake'' permanent personnel demonstration project at the Department of Defense inquired about whether they are covered by the new firefighter pay provisions. The Department of Defense also requested that we expand the definition of *firefighter* to clarify whether coverage applies to General Schedule equivalent positions such as those covered by a demonstration project. The interim regulations state that subpart M applies to General Schedule firefighters (based on the fact that the law makes reference to the employees classified under the GS–0081 series). Employees at the ''China Lake'' permanent demonstration project are not covered by the General Schedule pay system, since the project waived application of that system under 5 U.S.C. 4703. However, the project does use the Fire Protection and Prevention Series, GS–0081.

The intent of the ''China Lake'' demonstration project plan (45 FR 26504, April 18, 1980) was to treat employees as General schedule employees except where otherwise stated in the plan. Furthermore, the ''China Lake'' demonstration project did not waive the premium pay subchapter of title 5, where the firefighter pay provisions are located. We have concluded that firefighters covered by demonstration projects established under 5 U.S.C. 4703 and other similar alternative personnel systems are

covered by 5 U.S.C. 5545b if they meet three conditions. First, the employees must be classified in the Fire Protection and Prevention Series, GS–0081, consistent with OPM standards. Second, but for the demonstration project or other similar alternative personnel system, the employees otherwise would be covered by the General Schedule. Third, application of section 5545b (and related provisions) has not been waived. Therefore, we have revised the definition of *firefighter* in § 550.1302 to make clear that such employees are covered by subpart M of part 550.

An agency also raised the question as to whether the firefighter pay law and regulations apply to student trainees. OPM requires that student trainees under the Student Career Experience Program be officially classified in an occupational series ending in ''99'' for the appropriate occupational group. (*See* 5 CFR 213.3202(b)(14).) For example, the GS–0099 series would be used for student trainees who would otherwise be classified in the Fire Protection and Prevention Series, GS–0081. It is OPM's longstanding position that student trainees are entitled to any pay entitlements attached to the GS occupational series in which they would otherwise be classified. For example, since 1988, OPM's policy has been that qualified student trainees are entitled to any special rates established for the occupational series in which they would be classified but for the use of the ''99'' series. Accordingly, we are revising the definition of *firefighter* in § 550.1302 to include student trainees who would otherwise be classified in the Fire Protection and Prevention Series, GS–0081.

Section 550.1302—Regular Tour of Duty

An agency suggested that we clarify the definition of *regular tour of duty*. The agency was concerned that the definition might be interpreted to mean that a firefighter will not experience a reduction in pay in cases where a temporary change in work schedule occurs (*e.g.*, because of a temporary detail). The agency pointed out that when firefighters were receiving standby duty premium pay, the provisions of 5 CFR 550.162(c)(1) precluded the payment of the annual premium pay beyond a prescribed number of days if the recipient of the annual premium pay was on temporary assignment to other duties. The agency was concerned that the definition in the interim rule might be interpreted to allow an employee to continue firefighter pay indefinitely while the employee is detailed to a non-firefighter position.

The law and regulations provide no authority to continue pay for a firefighter's regular tour when he or she is moved to a work schedule with lesser hours, except in the case of training assignments as provided in § 410.402(b)(6). In all other temporary assignments, pay is based on actual hours of work (applying the appropriate pay methodology based on the work schedule). If the temporary work schedule includes fewer than 53 hours per week, section 5545b would no longer be applicable and pay would be computed using the normal GS rules. If the temporary work schedule includes at least 53 hours per week, the employee would continue to be compensated under the section 5545b firefighter pay rules. In that case, the temporary tour of duty would be treated as a regular tour of duty for pay and benefit computation purposes. The definition of *regular tour of duty* clearly states that the term encompasses a tour of duty established on a temporary basis when that temporary tour results in a reduction in regular work hours. We conclude, therefore, that there is no need for a change in this definition.

Section 550.1303(d)—Substitution of Irregular Hours for Leave Without Pay

An agency requested clarification regarding the treatment of a firefighter who takes leave without pay for which irregular hours are substituted and receives a promotion during the same pay period. If a firefighter takes leave without pay during his or her regular tour of duty, the agency must substitute any irregular hours worked in the same week or biweekly pay period (as applicable) for those hours of leave without pay. Section 550.1303(d) provides that each substituted hour will be paid at the rate applicable to the hour in the regular tour for which substitution is made—*i.e.*, the basic or overtime rate based on the 2756 divisor or, for firefighters paid under under § 550.1303(b), the basic rate based on the 2087 divisor.

Section 550.1303(d) does not currently address the possibility of a pay change in the middle of a pay period (*e.g.*, a promotion). We are amending § 550.1303(d) to provide that, if a pay change occurs during the pay period, the substituted hour must be paid at the appropriate hourly rate based on the annual rate in effect at the time the hours were actually worked. In other words, two considerations must be made when substituting irregular hours for hours within the regular schedule. Each substituted hour will be paid using the type of rate applicable to the hour in the regular tour for which substitution is made—*i.e.*, the rate based on the 2087 divisor or the rate based on the 2756 divisor (using the basic or the overtime rate, as applicable). If a change in the amount of the annual rate of pay occurs during the pay period, the substituted hour must be paid at an applicable hourly rate based on the annual rate in effect when the hours were actually worked.

Section 550.1305—Treatment as Basic Pay

An agency asked that OPM clarify that the basic pay identified in § 550.1305 is not basic pay for all purposes. The agency was specifically concerned that we clarify that the pay in question is not basic pay for pay retention purposes and asked that we also consider amending the pay retention regulations.

Section 550.1305(a) provides that the sum of pay for regular nonovertime hours and the straight-time portion of regular overtime pay is considered basic pay for specific listed purposes. Pay retention is not one of the listed purposes. Thus, any firefighter pay for overtime hours is not considered in applying pay retention rules. Similarly, for firefighters whose regular tour of duty includes a basic 40-hour workweek, pay for nonovertime hours beyond 40 in a week (or 80 in a biweekly pay period) is not basic pay for pay retention purposes. (See § 550.1305(d).) For GS employees, the pay retention provisions are applied using the employee's annual rate of pay, which is not affected by the type of work schedule in effect.

We have made a minor change in § 550.1305(a) by adding the word ''only'' to emphasize that this definition of basic pay is to be used solely for the listed purposes. We do not believe it is necessary to amend the pay retention regulations.

Section 550.1306(a)—Holiday Pay

Several individuals inquired about the holiday pay entitlements for firefighters compensated under 5 U.S.C. 5545b. Section 5545b firefighters are not covered by the normal holiday pay rules. By law, they are expressly barred from receiving holiday premium pay for working on a holiday; instead, they are paid at their normal rate. (*See* 5 U.S.C. 5545b(d)(1) and 5 CFR 550.1306(a).) The law reflects a determination by Congress that pay under the special firefighter rules is considered to be full compensation for all hours of work, taking into account the fact that firefighters may work at night and on Sundays and holidays due to the nature of their work. Thus, a firefighter covered by section 5545b is not entitled to paid

holiday time off when not working on a holiday. To receive pay for hours during a regular tour of duty that fall on a holiday, the firefighter must (1) perform work, (2) use accrued annual or sick leave (as appropriate), or (3) be granted paid excused absence (without charge to leave) at the agency's discretion.

The 1998 firefighter pay law did not change the status quo with respect to pay for holidays. Under the pre-1998 law, firefighters with extended work schedules received a special type of premium pay called standby duty pay and, as now, were barred from receiving holiday premium pay for working on a holiday. (*See* 5 U.S.C. 5545(c)(1) and 5 CFR 550.163(a).) They were also barred from receiving pay for holiday hours not worked unless they used annual or sick leave or were granted excused absence at the agency's discretion. (*See* 56 Comp. Gen. 551 and former Federal Personnel Manual Supplement 990–2, section S1–8b(2)(a) of book 550 and section S2–6b(1) of book 630.)

We are adding a sentence to § 550.1306(a) to clarify that firefighters compensated under subpart M are not entitled to pay for not working on a holiday unless the agency approves appropriate paid leave or grants excused absence.

Section 550.1306(e)—Compensatory Time Off

An agency asked how to apply the compensatory time off provisions to firefighters compensated under 5 U.S.C. 5545b. Under 5 U.S.C. 5543(a)(2) and 5 CFR 550.114(c), an agency may require that an FLSA-exempt employee be compensated for irregular overtime work by compensatory time off, instead of overtime pay, if the employee's rate of basic pay exceeds the maximum (step 10) rate for grade GS–10. The agency asked what types of rates—hourly or annual—should be used in applying the GS–10, step 10, rule.

We are adding a new § 550.1306(e) to provide that a firefighter's annual rate of basic pay must be compared to the annual rate of basic pay for GS–10, step 10. This will ensure that section 5545b firefighters are treated in a manner consistent with the treatment of other employees at the same grade and step. Since the issue here deals with when an agency may require an FLSA-exempt employee to receive compensatory time off as compensation for irregular overtime work, consistent treatment based on grade and step would seem appropriate. (In contrast, OPM regulations provide that an FLSA-exempt firefighter's hourly overtime rate, derived using the 2756-hour factor, is compared to the GS–10, step 1, hourly overtime rate, derived using the 2087-hour factor. In this case, the law required the use of hourly rates. OPM used the 2087-hour factor to compute the GS–10, step 1, rate, since the intent of the law was to subject FLSA-exempt firefighters to the same dollar rate cap as other FLSA-exempt employees.)

Other Regulatory Changes

In addition to the above regulatory changes made based on comments, some additional changes are being made to address technical issues identified by OPM staff. Those changes are described below.

Section 550.1305—Basic Pay Treatment

We are revising § 550.1305(d) to clarify that additional nonovertime pay earned by ''40+ firefighters'' (*i.e.*, those compensated under § 550.1303(b) because they have a regular tour of duty that includes a basic 40-hour workweek) is basic pay for purposes of § 410.402(b)(6). These ''40+ firefighters'' receive the regular GS hourly rate for their basic 40-hour workweek and then are paid the firefighter hourly rate of basic pay for additional nonovertime hours below the 53-hour weekly (or 106-hour biweekly) overtime standard. Section 410.402(b)(6) protects a firefighter's regular basic pay and premium pay during periods of agency-sanctioned training.

We are also revising § 550.1305(d) to provide that additional nonovertime pay earned by ''40+ firefighters'' is basic pay for purposes of §§ 550.105 and 550.106. Those sections deal with the biweekly and annual caps on premium pay established by 5 U.S.C. 5547. These caps limit the amount of premium pay an employee may receive when the employee's ''aggregate rate of pay'' reaches the applicable GS–15, step 10 rate. OPM regulations translate ''aggregate rate of pay'' into ''basic pay and premium pay.'' Clearly, the additional nonovertime pay received by ''40+ firefighters'' (for the nonovertime hours beyond the basic 40-hour workweek) should be included in the aggregate rate of pay for purposes of applying these premium pay caps. Therefore, we are deeming this pay to be ''basic pay'' as that term is used in §§ 550.105 and 550.106. As basic pay, it would not be subject to reduction, but would be included in the aggregate pay used to determine whether a firefighter's overtime pay is capped.

In addition, there are cases where 24-hour shift firefighters have variable workweeks (*e.g.*, a cycle of 48–48–72 hours) and may have nonovertime hours outside their regular tour of duty. Pay for such nonovertime hours should also be treated as basic pay for the purpose of applying the premium pay caps in §§ 550.105 and 550.106. We have revised § 550.1305(c) accordingly.

Section 550.1306(c)—Regulatory Citation

We are revising § 550.1306(c) to correct an erroneous regulatory citation. The correct citation is to § 630.210 instead of § 631.210.

Section 550.1308—Transitional Provisions

We are removing § 550.1308 because it dealt with transitional provisions that have no current application.

Section 551.411(c)—Meal Periods

We are amending § 551.411(c) to clarify that all on-duty meal periods are compensable hours of work for firefighters paid under 5 U.S.C. 5545b. Current regulations dealing with sleep time for employees covered by the FLSA already state this policy. (*See* § 551.432(f), which was promulgated in a final rule published at 64 FR 69165 on December 10, 1999. Also, a parallel change was made in § 550.112(m)(4).) This change makes § 551.411 consistent with § 551.432.

Section 630.210(c)—Uncommon Tour of Duty for Leave Purposes

We are revising § 630.210(c) to require that an uncommon tour of duty for purposes of leave accrual and usage be established for ''40+ firefighters'' (*i.e.,* those whose regular tour of duty includes a basic 40-hour workweek). The interim regulations already required that uncommon tours be established for 24-hour shift firefighters compensated under § 550.1303(a). This revision would extend the requirement to all firefighters compensated under 5 U.S.C. 5545b. This is consistent with agency practices. It will ensure that ''40+ firefighters'' are paid during periods of paid leave on the basis of their regular tour of duty.

Final Regulations Published Previously

Certain regulatory changes related to firefighter pay were included in a final rule published on December 10, 1999 (64 FR 69165). Two of these changes revised provisions in the interim firefighter pay regulations published on November 23, 1998 (63 FR 64589). (*See* 64 FR 69171.) Since those changes have already been made final and are part of the current Code of Federal Regulations, this final rule does not include those changes. For the benefit of the reader, we provide below a summary description of the two previously

published changes made in the interim regulations:

1. We revised § 550.707 by adding a new paragraph (b)(5). This provided a rule for determining the weekly pay used in computing severance pay for firefighters with variable workweeks. (The interim firefighter pay regulations had made a similar change in § 550.707(b), which was revised as part of the December 10, 1999, final rule.)

2. We revised § 551.501(a)(5) to include a specific reference to firefighters compensated under 5 U.S.C. 5545b. This provision deals with the fact that section 5545b firefighters are not subject to a 40-hour weekly overtime standard. (The interim firefighter regulations had made a similar change in § 551.501(a)(5), but the December 10, 1999, final rule included some additional changes in this paragraph.)

Changes in Law

Since publication of the interim regulations on November 23, 1998, there have been two changes in law related to firefighter pay. These statutory changes do not require changes in the regulations; however, a brief description of each change is provided below for the reader's benefit.

Transitional Provisions

On May 21, 1999, the President signed legislation that included a technical amendment providing a special one-time pay adjustment for certain firefighters who were involuntarily changed to a workweek of 60 hours or less before December 31, 1999. (*See* section 3032 of Public Law 106–31.) This law amended the original Federal Firefighters Overtime Pay Reform Act enacted on October 21, 1998.

The 1998 firefighter pay law included a special transitional provision (section 628(f)) under which certain 24-hour shift firefighters with regular tours of duty averaging 60 hours or less per week would receive a one-time increase in basic pay equal to two GS step increases. As required by the law, this transitional provision was applied on the law's effective date to firefighters who had qualifying work schedules on that date. (See implementing regulation at § 550.1308(a) in the interim firefighter pay regulations.) The law became effective on the first day of the first pay period beginning on or after October 1, 1998.

The 1999 technical amendment provided that certain other firefighters could receive a two-step increase during an extended transition period ending on December 31, 1999. To qualify, a firefighter had to (1) be subject to 5 U.S.C. 5545b on its effective date; (2) have a regular tour of duty averaging more than 60 hours per week on that effective date; and (3) be involuntarily moved without a break in service before December 31, 1999, to a regular tour of duty averaging 60 hours or less per week (and not containing a basic 40-hour workweek).

We are not issuing any regulations to implement the technical amendment. The technical amendment applied only during a transitional period that ended on December 31, 1999. Agencies were able to process affected cases under the clear terms of the amendment. As discussed earlier in this notice, we are also removing the section (§ 550.1308) containing the original regulatory transitional provisions, since those provisions have no current application.

Workers' Compensation Benefits

On December 21, 2000, the President signed legislation that included an amendment to 5 U.S.C. 5545b dealing with the computation of workers' compensation benefits for firefighters covered by the section. The amendment added a paragraph (4) to section 5545b(d). That paragraph reads as follows: ''(d) Notwithstanding section 8114(e)(1), overtime pay for a firefighter subject to this section for hours in a regular tour of duty shall be included in any computation of pay under section 8114.'' The legislation further provided that this amendment was effective as if it had been enacted as part of the original Federal Firefighters Overtime Pay Reform Act, which was effective on the first day of the first pay period beginning on or after October 1, 1998.

This amendment means that section 5545b firefighters' overtime pay for hours in their regular tour of duty must be used in determining pay rates for purposes of workers' compensation benefits. The Department of Labor is responsible for regulating and administering the workers compensation program for Federal employees. Therefore, OPM is not issuing any regulations on this subject. (*See* FECA Bulletin No. 01–08, April 23, 2001. On the Internet, go to *http://www.dol.gov/dol/esa/public/regs/compliance/owcp/fecacont.htm.*)

E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 410, 550, 551, and 630

Administrative practice and procedure, Claims, Education, Government employees, Wages.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the Office of Personnel Management adopts the interim rule amending parts 410, 550, 551, 591, 630, and 870 of title 5 of the Code of Federal Regulations, which was published November 23, 1998, at 63 FR 64589, as a final rule with the following changes:

PART 410—TRAINING

1. The authority citation for part 410 continues to read as follows:

Authority: 5 U.S.C. 4101, *et seq.*; E.O. 11348, 3 CFR, 1967 Comp., p. 275.

Subpart D—Paying for Training

2. In § 410.402, revise paragraph (b)(6) to read as follows:

§ 410.402 Paying premium pay.

* * * * *

(b) * * *

(6) *Firefighter overtime pay.* (i) A firefighter compensated under part 550, subpart M, of this chapter shall receive basic pay and overtime pay for the firefighter's regular tour of duty (as defined in § 550.1302 of this chapter) in any week in which attendance at agency-sanctioned training reduces the hours in the firefighter's regular tour of duty.

(ii) The special pay protection provided by paragraph (b)(6)(i) of this section does not apply to firefighters who voluntarily participate in training during non-duty hours, leave hours, or periods of excused absence. It also does not apply if the firefighter is entitled to a greater amount of pay based on actual work hours during the week in which training occurs.

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart M—Firefighter Pay

3. Revise the authority citation for subpart M of part 550 to read as follows:

Authority: 5 U.S.C. 5545b, 5548, and 5553.

4. In § 550.1302, revise the definition of *firefighter* to read as follows:

§ 550.1302 Definitions.

* * * * *

Firefighter means an employee—

(1) Whose regular tour of duty, as in effect throughout the year, averages at least 106 hours per biweekly pay period; and

(2) Who is in a position—

(i) Covered by the General Schedule and classified in the Fire Protection and Prevention Series, GS–0081, consistent with standards published by the Office of Personnel Management;

(ii) In a demonstration project established under chapter 47 of title 5, United States Code, or an alternative personnel system under a similar authority, which otherwise would be covered by the General Schedule, and which is classified in the Fire Protection and Prevention Series, GS–0081, consistent with standards published by the Office of Personnel Management, but only if application of 5 U.S.C. 5545b has not been waived; or

(iii) Covered by the General Schedule and classified in the GS–0099, General Student Trainee Series (as required by § 213.3202(b) of this chapter), if the position otherwise would be classified in the GS–0081 series.

* * * * *

5. In § 550.1303, revise paragraph (d) to read as follows:

§ 550.1303 Hourly rates of basic pay.

* * * * *

(d) If a firefighter takes leave without pay during his or her regular tour of duty, the agency shall substitute any irregular hours worked in the same biweekly pay period for those hours of leave without pay. (If a firefighter's overtime pay is computed on a weekly basis, the irregular hours must be worked in the same administrative workweek.) For firefighters whose regular tour of duty includes a basic 40-hour workweek, the agency shall first substitute irregular hours for hours of leave without pay in the basic 40-hour workweek, which are paid at an hourly rate based on the 2087 divisor. All other substituted hours are paid at an hourly rate based on the 2756 divisor, using the applicable overtime rate for overtime hours. The annual rate used to compute any such hourly rate is the annual rate in effect at the time the hour was actually worked.

6. In § 550.1305, revise the paragraph (a) introductory text and paragraphs (c) and (d) to read as follows:

§ 550.1305 Treatment as basic pay.

(a) The sum of pay for nonovertime hours that are part of a firefighter's regular tour of duty (as computed under § 550.1303) and the straight-time portion of overtime pay for hours in a firefighter's regular tour of duty is treated as basic pay only for the following purposes:

* * * * *

(c) Pay for any nonovertime hours outside a firefighter's regular tour of duty is computed using the firefighter hourly rate of basic pay as provided in § 550.1303(a) and (b)(2), but that pay is not considered basic pay for any purpose, except in applying §§ 550.105 and 550.106.

(d) For firefighters compensated under § 550.1303(b), pay for nonovertime hours within the regular tour of duty, but outside the basic 40-hour workweek, is basic pay only for the purposes listed in paragraph (a) of this section and for the purpose of applying § 410.402(b)(6) of this chapter and §§ 550.105 and 550.106.

* * * * *

7. In § 550.1306, amend paragraph (c) by removing ''631.210'' and adding in its place ''630.210''; and revise paragraph (a) and add paragraphs (d) and (e) to read as follows:

§ 550.1306 Relationship to other entitlements.

(a) A firefighter who is compensated under this subpart is entitled to overtime pay as provided under this subpart, but may not receive additional premium pay under any other provision of subchapter V of chapter 55 of title 5, United States Code, including night pay, Sunday pay, holiday pay, and hazardous duty pay. A firefighter is not entitled to receive paid holiday time off when not working on a holiday, but may be allowed to use annual or sick leave, as appropriate, or may be granted excused absence at the agency's discretion.

* * * * *

(d) A firefighter compensated under this subpart shall receive basic pay and overtime pay for his or her regular tour of duty in any week in which attendance at agency-sanctioned training reduces the hours in the firefighter's regular tour of duty, as provided in § 410.402(b)(6) of this chapter.

(e) In applying the compensatory time off provision in § 550.114(c), compare the firefighter's annual rate of basic pay to the annual rate of basic pay for GS–10, step 10.

§ 550.1308 [Removed]

8. Remove § 550.1308.

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

9. The authority citation for part 551 continues to read as follows:

Authority: 5 U.S.C. 5542(c); Sec. 4(f) of the Fair Labor Standards Act of 1938, as amended by Pub. L. 93–259, 88 Stat. 55 (29 U.S.C. 240f).

Subpart D—Hours of Work

10. In § 551.411, revise paragraph (c) to read as follows:

§ 551.411 Workday.

* * * * *

(c) *Bona fide* meal periods are not considered hours of work, except for on-duty meal periods for employees engaged in fire protection or law enforcement activities who receive compensation for overtime hours of work under 5 U.S.C. 5545(c)(1) or (2) or 5545b. However, for employees engaged in fire protection or law enforcement activities who have periods of duty of more than 24 hours, on-duty meal periods may be excluded from hours of work by agreement between the employer and the employee, except as provided in § 551.432(e) and (f).

PART 630—ABSENCE AND LEAVE

11. The authority citation for part 630 continues to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 105–18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 102–25, 105 Stat. 92.

Subpart B—Definitions and General Provisions for Annual and Sick Leave

12. In § 630.210, revise paragraph (c) to read as follows:

§ 630.210 Uncommon tours of duty.

* * * * *

(c) An agency shall establish an uncommon tour of duty for each firefighter compensated under part 550, subpart M, of this chapter. The

uncommon tour of duty shall correspond directly to the firefighter's regular tour of duty, as defined in § 550.1302 of this chapter, so that each firefighter accrues and uses leave on the basis of that tour.

[FR Doc. 02–7762 Filed 4–1–02; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–31–AD; Amendment 39–12694; AD 2002–06–16]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–300 Airplanes That Have Been Modified in Accordance With Supplemental Type Certificate STC00973WI–D

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767–300 airplanes. This action requires removing each sidewall-mounted reading light in the attendant crew rest compartment, installing cover plates in place of the existing reading lights, removing each reading light switch, and installing a new reading light in place of the existing light switch. This action is necessary to prevent contact between the occupant of the attendant crew rest compartment and the sidewall-mounted reading lights, which could result in possible injury to the occupant; and to prevent contact between various flammable materials and the sidewall-mounted reading lights, which could cause charring or melting of the heated material, and consequent emission of toxic or noxious gases. This action is intended to address the identified unsafe condition.

DATES: Effective April 17, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 17, 2002.

Comments for inclusion in the Rules Docket must be received on or before June 3, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–31–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–31–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary D. Park, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4123; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received information identifying an unsafe condition regarding certain Boeing Model 767–300 airplanes (specifically, certain Model 767–333 airplanes). The sidewall-mounted reading lights in the attendant crew rest compartment of those airplanes have been modified in accordance with Supplemental Type Certificate (STC) STC00973WI–D. A potential for contact between an occupant of the crew rest compartment and the sidewall-mounted reading lights exists. Sustained contact between the occupant and the reading lights could result in possible injury to the occupant. Additionally, inadvertent contact could also occur between various flammable materials (e.g., sheets, blankets, flightcrew clothing) and the sidewall-mounted reading lights. Such contact between the flammable materials and the reading lights could cause charring or melting of the heated material and consequent emission of toxic or noxious gases.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–33–0093, dated December 20, 2001, which describes procedures for removing each sidewall-mounted reading light in the attendant crew rest compartment, installing cover plates in place of the existing reading lights, removing each reading light switch, and installing a new reading light in place of the existing light switch. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent contact between the occupant of the attendant crew rest compartment and the sidewall-mounted reading lights, which could result in possible injury to the occupant; and to prevent contact of flammable materials with the sidewall-mounted reading lights, which could cause charring or melting of heated material and result in the emission of toxic or noxious gases. This AD requires accomplishment of the actions specified in the service bulletin described previously.

Determination of Compliance Time

The Boeing service bulletin specified by this AD does not recommend a compliance time. The FAA has determined that a compliance time of 60 days is appropriate. We based this compliance time not only on the degree of urgency associated with addressing the identified unsafe condition, but on the practical aspect of installing the required modification, which is estimated to take only 6 work hours.

Cost Impact

None of the Model 767–300 airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require

approximately 6 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $1,440 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–31–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–16 Boeing: Amendment 39–12694. Docket 2002–NM–31–AD.

Applicability: Model 767–300 airplanes that have been modified in accordance with Supplemental Type Certificate STC00973WI–D; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent contact between the occupant of the attendant crew rest compartment and the sidewall-mounted reading lights, which could result in possible injury to the occupant; and to prevent contact between various flammable materials and the sidewall-mounted reading lights, which could cause charring or melting of the heated material and consequent emission of toxic or noxious gases; accomplish the following:

Modification

(a) Within 60 days after the effective date of this AD, remove the existing reading lights in the attendant crew rest compartment and install cover plates in place of the existing reading lights; and remove the existing light switches and replace them with new reading lights; per Boeing Service Bulletin 767–33–0093, dated December 20, 2001.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin 767–33–0093, dated December 20, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on April 17, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7415 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–22–AD; Amendment 39–12693; AD 2002–06–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 and -300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777–200 and -300 series airplanes. This action requires replacement of the switch guard on the switch used to control the passenger and/or therapeutic oxygen system with a new, improved switch guard. This action is necessary to prevent displacement of the passenger/therapeutic oxygen switch, which could result in the unavailability of supplemental/therapeutic oxygen and possible incapacitation of passengers during flight. This action is intended to address the identified unsafe condition.

DATES: Effective April 17, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 17, 2002.

Comments for inclusion in the Rules Docket must be received on or before June 3, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–22–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–22–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Susan Letcher, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2670; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The airplane manufacturer has advised the FAA that the switch guard on the three-position momentary switch used to control the gaseous passenger/theraputic oxygen system is defective on certain Boeing Model 777–200 and –300 series airplanes. Each airplane is equipped with one switch if the airplane oxygen system is only equipped with passenger oxygen, or two switches if the oxygen system includes the optional therapeutic oxygen. The switch or switches are located on the P5 panel of the flight deck and are designed to stay at the centered ''NORMAL'' position, but can be toggled to the ''RESET'' or ''ON'' position. Each switch is prevented from inadvertent toggling out of the ''NORMAL'' position by a protective guard. The manufacturer has advised us that when the protective guard is in place, the switch can be deflected slightly and put into a continuous ''RESET'' mode, due to a defective wire hoop installed on the switch guard. If the passenger or therapeutic oxygen switch are in ''RESET'' mode, and the passenger oxygen masks are deployed, the oxygen flow control units which regulate the flow of oxygen from the supply cylinders into the passenger masks may not open to deliver supplemental oxygen to the passengers. This condition, if not corrected, could result in possible incapacitation of passengers during flight.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 777–35A0010, dated October 4, 2001, which describes procedures for replacement of the switch guard on the switch used to control the passenger and/or therapeutic oxygen module assemblies with a new, improved switch guard, and changing the part number on the module assembly. The service bulletin also describes procedures for doing a functional test if the module assemblies are removed and the wiring is disconnected before replacing the switch guard. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent displacement of the passenger/therapeutic oxygen switch, which could result in the unavailability of supplemental/therapeutic oxygen and possible incapacitation of passengers during flight. This AD requires replacement of the switch guard on the switch used to control the passenger and/or therapeutic oxygen module assemblies with a new, improved switch guard. The actions are required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Difference Between This AD and the Alert Service Bulletin

The service bulletin recommends accomplishment of the actions as soon as manpower and materials are available, but the FAA has determined that a 90-day compliance time is necessary to address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the actions. In light of all of these factors, the FAA finds a 90-day compliance time for completion of the actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

None of the Model 777–200 and –300 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $60 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–22–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–15 Boeing: Amendment 39–12693. Docket 2002–NM–22–AD.

Applicability: Model 777–200 and –300 series airplanes, as listed in Boeing Alert Service Bulletin 777–35A0010, dated October 4, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent displacement of the passenger/therapeutic oxygen switch, which could result in the unavailability of supplemental/therapeutic oxygen and possible incapacitation of passengers during flight, accomplish the following:

Replacement

(a) Within 90 days after the effective date of this AD: Replace the switch guard on the switch used to control the passenger and/or therapeutic oxygen module assemblies, as applicable (including changing the part number on the module assembly, or a functional test, as applicable), with a new, improved switch guard per Figure 1 or Figure 2, as applicable, of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–35A0010, dated October 4, 2001.

Spares

(b) As of the effective date of this AD, no one may install on any airplane a switch guard that has a part number listed in the ''Existing Part Number'' column of Paragraph 2.E. of Boeing Alert Service Bulletin 777–35A0010, dated October 4, 2001.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 777–35A0010, dated October 4, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on April 17, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7414 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–121–AD; Amendment 39–12692; AD 2002–06–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F Series Airplanes; and Model MD–10–10F and MD–10–30F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to certain McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes. This action requires an inspection of the parallel power feeder cables of the number 2 generator for chafing or structure damage; repositioning of the cables; and repair, if necessary. This action is necessary to prevent wire chafing of the parallel power feeder cables of the number 2 generator, which, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area. This action is intended to address the identified unsafe condition.

DATES: Effective May 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; fax (562) 627–5210.

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 McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes was published in the **Federal Register** on January 4, 2002 (67 FR 550). That action proposed to require an inspection of the parallel power feeder cables of the number 2 generator for chafing or structure damage; repositioning of the cables; and repair, if necessary.

Comments

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

There are approximately 231 Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 157 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $9,420, or $60 per airplane.

It will take approximately 2 work hours per airplane to accomplish the repositioning of cables, at an average labor rate of $60 per work hour. Required parts will cost approximately $646 per airplane. Based on these figures, the cost impact of the repositioning of cables required by this AD on U.S. operators is estimated to be $120,262, or $766 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–14 McDonnell Douglas: Amendment 39–12692. Docket 2001–NM–121–AD.

Applicability: Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent wire chafing of the parallel power feeder cables of the number 2 generator, which, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area, accomplish the following:

Inspection and Follow-On Actions

(a) Within 6 months after the effective date of this AD, do a one-time general visual inspection of the parallel power feeder cables of the number 2 generator for chafing or structure damage, per Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001.

(1) Condition 1. If no chafing or structure damage is found: At the next scheduled maintenance visit, but no later than 6 months after the effective date of this AD, reposition the cables per the alert service bulletin.

(2) Condition 2. If any chafing or structure damage is found: Prior to further flight, repair the cable and damaged adjacent structure, as applicable, and reposition the cables, per the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on May 7, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7413 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–400–AD; Amendment 39–12691; AD 2002–06–13]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to certain McDonnell Douglas MD–90–30 airplanes. This action requires inspection of the power feeder cables on the left and right side of the aft cargo compartment between certain stations for minimum clearance from the adjacent structure and for the presence of a grommet in the lightening hole through the floor cusp, and corrective actions, if necessary. The actions specified by this AD are intended to detect and correct inadequate clearance of the power feeder cables on the left and right side of the aft cargo compartment, the lack of a grommet in the lightening hole through the floor cusp, and improper installation of the cabin sidewall grill during production. These conditions could lead to chafing of the power feeder cables, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport

Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

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 certain McDonnell Douglas MD–90–30 airplanes was published in the **Federal Register** on January 4, 2002 (67 FR 534). That action proposed to require inspection of the power feeder cables on the left and right sides of the aft cargo compartment between certain stations for minimum clearance from the adjacent structure, and for the presence of a grommet in the lightening hole through the floor cusp, and corrective actions, if necessary.

Comments

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

Conclusion

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

Cost Impact

There are approximately 16 McDonnell Douglas Model MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–13 McDonnell Douglas: Amendment 39–12691. Docket 2000–NM–400–AD.

Applicability: Model MD–90–30 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct inadequate clearance of the power feeder cables on the left and right side of the aft cargo compartment, the lack of a grommet in the lightening hole through the floor cusp, and improper installation of the cabin sidewall grill, which could lead to chafing of the power feeder cables, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane, accomplish the following:

Inspection

(a) Within one year after the effective date of this AD: Perform a general visual inspection of the power feeder cable installation on the left and right sides of the aft cargo compartment between stations Y=1344.000 and Y=1364.000 for minimum clearance between the power feeder cables and the adjacent structure, and for grommet installation, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000. If the inspection reveals that adequate clearance exists and a grommet is installed, no further action is required.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 3: Inspections and repairs accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD90–24–025, dated July 31, 1996, are considered acceptable for compliance with the applicable actions specified in this amendment.

Corrective Action

(b) Subsequent to the inspection required by paragraph (a) of this AD, and prior to

further flight, perform the actions described in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD, as applicable, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000.

(1) If minimum clearance exists between the power feeder cables and the adjacent structure, and if a grommet is not installed: Install a grommet.

(2) If minimum clearance does not exist and if a grommet is installed: Conduct a general visual inspection of the power feeder cables for damage, repair any damaged cable, and re-position the cables inboard to achieve minimum clearance.

(3) If minimum clearance does not exist and if a grommet is not installed: Conduct a general visual inspection of the power feeder cables for damage, repair any damaged cable, install a grommet, and re-position the cables inboard to achieve minimum clearance.

(4) If minimum clearance cannot be achieved or a ''hard-riding'' condition exists: Conduct a general visual inspection of the power feeder cables for damage; repair any damaged cable; fabricate trim; install a grommet, if necessary; position power feeder cables to achieve the minimum clearance; and modify the retainer assembly of the cabin sidewall grill.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on May 7, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7412 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–335–AD; Amendment 39–12690; AD 2002–06–12]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Model Mystere-Falcon 50 series airplanes, that requires repetitive tests of double-skin feeder tanks for fuel leaks, and corrective actions, if necessary. It also requires modification of seals in the feeder tanks, which terminates the repetitive leak tests. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign airworthiness authority. The actions specified by this AD are intended to prevent fuel leaks from the feeder tanks, which could result in fuel vapors in the cabin that could come into contact with ignition sources. The actions are intended to address the identified unsafe condition.

DATES: Effective May 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dassault Model Mystere-Falcon 50 series airplanes was published as a supplemental notice of proposed rulemaking in the **Federal Register** on January 2, 2002 (67 FR 33). That action proposed to require repetitive tests of double-skin feeder tanks for fuel leaks, and corrective actions, if necessary. It also proposed to require modification of seals in the feeder tanks, which would have terminated the repetitive leak tests.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 46 Model Mystere-Falcon 50 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required leak tests, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the required leak tests on U.S. operators is estimated to be $22,080, or $480 per airplane per test.

The FAA estimates that it will take approximately 50 work hours per airplane to rework the seals in the feeder tanks, and that the average labor rate is $60 per work hour. The required parts will be provided at no charge to the operator. Based on these figures, the cost impact of reworking the seals on U.S. operators is estimated to be $138,000, or $3,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include

incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–12 Dassault Aviation: Amendment 39–12690. Docket 2000–NM–335–AD.

Applicability: Model Mystere-Falcon 50 series airplanes, certificated in any category, serial numbers 222 to 286 inclusive, 288, 290, and 291.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leaks from the feeder tanks, which could result in fuel vapors in the cabin that could come into contact with ignition sources, accomplish the following:

Leak Testing

(a) Within 7 months after the effective date of this AD: Perform a feeder tank leak test by sampling at the drain ports of frames 29 and 31, in accordance with Work Card No. 686.3/1 of the Dassault Falcon 50 Maintenance Manual, Revision 07, dated August 2001. Repeat the leak test at intervals not to exceed 13 months, until accomplishment of paragraph (c) of this AD.

Corrective Action

(b) If the feeder tank leak test indicates that a leak is present: Prior to further flight, renew the seal, in accordance with Work Card No. 686.4/1 of the Dassault Falcon 50 Maintenance Manual, Revision 07, dated August 2001.

Modification

(c) Within 78 months since the date of manufacture of the airplane: Rework the seals of the double-skin feeder tanks at frames 28 and 31, in accordance with Dassault Service Bulletin F50–328, dated May 31, 2000. Accomplishment of the rework terminates the requirements of this 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, International Branch, ANM–116, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(f) The modification shall be done in accordance with Dassault Service Bulletin F50–328, dated May 31, 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 Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–163–030(B), dated April 19, 2000.

Effective Date

(g) This amendment becomes effective on May 7, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7411 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–195–AD; Amendment 39–12689; AD 2002–06–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30 airplanes, that requires replacement of the existing strake feed-thru and internal electrical connectors with new, moisture-resistant connectors. This action is necessary to prevent moisture from entering the strake feed-thru and internal electrical connectors, which could lead to electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft

Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

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 certain McDonnell Douglas Model MD–90–30 airplanes was published in the **Federal Register** on January 4, 2002 (67 FR 537). That action proposed to require replacement of the existing strake feed-thru and internal electrical connectors with new, moisture-resistant connectors.

Comments

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

Conclusion

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

Cost Impact

There are approximately 99 McDonnell Douglas Model MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 25 airplanes of U.S. registry will be affected by this AD, that it will take approximately 14 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts are available at no charge from the manufacturer. Based on these figures, the cost impact of the requirements of this AD on U.S. operators is estimated to be $21,000, or $840 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–11 McDonnell Douglas: Amendment 39–12689. Docket 2000–NM–195–AD.

Applicability: Model MD–90–30 airplanes, certificated in any category; as listed in McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent moisture from entering the strake feed-thru and internal electrical connectors, which could lead to electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane, accomplish the following:

Replacement

(a) Within one year after the effective date of this AD: Replace the existing strake feed-thru and internal wire connectors with new connectors, in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000.

Note 2: Replacements accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 01, dated April 3, 2000, or original issue, dated August 12, 1998, are considered acceptable for compliance with the applicable action specified in this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on May 7, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7410 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–01]

Modification of Class D Airspace; Rockford, IL; Modification of Class E Airspace; Rockford, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace at Rockford, IL, and modifies Class E airspace at Rockford, IL. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for Greater Rockford Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the radius of the existing Class D and Class E airspace for Greater Rockford Airport.

EFFECTIVE DATE: 0901 UTC, June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 7, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace and Class E airspace at Rockford, IL (67 FR 703). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, and Class E airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace at Rockford, IL, and Class E airspace at Rockford, IL, to accommodate aircraft executing instrument flight procedures into and out of Greater Rockford Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL IL Rockford, IL [Revised]

Greater Rockford Airport, IL
(Lat. 42°11′43″ N., long. 89°05′50″ W.)
Greater Rockford ILS localizer
(Lat. 42°12′36″ N., long. 89°05′17″ W.)
GILMY LOM
(Lat. 42°06′52″ N., long. 89°05′55″ W.)

That airspace extending upward from the surface of the earth to and including 3,200 feet MSL within a 4.6-mile radius of the Greater Rockford Airport and within 1.8 miles each side of the Greater Rockford Runway 36 ILS localizer course, extending south from the 4.6-mile radius to the GILMY LOM.

* * * * *

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

* * * * *

AGL IL E5 Rockford, IL [Revised]

Greater Rockford Airport, IL
(Lat. 42°11′43″ N., long. 89°05′50″ W.)
GILMY LOM
(Lat. 42°06′52″ N., long. 89°05′55″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of the Greater Rockford Airport and within 7 miles east and 4.4 miles west of the Greater Rockford ILS localizer south course, extending from the airport to 10.4 miles south of the GILMY LOM.

* * * * *

Issued in Des Plaines, Illinois on March 15, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7858 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–08]

Modification of Class E Airspace; Frankfort, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Frankfort, MI. A VHF Omnidirectional Range-A (VOR–A) Standard Instrument Approach Procedure (SIAP) has been developed for Frankfort Dow Memorial Field, Frankfort, MI. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing this approach. This action adds an extension to the existing Class E airspace for Frankfort Dow Memorial Field Airport.

EFFECTIVE DATE: 0901 UTC, June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (845) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 7, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Frankfort, MI (67 FR 705). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace portions of the terminal operations and while transmitting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Frankfort, MI, to accommodate aircraft executing instrument flight procedures into and out of Frankfort Dow Memorial Field Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MI E5 Frankford, MI [Revised]

Frankfort Dow Memorial Field Airport, MI
(Lat. 44°37′30″ N., long. 86°12′02″W.)
Manistee VOR/DME
(Lat. 44°16′14″N., long. 86°15′14″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Frankfort Dow Memorial Field Airport, and within 2 miles each side of the Manistee VOR/DME 006° radial extending from the 6.4 mile radius to 9.8 miles south of the airport.

* * * * *

Issued in Des Plaines, Illinois, on March 15, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7856 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–07]

Modification of Class E Airspace; Brainerd, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Brainerd, MN. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) has been developed for Brainerd-Crow Wing County Regional Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action increases the radius of the existing controlled airspace for Brainerd-Crow Wing County Regional Airport.

EFFECTIVE DATE: 0901 UTC, June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 16, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class A airspace at Brainerd, MN (67 FR 2150). The proposal was to

modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No. comments objecting to the proposals were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Brainerd, MN, to accommodate aircraft executing instrument flight procedures into and out of Brainerd-Crow County Regional Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MN E5 Brainerd, MN [Revised]

Brainerd-Crow County Regional Airport, MN
(Lat. 46°23′52″N., long. 94°08′14″W.)

That airspace extending upward from 700 feet above the surface within a 7.9-mile radius of the Brainerd-Crow County Regional Airport, Brainerd, MN.

* * * * *

Issued in Des Plaines, Illinois, on March 15, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lake Region.

[FR Doc. 02–7855 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 181

[T.D. 02–15]

RIN 1515–AD08

North American Free Trade Agreement

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document sets forth amendments to the Customs Regulations that implement the preferential tariff treatment and other Customs-related provisions of the North American Free Trade Agreement (NAFTA) entered into by the United States, Canada and Mexico. The amendments involve technical rectifications and other conforming changes to reflect amendments to the NAFTA uniform regulations agreed upon by the three NAFTA parties and to reflect changes to the Harmonized Tariff Schedule of the United States.

EFFECTIVE DATE: These amendments are effective April 1, 2002.

FOR FURTHER INFORMATION CONTACT: John Valentine, International Agreements Staff, Office of Regulations and Rulings (202–927–2255).

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1992, the United States, Canada and Mexico entered into an agreement, the North American Free Trade Agreement (NAFTA), which, among other things, provides for preferential duty treatment on goods of those three countries. For purposes of the administration of the NAFTA preferential duty provisions, the three countries agreed to the adoption of (1) verbatim NAFTA Rules of Origin Regulations and (2) additional uniform regulatory standards to be followed by each country in promulgating NAFTA implementing regulations under its national law.

The regulations implementing the NAFTA preferential duty and related provisions under United States law are set forth in part 181 of the Customs Regulations (19 CFR part 181) which incorporates, in the Appendix, the verbatim NAFTA Rules of Origin Regulations. When the final rule document setting forth those NAFTA implementing regulations was published in the **Federal Register** (at 60 FR 46334) on September 6, 1995, Customs also published in that same issue of the **Federal Register** (at 60 FR 46464), in a general notice, the text of a document entitled ''Uniform Regulations for the Interpretation, Application, and Administration of Chapters Three (National Treatment and Market Access for Goods) and Five (Customs Procedures) of the North American Free Trade Agreement'' that contained the additional uniform regulatory standards agreed to by the United States, Canada and Mexico. The principles contained in those additional uniform regulatory standards are reflected, as appropriate, in the part 181 regulatory provisions that precede the Appendix.

On December 12, 2001, the United States Trade Representative, the Canadian Minister of International Trade, and the Mexican Secretary of the Economy in an exchange of letters agreed, among other things, to make certain technical rectifications to the NAFTA uniform regulation provisions referred to above, subject to the completion of each Party's domestic legal procedures. This rulemaking

effects these changes for the United States. The changes in question are described below.

Change to the Uniform Regulatory Standards

In the document setting forth the additional uniform regulatory standards agreed to by the United States, Canada and Mexico, in Section B—Administration and Enforcement, under the heading ''Article VI: Origin Verifications,'' a new paragraph 32 was added after paragraph 31 to read as follows:

32. Each Party shall, through its customs administration when conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, apply and accept the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced or in which the exporter is located, as the case may be.

This change was made in part because, as Article 506(8) of the NAFTA is currently worded, it would appear that a customs administration is conducting verification of the regional value content requirement in accordance with Generally Accepted Accounting Principles (GAAP) applicable in the territory of the exporting Party. In fact, as indicated in Article 413 of the NAFTA and throughout the NAFTA Rules of Origin Regulations, the use of GAAP relates to the manner in which costs are recorded and maintained, not the manner in which a verification of origin is conducted. This change was also made to reflect the fact that Article 413 of the NAFTA and the NAFTA regulations refer to the GAAP applicable in the territory of the Party in which the good is produced, the location where the books and records are maintained.

Changes to the NAFTA Rules of Origin Regulations

In the verbatim NAFTA Rules of Origin Regulations, a number of numerical tariff reference and wording changes were made to reflect heading and subheading changes that have been made to the international Harmonized Commodity Description and Coding System (Harmonized System) which formed the basis for the tariff references in the NAFTA verbatim texts. In addition, in those verbatim NAFTA Rules of Origin Regulations, a number of provisions were revised, and some new provisions were added, in order to clarify issues or address problems that came to the attention of the NAFTA signatories after the NAFTA went into effect. The following points are noted regarding the latter substantive textual changes:

1. In the definitions in Part I, Section 2, a new paragraph (6)(f) was added to provide that total cost includes the impact of inflation as recorded on the books of the producer if recorded in accordance with GAAP. *Explanation*: Reexpression costs are costs typically recorded in the accounting records based on GAAP in countries with a history of high inflation. Reexpression costs associated with inflation, in accordance with procedures to be followed by the GAAP applicable in a territory, are recorded on the books of a producer. Basically, the inventories, machinery and equipment, cost of sales, depreciation expenses, and capital are reexpressed to adjust values and costs for increases or decreases due to inflation. The computations are based on indices established in the prior years and applied consistently throughout the future years. Because these costs are recorded on the books in accordance with GAAP and are not otherwise listed with those costs specifically excluded from the net cost calculation, they are included in the total cost. New paragraph (6)(f) was added to make this clear.

2. In the provisions regarding materials in Part IV, Section 7, subsection (16) was revised and new subsections (16.1) and (16.2) were added. *Explanation*: The revision of subsection (16) and the addition of new subsection (16.1) were intended to clarify two situations with respect to the use of an inventory management method for fungible materials and fungible goods. First, revised subsection (16) clarifies that, subject to subsection (16.1), a producer may use a single inventory management system for fungible materials that are maintained in two or more locations within the territories of the NAFTA parties and are withdrawn for use in the production of a good. Second, new subsection (16.1) makes it clear that, for a producer who withdraws both fungible materials and fungible goods from the same inventory, the producer must use the same inventory management method for that inventory, and the inventory management method must be one that is used for the fungible goods. New subsection (16.2) was added to establish the time at which a producer is determined to have made a choice with regard to an inventory management method for fungible materials or fungible commingled goods, in particular for purposes of applying the provisions of Sections 3 and 12 of Schedule X.

3. In the automotive parts averaging provisions in Part V, Section 12, paragraphs (a) and (b) of subsection (5) were revised. *Explanation:* As previously worded as a result of a textual change adopted by the NAFTA parties in 1995, the text of Section 12(5)(a) and (b) only referred to the *one/three month periods that are evenly divisible into the remaining months of a parts producer's fiscal year.* However, the one or three month period chosen by a parts producer may also be based on a motor vehicle producer's fiscal year. The 1995 amendment to Section 12(5)(a) and (b) had the unintentional effect of limiting the one or three month averaging period that is otherwise allowed by Article 403(4) of the NAFTA. The new revision of Section 12(5)(a) and (b) serves to align the regulations on the NAFTA text by including a reference to the motor vehicle producer's fiscal year. The amendment ensures that Sections 12(7) through 12(9) will apply to every situation that could arise in the event a parts producer wants to change the averaging period for its goods, and it will provide for a reasonable transition period in the event that the initial averaging period is less than a fiscal year as a result of the change in an averaging period.

4. In Schedule VII, in the provisions regarding methods to reasonably allocate costs, a new Section 4.1 was added and Section 5 was revised. *Explanation:* For purposes of determining total cost, certain costs, such as cots for research and development and costs of obsolete materials, are expensed in one period but are also allocated, for internal management purposes only, to goods to be produced in a different period. New section 4.1 is intended to provide guidance on when the allocation of these costs is considered to be ''reasonable'' for purposes of Section 4 of Schedule VII. Specifically, new Section 4.1 states that the allocation of costs expensed during a previous period are reasonably allocated to goods of a current period if the allocation is based on a producer's accounting system that is maintained for its own internal management purposes. Therefore, if a producer does not have an accounting system to allocate, to current production, costs that are associated with goods produced in a prior period, then those costs are not reasonably allocated and may not be included in the total cost of the goods produced in the current period. New section 5 simply clarifies that any allocation method referred to in Section 3, 4, or 4.1

and used by a producer must be used throughout the producer's fiscal year.

5. In Schedule VII, in the provisions regarding costs not reasonably allocated, paragraph (b) of Section 6 was revised. *Explanation:* In some circumstances, costs relating to the production of the good in the current period are recorded as part of the gain or loss relating to the disposition of a discontinued operation. In this cases, under the prior text of paragraph (b) of Section 6 of Schedule VII, these costs would not be reasonably allocated to the cost of the good. However, as part of amendments to the NAFTA Rules or Origin Regulations agreed to by the NAFTA parties in 1994, the definition of discontinued operations in Schedule VII was refined to link it to the definition as set out in each country's GAAP. Because both Canadian and American GAAP include, in the gain or loss, operating costs that are incurred between the time that there is a formal plan of disposal and the disposition date, the unintended effect of the prior paragraph (b) text after the 1994 changes was to exclude these current production costs form net costs (this problem does not arise under the Mexican GAAP). Therefore, it was necessary to amend paragraph (b) of Section 6 to clarify that ''gains or losses related to the production of the good'' are considered reasonably allocated for purposes of Schedule VII.

6. In Schedule X which concerns inventory management methods. Section 3 in the Part 1 provisions regarding fungible materials, and Section 12 in the Part II provisions regarding fungible goods, were revised. *Explanation:* It had been noted that, under certain circumstances during a verification, a producer may not actually ''be determined to have made a choice'' with regard to an inventory management method until after the close of the fiscal year in which the production took place. The revision of Sections 3 and 12 were intended to make it clear that, when a producer makes a choice with regard to an inventory management method for fungible materials or goods, the producer is required to use the selected method for the remainder of the fiscal year of production of the materials of goods undergoing this verification, rather than for the remainder of the fiscal year in which the producer is considered to have made the choice.

Conforming Changes to Part 181 of the Customs Regulations

In keeping with the regulatory obligations assumed by the United States under the NAFTA, the regulations in Part 181 of the Customs Regulations must be amended to reflect the triaterally-agreed changes referred to above. Accordingly, the document makes the following changes to the part 181 texts:

1. In § 181.72, which sets forth provisions regarding the scope and method of origin verifications, paragraph (b), which refers to the use of Generally Accepted Accounting Principles, is revised in response to the inclusion of new paragraph 32 in the additional uniform regulatory standards document. Although the revised paragraph (b) text is worded somewhat differently to reflect its U.S. regulatory context, it reflects the substance of the trilaterally-agreed text.

2. The Appendix to part 181 has been amended to reflect the agreed numerical and text changes to the verbatim NAFTA Rules of Origin regulations. As in the case of amended paragraph (b) of § 181.72, some slight changes have been made to the trialterally-agreed texts to reflect the U.S. regulatory context. Similarly, consistent with the general approach taken throughout the Appendix to part 181, the amended numerical tariff references reflect the subheadings as set forth in the Harmonized Tariff Schedule of the United States (HTSUS), in line with changes to the international Harmonized System and to reflect changes agreed for the triateral NAFTA texts.

In addition, one additional conforming change, has been included in the Appendix to part 181. This change involves replacing the reference to tariff items ''2106.90.48 and 21006.90.52'' ''2106.90.16 and 2106.90.17'' by a reference to tariff items within paragraph (c) of subsection (4) under section 5 of part II. This change is necessary to reflect the trilateral NAFTA texts and the current numbering of the subheadings in the HTSUS.

Inapplicability of Public Notice and Comment Procedures and Delayed Effective Date Requirements

Pursuant to the provisions of 5 U.S.C. 553(a) public notice and comment procedures are inapplicable to these final regulations because they are within the foreign affairs function of the United States. In addition, for the above reason and because the Parties have agreed to promulgate these NAFTA implementing regulations changes no later than April 1, 2002, it is determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) for dispensing with a 30-day delayed effective date.

Executive Order 12866

Because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

Regulatory Flexibility Act

Based on the supplementary information set forth above and because these regulations implement obligations of international agreements and statutory requirements relating to those agreements, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) it is certified that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 181

Administrative practice and procedure, Canada, Customs duties and inspection, Exports, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements (North American Free-Trade Agreement).

Amendments to the Regulations

For the reasons set forth in the preamble, Part 181, Customs Regulations (19 CFR part 181), is amended as set forth below.

1. The authority citation for Part 181 is revised to read as follows:

Authority 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 3314.

2. In § 181.72, paragraph (b) is revised to read as follows:

§ 181.72 Verification scope and method.

* * * * *

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, Customs will apply and accept the Generally Accepted Accounting Principles applicable in the country in which the good is produced or in which the exporter is located.

* * * * *

3. In the Appendix to part 181:

a. In Part I, Section 2, under the heading ''Calculation Of Total Cost,'' subsection (6) is amended by removing the word ''and'' at the end of paragraph

(d), removing the period at the end of paragraph (e) and adding, in its place, a semicolon followed by the word ''and'', and adding a new paragraph (f);

b. In Part II, Section 5, under the heading ''Exceptions,'' subsection (4) is amended:

(i) In paragraph (c), by removing the words ''2009.30 that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.30 and tariff items 2106.90.16 and 2106.90.17'' and adding, in their place, the words ''2009.39 that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39 and tariff items 2106.90.48 and 2106.90.52'';

(ii) In paragraph (d), by removing the reference ''2101.10.21'' and adding, in its place, the reference ''2101.11.21''; and

(iii) By revising paragraph (i);

c. In Part III, Section 6, under the heading ''Net Cost Method Required in Certain Circumstances,'' subsection (6)(d)(iv) is revised;

d. In Part IV, Section 7, under the heading ''Fungible Materials; Fungible Commingled Goods; Inventory Management Methods For Determining Whether Originating,'' subsection (16) is revised and new subsections (16.1) and (16.2) are added;

e. In Part V, Section 12, under the heading ''Periods For Averaging RVC For Automotive Parts,'' subsection (5) is amended by revising paragraphs (a) and (b);

f. In Part VI, Section 16, under the heading ''Exceptions For Certain Goods,'' subsection (3) is amended by removing the words ''8542.11 through 8542.80'' and adding, in their place, the words ''8542.10 through 8542.70'';

g. In Schedule IV:

(i) The listing ''4010.10'' is revised to read ''4010.31 through 4010.34 and 4010.39.10 through 4010.39.20'';

(ii) The listing ''8415.81 through 8415.83'' is revised to read ''8415.20'';

(iii) The listing ''8519.91'' is revised to read ''8519.93''; and

(iv) The listing ''8537.10.30'' is revised to read ''8537.10.60'';

h. In Schedule VII:

(i) Under the heading ''Methods To Reasonably Allocate Costs,'' a new Section 4.1 is added after Section 4, and Section 5 is revised; and

(ii) Under the heading ''Costs Not Reasonably Allocated,'' Section 6 is amended by revising paragraph (b); and

i. In Schedule X:

(i) In Part I, under the heading ''General,'' Section 3 is revised; and

(ii) In Part II, under the heading ''General,'' Section 12 is revised.

The additions and revisions read as follows:

APPENDIX TO PART 181—RULES OF ORIGIN REGULATIONS

* * * * *

PART I

SECTION 2. DEFINITIONS AND INTERPRETATION

* * * * *

Calculation of Total Cost

(6) * * *

(f) total cost includes the impact of inflation as recorded on the books of the producer, if recorded in accordance with the Generally Accepted Accounting Principles of the producer's country.

* * * * *

PART II

* * * * *

SECTION 5. DE MINIMIS

* * * * *

Exceptions

(4) * * *

(i) a non-originating material that is used in the production of a good provided for in any of tariff item 7321.11.30 (gas stove or range), subheading 8415.10 through 8415.83, 8414.10 through 8418.21, 8418.29 through 8418.40, 8421.12, 8422.11, 8450.11 through 8450.20 and 8451.21 through 8451.29, and tariff items 8479.89.55 (trash compactors) and 8516.60.40 (electric stove or range);

* * * * *

PART III

SECTION 6. REGIONAL VALUE CONTENT

* * * * *

Net Cost Method Required in Certain Circumstances

(6) * * *

(d) * * *

(iv) a good provided for in subheading 8469.11;

* * * * *

PART IV

SECTION 7. MATERIALS

Fungible Materials; Fungible Commingled Goods; Inventory Management Methods for Determining Whether Originating

(16) Subject to subsection (16.1), for purposes of determining whether a good is an originating good,

(a) where originating materials and non-originating materials that are fungible materials.

(i) are withdrawn from an inventory in one location and used in the production of the good, or

(ii) are withdrawn from inventories in more than one location in the territory of one or more of the NAFTA countries and used in the production of the good at the same production facility,

the determination of whether the materials are originating materials may be made on the basis of any of the applicable inventory management methods set out in Schedule X; and

(b) where originating goods and non-originating goods that are fungible goods are physically combined or mixed in inventory and prior to exportation do not undergo production or any other operation in the territory of the NAFTA country in which they were physically combined or mixed in inventory, other than unloading, reloading or any other operation necessary to preserve the goods in good condition or to transport the goods for exportation to the territory of another NAFTA country, the determination of whether the good is an originating good may be made on the basis of any of the applicable inventory management methods set out in Schedule X.

(16.1) Where fungible materials referred to in subsection (16)(a) and fungible goods referred to in subsection (16)(b) are withdrawn from the same inventory, the inventory management method used for the materials must be the same as the inventory management method used for goods, and where the averaging method is used, the respective averaging periods for fungible materials and fungible goods are to be used.

(16.2) A choice of inventory management methods under subsection (16) shall be considered to have been made when the customs administration of the NAFTA country into which the good is imported is informed in writing of the choice during the course of a verification of the origin of the good.

* * * * *

PART V

Automotive Goods

* * * * *

SECTION 12. AUTOMOTIVE PARTS AVERAGING

* * * * *

Periods for Averaging RVC for Automotive Parts

(5) * * *

(a) with respect to goods referred to in subsection (4)(a), (b) or (d), or subsection 4(e) or (f) where the goods in that category are in a category referred to in subsection 4(a) or (b), any month, any consecutive three month period that is evenly divisible into the number of months of the producer's fiscal year, or of the fiscal year of the motor vehicle producer to whom those goods are sold, remaining at the beginning of that period, or the fiscal year of that motor vehicle producer to whom those goods are sold; and

(b) with respect to goods referred to in subsection (4)(c), or subsection (4)(e) or (f) where the goods in that category are in a category referred to in subsection (4)(c), any month, any consecutive three month period that is evenly divisible into the number of months of the producer's fiscal year, or of the fiscal year of the motor vehicle producer to whom those goods are sold, remaining at the beginning of that period, or the fiscal year of that producer or of that motor vehicle producer to whom those goods are sold.

* * * * *

SCHEDULE VII

Reasonable Allocation of Costs

* * * * *

Methods to Reasonably Allocate Costs

* * * * *

SECTION 4.1

Nothwithstanding section 3 and 7, where a producer allocates, for an internal management purpose, costs to a good that is not produced in the period in which the costs are expensed on the books of the producer (such as costs with respect to research and development, and obsolete materials), those costs shall be considered reasonably allocated if

(a) for purposes of section 6(11), they are allocated to a good that is produced in the period in which the costs are expensed, and

(b) the good produced in that period is within a group or range of goods, including identical goods or similar goods, that is produced by the same industry or industry sector as the goods to which the costs are expensed.

SECTION 5.

Any cost allocation method referred to in section 3, 4 or 4.1 that is used by a producer for the purposes of this appendix shall be used throughout the producer's fiscal year.

Costs Not Reasonably Allocated

SECTION 6.

* * * * *

(b) gains or losses resulting from the disposition of a discontinued operation, except gains or losses related to the production of the good;

* * * * *

SCHEDULE X

Inventory Management Methods

PART I

Fungible Materials

* * * * *

General

* * * * *

SECTION 3.

A producer of a good, or a person from whom the producer acquired the fungible materials that are used in the production of the good, may choose only one of the inventory management methods referred to in section 2, and, if the averaging method is chosen, only one averaging period in each fiscal year of that producer or person for the materials inventory.

* * * * *

PART II

Fungible Goods

* * * * *

General

* * * * *

SECTION 12.

A producer of a good, or a person from whom the producer acquired the fungible good, may choose only one of the inventory management methods referred to in section 11, including only one averaging period in the case of the average method, in each fiscal year of that exporter or person for each finished goods inventory of the exporter or person.

* * * * *

Robert C. Bonner,

Commissioner of Customs.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–8053 Filed 3–29–02; 2:08 pm]

BILLING CODE 4820–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Honolulu 02–002]

RIN 2115–AA97

Security Zone; Chevron Conventional Buoy Mooring, Barbers Point Coast, Honolulu, HI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a security zone in the waters adjacent to the Chevron Conventional Buoy Mooring (CBM) Barbers Point Coast, Honolulu, HI. This security zone is necessary to protect the CBM, and all involved personnel and vessels from acts of sabotage or other subversive acts, accidents, or other causes of a similar nature at the CBM off the Barbers Point Coast on the island of Oahu. Entry into this zone is prohibited unless authorized by the U.S. Coast Guard Captain of the Port Honolulu, HI.

EFFECTIVE DATES: This rule is effective from 4 p.m. HST March 19, 2002, to 6 a.m. HST April 19, 2002.

ADDRESSES: Public comment and supporting material is available for inspection or copying at U.S. Coast Guard Marine Safety Office Honolulu, 433 Ala Moana Blvd, Honolulu, Hawaii 96813, between 7 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR M. A. Willis, U.S. Coast Guard Marine Safety Office Honolulu, Hawaii at (808) 522–8264.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In order to protect the interests of national security, the Coast Guard is establishing a temporary security zone to provide for the safety and security of the public, maritime commerce in and facilities in the navigable waters of the United States. In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying this action's effective date would be contrary to the public interest since immediate action is needed to protect the Chevron Conventional Buoy Mooring (CBM) Barbers Point, Honolulu, HI, any vessel moored there, and all involved personnel. There is insufficient time to publish a proposed rule or to provide a delayed effective date for this rule. Under these circumstances, following normal rulemaking procedures would be impracticable.

Background and Purpose

The Coast Guard is establishing a security zone in the waters adjacent to the CBM Mooring Barbers Point Coast, Honolulu, HI. The security zone would extend out 1,000 yards in all directions from each vessel moored at the CBM in approximate position: 21°16.7′ N, 158°04.2′ W. This security zone extends from the surface of the water to the ocean floor. This security zone is necessary to protect the CBM, tank vessels, and all involved personnel from acts of sabotage or other subversive acts, accidents, or other causes of a similar nature during cargo operations at the CBM off the Barbers Point Coast on the island of Oahu. Representatives of the Captain of the Port Honolulu will enforce this security zone. The Captain of the Port may be assisted by other federal or state agencies. Periodically, the Coast Guard Captain of the Port will authorize general permission to enter into this security zone and will announce this by Broadcast Notice to Mariners.

Regulatory Evaluation

This temporary final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The U.S. Coast Guard expects the economic impact of this action to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the short duration of the zone and the limited geographic area affected by it.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. No small business impacts are anticipated due to the small size of the zone and the short duration of the security zone in any one area.

Assistance for Small Entities

Because we did not anticipate any small business impacts, we did not offer assistance to small entities in understanding the rule.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, and has determined this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Indian Tribal Governments

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

Taking of Private Property

This rule will 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.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this action and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. As an emergency action, the environmental analysis, requisite regulatory consultations, and categorical exclusion determination, will be prepared and submitted after establishment of this temporary security zone, and will be available for inspection or copying where indicated under addresses.

List of Subjects in 33 CFR Part 165

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

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T14–071 is added to read as follows:

§ 165.T14–071 Security Zone: Chevron Conventional Buoy Mooring, Barbers Point Coast, Honolulu, HI.

(a) *Location.* The following area is a security zone: All waters extending 1,000 yards in all directions from vessels moored at the CBM in approximate position: 21°16.7′ N, 158°04.2′ W. This security zone extends from the surface of the water to the ocean floor.

(b) *Designated representative.* A designated representative of the Captain of the Port is any Coast Guard commissioned officer, warrant or petty officer that has been authorized by the Captain of the Port Honolulu to act on his behalf. The following officers have or will be designated by the Captain of the Port Honolulu: The senior Coast Guard boarding officer on each vessel enforcing the security zone.

(c) *Regulations.*

(1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Honolulu or his designated representatives.

(2) The Coast Guard Captain of the Port Honolulu will periodically authorize general permission to enter into this temporary security zone and will announce this by Broadcast Notice to Mariners.

(d) *Effective dates.* This section is effective from 4 p.m. HST March 19, 2002 until 6 a.m. HST April 19, 2002.

Dated: March 8, 2002.

G.J. Kanazawa,

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

[FR Doc. 02–7827 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 63 (§ 63.1200 to End), revised as of July 1, 2001, in § 63.1257, on page 134, redesignate paragraph (d)(4)(iii) as paragraph (d)(3)(iii), and on page 140, remove the second definition of ρ following equation 47.

[FR Doc. 02–55509 Filed 4–1–02; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[WV001–1000a; FRL–7166–6]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of West Virginia; Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation.

SUMMARY: EPA is taking direct final action to approve West Virginia Department of Environmental Protection's (WVDEP's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations once WVDEP incorporates these amendments into its regulations. In addition, EPA is taking direct final action to approve of WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails WVDEP's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and WVDEP's notification to EPA of such incorporation. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both WVDEP and EPA. This action pertains only to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, which are not located at major sources, as defined by the Act's operating permit program. The WVDEP's request for delegation of authority to implement and enforce its hazardous air pollutant regulations at affected sources which are located at major sources, as defined by the Act's operating permit program, was initially approved on March 19, 2001. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective June 3, 2002, unless EPA receives adverse or critical comments by May 2, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and John A. Benedict, West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE, Charleston, WV 25304–2943. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE, Charleston, WV 25304–2943.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 Code of Federal Regulations (CFR) part 63, subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) A demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) a schedule demonstrating expeditious implementation of the regulation; and

(c) a plan that assures expeditious compliance by all sources subject to the regulation.

On November 18, 1999, WVDEP submitted to EPA a request to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for the affected sources defined in 40 CFR part 63. On March 19, 2001, WVDEP received delegation of authority to implement all emission standards promulgated in 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70. On June 15, 2001, WVDEP supplemented their November 18, 1999 request with information necessary to address delegation of the hazardous air pollutant regulations for affected sources which are not located at major sources, as defined by 40 CFR part 70. At the present time, the delegation request pertaining to affected sources which are not located at major sources, as defined by 40 CFR part 70, includes the regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting which have been adopted by reference from the Federal requirements set forth in 40 CFR part 63, subparts M, N, O, T, and X, respectively. The WVDEP also requested that EPA automatically delegate future amendments to these regulations and approve WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails WVDEP's incorporation by reference of the unchanged Federal standard into its regulation for hazardous air pollutant sources at 45CSR34 and WVDEP's notification to EPA of such incorporation.

II. EPA's Analysis of WVDEP's Submittal

Based on WVDEP's program approval request and its pertinent laws and regulations, EPA has determined that

such an approval is appropriate in that WVDEP has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), WVDEP submitted a written finding by the State Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), West Virginia submitted copies of its statutes, regulations and requirements that grant authority to WVDEP to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), WVDEP submitted documentation of adequate resources and a schedule and plan to assure expeditious State implementation and compliance by all sources. Therefore, the WVDEP program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts M, N, O, T, and X, as well as any future emission standards, should WVDEP seek delegation for these standards. The WVDEP adopts the emission standards promulgated in 40 CFR part 63 into the State regulation for hazardous air pollutant sources found at 45CSR34. The WVDEP has the primary authority and responsibility to carry out all elements of these programs for all sources covered in West Virginia, including on-site inspections, record keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for WVDEP to receive automatic delegation of future amendments to the perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting regulations, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, each amendment must be legally adopted by the State of West Virginia. As stated earlier, these amendments are adopted into West Virginia's regulation for hazardous air pollutant sources at 45CSR34. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption. The WVDEP will notify EPA of its adoption of the Federal regulation amendments.

EPA has also determined that WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, is approvable. This mechanism requires WVDEP to adopt the Federal regulation into its regulation for hazardous air pollutant sources at 45CSR34. The delegation will be finalized on the effective date of the legal adoption. The WVDEP is also required to notify EPA of its adoption of the Federal regulation. The official notice of delegation of additional emission standards will be published in the **Federal Register**. As noted earlier, WVDEP's program to implement and enforce all emission standards promulgated under 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70, was previously approved on March 19, 2001.

The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to WVDEP and EPA Region III.

If at any time there is a conflict between a WVDEP regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of WVDEP. EPA is responsible for determining stringency between conflicting regulations. If WVDEP does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that WVDEP's procedure for enforcing or implementing the 40 CFR part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) Approval of alternative non-opacity emission standards, *e.g.,* 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) Approval of alternative opacity standards, *e.g.,* 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) Approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) Approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) Approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, WVDEP must notify EPA Region III in writing:

(1) Applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, *e.g.,* 40 CFR 63.1 and applicable sections of relevant standards [1];

(2) Responsibility for determining compliance with operation and maintenance requirements, *e.g.,* 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) Responsibility for determining compliance with non-opacity standards, *e.g.,* 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) Responsibility for determining compliance with opacity and visible emission standards, *e.g.,* 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) Approval of site-specific test plans [2], *e.g.,* 40 CFR 63.7(c)(2)(i) and (d)

[1] Applicability determinations are considered to be nationally significant when they: (i) Are unusually complex or controversial; (ii) have bearing on more than one state or are multi-Regional; (iii) appear to create a conflict with previous policy or determinations; (iv) are a legal issue which has not been previously considered; or (v) raise new policy questions and shall be forwarded to EPA Region III prior to finalization. Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring,* dated February 1999. The WVDEP may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[2] The WVDEP will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

and applicable sections of relevant standards;

(6) Approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) Approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) Approval of shorter sampling times/volumes when necessitated by process variables and other factors, *e.g.,* 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) Waiver of performance testing, *e.g.,* 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) Approval of site-specific performance evaluation (monitoring) plans [3], *e.g.,* 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) Approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) Approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) Approval of adjustments to time periods for submitting reports, *e.g.,* 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) Approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, WVDEP and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a WVDEP interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of WVDEP. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in West Virginia. The WVDEP will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii). Quarterly reports will be submitted to EPA by WVDEP to identify sources determined to be applicable during that quarter.

Although WVDEP has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving WVDEP's request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T, and X, respectively. This approval will automatically delegate future amendments to these regulations. In addition, EPA is approving of WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails legal adoption by the State of West Virginia of the amendments or rules into WVDEP's regulation for hazardous air pollutant sources at 45CSR34 and notification to EPA of such adoption. This action pertains only to affected sources, as defined by 40 CFR part 63, which are not located at major sources, as defined by 40 CFR part 70. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above. This delegation of authority is codified in 40 CFR 63.99. In addition, WVDEP's delegation of authority to implement and enforce 40 CFR part 63 emission standards at major sources, as defined by 40 CFR part 70, approved by EPA Region III on March 19, 2001, is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because WVDEP's request for delegation of the hazardous air pollutant regulations pertaining to perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting and its request for automatic delegation of future amendments to these rules and future standards, when specifically identified, does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of WVDEP's request for delegation if adverse comments are filed. This rule will be effective on June 3, 2002, without further notice unless EPA receives adverse comment by May 2, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the

[3] The WVDEP will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not 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 CAA. 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 requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 2002. 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, pertaining to the approval of WVDEP's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning, and secondary lead smelting (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: March 21, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

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

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(48) to read as follows:

§ 63.99 Delegated Federal authorities

(a) * * *

(48) *West Virginia.* (i) West Virginia is delegated the authority to implement and enforce all existing and future unchanged 40 CFR part 63 standards at major sources, as defined in 40 CFR part 70, in accordance with the delegation agreement between EPA Region III and the West Virginia Department of Environmental Protection, dated March 19, 2001, and any mutually acceptable amendments to that agreement.

(ii) West Virginia is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is sought by the West Virginia Department of Environmental Protection and approved by EPA Region III, at affected sources which are not located at major sources, as defined in 40 CFR part 70, in accordance with the final rule, dated April 2, 2002, effective June 3, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–7939 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

Lead; Identification of Dangerous Levels of Lead

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 700 to 789, revised as of July 1, 2001, on page 503, in § 745.227, add paragraph (i) to read as follows:

§ 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.

* * * * *

(i) *Recordkeeping.* All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

[FR Doc. 02–55508 Filed 4–1–02; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 69

[CC Docket Nos. 96–45, 98–77, 98–166, and 00–256; FCC 01–304]

Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain sections of the Commission's rules for reforming the interstate access charge and universal service support system for incumbent local exchange carriers subject to rate-of-return regulation (non-price cap or rate-of-return carriers) that contained information collection requirements.

DATES: The amendments to 47 CFR 47 54.307(b), 54.307(c), 54.315(a), 54.315(f)(1) through 54.315(f)(4), 54.902(a), 54.902(b), 54.902(c), 54.903(a)(1) through 54.903(a)(4), 54.904(a), 54.904(b), and 54.904(d) published at 66 FR 59719, November 30, 2001, became effective on January 8, 2002.

FOR FURTHER INFORMATION CONTACT: William Scher, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400; Douglas Slotten, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1520.

SUPPLEMENTARY INFORMATION: On May 23, 2001, the Commission released a Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket Nos. 00–256, Fifteenth Report and Order in CC Docket No. 96–45, and Report and Order in CC Docket No. 98–77 and 98–166 (Order). In that Order the Commission modified its rules to reform the interstate access charge and universal service support system for incumbent local exchange carriers subject to rate-of-return regulation (non-price cap or rate-of-return carriers). The Commission's actions were based on pending Commission proposals that build on interstate access charge reforms previously implemented for price cap carriers, the record developed in the above-stated proceedings, and consideration of the Multi-Association Group (MAG) plan. A summary of the Order was published in the **Federal Register**. See 66 FR 59719, November 30, 2001. In that summary, the Commission stated that the modified rules would become effective 30 days after publication in the **Federal Register** except for §§ 54.307(b), 54.307(c), 54.315(a), 54.315(f)(1) through 54.315(f)(4), 54.902(a), 54.902(b), 54.902(c), 54.903(a)(1) through 54.903(a)(4), 54.904(a), 54.904(b), and 54.904(d) which contain information collection requirements that have not been approved by OMB and that the Commission will publish a document in the **Federal Register** announcing the effective date of those sections. On December 14, 2001, OMB approved the information collections. See OMB No. 3060–0972. The rule amendments adopted by the Commission in the Order took effect 30 days after publication of the Order in the **Federal Register**, which was December 31, 2001. The OMB approval of the information collection requirements was announced in the **Federal Register** on January 8, 2002. Therefore, the effective date of the information collection requirements and the rules became effective January 8, 2002.

List of Subjects

47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–7998 Filed 4–1–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 00–256 and 96–45; FCC 02–89]

Multi-Association Group (MAG) Plan for Regulation of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; partial waiver and amendment.

SUMMARY: In this document, the Commission modifies on its own motion the data collection and filing procedures for implementation of the Interstate Common Line Support (ICLS) mechanism for incumbent local exchange carriers in order to ensure timely implementation of the ICLS mechanism on July 1, 2002 as adopted in the Multi-Association Group (MAG) *MAG Order* and to reduce administrative burdens on rate-of-return carriers.

DATES: Effective April 2, 2002.

FOR FURTHER INFORMATION CONTACT: William Scher, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Order on Reconsideration in CC Docket No. 00–256 and Fourth Order on Reconsideration in CC Docket No. 96–45 released on March 22, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554 and at *http://www.fcc.gov/wcb/universal__service/welcome.html.*

I. Introduction

1. In this Order, we modify on our own motion the data collection and filing procedures for implementation of the Interstate Common Line Support (ICLS) mechanism, in order to ensure timely implementation of the ICLS mechanism on July 1, 2002 as adopted in the *MAG Order*, 66 FR 59719, November 30, 2001. First, we extend until April 18, 2002 the original March 31, 2002, deadline set forth in § 54.903(a) for the submission of projected data and line counts to the Universal Service Administrative Company (USAC). Second, we waive the requirement under § 54.903(a) that each carrier file its data with USAC in order to permit the National Exchange Carrier Bureau Association (NECA) to file the data for each member of the common line pool for the purpose of this initial ICLS filing deadline. Finally, we specify the data to be submitted for this initial ICLS filing under § 54.903(a). We conclude that these actions are appropriate to ensure timely implementation of the ICLS mechanism, accuracy of support, and compliance with the new filing requirements, and shall apply only to the initial ICLS filing deadline.

II. Discussion

2. In this Order we modify, on our own motion, the initial ICLS data collection and filing procedures to ensure timely implementation of the ICLS mechanism on July 1, 2002. We

recognize that implementation of the ICLS mechanism is a critical element of the Commission's achievement of its access reform and universal service goals. Since adoption of the *MAG Order*, rural carriers and other interested parties have indicated that additional time would significantly improve their ability to file complete and accurate data with USAC. We have been working with USAC, rural carriers, and other interested parties to ensure that carriers have sufficient time to prepare and submit the data necessary to implement the ICLS mechanism. We conclude that the actions we take in this Order are appropriate to ensure timely ICLS implementation, to permit the submission of accurate data, and to minimize the associated administrative burdens on rate-of-return carriers.

3. We emphasize that our actions in this Order apply only to the initial implementation of ICLS and the first filing currently scheduled for March 31, 2002, and are not intended to restrict USAC's ability in the future to determine the data necessary to fulfill its obligations as Administrator of the ICLS mechanism, including its duty to prevent waste, fraud, and abuse. We expect that Commission staff and USAC will work with affected rate-of-return carriers and other interested parties to develop the appropriate filing requirements for future data submissions consistent with the Commission's rules. Although the Commission directed USAC to determine the data required for the ICLS mechanism, the Commission retains oversight authority over the ICLS program. To that end, we direct the Common Carrier Bureau to take steps reasonably necessary to implement the ICLS mechanism, consistent with the Commission's rules, while minimizing the administrative burdens on affected carriers. We are confident that USAC, under the Bureau's oversight, will develop procedures and filing requirements that fulfill the Commission's intent to limit as much as possible the administrative burdens associated with the ICLS mechanism, while promoting accurate and efficient distribution of support.

4. *Extension of March 31 Filing Deadline.* We conclude that it is appropriate to extend until April 18, 2002, the initial March 31, 2002, filing deadline in § 54.903(a) of the Commission's rules. We established the March 31 ICLS filing deadline to provide rate-of-return carriers with sufficient time to prepare and submit the necessary data, and to provide USAC a reasonable opportunity to implement the mechanism on July 1, 2002 and perform its obligations as Administrator. Since the adoption of the *MAG Order*, affected carriers have indicated that it will be difficult to provide complete and accurate data by the initial March 31, 2002, deadline. Implementation of the ICLS mechanism and calculation of ICLS support depend on the submission of complete and accurate data. We find that it is appropriate to extend the deadline for the first-time filing of this data until April 18, 2002. This extension will provide sufficient time for the submission of complete and accurate data, while allowing USAC to implement the ICLS mechanism and calculate support beginning July 1, 2002.

5. *NECA to Submit Data on Behalf Pooling Carriers.* In order to further ensure the timely submission of complete and accurate data for the initial implementation of the ICLS support mechanism beginning July 1, 2002, we waive the requirement under § 54.903(a) that each carrier file its data with USAC. Specifically, we permit NECA to file the data set forth below in this Order for each member of its common line pool for the purposes of this initial ICLS filing deadline. Interested parties have indicated that initial implementation of the ICLS mechanism, including the first-time filing of the necessary data, may be difficult for the approximately 1300 rate-of-return carriers eligible for ICLS. We believe that, by directing NECA to complete the filing on behalf of each member of its common line pool, we will mitigate the first-time filing obligations on the vast majority of the 1300 carriers eligible for ICLS. As members of the NECA common line pool, these carriers already provide cost, revenue, and line count data to NECA to permit NECA to prepare projected common line cost and revenue data for tariff filings on behalf of its members. NECA should possess all of the projected data and line counts set forth in detail below and thus should be able to file the data on its members' behalf by April 18, 2002, in accordance with the instructions set forth below.

6. Based on input from interested parties, we do not expect pooling carriers to object to NECA filing on their behalf. If, however, a carrier prefers to file its own data or designate an agent other than NECA to file its data, it may do so at its option. If a pooling carrier files data separately from NECA, USAC will disregard the data filed by NECA on the carrier's behalf. A carrier that does not participate in NECA's common line pool must file its own data or designate an agent to do so, as discussed below.

7. We also conclude that NECA should make certain certifications with respect to the data submission. First, it must certify that the projected cost and revenue data are accurate to the best of its knowledge and ability. Second, it must certify that the line count data are accurate to the best of its knowledge and represents actual data supplied to NECA by the carrier. Third, it must certify that it has notified each carrier of the filing and will provide each carrier with a copy of the part of the filing relevant to the individual carrier within 15 days. We believe that such certifications are necessary for the purposes of this initial filing deadline to ensure the accuracy and reliability of the data used to calculate ICLS and that carriers are aware of the data that has been filed on their behalf. NECA may file a single statement making these certifications for all of the data it files and need not separately certify for each carrier, as long as the certifications are truthful for each carrier's data.

8. *Filings By Parties Other Than NECA.* To ensure the accuracy of the data for purposes of this initial filing deadline, we require certifications from non-pooling carriers or pooling carriers that choose to file their data separately from NECA. Specifically, the carrier or its designated agent will certify that (1) its projections are accurate to the best of its knowledge and ability, and (2) its line count data is accurate. If the filing is made by a carrier's designated agent, it must be accompanied by an authorization by the carrier. These certifications are necessary to ensure the accuracy and reliability of the data used to calculate support.

9. *Projected Data Required.* In order to ensure that NECA and affected carriers have sufficient guidance as to the data required to ensure timely implementation of the ICLS mechanism, we specify below the data that must be included in the initial filing under § 54.903(a) of the Commission's rules. We find that, for the initial April 18, 2002, data submission, the only projected data required are the data specifically identified in § 54.901(a) of the Commission's rules. The initial filing shall therefore include the following data for each eligible rate-of-return carrier: (1) Projected common line revenue requirement; (2) projected SLC revenues; (3) projected revenue from its transitional CCL charge; (4) projected special access surcharges; (5) projected line port costs in excess of basic analog service; and (6) projected LTS. The Commission's rules implementing the *MAG Order* recognize that these data points are necessary for the calculation of ICLS. We are also

confident, based on consultation with interested parties, that this data can be filed by the April 18, 2002 filing deadline. We therefore do not anticipate NECA or any individual carrier will be unable to file this data.

10. To ensure the timely implementation of the ICLS mechanism, we find that it is sufficient for purposes of this initial filing to collect only the data points specifically identified in § 54.901(a). We note that, under the rules adopted in the *MAG Order*, all support distributed based on the data submitted for this initial ICLS filing will be subject to true-up based on a subsequent actual data. We recognize that, for future projected data submissions, USAC may determine that the collection of additional projected data may be necessary for verification and validation purposes. We expect that Commission staff and USAC will work with affected rate-of-return carriers and other interested parties to ensure that future projected data submissions result in the accurate and efficient calculation and verification of support, while imposing minimal administrative burdens on carriers.

11. *Line Count Data Required.* We clarify that the line count data that must be submitted on April 18, 2002, pursuant to § 54.903(a), shall include line count data for each study area by customer class (single-line business/residential and multi-line business), but need not include line counts by disaggregation zone. Under the Commission's rules, carriers need not elect a disaggregation path until May 15, 2002. Thus, few carriers will file disaggregated line count data on April 18, 2002. In addition, carriers must file disaggregated line count data on the July 31 annual line count filing. Under these circumstances, we conclude that it is appropriate for the initial April 18, 2002, filing to require line count data by study area rather than by disaggregation zone. We recognize that, in those study areas that have established disaggregation zones by April 18, 2002, portable support initially will be distributed to CETCs on a study-area basis, rather than by disaggregation zone. Because we anticipate that few study areas will have established disaggregation zones by April 18, 2002, we find that it is appropriate to simplify the initial line count filing as described above.

12. *Filing Specifications.* We direct NECA and carriers filing individually to submit the projected cost and revenue data and line count data with USAC under a single cover letter. The filing should be addressed to USAC at the following address:

U.S. Mail	Overnight or Expedited Mail/Courier Services
USAC ..... P.O. Box 11993 ..... Harrisburg, PA 17108	USAC. One South Market Square. Harrisburg, PA 17101 (717) 233–5731.

The filing should clearly identify the carrier's name and study area code, and provide specific contact information for an individual, including that contact's name, telephone number, and e-mail address, as well as the address of the carrier. The data may be presented in a letter or in an appropriate electronic format (*i.e.*, an Access or Excel spreadsheet on CD). The filing must clearly indicate that the projected data is for the 2002–03 ICLS year, and the line count data represents line counts as of September 30, 2001. The cover letter may be used to make the necessary certifications for both the projected data and the line count data. Confidential treatment of the filed data may be requested in the cover letter, pursuant to § 0.459 of the Commission's rules.

13. USAC shall post to its website, www.universalservice.org, a sample letter and spreadsheets that the filing parties are encouraged follow. We anticipate that USAC will conduct additional outreach to ensure that non-pooling carriers are able to meet these requirements. We expect also that NECA will consult with USAC regarding the best manner to provide its filing to USAC. Questions regarding these filing procedures may be directed to USAC by telephone at (512) 835–1585, by fax at (512) 835–1586, or by e-mail at iclsquestions@universalservice.org.

III. Procedural Issues

A. Supplemental Final Regulatory Flexibility Certification

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

15. On October 11, 2001, the Commission adopted *MAG Order*, which has as its the principle goal the gradual elimination of implicit support in the access rate structure of non-price cap carriers and replacement with an explicit support mechanism, ICLS. In this Order on Reconsideration, we adopt modifications to our rules concerning the initial filing of data for the ICLS mechanism. First, we extend the deadline for completing the initial filing from March 31, 2002, to April 18, 2002. Second, we order NECA to complete the initial filing on behalf of members of its common line pool based on data already in its possession. This relieves individual carriers that participate in the NECA common line pool—the vast majority of rate-of-return carriers—from the burden of completing the filings on their own. Members of the NECA common line pool need not rely on NECA's filing if they would prefer to make their own filing as our rules currently require. A carriers that does not participate in the NECA common line pool must file its own data or have another designated agent file its data, as currently required in our rules. These modifications are expected to reduce the administrative burdens associated with making the initial ICLS filings. The modifications apply only to the initial filings under the ICLS mechanism, and are not permanent changes to the Commission's rules. Finally, we note that NECA, which itself is a small entity due to its non-profit status, appears to be the only entity with any additional compliance burden as a result of our actions. Because the modifications reduce, rather than increase, administrative costs and are of a one-time nature, and because any additional compliance burden falls only on NECA, we certify that the requirements of this Order on Reconsideration will not have a significant economic impact on a substantial number of small entities.

16. The Commission will send a copy of this Order on Reconsideration, including a copy of this supplemental certification, in a report to Congress pursuant to the Congressional Review Act. In addition, this Order on Reconsideration and certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

B. Paperwork Reduction Act Analysis

17. The decision herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104–13, and found to impose new or

modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget.

IV. Ordering Clauses

18. It is ordered, pursuant to sections 1–4, 10, 201–202, and 254 of the Communications Act of 1934, as amended, and §§ 1.3 and 1.103 of the Commission's rules, this Order on Reconsideration is adopted.

19. The Accounting Policy Division of the Common Carrier Bureau shall send a copy of the Order, upon release, to the National Exchange Carrier Association, Inc., CenturyTel-Ohio, Ogden Telephone—New York, Warwick Valley Telephone Company, Alltel Georgia Comm, Corp., Georgia Alltel Telecom, Inc., Great Plains Communications, and Interstate Telecommunications Cooperative, Inc.

20. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

For the reasons set forth in the preamble, 47 CFR part 54 is amended as follows:

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(l), 201, 205, 214, and 254 unless otherwise noted.

2. Section 54.903 is amended in paragraphs (a)(1) and (a)(3) by removing the date ''March 31, 2002'' and adding in its place ''March 18, 2002.''

[FR Doc. 02–7997 Filed 4–1–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 02–612; MM Docket No. 01–349; RM–10350]

Radio Broadcasting Services; Boscobel, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 244C3 to Boscobel, Wisconsin, in response to a petition filed by Starboard Broadcasting, Inc. *See* 67 FR 2704, January 14, 2002. The coordinates for Channel 244C3 at Boscobel, Wisconsin, are 43–08–04 NL and 90–42–19 WL. A filing window for Channel 244C3 at Boscobel, Wisconsin, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

DATES: Effective April 29, 2002.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–349, adopted March 6, 2002, and released March 15, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Boscobel, Channel 244C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–7973 Filed 4–1–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 001128334–1313–06; 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: Final rule; correction

SUMMARY: NMFS issues a correction to a final rule implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP) that was published in the **Federal Register** on January 10, 2002. The purpose of this correction is to correct unintended errors from the final rule regarding the dates during which fishermen must comply with requirements for Mid-Atlantic anchored gillnet gear modifications.

DATES: Effective March 28, 2002.

ADDRESSES: Copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Final Regulatory Flexibility Analysis (FRFA), are available from the Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, MA 01930-2298. Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, progress reports on implementation of the ALWTRP, and a table of the changes to the ALWTRP may be obtained by writing to Diane Borggaard at the address above or Katherine W ang, NMFS/Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702–2432. Copies of the EA, the RIR, and the FRFA can be obtained from the ALWTRP website listed under the Electronic Access portion of this document.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS, Northeast Region, 978–281–9145; Katherine Wang, NMFS, Southeast Region, 727–570–5312; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Documents concerning the Atlantic Large Whale Take Reduction Plan planning process and the rule that is clarified by this technical amendment

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.wh.whoi.edu/psb/sar2000.pdf.*

The final rule implementing measures to protect right whales from entanglement in certain commercial fishing gears(67 FR 1300, January 10, 2002), incorrectly required year-round gear modifications for Mid-Atlantic anchored gillnet gear. This document clarifies and corrects § 229.32 (d)(7)(ii) by reinserting the time frame of December 1 through March 31 for Mid-Atlantic anchored gillnet gear modification requirements. The December 1 through March 31 time period was the original time period appearing in the regulations prior to issuance of the final rule, and it was the intent of the NMFS and the Atlantic Large Whale Take Reduction Team to maintain this time period.

NMFS did not intend for certain gear modification requirements to extend past March 31. If NMFS were to provide prior notice and an opportunity for comment on this correction, the gear requirements would continue past a date when they are no longer necessary while such proceeding occurred. As such, the Assistant Administrator finds for good cause under 5 U.S.C. (B)(3) that providing prior notice and an opportunity for public comment for this rule would be impracticable and contrary to the public interest. The 30–day delay in effective date is waived under 5 U.S.C. (D)(1), because this final rule is relieving a restriction.

In rule FR Doc.02–273 published January 10, 2002 (67 FR 1300), make the following correction.

§ 229.32 [Corrected]

On page 1314, in the second column, in paragraph (d)(7)(ii) of § 229.32, add the phrase, ''From December 1 through March 31,'' to the beginning of the sentence.

Dated: March 25, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–7710 Filed 3–28–02; 2:37 pm]

BILLING CODE 3510–22–S

Rules and Regulations

Federal Register
Vol. 67, No. 63
Tuesday, April 2, 2002

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 410, 550, 551, and 630

RIN 3206–AI50

Firefighter Pay

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations on computing pay for Federal firefighters. These regulations implement a 1998 law that established a new approach for calculating basic pay, overtime pay, and other entitlements for Federal employees whose positions are classified in the Fire Protection and Prevention Series, GS–0081, and who have regular tours of duty averaging at least 53 hours per week.

EFFECTIVE DATE: May 2, 2002.

FOR FURTHER INFORMATION CONTACT: Bryce Baker by telephone at (202) 606–2858; by fax at (202) 606–0824; or by e-mail to *payleave@opm.gov.*

SUPPLEMENTARY INFORMATION: On November, 23, 1998, the Office of Personnel Management (OPM) issued interim regulations implementing new firefighter pay provisions established by the Federal Firefighters Overtime Pay Reform Act (section 628 of the Treasury and General Government Appropriations Act, 1999, as incorporated in section 101(h) of Public Law 105–277, the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, October 21, 1998). The law provided that these provisions became effective on the first day of the first pay period beginning on or after October 1, 1998. The intent of this legislation was to address concerns about the complexity of firefighter pay computations by establishing a more rational and equitable method of compensation.

Review of Comments on Interim Regulations

OPM received a number of comments from individuals and agencies regarding the interim regulations. A summary of the substantive comments received and a description of the revisions made in the regulations as a result of the comments are presented below.

Section 410.402(b)(6)—Pay During Training

An agency requested clarification regarding firefighter pay entitlements during training when firefighters continue performing work during their regular tour of duty but, in addition, participate in agency-sanctioned training on what would normally be nonwork days. The firefighter pay reform law added a new provision, 5 U.S.C. 4109(d), which states that firefighters covered by 5 U.S.C. 5545b are entitled to pay for their regular tour of duty during training. This provision was intended to establish a guaranteed floor for pay during training. It does not block payment of a higher amount of pay if the employee is entitled to that higher amount based on actual hours of work (using the appropriate pay computation method based on the work schedule actually in effect).

The interim regulation at § 410.402(b)(6) requires that the guaranteed pay provision be applied on a weekly basis. Thus, the agency must compare the employee's pay for the regular weekly tour of duty to the pay to which the employee would be entitled based on actual hours of work in that week. (We note that title 5 premium pay during training is generally prohibited, subject to specific exceptions, as provided in § 410.402. These restrictions do not apply to FLSA overtime pay; however, that pay is payable only for qualifying training hours as described in § 551.423.)

Accordingly, we have revised § 410.402(b)(6) to clarify that a firefighter remains entitled to pay for actual hours of work if that amount is higher than the guaranteed floor. Finally, as an aid to users of the regulations, we are also adding a new paragraph (d) to § 550.1306 to provide a direct cross reference to the pay protection provision in the training regulations in part 410.

An agency asked for clarification regarding the treatment of newly hired firefighters who go through initial basic training with a 40-hour basic workweek. The pay-protection-during-training provision applies only to employees who are covered by 5 U.S.C. 5545b when the training starts. If the agency has not yet established a regular tour of duty of 53 hours or more per week, the firefighters are not yet covered by section 5545b. Furthermore, the pay protection provision applies only when hours in the regular tour of duty (as in effect immediately before the training) are reduced. (*See* § 410.402(b)(6).) We conclude, therefore, that there is no need for additional changes in this paragraph.

Section 550.1302—Definition of Firefighter/Coverage

Firefighters who are part of the ''China Lake'' permanent personnel demonstration project at the Department of Defense inquired about whether they are covered by the new firefighter pay provisions. The Department of Defense also requested that we expand the definition of *firefighter* to clarify whether coverage applies to General Schedule equivalent positions such as those covered by a demonstration project. The interim regulations state that subpart M applies to General Schedule firefighters (based on the fact that the law makes reference to the employees classified under the GS–0081 series). Employees at the ''China Lake'' permanent demonstration project are not covered by the General Schedule pay system, since the project waived application of that system under 5 U.S.C. 4703. However, the project does use the Fire Protection and Prevention Series, GS–0081.

The intent of the ''China Lake'' demonstration project plan (45 FR 26504, April 18, 1980) was to treat employees as General schedule employees except where otherwise stated in the plan. Furthermore, the ''China Lake'' demonstration project did not waive the premium pay subchapter of title 5, where the firefighter pay provisions are located. We have concluded that firefighters covered by demonstration projects established under 5 U.S.C. 4703 and other similar alternative personnel systems are

covered by 5 U.S.C. 5545b if they meet three conditions. First, the employees must be classified in the Fire Protection and Prevention Series, GS–0081, consistent with OPM standards. Second, but for the demonstration project or other similar alternative personnel system, the employees otherwise would be covered by the General Schedule. Third, application of section 5545b (and related provisions) has not been waived. Therefore, we have revised the definition of *firefighter* in § 550.1302 to make clear that such employees are covered by subpart M of part 550.

An agency also raised the question as to whether the firefighter pay law and regulations apply to student trainees. OPM requires that student trainees under the Student Career Experience Program be officially classified in an occupational series ending in ''99'' for the appropriate occupational group. (*See* 5 CFR 213.3202(b)(14).) For example, the GS–0099 series would be used for student trainees who would otherwise be classified in the Fire Protection and Prevention Series, GS–0081. It is OPM's longstanding position that student trainees are entitled to any pay entitlements attached to the GS occupational series in which they would otherwise be classified. For example, since 1988, OPM's policy has been that qualified student trainees are entitled to any special rates established for the occupational series in which they would be classified but for the use of the ''99'' series. Accordingly, we are revising the definition of *firefighter* in § 550.1302 to include student trainees who would otherwise be classified in the Fire Protection and Prevention Series, GS–0081.

Section 550.1302—Regular Tour of Duty

An agency suggested that we clarify the definition of *regular tour of duty*. The agency was concerned that the definition might be interpreted to mean that a firefighter will not experience a reduction in pay in cases where a temporary change in work schedule occurs (*e.g.*, because of a temporary detail). The agency pointed out that when firefighters were receiving standby duty premium pay, the provisions of 5 CFR 550.162(c)(1) precluded the payment of the annual premium pay beyond a prescribed number of days if the recipient of the annual premium pay was on temporary assignment to other duties. The agency was concerned that the definition in the interim rule might be interpreted to allow an employee to continue firefighter pay indefinitely while the employee is detailed to a non-firefighter position.

The law and regulations provide no authority to continue pay for a firefighter's regular tour when he or she is moved to a work schedule with lesser hours, except in the case of training assignments as provided in § 410.402(b)(6). In all other temporary assignments, pay is based on actual hours of work (applying the appropriate pay methodology based on the work schedule). If the temporary work schedule includes fewer than 53 hours per week, section 5545b would no longer be applicable and pay would be computed using the normal GS rules. If the temporary work schedule includes at least 53 hours per week, the employee would continue to be compensated under the section 5545b firefighter pay rules. In that case, the temporary tour of duty would be treated as a regular tour of duty for pay and benefit computation purposes. The definition of *regular tour of duty* clearly states that the term encompasses a tour of duty established on a temporary basis when that temporary tour results in a reduction in regular work hours. We conclude, therefore, that there is no need for a change in this definition.

Section 550.1303(d)—Substitution of Irregular Hours for Leave Without Pay

An agency requested clarification regarding the treatment of a firefighter who takes leave without pay for which irregular hours are substituted and receives a promotion during the same pay period. If a firefighter takes leave without pay during his or her regular tour of duty, the agency must substitute any irregular hours worked in the same week or biweekly pay period (as applicable) for those hours of leave without pay. Section 550.1303(d) provides that each substituted hour will be paid at the rate applicable to the hour in the regular tour for which substitution is made—*i.e.*, the basic or overtime rate based on the 2756 divisor or, for firefighters paid under under § 550.1303(b), the basic rate based on the 2087 divisor.

Section 550.1303(d) does not currently address the possibility of a pay change in the middle of a pay period (*e.g.*, a promotion). We are amending § 550.1303(d) to provide that, if a pay change occurs during the pay period, the substituted hour must be paid at the appropriate hourly rate based on the annual rate in effect at the time the hours were actually worked. In other words, two considerations must be made when substituting irregular hours for hours within the regular schedule. Each substituted hour will be paid using the type of rate applicable to the hour in the regular tour for which substitution is made—*i.e.*, the rate based on the 2087 divisor or the rate based on the 2756 divisor (using the basic or the overtime rate, as applicable). If a change in the amount of the annual rate of pay occurs during the pay period, the substituted hour must be paid at an applicable hourly rate based on the annual rate in effect when the hours were actually worked.

Section 550.1305—Treatment as Basic Pay

An agency asked that OPM clarify that the basic pay identified in § 550.1305 is not basic pay for all purposes. The agency was specifically concerned that we clarify that the pay in question is not basic pay for pay retention purposes and asked that we also consider amending the pay retention regulations.

Section 550.1305(a) provides that the sum of pay for regular nonovertime hours and the straight-time portion of regular overtime pay is considered basic pay for specific listed purposes. Pay retention is not one of the listed purposes. Thus, any firefighter pay for overtime hours is not considered in applying pay retention rules. Similarly, for firefighters whose regular tour of duty includes a basic 40-hour workweek, pay for nonovertime hours beyond 40 in a week (or 80 in a biweekly pay period) is not basic pay for pay retention purposes. (See § 550.1305(d).) For GS employees, the pay retention provisions are applied using the employee's annual rate of pay, which is not affected by the type of work schedule in effect.

We have made a minor change in § 550.1305(a) by adding the word ''only'' to emphasize that this definition of basic pay is to be used solely for the listed purposes. We do not believe it is necessary to amend the pay retention regulations.

Section 550.1306(a)—Holiday Pay

Several individuals inquired about the holiday pay entitlements for firefighters compensated under 5 U.S.C. 5545b. Section 5545b firefighters are not covered by the normal holiday pay rules. By law, they are expressly barred from receiving holiday premium pay for working on a holiday; instead, they are paid at their normal rate. (*See* 5 U.S.C. 5545b(d)(1) and 5 CFR 550.1306(a).) The law reflects a determination by Congress that pay under the special firefighter rules is considered to be full compensation for all hours of work, taking into account the fact that firefighters may work at night and on Sundays and holidays due to the nature of their work. Thus, a firefighter covered by section 5545b is not entitled to paid

holiday time off when not working on a holiday. To receive pay for hours during a regular tour of duty that fall on a holiday, the firefighter must (1) perform work, (2) use accrued annual or sick leave (as appropriate), or (3) be granted paid excused absence (without charge to leave) at the agency's discretion.

The 1998 firefighter pay law did not change the status quo with respect to pay for holidays. Under the pre-1998 law, firefighters with extended work schedules received a special type of premium pay called standby duty pay and, as now, were barred from receiving holiday premium pay for working on a holiday. (*See* 5 U.S.C. 5545(c)(1) and 5 CFR 550.163(a).) They were also barred from receiving pay for holiday hours not worked unless they used annual or sick leave or were granted excused absence at the agency's discretion. (*See* 56 Comp. Gen. 551 and former Federal Personnel Manual Supplement 990–2, section S1–8b(2)(a) of book 550 and section S2–6b(1) of book 630.)

We are adding a sentence to § 550.1306(a) to clarify that firefighters compensated under subpart M are not entitled to pay for not working on a holiday unless the agency approves appropriate paid leave or grants excused absence.

Section 550.1306(e)—Compensatory Time Off

An agency asked how to apply the compensatory time off provisions to firefighters compensated under 5 U.S.C. 5545b. Under 5 U.S.C. 5543(a)(2) and 5 CFR 550.114(c), an agency may require that an FLSA-exempt employee be compensated for irregular overtime work by compensatory time off, instead of overtime pay, if the employee's rate of basic pay exceeds the maximum (step 10) rate for grade GS–10. The agency asked what types of rates—hourly or annual—should be used in applying the GS–10, step 10, rule.

We are adding a new § 550.1306(e) to provide that a firefighter's annual rate of basic pay must be compared to the annual rate of basic pay for GS–10, step 10. This will ensure that section 5545b firefighters are treated in a manner consistent with the treatment of other employees at the same grade and step. Since the issue here deals with when an agency may require an FLSA-exempt employee to receive compensatory time off as compensation for irregular overtime work, consistent treatment based on grade and step would seem appropriate. (In contrast, OPM regulations provide that an FLSA-exempt firefighter's hourly overtime rate, derived using the 2756-hour factor, is compared to the GS–10, step 1, hourly overtime rate, derived using the 2087-hour factor. In this case, the law required the use of hourly rates. OPM used the 2087-hour factor to compute the GS–10, step 1, rate, since the intent of the law was to subject FLSA-exempt firefighters to the same dollar rate cap as other FLSA-exempt employees.)

Other Regulatory Changes

In addition to the above regulatory changes made based on comments, some additional changes are being made to address technical issues identified by OPM staff. Those changes are described below.

Section 550.1305—Basic Pay Treatment

We are revising § 550.1305(d) to clarify that additional nonovertime pay earned by ''40+ firefighters'' (*i.e.*, those compensated under § 550.1303(b) because they have a regular tour of duty that includes a basic 40-hour workweek) is basic pay for purposes of § 410.402(b)(6). These ''40+ firefighters'' receive the regular GS hourly rate for their basic 40-hour workweek and then are paid the firefighter hourly rate of basic pay for additional nonovertime hours below the 53-hour weekly (or 106-hour biweekly) overtime standard. Section 410.402(b)(6) protects a firefighter's regular basic pay and premium pay during periods of agency-sanctioned training.

We are also revising § 550.1305(d) to provide that additional nonovertime pay earned by ''40+ firefighters'' is basic pay for purposes of §§ 550.105 and 550.106. Those sections deal with the biweekly and annual caps on premium pay established by 5 U.S.C. 5547. These caps limit the amount of premium pay an employee may receive when the employee's ''aggregate rate of pay'' reaches the applicable GS–15, step 10 rate. OPM regulations translate ''aggregate rate of pay'' into ''basic pay and premium pay.'' Clearly, the additional nonovertime pay received by ''40+ firefighters'' (for the nonovertime hours beyond the basic 40-hour workweek) should be included in the aggregate rate of pay for purposes of applying these premium pay caps. Therefore, we are deeming this pay to be ''basic pay'' as that term is used in §§ 550.105 and 550.106. As basic pay, it would not be subject to reduction, but would be included in the aggregate pay used to determine whether a firefighter's overtime pay is capped.

In addition, there are cases where 24-hour shift firefighters have variable workweeks (*e.g.*, a cycle of 48–48–72 hours) and may have nonovertime hours outside their regular tour of duty. Pay for such nonovertime hours should also be treated as basic pay for the purpose of applying the premium pay caps in §§ 550.105 and 550.106. We have revised § 550.1305(c) accordingly.

Section 550.1306(c)—Regulatory Citation

We are revising § 550.1306(c) to correct an erroneous regulatory citation. The correct citation is to § 630.210 instead of § 631.210.

Section 550.1308—Transitional Provisions

We are removing § 550.1308 because it dealt with transitional provisions that have no current application.

Section 551.411(c)—Meal Periods

We are amending § 551.411(c) to clarify that all on-duty meal periods are compensable hours of work for firefighters paid under 5 U.S.C. 5545b. Current regulations dealing with sleep time for employees covered by the FLSA already state this policy. (*See* § 551.432(f), which was promulgated in a final rule published at 64 FR 69165 on December 10, 1999. Also, a parallel change was made in § 550.112(m)(4).) This change makes § 551.411 consistent with § 551.432.

Section 630.210(c)—Uncommon Tour of Duty for Leave Purposes

We are revising § 630.210(c) to require that an uncommon tour of duty for purposes of leave accrual and usage be established for ''40+ firefighters'' (*i.e.,* those whose regular tour of duty includes a basic 40-hour workweek). The interim regulations already required that uncommon tours be established for 24-hour shift firefighters compensated under § 550.1303(a). This revision would extend the requirement to all firefighters compensated under 5 U.S.C. 5545b. This is consistent with agency practices. It will ensure that ''40+ firefighters'' are paid during periods of paid leave on the basis of their regular tour of duty.

Final Regulations Published Previously

Certain regulatory changes related to firefighter pay were included in a final rule published on December 10, 1999 (64 FR 69165). Two of these changes revised provisions in the interim firefighter pay regulations published on November 23, 1998 (63 FR 64589). (*See* 64 FR 69171.) Since those changes have already been made final and are part of the current Code of Federal Regulations, this final rule does not include those changes. For the benefit of the reader, we provide below a summary description of the two previously

published changes made in the interim regulations:

1. We revised § 550.707 by adding a new paragraph (b)(5). This provided a rule for determining the weekly pay used in computing severance pay for firefighters with variable workweeks. (The interim firefighter pay regulations had made a similar change in § 550.707(b), which was revised as part of the December 10, 1999, final rule.)

2. We revised § 551.501(a)(5) to include a specific reference to firefighters compensated under 5 U.S.C. 5545b. This provision deals with the fact that section 5545b firefighters are not subject to a 40-hour weekly overtime standard. (The interim firefighter regulations had made a similar change in § 551.501(a)(5), but the December 10, 1999, final rule included some additional changes in this paragraph.)

Changes in Law

Since publication of the interim regulations on November 23, 1998, there have been two changes in law related to firefighter pay. These statutory changes do not require changes in the regulations; however, a brief description of each change is provided below for the reader's benefit.

Transitional Provisions

On May 21, 1999, the President signed legislation that included a technical amendment providing a special one-time pay adjustment for certain firefighters who were involuntarily changed to a workweek of 60 hours or less before December 31, 1999. (*See* section 3032 of Public Law 106–31.) This law amended the original Federal Firefighters Overtime Pay Reform Act enacted on October 21, 1998.

The 1998 firefighter pay law included a special transitional provision (section 628(f)) under which certain 24-hour shift firefighters with regular tours of duty averaging 60 hours or less per week would receive a one-time increase in basic pay equal to two GS step increases. As required by the law, this transitional provision was applied on the law's effective date to firefighters who had qualifying work schedules on that date. (See implementing regulation at § 550.1308(a) in the interim firefighter pay regulations.) The law became effective on the first day of the first pay period beginning on or after October 1, 1998.

The 1999 technical amendment provided that certain other firefighters could receive a two-step increase during an extended transition period ending on December 31, 1999. To qualify, a firefighter had to (1) be subject to 5 U.S.C. 5545b on its effective date; (2) have a regular tour of duty averaging more than 60 hours per week on that effective date; and (3) be involuntarily moved without a break in service before December 31, 1999, to a regular tour of duty averaging 60 hours or less per week (and not containing a basic 40-hour workweek).

We are not issuing any regulations to implement the technical amendment. The technical amendment applied only during a transitional period that ended on December 31, 1999. Agencies were able to process affected cases under the clear terms of the amendment. As discussed earlier in this notice, we are also removing the section (§ 550.1308) containing the original regulatory transitional provisions, since those provisions have no current application.

Workers' Compensation Benefits

On December 21, 2000, the President signed legislation that included an amendment to 5 U.S.C. 5545b dealing with the computation of workers' compensation benefits for firefighters covered by the section. The amendment added a paragraph (4) to section 5545b(d). That paragraph reads as follows: ''(d) Notwithstanding section 8114(e)(1), overtime pay for a firefighter subject to this section for hours in a regular tour of duty shall be included in any computation of pay under section 8114.'' The legislation further provided that this amendment was effective as if it had been enacted as part of the original Federal Firefighters Overtime Pay Reform Act, which was effective on the first day of the first pay period beginning on or after October 1, 1998.

This amendment means that section 5545b firefighters' overtime pay for hours in their regular tour of duty must be used in determining pay rates for purposes of workers' compensation benefits. The Department of Labor is responsible for regulating and administering the workers compensation program for Federal employees. Therefore, OPM is not issuing any regulations on this subject. (*See* FECA Bulletin No. 01–08, April 23, 2001. On the Internet, go to *http://www.dol.gov/dol/esa/public/regs/compliance/owcp/fecacont.htm.*)

E.O. 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 410, 550, 551, and 630

Administrative practice and procedure, Claims, Education, Government employees, Wages.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, the Office of Personnel Management adopts the interim rule amending parts 410, 550, 551, 591, 630, and 870 of title 5 of the Code of Federal Regulations, which was published November 23, 1998, at 63 FR 64589, as a final rule with the following changes:

PART 410—TRAINING

1. The authority citation for part 410 continues to read as follows:

Authority: 5 U.S.C. 4101, *et seq.*; E.O. 11348, 3 CFR, 1967 Comp., p. 275.

Subpart D—Paying for Training

2. In § 410.402, revise paragraph (b)(6) to read as follows:

§ 410.402 Paying premium pay.

* * * * *

(b) * * *

(6) *Firefighter overtime pay.* (i) A firefighter compensated under part 550, subpart M, of this chapter shall receive basic pay and overtime pay for the firefighter's regular tour of duty (as defined in § 550.1302 of this chapter) in any week in which attendance at agency-sanctioned training reduces the hours in the firefighter's regular tour of duty.

(ii) The special pay protection provided by paragraph (b)(6)(i) of this section does not apply to firefighters who voluntarily participate in training during non-duty hours, leave hours, or periods of excused absence. It also does not apply if the firefighter is entitled to a greater amount of pay based on actual work hours during the week in which training occurs.

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart M—Firefighter Pay

3. Revise the authority citation for subpart M of part 550 to read as follows:

Authority: 5 U.S.C. 5545b, 5548, and 5553.

4. In § 550.1302, revise the definition of *firefighter* to read as follows:

§ 550.1302 Definitions.

* * * * *

Firefighter means an employee—

(1) Whose regular tour of duty, as in effect throughout the year, averages at least 106 hours per biweekly pay period; and

(2) Who is in a position—

(i) Covered by the General Schedule and classified in the Fire Protection and Prevention Series, GS–0081, consistent with standards published by the Office of Personnel Management;

(ii) In a demonstration project established under chapter 47 of title 5, United States Code, or an alternative personnel system under a similar authority, which otherwise would be covered by the General Schedule, and which is classified in the Fire Protection and Prevention Series, GS–0081, consistent with standards published by the Office of Personnel Management, but only if application of 5 U.S.C. 5545b has not been waived; or

(iii) Covered by the General Schedule and classified in the GS–0099, General Student Trainee Series (as required by § 213.3202(b) of this chapter), if the position otherwise would be classified in the GS–0081 series.

* * * * *

5. In § 550.1303, revise paragraph (d) to read as follows:

§ 550.1303 Hourly rates of basic pay.

* * * * *

(d) If a firefighter takes leave without pay during his or her regular tour of duty, the agency shall substitute any irregular hours worked in the same biweekly pay period for those hours of leave without pay. (If a firefighter's overtime pay is computed on a weekly basis, the irregular hours must be worked in the same administrative workweek.) For firefighters whose regular tour of duty includes a basic 40-hour workweek, the agency shall first substitute irregular hours for hours of leave without pay in the basic 40-hour workweek, which are paid at an hourly rate based on the 2087 divisor. All other substituted hours are paid at an hourly rate based on the 2756 divisor, using the applicable overtime rate for overtime hours. The annual rate used to compute any such hourly rate is the annual rate in effect at the time the hour was actually worked.

6. In § 550.1305, revise the paragraph (a) introductory text and paragraphs (c) and (d) to read as follows:

§ 550.1305 Treatment as basic pay.

(a) The sum of pay for nonovertime hours that are part of a firefighter's regular tour of duty (as computed under § 550.1303) and the straight-time portion of overtime pay for hours in a firefighter's regular tour of duty is treated as basic pay only for the following purposes:

* * * * *

(c) Pay for any nonovertime hours outside a firefighter's regular tour of duty is computed using the firefighter hourly rate of basic pay as provided in § 550.1303(a) and (b)(2), but that pay is not considered basic pay for any purpose, except in applying §§ 550.105 and 550.106.

(d) For firefighters compensated under § 550.1303(b), pay for nonovertime hours within the regular tour of duty, but outside the basic 40-hour workweek, is basic pay only for the purposes listed in paragraph (a) of this section and for the purpose of applying § 410.402(b)(6) of this chapter and §§ 550.105 and 550.106.

* * * * *

7. In § 550.1306, amend paragraph (c) by removing ''631.210'' and adding in its place ''630.210''; and revise paragraph (a) and add paragraphs (d) and (e) to read as follows:

§ 550.1306 Relationship to other entitlements.

(a) A firefighter who is compensated under this subpart is entitled to overtime pay as provided under this subpart, but may not receive additional premium pay under any other provision of subchapter V of chapter 55 of title 5, United States Code, including night pay, Sunday pay, holiday pay, and hazardous duty pay. A firefighter is not entitled to receive paid holiday time off when not working on a holiday, but may be allowed to use annual or sick leave, as appropriate, or may be granted excused absence at the agency's discretion.

* * * * *

(d) A firefighter compensated under this subpart shall receive basic pay and overtime pay for his or her regular tour of duty in any week in which attendance at agency-sanctioned training reduces the hours in the firefighter's regular tour of duty, as provided in § 410.402(b)(6) of this chapter.

(e) In applying the compensatory time off provision in § 550.114(c), compare the firefighter's annual rate of basic pay to the annual rate of basic pay for GS–10, step 10.

§ 550.1308 [Removed]

8. Remove § 550.1308.

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

9. The authority citation for part 551 continues to read as follows:

Authority: 5 U.S.C. 5542(c); Sec. 4(f) of the Fair Labor Standards Act of 1938, as amended by Pub. L. 93–259, 88 Stat. 55 (29 U.S.C. 240f).

Subpart D—Hours of Work

10. In § 551.411, revise paragraph (c) to read as follows:

§ 551.411 Workday.

* * * * *

(c) *Bona fide* meal periods are not considered hours of work, except for on-duty meal periods for employees engaged in fire protection or law enforcement activities who receive compensation for overtime hours of work under 5 U.S.C. 5545(c)(1) or (2) or 5545b. However, for employees engaged in fire protection or law enforcement activities who have periods of duty of more than 24 hours, on-duty meal periods may be excluded from hours of work by agreement between the employer and the employee, except as provided in § 551.432(e) and (f).

PART 630—ABSENCE AND LEAVE

11. The authority citation for part 630 continues to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 105–18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 102–25, 105 Stat. 92.

Subpart B—Definitions and General Provisions for Annual and Sick Leave

12. In § 630.210, revise paragraph (c) to read as follows:

§ 630.210 Uncommon tours of duty.

* * * * *

(c) An agency shall establish an uncommon tour of duty for each firefighter compensated under part 550, subpart M, of this chapter. The

uncommon tour of duty shall correspond directly to the firefighter's regular tour of duty, as defined in § 550.1302 of this chapter, so that each firefighter accrues and uses leave on the basis of that tour.

[FR Doc. 02–7762 Filed 4–1–02; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–31–AD; Amendment 39–12694; AD 2002–06–16]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–300 Airplanes That Have Been Modified in Accordance With Supplemental Type Certificate STC00973WI–D

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767–300 airplanes. This action requires removing each sidewall-mounted reading light in the attendant crew rest compartment, installing cover plates in place of the existing reading lights, removing each reading light switch, and installing a new reading light in place of the existing light switch. This action is necessary to prevent contact between the occupant of the attendant crew rest compartment and the sidewall-mounted reading lights, which could result in possible injury to the occupant; and to prevent contact between various flammable materials and the sidewall-mounted reading lights, which could cause charring or melting of the heated material, and consequent emission of toxic or noxious gases. This action is intended to address the identified unsafe condition.

DATES: Effective April 17, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 17, 2002.

Comments for inclusion in the Rules Docket must be received on or before June 3, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–31–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–31–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gary D. Park, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4123; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has received information identifying an unsafe condition regarding certain Boeing Model 767–300 airplanes (specifically, certain Model 767–333 airplanes). The sidewall-mounted reading lights in the attendant crew rest compartment of those airplanes have been modified in accordance with Supplemental Type Certificate (STC) STC00973WI–D. A potential for contact between an occupant of the crew rest compartment and the sidewall-mounted reading lights exists. Sustained contact between the occupant and the reading lights could result in possible injury to the occupant. Additionally, inadvertent contact could also occur between various flammable materials (e.g., sheets, blankets, flightcrew clothing) and the sidewall-mounted reading lights. Such contact between the flammable materials and the reading lights could cause charring or melting of the heated material and consequent emission of toxic or noxious gases.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–33–0093, dated December 20, 2001, which describes procedures for removing each sidewall-mounted reading light in the attendant crew rest compartment, installing cover plates in place of the existing reading lights, removing each reading light switch, and installing a new reading light in place of the existing light switch. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent contact between the occupant of the attendant crew rest compartment and the sidewall-mounted reading lights, which could result in possible injury to the occupant; and to prevent contact of flammable materials with the sidewall-mounted reading lights, which could cause charring or melting of heated material and result in the emission of toxic or noxious gases. This AD requires accomplishment of the actions specified in the service bulletin described previously.

Determination of Compliance Time

The Boeing service bulletin specified by this AD does not recommend a compliance time. The FAA has determined that a compliance time of 60 days is appropriate. We based this compliance time not only on the degree of urgency associated with addressing the identified unsafe condition, but on the practical aspect of installing the required modification, which is estimated to take only 6 work hours.

Cost Impact

None of the Model 767–300 airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require

approximately 6 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $1,440 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–31–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–16 Boeing: Amendment 39–12694. Docket 2002–NM–31–AD.

Applicability: Model 767–300 airplanes that have been modified in accordance with Supplemental Type Certificate STC00973WI–D; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent contact between the occupant of the attendant crew rest compartment and the sidewall-mounted reading lights, which could result in possible injury to the occupant; and to prevent contact between various flammable materials and the sidewall-mounted reading lights, which could cause charring or melting of the heated material and consequent emission of toxic or noxious gases; accomplish the following:

Modification

(a) Within 60 days after the effective date of this AD, remove the existing reading lights in the attendant crew rest compartment and install cover plates in place of the existing reading lights; and remove the existing light switches and replace them with new reading lights; per Boeing Service Bulletin 767–33–0093, dated December 20, 2001.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin 767–33–0093, dated December 20, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on April 17, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7415 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–22–AD; Amendment 39–12693; AD 2002–06–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777–200 and -300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777–200 and -300 series airplanes. This action requires replacement of the switch guard on the switch used to control the passenger and/or therapeutic oxygen system with a new, improved switch guard. This action is necessary to prevent displacement of the passenger/therapeutic oxygen switch, which could result in the unavailability of supplemental/therapeutic oxygen and possible incapacitation of passengers during flight. This action is intended to address the identified unsafe condition.

DATES: Effective April 17, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 17, 2002.

Comments for inclusion in the Rules Docket must be received on or before June 3, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–22–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–22–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Susan Letcher, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2670; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The airplane manufacturer has advised the FAA that the switch guard on the three-position momentary switch used to control the gaseous passenger/theraputic oxygen system is defective on certain Boeing Model 777–200 and –300 series airplanes. Each airplane is equipped with one switch if the airplane oxygen system is only equipped with passenger oxygen, or two switches if the oxygen system includes the optional therapeutic oxygen. The switch or switches are located on the P5 panel of the flight deck and are designed to stay at the centered ''NORMAL'' position, but can be toggled to the ''RESET'' or ''ON'' position. Each switch is prevented from inadvertent toggling out of the ''NORMAL'' position by a protective guard. The manufacturer has advised us that when the protective guard is in place, the switch can be deflected slightly and put into a continuous ''RESET'' mode, due to a defective wire hoop installed on the switch guard. If the passenger or therapeutic oxygen switch are in ''RESET'' mode, and the passenger oxygen masks are deployed, the oxygen flow control units which regulate the flow of oxygen from the supply cylinders into the passenger masks may not open to deliver supplemental oxygen to the passengers. This condition, if not corrected, could result in possible incapacitation of passengers during flight.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 777–35A0010, dated October 4, 2001, which describes procedures for replacement of the switch guard on the switch used to control the passenger and/or therapeutic oxygen module assemblies with a new, improved switch guard, and changing the part number on the module assembly. The service bulletin also describes procedures for doing a functional test if the module assemblies are removed and the wiring is disconnected before replacing the switch guard. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent displacement of the passenger/therapeutic oxygen switch, which could result in the unavailability of supplemental/therapeutic oxygen and possible incapacitation of passengers during flight. This AD requires replacement of the switch guard on the switch used to control the passenger and/or therapeutic oxygen module assemblies with a new, improved switch guard. The actions are required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Difference Between This AD and the Alert Service Bulletin

The service bulletin recommends accomplishment of the actions as soon as manpower and materials are available, but the FAA has determined that a 90-day compliance time is necessary to address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the actions. In light of all of these factors, the FAA finds a 90-day compliance time for completion of the actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

None of the Model 777–200 and –300 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 1 work hour to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $60 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. Register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–22–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–15 Boeing: Amendment 39–12693. Docket 2002–NM–22–AD.

Applicability: Model 777–200 and –300 series airplanes, as listed in Boeing Alert Service Bulletin 777–35A0010, dated October 4, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent displacement of the passenger/therapeutic oxygen switch, which could result in the unavailability of supplemental/therapeutic oxygen and possible incapacitation of passengers during flight, accomplish the following:

Replacement

(a) Within 90 days after the effective date of this AD: Replace the switch guard on the switch used to control the passenger and/or therapeutic oxygen module assemblies, as applicable (including changing the part number on the module assembly, or a functional test, as applicable), with a new, improved switch guard per Figure 1 or Figure 2, as applicable, of the Accomplishment Instructions of Boeing Alert Service Bulletin 777–35A0010, dated October 4, 2001.

Spares

(b) As of the effective date of this AD, no one may install on any airplane a switch guard that has a part number listed in the ''Existing Part Number'' column of Paragraph 2.E. of Boeing Alert Service Bulletin 777–35A0010, dated October 4, 2001.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 777–35A0010, dated October 4, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on April 17, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7414 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–121–AD; Amendment 39–12692; AD 2002–06–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F Series Airplanes; and Model MD–10–10F and MD–10–30F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to certain McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes. This action requires an inspection of the parallel power feeder cables of the number 2 generator for chafing or structure damage; repositioning of the cables; and repair, if necessary. This action is necessary to prevent wire chafing of the parallel power feeder cables of the number 2 generator, which, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area. This action is intended to address the identified unsafe condition.

DATES: Effective May 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Natalie Phan-Tran, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5343; fax (562) 627–5210.

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 McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes was published in the **Federal Register** on January 4, 2002 (67 FR 550). That action proposed to require an inspection of the parallel power feeder cables of the number 2 generator for chafing or structure damage; repositioning of the cables; and repair, if necessary.

Comments

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

There are approximately 231 Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes of the affected design in the worldwide fleet. The FAA estimates that 157 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $9,420, or $60 per airplane.

It will take approximately 2 work hours per airplane to accomplish the repositioning of cables, at an average labor rate of $60 per work hour. Required parts will cost approximately $646 per airplane. Based on these figures, the cost impact of the repositioning of cables required by this AD on U.S. operators is estimated to be $120,262, or $766 per airplane.

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–14 McDonnell Douglas: Amendment 39–12692. Docket 2001–NM–121–AD.

Applicability: Model DC–10–10, –10F, –15, –30, –30F (KC–10A and KDC–10), –40, and –40F series airplanes; and Model MD–10–10F and MD–10–30F series airplanes; certificated in any category; as identified in Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent wire chafing of the parallel power feeder cables of the number 2 generator, which, if not corrected, could result in electrical arcing and damage to adjacent structure, and consequent smoke and/or fire in the aft door panel area, accomplish the following:

Inspection and Follow-On Actions

(a) Within 6 months after the effective date of this AD, do a one-time general visual inspection of the parallel power feeder cables of the number 2 generator for chafing or structure damage, per Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 2001.

(1) Condition 1. If no chafing or structure damage is found: At the next scheduled maintenance visit, but no later than 6 months after the effective date of this AD, reposition the cables per the alert service bulletin.

(2) Condition 2. If any chafing or structure damage is found: Prior to further flight, repair the cable and damaged adjacent structure, as applicable, and reposition the cables, per the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Alert Service Bulletin DC10–24A170, Revision 01, dated September 25, 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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on May 7, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7413 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–400–AD; Amendment 39–12691; AD 2002–06–13]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to certain McDonnell Douglas MD–90–30 airplanes. This action requires inspection of the power feeder cables on the left and right side of the aft cargo compartment between certain stations for minimum clearance from the adjacent structure and for the presence of a grommet in the lightening hole through the floor cusp, and corrective actions, if necessary. The actions specified by this AD are intended to detect and correct inadequate clearance of the power feeder cables on the left and right side of the aft cargo compartment, the lack of a grommet in the lightening hole through the floor cusp, and improper installation of the cabin sidewall grill during production. These conditions could lead to chafing of the power feeder cables, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport

Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

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 certain McDonnell Douglas MD–90–30 airplanes was published in the **Federal Register** on January 4, 2002 (67 FR 534). That action proposed to require inspection of the power feeder cables on the left and right sides of the aft cargo compartment between certain stations for minimum clearance from the adjacent structure, and for the presence of a grommet in the lightening hole through the floor cusp, and corrective actions, if necessary.

Comments

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

Conclusion

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

Cost Impact

There are approximately 16 McDonnell Douglas Model MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–13 McDonnell Douglas: Amendment 39–12691. Docket 2000–NM–400–AD.

Applicability: Model MD–90–30 airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct inadequate clearance of the power feeder cables on the left and right side of the aft cargo compartment, the lack of a grommet in the lightening hole through the floor cusp, and improper installation of the cabin sidewall grill, which could lead to chafing of the power feeder cables, resulting in electrical arcing and possibly in a fire in the cargo compartment of the airplane, accomplish the following:

Inspection

(a) Within one year after the effective date of this AD: Perform a general visual inspection of the power feeder cable installation on the left and right sides of the aft cargo compartment between stations Y=1344.000 and Y=1364.000 for minimum clearance between the power feeder cables and the adjacent structure, and for grommet installation, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000. If the inspection reveals that adequate clearance exists and a grommet is installed, no further action is required.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Note 3: Inspections and repairs accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Service Bulletin MD90–24–025, dated July 31, 1996, are considered acceptable for compliance with the applicable actions specified in this amendment.

Corrective Action

(b) Subsequent to the inspection required by paragraph (a) of this AD, and prior to

further flight, perform the actions described in paragraph (b)(1), (b)(2), (b)(3), or (b)(4) of this AD, as applicable, in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 2000.

(1) If minimum clearance exists between the power feeder cables and the adjacent structure, and if a grommet is not installed: Install a grommet.

(2) If minimum clearance does not exist and if a grommet is installed: Conduct a general visual inspection of the power feeder cables for damage, repair any damaged cable, and re-position the cables inboard to achieve minimum clearance.

(3) If minimum clearance does not exist and if a grommet is not installed: Conduct a general visual inspection of the power feeder cables for damage, repair any damaged cable, install a grommet, and re-position the cables inboard to achieve minimum clearance.

(4) If minimum clearance cannot be achieved or a ''hard-riding'' condition exists: Conduct a general visual inspection of the power feeder cables for damage; repair any damaged cable; fabricate trim; install a grommet, if necessary; position power feeder cables to achieve the minimum clearance; and modify the retainer assembly of the cabin sidewall grill.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD90–24A025, Revision 01, dated January 11, 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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on May 7, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7412 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–335–AD; Amendment 39–12690; AD 2002–06–12]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dassault Model Mystere-Falcon 50 series airplanes, that requires repetitive tests of double-skin feeder tanks for fuel leaks, and corrective actions, if necessary. It also requires modification of seals in the feeder tanks, which terminates the repetitive leak tests. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign airworthiness authority. The actions specified by this AD are intended to prevent fuel leaks from the feeder tanks, which could result in fuel vapors in the cabin that could come into contact with ignition sources. The actions are intended to address the identified unsafe condition.

DATES: Effective May 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dassault Model Mystere-Falcon 50 series airplanes was published as a supplemental notice of proposed rulemaking in the **Federal Register** on January 2, 2002 (67 FR 33). That action proposed to require repetitive tests of double-skin feeder tanks for fuel leaks, and corrective actions, if necessary. It also proposed to require modification of seals in the feeder tanks, which would have terminated the repetitive leak tests.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 46 Model Mystere-Falcon 50 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required leak tests, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the required leak tests on U.S. operators is estimated to be $22,080, or $480 per airplane per test.

The FAA estimates that it will take approximately 50 work hours per airplane to rework the seals in the feeder tanks, and that the average labor rate is $60 per work hour. The required parts will be provided at no charge to the operator. Based on these figures, the cost impact of reworking the seals on U.S. operators is estimated to be $138,000, or $3,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include

incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–12 Dassault Aviation: Amendment 39–12690. Docket 2000–NM–335–AD.

Applicability: Model Mystere-Falcon 50 series airplanes, certificated in any category, serial numbers 222 to 286 inclusive, 288, 290, and 291.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leaks from the feeder tanks, which could result in fuel vapors in the cabin that could come into contact with ignition sources, accomplish the following:

Leak Testing

(a) Within 7 months after the effective date of this AD: Perform a feeder tank leak test by sampling at the drain ports of frames 29 and 31, in accordance with Work Card No. 686.3/1 of the Dassault Falcon 50 Maintenance Manual, Revision 07, dated August 2001. Repeat the leak test at intervals not to exceed 13 months, until accomplishment of paragraph (c) of this AD.

Corrective Action

(b) If the feeder tank leak test indicates that a leak is present: Prior to further flight, renew the seal, in accordance with Work Card No. 686.4/1 of the Dassault Falcon 50 Maintenance Manual, Revision 07, dated August 2001.

Modification

(c) Within 78 months since the date of manufacture of the airplane: Rework the seals of the double-skin feeder tanks at frames 28 and 31, in accordance with Dassault Service Bulletin F50–328, dated May 31, 2000. Accomplishment of the rework terminates the requirements of this 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, International Branch, ANM–116, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(f) The modification shall be done in accordance with Dassault Service Bulletin F50–328, dated May 31, 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 Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–163–030(B), dated April 19, 2000.

Effective Date

(g) This amendment becomes effective on May 7, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7411 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–195–AD; Amendment 39–12689; AD 2002–06–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–90–30 airplanes, that requires replacement of the existing strake feed-thru and internal electrical connectors with new, moisture-resistant connectors. This action is necessary to prevent moisture from entering the strake feed-thru and internal electrical connectors, which could lead to electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective May 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft

Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: George Mabuni, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5341; fax (562) 627–5210.

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 certain McDonnell Douglas Model MD–90–30 airplanes was published in the **Federal Register** on January 4, 2002 (67 FR 537). That action proposed to require replacement of the existing strake feed-thru and internal electrical connectors with new, moisture-resistant connectors.

Comments

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

Conclusion

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

Cost Impact

There are approximately 99 McDonnell Douglas Model MD–90–30 airplanes of the affected design in the worldwide fleet. The FAA estimates that 25 airplanes of U.S. registry will be affected by this AD, that it will take approximately 14 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts are available at no charge from the manufacturer. Based on these figures, the cost impact of the requirements of this AD on U.S. operators is estimated to be $21,000, or $840 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2002–06–11 McDonnell Douglas: Amendment 39–12689. Docket 2000–NM–195–AD.

Applicability: Model MD–90–30 airplanes, certificated in any category; as listed in McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent moisture from entering the strake feed-thru and internal electrical connectors, which could lead to electrical arcing and a consequent fire in the electrical and electronic (E/E) compartment of the airplane, accomplish the following:

Replacement

(a) Within one year after the effective date of this AD: Replace the existing strake feed-thru and internal wire connectors with new connectors, in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 2000.

Note 2: Replacements accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 01, dated April 3, 2000, or original issue, dated August 12, 1998, are considered acceptable for compliance with the applicable action specified in this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD90–30A017, Revision 02, dated September 26, 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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on May 7, 2002.

Issued in Renton, Washington, on March 21, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7410 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–01]

Modification of Class D Airspace; Rockford, IL; Modification of Class E Airspace; Rockford, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class D airspace at Rockford, IL, and modifies Class E airspace at Rockford, IL. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for Greater Rockford Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the radius of the existing Class D and Class E airspace for Greater Rockford Airport.

EFFECTIVE DATE: 0901 UTC, June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 7, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class D airspace and Class E airspace at Rockford, IL (67 FR 703). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, and Class E airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class D airspace at Rockford, IL, and Class E airspace at Rockford, IL, to accommodate aircraft executing instrument flight procedures into and out of Greater Rockford Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL IL Rockford, IL [Revised]

Greater Rockford Airport, IL
(Lat. 42°11′43″ N., long. 89°05′50″ W.)
Greater Rockford ILS localizer
(Lat. 42°12′36″ N., long. 89°05′17″ W.)
GILMY LOM
(Lat. 42°06′52″ N., long. 89°05′55″ W.)

That airspace extending upward from the surface of the earth to and including 3,200 feet MSL within a 4.6-mile radius of the Greater Rockford Airport and within 1.8 miles each side of the Greater Rockford Runway 36 ILS localizer course, extending south from the 4.6-mile radius to the GILMY LOM.

* * * * *

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

* * * * *

AGL IL E5 Rockford, IL [Revised]

Greater Rockford Airport, IL
(Lat. 42°11′43″ N., long. 89°05′50″ W.)
GILMY LOM
(Lat. 42°06′52″ N., long. 89°05′55″ W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of the Greater Rockford Airport and within 7 miles east and 4.4 miles west of the Greater Rockford ILS localizer south course, extending from the airport to 10.4 miles south of the GILMY LOM.

* * * * *

Issued in Des Plaines, Illinois on March 15, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7858 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–08]

Modification of Class E Airspace; Frankfort, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Frankfort, MI. A VHF Omnidirectional Range-A (VOR–A) Standard Instrument Approach Procedure (SIAP) has been developed for Frankfort Dow Memorial Field, Frankfort, MI. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing this approach. This action adds an extension to the existing Class E airspace for Frankfort Dow Memorial Field Airport.

EFFECTIVE DATE: 0901 UTC, June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (845) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Monday, January 7, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Frankfort, MI (67 FR 705). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace portions of the terminal operations and while transmitting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Frankfort, MI, to accommodate aircraft executing instrument flight procedures into and out of Frankfort Dow Memorial Field Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air)

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MI E5 Frankford, MI [Revised]

Frankfort Dow Memorial Field Airport, MI
(Lat. 44°37′30″ N., long. 86°12′02″W.)
Manistee VOR/DME
(Lat. 44°16′14″N., long. 86°15′14″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Frankfort Dow Memorial Field Airport, and within 2 miles each side of the Manistee VOR/DME 006° radial extending from the 6.4 mile radius to 9.8 miles south of the airport.

* * * * *

Issued in Des Plaines, Illinois, on March 15, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7856 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AGL–07]

Modification of Class E Airspace; Brainerd, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Brainerd, MN. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) has been developed for Brainerd-Crow Wing County Regional Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action increases the radius of the existing controlled airspace for Brainerd-Crow Wing County Regional Airport.

EFFECTIVE DATE: 0901 UTC, June 13, 2002.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, January 16, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class A airspace at Brainerd, MN (67 FR 2150). The proposal was to

modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No. comments objecting to the proposals were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Brainerd, MN, to accommodate aircraft executing instrument flight procedures into and out of Brainerd-Crow County Regional Airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MN E5 Brainerd, MN [Revised]

Brainerd-Crow County Regional Airport, MN
(Lat. 46°23′52″N., long. 94°08′14″W.)

That airspace extending upward from 700 feet above the surface within a 7.9-mile radius of the Brainerd-Crow County Regional Airport, Brainerd, MN.

* * * * *

Issued in Des Plaines, Illinois, on March 15, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lake Region.

[FR Doc. 02–7855 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 181

[T.D. 02–15]

RIN 1515–AD08

North American Free Trade Agreement

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document sets forth amendments to the Customs Regulations that implement the preferential tariff treatment and other Customs-related provisions of the North American Free Trade Agreement (NAFTA) entered into by the United States, Canada and Mexico. The amendments involve technical rectifications and other conforming changes to reflect amendments to the NAFTA uniform regulations agreed upon by the three NAFTA parties and to reflect changes to the Harmonized Tariff Schedule of the United States.

EFFECTIVE DATE: These amendments are effective April 1, 2002.

FOR FURTHER INFORMATION CONTACT: John Valentine, International Agreements Staff, Office of Regulations and Rulings (202–927–2255).

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1992, the United States, Canada and Mexico entered into an agreement, the North American Free Trade Agreement (NAFTA), which, among other things, provides for preferential duty treatment on goods of those three countries. For purposes of the administration of the NAFTA preferential duty provisions, the three countries agreed to the adoption of (1) verbatim NAFTA Rules of Origin Regulations and (2) additional uniform regulatory standards to be followed by each country in promulgating NAFTA implementing regulations under its national law.

The regulations implementing the NAFTA preferential duty and related provisions under United States law are set forth in part 181 of the Customs Regulations (19 CFR part 181) which incorporates, in the Appendix, the verbatim NAFTA Rules of Origin Regulations. When the final rule document setting forth those NAFTA implementing regulations was published in the **Federal Register** (at 60 FR 46334) on September 6, 1995, Customs also published in that same issue of the **Federal Register** (at 60 FR 46464), in a general notice, the text of a document entitled ''Uniform Regulations for the Interpretation, Application, and Administration of Chapters Three (National Treatment and Market Access for Goods) and Five (Customs Procedures) of the North American Free Trade Agreement'' that contained the additional uniform regulatory standards agreed to by the United States, Canada and Mexico. The principles contained in those additional uniform regulatory standards are reflected, as appropriate, in the part 181 regulatory provisions that precede the Appendix.

On December 12, 2001, the United States Trade Representative, the Canadian Minister of International Trade, and the Mexican Secretary of the Economy in an exchange of letters agreed, among other things, to make certain technical rectifications to the NAFTA uniform regulation provisions referred to above, subject to the completion of each Party's domestic legal procedures. This rulemaking

effects these changes for the United States. The changes in question are described below.

Change to the Uniform Regulatory Standards

In the document setting forth the additional uniform regulatory standards agreed to by the United States, Canada and Mexico, in Section B—Administration and Enforcement, under the heading ''Article VI: Origin Verifications,'' a new paragraph 32 was added after paragraph 31 to read as follows:

32. Each Party shall, through its customs administration when conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, apply and accept the Generally Accepted Accounting Principles applicable in the territory of the Party in which the good is produced or in which the exporter is located, as the case may be.

This change was made in part because, as Article 506(8) of the NAFTA is currently worded, it would appear that a customs administration is conducting verification of the regional value content requirement in accordance with Generally Accepted Accounting Principles (GAAP) applicable in the territory of the exporting Party. In fact, as indicated in Article 413 of the NAFTA and throughout the NAFTA Rules of Origin Regulations, the use of GAAP relates to the manner in which costs are recorded and maintained, not the manner in which a verification of origin is conducted. This change was also made to reflect the fact that Article 413 of the NAFTA and the NAFTA regulations refer to the GAAP applicable in the territory of the Party in which the good is produced, the location where the books and records are maintained.

Changes to the NAFTA Rules of Origin Regulations

In the verbatim NAFTA Rules of Origin Regulations, a number of numerical tariff reference and wording changes were made to reflect heading and subheading changes that have been made to the international Harmonized Commodity Description and Coding System (Harmonized System) which formed the basis for the tariff references in the NAFTA verbatim texts. In addition, in those verbatim NAFTA Rules of Origin Regulations, a number of provisions were revised, and some new provisions were added, in order to clarify issues or address problems that came to the attention of the NAFTA signatories after the NAFTA went into effect. The following points are noted regarding the latter substantive textual changes:

1. In the definitions in Part I, Section 2, a new paragraph (6)(f) was added to provide that total cost includes the impact of inflation as recorded on the books of the producer if recorded in accordance with GAAP. *Explanation*: Reexpression costs are costs typically recorded in the accounting records based on GAAP in countries with a history of high inflation. Reexpression costs associated with inflation, in accordance with procedures to be followed by the GAAP applicable in a territory, are recorded on the books of a producer. Basically, the inventories, machinery and equipment, cost of sales, depreciation expenses, and capital are reexpressed to adjust values and costs for increases or decreases due to inflation. The computations are based on indices established in the prior years and applied consistently throughout the future years. Because these costs are recorded on the books in accordance with GAAP and are not otherwise listed with those costs specifically excluded from the net cost calculation, they are included in the total cost. New paragraph (6)(f) was added to make this clear.

2. In the provisions regarding materials in Part IV, Section 7, subsection (16) was revised and new subsections (16.1) and (16.2) were added. *Explanation*: The revision of subsection (16) and the addition of new subsection (16.1) were intended to clarify two situations with respect to the use of an inventory management method for fungible materials and fungible goods. First, revised subsection (16) clarifies that, subject to subsection (16.1), a producer may use a single inventory management system for fungible materials that are maintained in two or more locations within the territories of the NAFTA parties and are withdrawn for use in the production of a good. Second, new subsection (16.1) makes it clear that, for a producer who withdraws both fungible materials and fungible goods from the same inventory, the producer must use the same inventory management method for that inventory, and the inventory management method must be one that is used for the fungible goods. New subsection (16.2) was added to establish the time at which a producer is determined to have made a choice with regard to an inventory management method for fungible materials or fungible commingled goods, in particular for purposes of applying the provisions of Sections 3 and 12 of Schedule X.

3. In the automotive parts averaging provisions in Part V, Section 12, paragraphs (a) and (b) of subsection (5) were revised. *Explanation:* As previously worded as a result of a textual change adopted by the NAFTA parties in 1995, the text of Section 12(5)(a) and (b) only referred to the *one/three month periods that are evenly divisible into the remaining months of a parts producer's fiscal year.* However, the one or three month period chosen by a parts producer may also be based on a motor vehicle producer's fiscal year. The 1995 amendment to Section 12(5)(a) and (b) had the unintentional effect of limiting the one or three month averaging period that is otherwise allowed by Article 403(4) of the NAFTA. The new revision of Section 12(5)(a) and (b) serves to align the regulations on the NAFTA text by including a reference to the motor vehicle producer's fiscal year. The amendment ensures that Sections 12(7) through 12(9) will apply to every situation that could arise in the event a parts producer wants to change the averaging period for its goods, and it will provide for a reasonable transition period in the event that the initial averaging period is less than a fiscal year as a result of the change in an averaging period.

4. In Schedule VII, in the provisions regarding methods to reasonably allocate costs, a new Section 4.1 was added and Section 5 was revised. *Explanation:* For purposes of determining total cost, certain costs, such as cots for research and development and costs of obsolete materials, are expensed in one period but are also allocated, for internal management purposes only, to goods to be produced in a different period. New section 4.1 is intended to provide guidance on when the allocation of these costs is considered to be ''reasonable'' for purposes of Section 4 of Schedule VII. Specifically, new Section 4.1 states that the allocation of costs expensed during a previous period are reasonably allocated to goods of a current period if the allocation is based on a producer's accounting system that is maintained for its own internal management purposes. Therefore, if a producer does not have an accounting system to allocate, to current production, costs that are associated with goods produced in a prior period, then those costs are not reasonably allocated and may not be included in the total cost of the goods produced in the current period. New section 5 simply clarifies that any allocation method referred to in Section 3, 4, or 4.1

and used by a producer must be used throughout the producer's fiscal year.

5. In Schedule VII, in the provisions regarding costs not reasonably allocated, paragraph (b) of Section 6 was revised. *Explanation:* In some circumstances, costs relating to the production of the good in the current period are recorded as part of the gain or loss relating to the disposition of a discontinued operation. In this cases, under the prior text of paragraph (b) of Section 6 of Schedule VII, these costs would not be reasonably allocated to the cost of the good. However, as part of amendments to the NAFTA Rules or Origin Regulations agreed to by the NAFTA parties in 1994, the definition of discontinued operations in Schedule VII was refined to link it to the definition as set out in each country's GAAP. Because both Canadian and American GAAP include, in the gain or loss, operating costs that are incurred between the time that there is a formal plan of disposal and the disposition date, the unintended effect of the prior paragraph (b) text after the 1994 changes was to exclude these current production costs form net costs (this problem does not arise under the Mexican GAAP). Therefore, it was necessary to amend paragraph (b) of Section 6 to clarify that ''gains or losses related to the production of the good'' are considered reasonably allocated for purposes of Schedule VII.

6. In Schedule X which concerns inventory management methods. Section 3 in the Part 1 provisions regarding fungible materials, and Section 12 in the Part II provisions regarding fungible goods, were revised. *Explanation:* It had been noted that, under certain circumstances during a verification, a producer may not actually ''be determined to have made a choice'' with regard to an inventory management method until after the close of the fiscal year in which the production took place. The revision of Sections 3 and 12 were intended to make it clear that, when a producer makes a choice with regard to an inventory management method for fungible materials or goods, the producer is required to use the selected method for the remainder of the fiscal year of production of the materials of goods undergoing this verification, rather than for the remainder of the fiscal year in which the producer is considered to have made the choice.

Conforming Changes to Part 181 of the Customs Regulations

In keeping with the regulatory obligations assumed by the United States under the NAFTA, the regulations in Part 181 of the Customs Regulations must be amended to reflect the triaterally-agreed changes referred to above. Accordingly, the document makes the following changes to the part 181 texts:

1. In § 181.72, which sets forth provisions regarding the scope and method of origin verifications, paragraph (b), which refers to the use of Generally Accepted Accounting Principles, is revised in response to the inclusion of new paragraph 32 in the additional uniform regulatory standards document. Although the revised paragraph (b) text is worded somewhat differently to reflect its U.S. regulatory context, it reflects the substance of the trilaterally-agreed text.

2. The Appendix to part 181 has been amended to reflect the agreed numerical and text changes to the verbatim NAFTA Rules of Origin regulations. As in the case of amended paragraph (b) of § 181.72, some slight changes have been made to the trialterally-agreed texts to reflect the U.S. regulatory context. Similarly, consistent with the general approach taken throughout the Appendix to part 181, the amended numerical tariff references reflect the subheadings as set forth in the Harmonized Tariff Schedule of the United States (HTSUS), in line with changes to the international Harmonized System and to reflect changes agreed for the triateral NAFTA texts.

In addition, one additional conforming change, has been included in the Appendix to part 181. This change involves replacing the reference to tariff items ''2106.90.48 and 21006.90.52'' ''2106.90.16 and 2106.90.17'' by a reference to tariff items within paragraph (c) of subsection (4) under section 5 of part II. This change is necessary to reflect the trilateral NAFTA texts and the current numbering of the subheadings in the HTSUS.

Inapplicability of Public Notice and Comment Procedures and Delayed Effective Date Requirements

Pursuant to the provisions of 5 U.S.C. 553(a) public notice and comment procedures are inapplicable to these final regulations because they are within the foreign affairs function of the United States. In addition, for the above reason and because the Parties have agreed to promulgate these NAFTA implementing regulations changes no later than April 1, 2002, it is determined that good cause exists under the provisions of 5 U.S.C. 553(d)(3) for dispensing with a 30-day delayed effective date.

Executive Order 12866

Because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to the provisions of E.O. 12866.

Regulatory Flexibility Act

Based on the supplementary information set forth above and because these regulations implement obligations of international agreements and statutory requirements relating to those agreements, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) it is certified that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 181

Administrative practice and procedure, Canada, Customs duties and inspection, Exports, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements (North American Free-Trade Agreement).

Amendments to the Regulations

For the reasons set forth in the preamble, Part 181, Customs Regulations (19 CFR part 181), is amended as set forth below.

1. The authority citation for Part 181 is revised to read as follows:

Authority 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1624, 3314.

2. In § 181.72, paragraph (b) is revised to read as follows:

§ 181.72 Verification scope and method.

* * * * *

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, Customs will apply and accept the Generally Accepted Accounting Principles applicable in the country in which the good is produced or in which the exporter is located.

* * * * *

3. In the Appendix to part 181:

a. In Part I, Section 2, under the heading ''Calculation Of Total Cost,'' subsection (6) is amended by removing the word ''and'' at the end of paragraph

(d), removing the period at the end of paragraph (e) and adding, in its place, a semicolon followed by the word ''and'', and adding a new paragraph (f);

b. In Part II, Section 5, under the heading ''Exceptions,'' subsection (4) is amended:

(i) In paragraph (c), by removing the words ''2009.30 that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.30 and tariff items 2106.90.16 and 2106.90.17'' and adding, in their place, the words ''2009.39 that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39 and tariff items 2106.90.48 and 2106.90.52'';

(ii) In paragraph (d), by removing the reference ''2101.10.21'' and adding, in its place, the reference ''2101.11.21''; and

(iii) By revising paragraph (i);

c. In Part III, Section 6, under the heading ''Net Cost Method Required in Certain Circumstances,'' subsection (6)(d)(iv) is revised;

d. In Part IV, Section 7, under the heading ''Fungible Materials; Fungible Commingled Goods; Inventory Management Methods For Determining Whether Originating,'' subsection (16) is revised and new subsections (16.1) and (16.2) are added;

e. In Part V, Section 12, under the heading ''Periods For Averaging RVC For Automotive Parts,'' subsection (5) is amended by revising paragraphs (a) and (b);

f. In Part VI, Section 16, under the heading ''Exceptions For Certain Goods,'' subsection (3) is amended by removing the words ''8542.11 through 8542.80'' and adding, in their place, the words ''8542.10 through 8542.70'';

g. In Schedule IV:

(i) The listing ''4010.10'' is revised to read ''4010.31 through 4010.34 and 4010.39.10 through 4010.39.20'';

(ii) The listing ''8415.81 through 8415.83'' is revised to read ''8415.20'';

(iii) The listing ''8519.91'' is revised to read ''8519.93''; and

(iv) The listing ''8537.10.30'' is revised to read ''8537.10.60'';

h. In Schedule VII:

(i) Under the heading ''Methods To Reasonably Allocate Costs,'' a new Section 4.1 is added after Section 4, and Section 5 is revised; and

(ii) Under the heading ''Costs Not Reasonably Allocated,'' Section 6 is amended by revising paragraph (b); and

i. In Schedule X:

(i) In Part I, under the heading ''General,'' Section 3 is revised; and

(ii) In Part II, under the heading ''General,'' Section 12 is revised.

The additions and revisions read as follows:

APPENDIX TO PART 181—RULES OF ORIGIN REGULATIONS

* * * * *

PART I

SECTION 2. DEFINITIONS AND INTERPRETATION

* * * * *

Calculation of Total Cost

(6) * * *

(f) total cost includes the impact of inflation as recorded on the books of the producer, if recorded in accordance with the Generally Accepted Accounting Principles of the producer's country.

* * * * *

PART II

* * * * *

SECTION 5. DE MINIMIS

* * * * *

Exceptions

(4) * * *

(i) a non-originating material that is used in the production of a good provided for in any of tariff item 7321.11.30 (gas stove or range), subheading 8415.10 through 8415.83, 8414.10 through 8418.21, 8418.29 through 8418.40, 8421.12, 8422.11, 8450.11 through 8450.20 and 8451.21 through 8451.29, and tariff items 8479.89.55 (trash compactors) and 8516.60.40 (electric stove or range);

* * * * *

PART III

SECTION 6. REGIONAL VALUE CONTENT

* * * * *

Net Cost Method Required in Certain Circumstances

(6) * * *

(d) * * *

(iv) a good provided for in subheading 8469.11;

* * * * *

PART IV

SECTION 7. MATERIALS

Fungible Materials; Fungible Commingled Goods; Inventory Management Methods for Determining Whether Originating

(16) Subject to subsection (16.1), for purposes of determining whether a good is an originating good,

(a) where originating materials and non-originating materials that are fungible materials.

(i) are withdrawn from an inventory in one location and used in the production of the good, or

(ii) are withdrawn from inventories in more than one location in the territory of one or more of the NAFTA countries and used in the production of the good at the same production facility,

the determination of whether the materials are originating materials may be made on the basis of any of the applicable inventory management methods set out in Schedule X; and

(b) where originating goods and non-originating goods that are fungible goods are physically combined or mixed in inventory and prior to exportation do not undergo production or any other operation in the territory of the NAFTA country in which they were physically combined or mixed in inventory, other than unloading, reloading or any other operation necessary to preserve the goods in good condition or to transport the goods for exportation to the territory of another NAFTA country, the determination of whether the good is an originating good may be made on the basis of any of the applicable inventory management methods set out in Schedule X.

(16.1) Where fungible materials referred to in subsection (16)(a) and fungible goods referred to in subsection (16)(b) are withdrawn from the same inventory, the inventory management method used for the materials must be the same as the inventory management method used for goods, and where the averaging method is used, the respective averaging periods for fungible materials and fungible goods are to be used.

(16.2) A choice of inventory management methods under subsection (16) shall be considered to have been made when the customs administration of the NAFTA country into which the good is imported is informed in writing of the choice during the course of a verification of the origin of the good.

* * * * *

PART V

Automotive Goods

* * * * *

SECTION 12. AUTOMOTIVE PARTS AVERAGING

* * * * *

Periods for Averaging RVC for Automotive Parts

(5) * * *

(a) with respect to goods referred to in subsection (4)(a), (b) or (d), or subsection 4(e) or (f) where the goods in that category are in a category referred to in subsection 4(a) or (b), any month, any consecutive three month period that is evenly divisible into the number of months of the producer's fiscal year, or of the fiscal year of the motor vehicle producer to whom those goods are sold, remaining at the beginning of that period, or the fiscal year of that motor vehicle producer to whom those goods are sold; and

(b) with respect to goods referred to in subsection (4)(c), or subsection (4)(e) or (f) where the goods in that category are in a category referred to in subsection (4)(c), any month, any consecutive three month period that is evenly divisible into the number of months of the producer's fiscal year, or of the fiscal year of the motor vehicle producer to whom those goods are sold, remaining at the beginning of that period, or the fiscal year of that producer or of that motor vehicle producer to whom those goods are sold.

* * * * *

SCHEDULE VII

Reasonable Allocation of Costs

* * * * *

Methods to Reasonably Allocate Costs

* * * * *

SECTION 4.1

Nothwithstanding section 3 and 7, where a producer allocates, for an internal management purpose, costs to a good that is not produced in the period in which the costs are expensed on the books of the producer (such as costs with respect to research and development, and obsolete materials), those costs shall be considered reasonably allocated if

(a) for purposes of section 6(11), they are allocated to a good that is produced in the period in which the costs are expensed, and

(b) the good produced in that period is within a group or range of goods, including identical goods or similar goods, that is produced by the same industry or industry sector as the goods to which the costs are expensed.

SECTION 5.

Any cost allocation method referred to in section 3, 4 or 4.1 that is used by a producer for the purposes of this appendix shall be used throughout the producer's fiscal year.

Costs Not Reasonably Allocated

SECTION 6.

* * * * *

(b) gains or losses resulting from the disposition of a discontinued operation, except gains or losses related to the production of the good;

* * * * *

SCHEDULE X

Inventory Management Methods

PART I

Fungible Materials

* * * * *

General

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SECTION 3.

A producer of a good, or a person from whom the producer acquired the fungible materials that are used in the production of the good, may choose only one of the inventory management methods referred to in section 2, and, if the averaging method is chosen, only one averaging period in each fiscal year of that producer or person for the materials inventory.

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PART II

Fungible Goods

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General

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SECTION 12.

A producer of a good, or a person from whom the producer acquired the fungible good, may choose only one of the inventory management methods referred to in section 11, including only one averaging period in the case of the average method, in each fiscal year of that exporter or person for each finished goods inventory of the exporter or person.

* * * * *

Robert C. Bonner,

Commissioner of Customs.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 02–8053 Filed 3–29–02; 2:08 pm]

BILLING CODE 4820–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Honolulu 02–002]

RIN 2115–AA97

Security Zone; Chevron Conventional Buoy Mooring, Barbers Point Coast, Honolulu, HI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a security zone in the waters adjacent to the Chevron Conventional Buoy Mooring (CBM) Barbers Point Coast, Honolulu, HI. This security zone is necessary to protect the CBM, and all involved personnel and vessels from acts of sabotage or other subversive acts, accidents, or other causes of a similar nature at the CBM off the Barbers Point Coast on the island of Oahu. Entry into this zone is prohibited unless authorized by the U.S. Coast Guard Captain of the Port Honolulu, HI.

EFFECTIVE DATES: This rule is effective from 4 p.m. HST March 19, 2002, to 6 a.m. HST April 19, 2002.

ADDRESSES: Public comment and supporting material is available for inspection or copying at U.S. Coast Guard Marine Safety Office Honolulu, 433 Ala Moana Blvd, Honolulu, Hawaii 96813, between 7 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR M. A. Willis, U.S. Coast Guard Marine Safety Office Honolulu, Hawaii at (808) 522–8264.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In order to protect the interests of national security, the Coast Guard is establishing a temporary security zone to provide for the safety and security of the public, maritime commerce in and facilities in the navigable waters of the United States. In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying this action's effective date would be contrary to the public interest since immediate action is needed to protect the Chevron Conventional Buoy Mooring (CBM) Barbers Point, Honolulu, HI, any vessel moored there, and all involved personnel. There is insufficient time to publish a proposed rule or to provide a delayed effective date for this rule. Under these circumstances, following normal rulemaking procedures would be impracticable.

Background and Purpose

The Coast Guard is establishing a security zone in the waters adjacent to the CBM Mooring Barbers Point Coast, Honolulu, HI. The security zone would extend out 1,000 yards in all directions from each vessel moored at the CBM in approximate position: 21°16.7′ N, 158°04.2′ W. This security zone extends from the surface of the water to the ocean floor. This security zone is necessary to protect the CBM, tank vessels, and all involved personnel from acts of sabotage or other subversive acts, accidents, or other causes of a similar nature during cargo operations at the CBM off the Barbers Point Coast on the island of Oahu. Representatives of the Captain of the Port Honolulu will enforce this security zone. The Captain of the Port may be assisted by other federal or state agencies. Periodically, the Coast Guard Captain of the Port will authorize general permission to enter into this security zone and will announce this by Broadcast Notice to Mariners.

Regulatory Evaluation

This temporary final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The U.S. Coast Guard expects the economic impact of this action to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the short duration of the zone and the limited geographic area affected by it.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. No small business impacts are anticipated due to the small size of the zone and the short duration of the security zone in any one area.

Assistance for Small Entities

Because we did not anticipate any small business impacts, we did not offer assistance to small entities in understanding the rule.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, and has determined this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Indian Tribal Governments

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

Taking of Private Property

This rule will 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.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Energy Effects

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

Environment

The Coast Guard considered the environmental impact of this action and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. As an emergency action, the environmental analysis, requisite regulatory consultations, and categorical exclusion determination, will be prepared and submitted after establishment of this temporary security zone, and will be available for inspection or copying where indicated under addresses.

List of Subjects in 33 CFR Part 165

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

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. A new temporary § 165.T14–071 is added to read as follows:

§ 165.T14–071 Security Zone: Chevron Conventional Buoy Mooring, Barbers Point Coast, Honolulu, HI.

(a) *Location.* The following area is a security zone: All waters extending 1,000 yards in all directions from vessels moored at the CBM in approximate position: 21°16.7′ N, 158°04.2′ W. This security zone extends from the surface of the water to the ocean floor.

(b) *Designated representative.* A designated representative of the Captain of the Port is any Coast Guard commissioned officer, warrant or petty officer that has been authorized by the Captain of the Port Honolulu to act on his behalf. The following officers have or will be designated by the Captain of the Port Honolulu: The senior Coast Guard boarding officer on each vessel enforcing the security zone.

(c) *Regulations.*

(1) In accordance with § 165.33, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Honolulu or his designated representatives.

(2) The Coast Guard Captain of the Port Honolulu will periodically authorize general permission to enter into this temporary security zone and will announce this by Broadcast Notice to Mariners.

(d) *Effective dates.* This section is effective from 4 p.m. HST March 19, 2002 until 6 a.m. HST April 19, 2002.

Dated: March 8, 2002.

G.J. Kanazawa,

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

[FR Doc. 02–7827 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Pharmaceuticals Production

CFR Correction

In Title 40 of the Code of Federal Regulations, Part 63 (§ 63.1200 to End), revised as of July 1, 2001, in § 63.1257, on page 134, redesignate paragraph (d)(4)(iii) as paragraph (d)(3)(iii), and on page 140, remove the second definition of ρ following equation 47.

[FR Doc. 02–55509 Filed 4–1–02; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[WV001–1000a; FRL–7166–6]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of West Virginia; Department of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation.

SUMMARY: EPA is taking direct final action to approve West Virginia Department of Environmental Protection's (WVDEP's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations once WVDEP incorporates these amendments into its regulations. In addition, EPA is taking direct final action to approve of WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails WVDEP's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and WVDEP's notification to EPA of such incorporation. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both WVDEP and EPA. This action pertains only to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, which are not located at major sources, as defined by the Act's operating permit program. The WVDEP's request for delegation of authority to implement and enforce its hazardous air pollutant regulations at affected sources which are located at major sources, as defined by the Act's operating permit program, was initially approved on March 19, 2001. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective June 3, 2002, unless EPA receives adverse or critical comments by May 2, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and John A. Benedict, West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE, Charleston, WV 25304–2943. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE, Charleston, WV 25304–2943.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 Code of Federal Regulations (CFR) part 63, subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) A demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) a schedule demonstrating expeditious implementation of the regulation; and

(c) a plan that assures expeditious compliance by all sources subject to the regulation.

On November 18, 1999, WVDEP submitted to EPA a request to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for the affected sources defined in 40 CFR part 63. On March 19, 2001, WVDEP received delegation of authority to implement all emission standards promulgated in 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70. On June 15, 2001, WVDEP supplemented their November 18, 1999 request with information necessary to address delegation of the hazardous air pollutant regulations for affected sources which are not located at major sources, as defined by 40 CFR part 70. At the present time, the delegation request pertaining to affected sources which are not located at major sources, as defined by 40 CFR part 70, includes the regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting which have been adopted by reference from the Federal requirements set forth in 40 CFR part 63, subparts M, N, O, T, and X, respectively. The WVDEP also requested that EPA automatically delegate future amendments to these regulations and approve WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails WVDEP's incorporation by reference of the unchanged Federal standard into its regulation for hazardous air pollutant sources at 45CSR34 and WVDEP's notification to EPA of such incorporation.

II. EPA's Analysis of WVDEP's Submittal

Based on WVDEP's program approval request and its pertinent laws and regulations, EPA has determined that

such an approval is appropriate in that WVDEP has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), WVDEP submitted a written finding by the State Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), West Virginia submitted copies of its statutes, regulations and requirements that grant authority to WVDEP to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), WVDEP submitted documentation of adequate resources and a schedule and plan to assure expeditious State implementation and compliance by all sources. Therefore, the WVDEP program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts M, N, O, T, and X, as well as any future emission standards, should WVDEP seek delegation for these standards. The WVDEP adopts the emission standards promulgated in 40 CFR part 63 into the State regulation for hazardous air pollutant sources found at 45CSR34. The WVDEP has the primary authority and responsibility to carry out all elements of these programs for all sources covered in West Virginia, including on-site inspections, record keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for WVDEP to receive automatic delegation of future amendments to the perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting regulations, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, each amendment must be legally adopted by the State of West Virginia. As stated earlier, these amendments are adopted into West Virginia's regulation for hazardous air pollutant sources at 45CSR34. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption. The WVDEP will notify EPA of its adoption of the Federal regulation amendments.

EPA has also determined that WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, is approvable. This mechanism requires WVDEP to adopt the Federal regulation into its regulation for hazardous air pollutant sources at 45CSR34. The delegation will be finalized on the effective date of the legal adoption. The WVDEP is also required to notify EPA of its adoption of the Federal regulation. The official notice of delegation of additional emission standards will be published in the **Federal Register**. As noted earlier, WVDEP's program to implement and enforce all emission standards promulgated under 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70, was previously approved on March 19, 2001.

The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to WVDEP and EPA Region III.

If at any time there is a conflict between a WVDEP regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of WVDEP. EPA is responsible for determining stringency between conflicting regulations. If WVDEP does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that WVDEP's procedure for enforcing or implementing the 40 CFR part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) Approval of alternative non-opacity emission standards, *e.g.,* 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) Approval of alternative opacity standards, *e.g.,* 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) Approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) Approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) Approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, WVDEP must notify EPA Region III in writing:

(1) Applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, *e.g.,* 40 CFR 63.1 and applicable sections of relevant standards [1];

(2) Responsibility for determining compliance with operation and maintenance requirements, *e.g.,* 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) Responsibility for determining compliance with non-opacity standards, *e.g.,* 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) Responsibility for determining compliance with opacity and visible emission standards, *e.g.,* 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) Approval of site-specific test plans [2], *e.g.,* 40 CFR 63.7(c)(2)(i) and (d)

[1] Applicability determinations are considered to be nationally significant when they: (i) Are unusually complex or controversial; (ii) have bearing on more than one state or are multi-Regional; (iii) appear to create a conflict with previous policy or determinations; (iv) are a legal issue which has not been previously considered; or (v) raise new policy questions and shall be forwarded to EPA Region III prior to finalization. Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring,* dated February 1999. The WVDEP may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[2] The WVDEP will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

and applicable sections of relevant standards;

(6) Approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) Approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) Approval of shorter sampling times/volumes when necessitated by process variables and other factors, *e.g.,* 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) Waiver of performance testing, *e.g.,* 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) Approval of site-specific performance evaluation (monitoring) plans [3], *e.g.,* 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) Approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) Approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) Approval of adjustments to time periods for submitting reports, *e.g.,* 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) Approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, WVDEP and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a WVDEP interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of WVDEP. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in West Virginia. The WVDEP will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii). Quarterly reports will be submitted to EPA by WVDEP to identify sources determined to be applicable during that quarter.

Although WVDEP has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving WVDEP's request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T, and X, respectively. This approval will automatically delegate future amendments to these regulations. In addition, EPA is approving of WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails legal adoption by the State of West Virginia of the amendments or rules into WVDEP's regulation for hazardous air pollutant sources at 45CSR34 and notification to EPA of such adoption. This action pertains only to affected sources, as defined by 40 CFR part 63, which are not located at major sources, as defined by 40 CFR part 70. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above. This delegation of authority is codified in 40 CFR 63.99. In addition, WVDEP's delegation of authority to implement and enforce 40 CFR part 63 emission standards at major sources, as defined by 40 CFR part 70, approved by EPA Region III on March 19, 2001, is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because WVDEP's request for delegation of the hazardous air pollutant regulations pertaining to perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting and its request for automatic delegation of future amendments to these rules and future standards, when specifically identified, does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of WVDEP's request for delegation if adverse comments are filed. This rule will be effective on June 3, 2002, without further notice unless EPA receives adverse comment by May 2, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the

[3] The WVDEP will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not 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 CAA. 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 requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 2002. 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, pertaining to the approval of WVDEP's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning, and secondary lead smelting (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: March 21, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

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

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(48) to read as follows:

§ 63.99 Delegated Federal authorities

(a) * * *

(48) *West Virginia.* (i) West Virginia is delegated the authority to implement and enforce all existing and future unchanged 40 CFR part 63 standards at major sources, as defined in 40 CFR part 70, in accordance with the delegation agreement between EPA Region III and the West Virginia Department of Environmental Protection, dated March 19, 2001, and any mutually acceptable amendments to that agreement.

(ii) West Virginia is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is sought by the West Virginia Department of Environmental Protection and approved by EPA Region III, at affected sources which are not located at major sources, as defined in 40 CFR part 70, in accordance with the final rule, dated April 2, 2002, effective June 3, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–7939 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

Lead; Identification of Dangerous Levels of Lead

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 700 to 789, revised as of July 1, 2001, on page 503, in § 745.227, add paragraph (i) to read as follows:

§ 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.

* * * * *

(i) *Recordkeeping.* All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

[FR Doc. 02–55508 Filed 4–1–02; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 69

[CC Docket Nos. 96–45, 98–77, 98–166, and 00–256; FCC 01–304]

Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of certain sections of the Commission's rules for reforming the interstate access charge and universal service support system for incumbent local exchange carriers subject to rate-of-return regulation (non-price cap or rate-of-return carriers) that contained information collection requirements.

DATES: The amendments to 47 CFR 47 54.307(b), 54.307(c), 54.315(a), 54.315(f)(1) through 54.315(f)(4), 54.902(a), 54.902(b), 54.902(c), 54.903(a)(1) through 54.903(a)(4), 54.904(a), 54.904(b), and 54.904(d) published at 66 FR 59719, November 30, 2001, became effective on January 8, 2002.

FOR FURTHER INFORMATION CONTACT: William Scher, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400; Douglas Slotten, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1520.

SUPPLEMENTARY INFORMATION: On May 23, 2001, the Commission released a Second Report and Order and Further Notice of Proposed Rulemaking in CC Docket Nos. 00–256, Fifteenth Report and Order in CC Docket No. 96–45, and Report and Order in CC Docket No. 98–77 and 98–166 (Order). In that Order the Commission modified its rules to reform the interstate access charge and universal service support system for incumbent local exchange carriers subject to rate-of-return regulation (non-price cap or rate-of-return carriers). The Commission's actions were based on pending Commission proposals that build on interstate access charge reforms previously implemented for price cap carriers, the record developed in the above-stated proceedings, and consideration of the Multi-Association Group (MAG) plan. A summary of the Order was published in the **Federal Register**. See 66 FR 59719, November 30, 2001. In that summary, the Commission stated that the modified rules would become effective 30 days after publication in the **Federal Register** except for §§ 54.307(b), 54.307(c), 54.315(a), 54.315(f)(1) through 54.315(f)(4), 54.902(a), 54.902(b), 54.902(c), 54.903(a)(1) through 54.903(a)(4), 54.904(a), 54.904(b), and 54.904(d) which contain information collection requirements that have not been approved by OMB and that the Commission will publish a document in the **Federal Register** announcing the effective date of those sections. On December 14, 2001, OMB approved the information collections. See OMB No. 3060–0972. The rule amendments adopted by the Commission in the Order took effect 30 days after publication of the Order in the **Federal Register**, which was December 31, 2001. The OMB approval of the information collection requirements was announced in the **Federal Register** on January 8, 2002. Therefore, the effective date of the information collection requirements and the rules became effective January 8, 2002.

List of Subjects

47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–7998 Filed 4–1–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 00–256 and 96–45; FCC 02–89]

Multi-Association Group (MAG) Plan for Regulation of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; partial waiver and amendment.

SUMMARY: In this document, the Commission modifies on its own motion the data collection and filing procedures for implementation of the Interstate Common Line Support (ICLS) mechanism for incumbent local exchange carriers in order to ensure timely implementation of the ICLS mechanism on July 1, 2002 as adopted in the Multi-Association Group (MAG) *MAG Order* and to reduce administrative burdens on rate-of-return carriers.

DATES: Effective April 2, 2002.

FOR FURTHER INFORMATION CONTACT: William Scher, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Order on Reconsideration in CC Docket No. 00–256 and Fourth Order on Reconsideration in CC Docket No. 96–45 released on March 22, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554 and at *http://www.fcc.gov/wcb/universal__service/welcome.html.*

I. Introduction

1. In this Order, we modify on our own motion the data collection and filing procedures for implementation of the Interstate Common Line Support (ICLS) mechanism, in order to ensure timely implementation of the ICLS mechanism on July 1, 2002 as adopted in the *MAG Order*, 66 FR 59719, November 30, 2001. First, we extend until April 18, 2002 the original March 31, 2002, deadline set forth in § 54.903(a) for the submission of projected data and line counts to the Universal Service Administrative Company (USAC). Second, we waive the requirement under § 54.903(a) that each carrier file its data with USAC in order to permit the National Exchange Carrier Bureau Association (NECA) to file the data for each member of the common line pool for the purpose of this initial ICLS filing deadline. Finally, we specify the data to be submitted for this initial ICLS filing under § 54.903(a). We conclude that these actions are appropriate to ensure timely implementation of the ICLS mechanism, accuracy of support, and compliance with the new filing requirements, and shall apply only to the initial ICLS filing deadline.

II. Discussion

2. In this Order we modify, on our own motion, the initial ICLS data collection and filing procedures to ensure timely implementation of the ICLS mechanism on July 1, 2002. We

recognize that implementation of the ICLS mechanism is a critical element of the Commission's achievement of its access reform and universal service goals. Since adoption of the *MAG Order*, rural carriers and other interested parties have indicated that additional time would significantly improve their ability to file complete and accurate data with USAC. We have been working with USAC, rural carriers, and other interested parties to ensure that carriers have sufficient time to prepare and submit the data necessary to implement the ICLS mechanism. We conclude that the actions we take in this Order are appropriate to ensure timely ICLS implementation, to permit the submission of accurate data, and to minimize the associated administrative burdens on rate-of-return carriers.

3. We emphasize that our actions in this Order apply only to the initial implementation of ICLS and the first filing currently scheduled for March 31, 2002, and are not intended to restrict USAC's ability in the future to determine the data necessary to fulfill its obligations as Administrator of the ICLS mechanism, including its duty to prevent waste, fraud, and abuse. We expect that Commission staff and USAC will work with affected rate-of-return carriers and other interested parties to develop the appropriate filing requirements for future data submissions consistent with the Commission's rules. Although the Commission directed USAC to determine the data required for the ICLS mechanism, the Commission retains oversight authority over the ICLS program. To that end, we direct the Common Carrier Bureau to take steps reasonably necessary to implement the ICLS mechanism, consistent with the Commission's rules, while minimizing the administrative burdens on affected carriers. We are confident that USAC, under the Bureau's oversight, will develop procedures and filing requirements that fulfill the Commission's intent to limit as much as possible the administrative burdens associated with the ICLS mechanism, while promoting accurate and efficient distribution of support.

4. *Extension of March 31 Filing Deadline.* We conclude that it is appropriate to extend until April 18, 2002, the initial March 31, 2002, filing deadline in § 54.903(a) of the Commission's rules. We established the March 31 ICLS filing deadline to provide rate-of-return carriers with sufficient time to prepare and submit the necessary data, and to provide USAC a reasonable opportunity to implement the mechanism on July 1, 2002 and perform its obligations as Administrator. Since the adoption of the *MAG Order*, affected carriers have indicated that it will be difficult to provide complete and accurate data by the initial March 31, 2002, deadline. Implementation of the ICLS mechanism and calculation of ICLS support depend on the submission of complete and accurate data. We find that it is appropriate to extend the deadline for the first-time filing of this data until April 18, 2002. This extension will provide sufficient time for the submission of complete and accurate data, while allowing USAC to implement the ICLS mechanism and calculate support beginning July 1, 2002.

5. *NECA to Submit Data on Behalf Pooling Carriers.* In order to further ensure the timely submission of complete and accurate data for the initial implementation of the ICLS support mechanism beginning July 1, 2002, we waive the requirement under § 54.903(a) that each carrier file its data with USAC. Specifically, we permit NECA to file the data set forth below in this Order for each member of its common line pool for the purposes of this initial ICLS filing deadline. Interested parties have indicated that initial implementation of the ICLS mechanism, including the first-time filing of the necessary data, may be difficult for the approximately 1300 rate-of-return carriers eligible for ICLS. We believe that, by directing NECA to complete the filing on behalf of each member of its common line pool, we will mitigate the first-time filing obligations on the vast majority of the 1300 carriers eligible for ICLS. As members of the NECA common line pool, these carriers already provide cost, revenue, and line count data to NECA to permit NECA to prepare projected common line cost and revenue data for tariff filings on behalf of its members. NECA should possess all of the projected data and line counts set forth in detail below and thus should be able to file the data on its members' behalf by April 18, 2002, in accordance with the instructions set forth below.

6. Based on input from interested parties, we do not expect pooling carriers to object to NECA filing on their behalf. If, however, a carrier prefers to file its own data or designate an agent other than NECA to file its data, it may do so at its option. If a pooling carrier files data separately from NECA, USAC will disregard the data filed by NECA on the carrier's behalf. A carrier that does not participate in NECA's common line pool must file its own data or designate an agent to do so, as discussed below.

7. We also conclude that NECA should make certain certifications with respect to the data submission. First, it must certify that the projected cost and revenue data are accurate to the best of its knowledge and ability. Second, it must certify that the line count data are accurate to the best of its knowledge and represents actual data supplied to NECA by the carrier. Third, it must certify that it has notified each carrier of the filing and will provide each carrier with a copy of the part of the filing relevant to the individual carrier within 15 days. We believe that such certifications are necessary for the purposes of this initial filing deadline to ensure the accuracy and reliability of the data used to calculate ICLS and that carriers are aware of the data that has been filed on their behalf. NECA may file a single statement making these certifications for all of the data it files and need not separately certify for each carrier, as long as the certifications are truthful for each carrier's data.

8. *Filings By Parties Other Than NECA.* To ensure the accuracy of the data for purposes of this initial filing deadline, we require certifications from non-pooling carriers or pooling carriers that choose to file their data separately from NECA. Specifically, the carrier or its designated agent will certify that (1) its projections are accurate to the best of its knowledge and ability, and (2) its line count data is accurate. If the filing is made by a carrier's designated agent, it must be accompanied by an authorization by the carrier. These certifications are necessary to ensure the accuracy and reliability of the data used to calculate support.

9. *Projected Data Required.* In order to ensure that NECA and affected carriers have sufficient guidance as to the data required to ensure timely implementation of the ICLS mechanism, we specify below the data that must be included in the initial filing under § 54.903(a) of the Commission's rules. We find that, for the initial April 18, 2002, data submission, the only projected data required are the data specifically identified in § 54.901(a) of the Commission's rules. The initial filing shall therefore include the following data for each eligible rate-of-return carrier: (1) Projected common line revenue requirement; (2) projected SLC revenues; (3) projected revenue from its transitional CCL charge; (4) projected special access surcharges; (5) projected line port costs in excess of basic analog service; and (6) projected LTS. The Commission's rules implementing the *MAG Order* recognize that these data points are necessary for the calculation of ICLS. We are also

confident, based on consultation with interested parties, that this data can be filed by the April 18, 2002 filing deadline. We therefore do not anticipate NECA or any individual carrier will be unable to file this data.

10. To ensure the timely implementation of the ICLS mechanism, we find that it is sufficient for purposes of this initial filing to collect only the data points specifically identified in § 54.901(a). We note that, under the rules adopted in the *MAG Order*, all support distributed based on the data submitted for this initial ICLS filing will be subject to true-up based on a subsequent actual data. We recognize that, for future projected data submissions, USAC may determine that the collection of additional projected data may be necessary for verification and validation purposes. We expect that Commission staff and USAC will work with affected rate-of-return carriers and other interested parties to ensure that future projected data submissions result in the accurate and efficient calculation and verification of support, while imposing minimal administrative burdens on carriers.

11. *Line Count Data Required.* We clarify that the line count data that must be submitted on April 18, 2002, pursuant to § 54.903(a), shall include line count data for each study area by customer class (single-line business/residential and multi-line business), but need not include line counts by disaggregation zone. Under the Commission's rules, carriers need not elect a disaggregation path until May 15, 2002. Thus, few carriers will file disaggregated line count data on April 18, 2002. In addition, carriers must file disaggregated line count data on the July 31 annual line count filing. Under these circumstances, we conclude that it is appropriate for the initial April 18, 2002, filing to require line count data by study area rather than by disaggregation zone. We recognize that, in those study areas that have established disaggregation zones by April 18, 2002, portable support initially will be distributed to CETCs on a study-area basis, rather than by disaggregation zone. Because we anticipate that few study areas will have established disaggregation zones by April 18, 2002, we find that it is appropriate to simplify the initial line count filing as described above.

12. *Filing Specifications.* We direct NECA and carriers filing individually to submit the projected cost and revenue data and line count data with USAC under a single cover letter. The filing should be addressed to USAC at the following address:

U.S. Mail	Overnight or Expedited Mail/Courier Services
USAC ..... P.O. Box 11993 ..... Harrisburg, PA 17108	USAC. One South Market Square. Harrisburg, PA 17101 (717) 233–5731.

The filing should clearly identify the carrier's name and study area code, and provide specific contact information for an individual, including that contact's name, telephone number, and e-mail address, as well as the address of the carrier. The data may be presented in a letter or in an appropriate electronic format (*i.e.*, an Access or Excel spreadsheet on CD). The filing must clearly indicate that the projected data is for the 2002–03 ICLS year, and the line count data represents line counts as of September 30, 2001. The cover letter may be used to make the necessary certifications for both the projected data and the line count data. Confidential treatment of the filed data may be requested in the cover letter, pursuant to § 0.459 of the Commission's rules.

13. USAC shall post to its website, www.universalservice.org, a sample letter and spreadsheets that the filing parties are encouraged follow. We anticipate that USAC will conduct additional outreach to ensure that non-pooling carriers are able to meet these requirements. We expect also that NECA will consult with USAC regarding the best manner to provide its filing to USAC. Questions regarding these filing procedures may be directed to USAC by telephone at (512) 835–1585, by fax at (512) 835–1586, or by e-mail at iclsquestions@universalservice.org.

III. Procedural Issues

A. Supplemental Final Regulatory Flexibility Certification

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

15. On October 11, 2001, the Commission adopted *MAG Order*, which has as its the principle goal the gradual elimination of implicit support in the access rate structure of non-price cap carriers and replacement with an explicit support mechanism, ICLS. In this Order on Reconsideration, we adopt modifications to our rules concerning the initial filing of data for the ICLS mechanism. First, we extend the deadline for completing the initial filing from March 31, 2002, to April 18, 2002. Second, we order NECA to complete the initial filing on behalf of members of its common line pool based on data already in its possession. This relieves individual carriers that participate in the NECA common line pool—the vast majority of rate-of-return carriers—from the burden of completing the filings on their own. Members of the NECA common line pool need not rely on NECA's filing if they would prefer to make their own filing as our rules currently require. A carriers that does not participate in the NECA common line pool must file its own data or have another designated agent file its data, as currently required in our rules. These modifications are expected to reduce the administrative burdens associated with making the initial ICLS filings. The modifications apply only to the initial filings under the ICLS mechanism, and are not permanent changes to the Commission's rules. Finally, we note that NECA, which itself is a small entity due to its non-profit status, appears to be the only entity with any additional compliance burden as a result of our actions. Because the modifications reduce, rather than increase, administrative costs and are of a one-time nature, and because any additional compliance burden falls only on NECA, we certify that the requirements of this Order on Reconsideration will not have a significant economic impact on a substantial number of small entities.

16. The Commission will send a copy of this Order on Reconsideration, including a copy of this supplemental certification, in a report to Congress pursuant to the Congressional Review Act. In addition, this Order on Reconsideration and certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.

B. Paperwork Reduction Act Analysis

17. The decision herein has been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104–13, and found to impose new or

modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget.

IV. Ordering Clauses

18. It is ordered, pursuant to sections 1–4, 10, 201–202, and 254 of the Communications Act of 1934, as amended, and §§ 1.3 and 1.103 of the Commission's rules, this Order on Reconsideration is adopted.

19. The Accounting Policy Division of the Common Carrier Bureau shall send a copy of the Order, upon release, to the National Exchange Carrier Association, Inc., CenturyTel-Ohio, Ogden Telephone—New York, Warwick Valley Telephone Company, Alltel Georgia Comm, Corp., Georgia Alltel Telecom, Inc., Great Plains Communications, and Interstate Telecommunications Cooperative, Inc.

20. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Order on Reconsideration, including the Supplemental Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

For the reasons set forth in the preamble, 47 CFR part 54 is amended as follows:

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(l), 201, 205, 214, and 254 unless otherwise noted.

2. Section 54.903 is amended in paragraphs (a)(1) and (a)(3) by removing the date ''March 31, 2002'' and adding in its place ''March 18, 2002.''

[FR Doc. 02–7997 Filed 4–1–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 02–612; MM Docket No. 01–349; RM–10350]

Radio Broadcasting Services; Boscobel, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 244C3 to Boscobel, Wisconsin, in response to a petition filed by Starboard Broadcasting, Inc. *See* 67 FR 2704, January 14, 2002. The coordinates for Channel 244C3 at Boscobel, Wisconsin, are 43–08–04 NL and 90–42–19 WL. A filing window for Channel 244C3 at Boscobel, Wisconsin, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

DATES: Effective April 29, 2002.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–349, adopted March 6, 2002, and released March 15, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by adding Boscobel, Channel 244C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 02–7973 Filed 4–1–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 001128334–1313–06; 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: Final rule; correction

SUMMARY: NMFS issues a correction to a final rule implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP) that was published in the **Federal Register** on January 10, 2002. The purpose of this correction is to correct unintended errors from the final rule regarding the dates during which fishermen must comply with requirements for Mid-Atlantic anchored gillnet gear modifications.

DATES: Effective March 28, 2002.

ADDRESSES: Copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Final Regulatory Flexibility Analysis (FRFA), are available from the Protected Resources Division, NMFS, 1 Blackburn Drive, Gloucester, MA 01930-2298. Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, progress reports on implementation of the ALWTRP, and a table of the changes to the ALWTRP may be obtained by writing to Diane Borggaard at the address above or Katherine W ang, NMFS/Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702–2432. Copies of the EA, the RIR, and the FRFA can be obtained from the ALWTRP website listed under the Electronic Access portion of this document.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS, Northeast Region, 978–281–9145; Katherine Wang, NMFS, Southeast Region, 727–570–5312; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Documents concerning the Atlantic Large Whale Take Reduction Plan planning process and the rule that is clarified by this technical amendment

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.wh.whoi.edu/psb/sar2000.pdf.*

The final rule implementing measures to protect right whales from entanglement in certain commercial fishing gears(67 FR 1300, January 10, 2002), incorrectly required year-round gear modifications for Mid-Atlantic anchored gillnet gear. This document clarifies and corrects § 229.32 (d)(7)(ii) by reinserting the time frame of December 1 through March 31 for Mid-Atlantic anchored gillnet gear modification requirements. The December 1 through March 31 time period was the original time period appearing in the regulations prior to issuance of the final rule, and it was the intent of the NMFS and the Atlantic Large Whale Take Reduction Team to maintain this time period.

NMFS did not intend for certain gear modification requirements to extend past March 31. If NMFS were to provide prior notice and an opportunity for comment on this correction, the gear requirements would continue past a date when they are no longer necessary while such proceeding occurred. As such, the Assistant Administrator finds for good cause under 5 U.S.C. (B)(3) that providing prior notice and an opportunity for public comment for this rule would be impracticable and contrary to the public interest. The 30–day delay in effective date is waived under 5 U.S.C. (D)(1), because this final rule is relieving a restriction.

In rule FR Doc.02–273 published January 10, 2002 (67 FR 1300), make the following correction.

§ 229.32 [Corrected]

On page 1314, in the second column, in paragraph (d)(7)(ii) of § 229.32, add the phrase, ''From December 1 through March 31,'' to the beginning of the sentence.

Dated: March 25, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–7710 Filed 3–28–02; 2:37 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 63
Tuesday, April 2, 2002

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[Doc. #CN–02–002]

Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports, (2002 Amendments)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to amend the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. An adjustment is required on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton.

DATES: Comments must be received on or before May 2, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to Whitney Rick, Chief, Research and Promotion Staff, Cotton Program, Agricultural Marketing Service, USDA, STOP 0224, Washington, DC 20250–0224. Comments should be submitted in triplicate. Comments may also be submitted electronically to: *cottoncomments@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at Cotton Program, AMS, USDA, Room 2641–S, 1400 Independence Ave., SW., Washington, DC 20250 during regular business hours. A copy of this notice may be found at: *www.ams.usda.gov/cotton/rulemaking.htm.*

FOR FURTHER INFORMATION CONTACT: Whitney Rick, Chief, Research and Promotion Staff, Cotton Program, AMS, USDA, Stop 0224, 1400 Independence Ave., SW., Washington, DC 20250–0224, telephone (202) 720–2259, facsimile (202) 690–1718, or e-mail at *whitney.rick@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This proposed rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Cotton Research and Promotion Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This proposed rule would affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This proposed rule would lower the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be lowered, the decrease is small and will not significantly affect small businesses. The current assessment on imported cotton is $0.009965 per kilogram of imported cotton. The proposed assessment is $0.00862, a decrease of $0.001345 or a 13.5 percent decrease. From January through December 2001 approximately $22 million was collected. Should the volume of cotton products imported into the U.S. remain at the same level in 2002, one could expect the decreased assessment to generate approximately $19 million or a 13.5 percent decrease from 2001.

Paperwork Reduction

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093.

Background

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program.

These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991, and the amended Order was published in the **Federal Register** on December 10, 1991, (56 FR 64470). A proposed rule implementing the amended Order was published in the **Federal Register** on

December 17, 1991, (56 FR 65450). Implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This proposed rule would decrease the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510(b)(2)). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms of cotton.

Supplemental assessments are levied at a rate of five-tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency has adopted the practice of assigning the calendar year weighted average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. This is done so that the assessment on domestically produced cotton and the assessment on imported cotton and the cotton content of imported products remain similar. The source for the average price statistic is ''Agricultural Prices'', a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the weighted average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment that approximates assessments paid on domestically produced cotton in the prior calendar year.

The current value of imported cotton as published in the **Federal Register** (66 FR 58051) on November 20, 2001, for the purpose of calculating supplemental assessments on imported cotton is $1.1111 per kilogram. This number was calculated using the annual weighted average price received by farmers for Upland cotton during the calendar year 2000 which was $0.504 per pound and multiplying by the conversion factor 2.2046. Using the Average Weighted Price Received by U.S. farmers for Upland cotton for the calendar year 2001, which is $0.382 per pound, the new value of imported cotton is $0.8422 per kilogram. The proposed value is $.2689 per kilogram less than the previous value.

An example of the complete assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.
One kilogram equals 2.2046 pounds.
One pound equals 0.453597 kilograms.

One Dollar Per Bale Assessment Converted to Kilograms

A 500 pound bale equals 226.8 kg. (500 × .453597).

$1 per bale assessment equals $0.002000 per pound (1/500) or $0.004409 per kg. (1/226.8).

Supplemental Assessment of 5/10 of One Percent of the Value of the Cotton Converted to Kilograms

The 2001 calendar year weighted average price received by producers for Upland cotton is $0.382 per pound or $0.8422 per kg. (0.382 × 2.2046).

Five tenths of one percent of the average price in kg. equals $0.004211 per kg. (0.8422 x .005).

Total Assessment

The total assessment per kilogram of raw cotton is obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment $0.004211 per kg. which equals $0.00862 per kg.

The current assessment on imported cotton is $0.009965 per kilogram of imported cotton. The proposed assessment is $0.00862, a decrease of $0.001345 per kilogram. This decrease reflects the decrease in the Average Weighted Price of Upland Cotton Received by U.S. Farmers during the period January through December 2001.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the right hand column of the Import Assessment Table 1205.510(b)(3) are a result of such a calculation, the figures in this table have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

A thirty day comment period is provided to comment on the changes to the Cotton Board Rules and Regulations proposed herein. This period is deemed appropriate because this proposal would lower the assessments paid by importers under the Cotton Research and Promotion Order. Accordingly, the change proposed in this rule, if adopted, should be implemented as soon as possible.

Several changes in the harmonized tariff schedule numbering have occurred. Modifications to the harmonized tariff schedule were published in the December 26, 2001, **Federal Register** at 66 FR 66549 (Proclamation 7515 of December 18, 2001, by the President of the United States of America). These changes are as follows:

Numbers changed:

Old No.	New No(s).	Conversion factor	Assessment cents/kg
5607902000	5607909000	0.8889	0.7662
6002203000	6003203000	0.8681	0.7483
6002206000	6003306000	0.2894	0.2495
	6003406000		
600242000	6005210000	0.8681	0.7483
	6005220000		
	6005220000		
	6005230000		
	6005240000		
6002430010	6005310010	0.2894	0.2495
	6005320010		
	6005330010		
	6005340010		
	6005410010		
	6005420010		
	6005430010		
	6005440010		
6002430080	6005310080	0.2894	0.2495
	6005320080		
	6005330080		

Old No.	New No(s).	Conversion factor	Assessment cents/kg
	6005340080		
	6005410080		
	6005420080		
	6005430080		
	6005440080		
6002921000	6006211000	1.1574	0.9977
	6006221000		
	6006231000		
	6006241000		
6002930040	6006310040	0.1157	0.0997
	6006320040		
	6006330040		
	6006340040		
6002930080	6006310080	0.1157	0.0897
	6006320080		
	6006330080		
	6006340080		
	6006410085		
	6006420085		
	6006430085		
	6006440085		

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble 7 CFR part 1205 is proposed to be amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In ''1205.510, paragraph (b)(2) and the table in paragraph (b)(3)(ii) are revised to read as follows:

1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly weighted average prices received by U.S. farmers will be calculated annually. Such weighted average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $0.862 per kilogram.

(3) * * *

(ii) * * *

IMPORT ASSESSMENT TABLE

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
5201000500	0	0.8620
5201001200	0	0.8620
5201001400	0	0.8620

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
5201001800	0	0.8620
5201002200	0	0.8620
5201002400	0	0.8620
5201002800	0	0.8620
5201003400	0	0.8620
5201003800	0	0.8620
5204110000	1.1111	0.9578
5204200000	1.1111	0.9578
5205111000	1.1111	0.9578
5205112000	1.1111	0.9578
5205121000	1.1111	0.9578
5205122000	1.1111	0.9578
5205131000	1.1111	0.9578
5205132000	1.1111	0.9578
5205141000	1.1111	0.9578
5205210020	1.1111	0.9578
5205210090	1.1111	0.9578
5205220020	1.1111	0.9578
5205220090	1.1111	0.9578
5205230020	1.1111	0.9578
5205230090	1.1111	0.9578
5205240020	1.1111	0.9578
5205240090	1.1111	0.9578
5205310000	1.1111	0.9578
5205320000	1.1111	0.9578
5205330000	1.1111	0.9578
5205340000	1.1111	0.9578
5205410020	1.1111	0.9578
5205410090	1.1111	0.9578
5205420020	1.1111	0.9578
5205420090	1.1111	0.9578
5205440020	1.1111	0.9578
5205440090	1.1111	0.9578
5206120000	0.5556	0.4789
5206130000	0.5556	0.4789
5206140000	0.5556	0.4789
5206220000	0.5556	0.4789
5206230000	0.5556	0.4789
5206240000	0.5556	0.4789
5206310000	0.5556	0.4789
5207100000	1.1111	0.9578
5207900000	0.5556	0.4789

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
5208112020	1.1455	0.9874
5208112040	1.1455	0.9874
5208112090	1.1455	0.9874
5208114020	1.1455	0.9874
5208114060	1.1455	0.9874
5208114090	1.1455	0.9874
5208118090	1.1455	0.9874
5208124020	1.1455	0.9874
5208124040	1.1455	0.9874
5208124090	1.1455	0.9874
5208126020	1.1455	0.9874
5208126040	1.1455	0.9874
5208126060	1.1455	0.9874
5208126090	1.1455	0.9874
5208128020	1.1455	0.9874
5208128090	1.1455	0.9874
5208130000	1.1455	0.9874
5208192020	1.1455	0.9874
5208192090	1.1455	0.9874
5208194020	1.1455	0.9874
5208194090	1.1455	0.9874
5208196020	1.1455	0.9874
5208196090	1.1455	0.9874
5208224040	1.1455	0.9874
5208224090	1.1455	0.9874
5208226020	1.1455	0.9874
5208226060	1.1455	0.9874
5208228020	1.1455	0.9874
5208230000	1.1455	0.9874
5208292020	1.1455	0.9874
5208292090	1.1455	0.9874
5208294090	1.1455	0.9874
5208296090	1.1455	0.9874
5208298020	1.1455	0.9874
5208312000	1.1455	0.9874
5208321000	1.1455	0.9874
5208323020	1.1455	0.9874
5208323040	1.1455	0.9874
5208323090	1.1455	0.9874
5208324020	1.1455	0.9874
5208324040	1.1455	0.9874
5208325020	1.1455	0.9874

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5208330000	1.1455	0.9874
5208392020	1.1455	0.9874
5208392090	1.1455	0.9874
5208394090	1.1455	0.9874
5208396090	1.1455	0.9874
5208398020	1.1455	0.9874
5208412000	1.1455	0.9874
5208416000	1.1455	0.9874
5208418000	1.1455	0.9874
5208421000	1.1455	0.9874
5208423000	1.1455	0.9874
5208424000	1.1455	0.9874
5208425000	1.1455	0.9874
5208430000	1.1455	0.9874
5208492000	1.1455	0.9874
5208494020	1.1455	0.9874
5208494090	1.1455	0.9874
5208496010	1.1455	0.9874
5208496090	1.1455	0.9874
5208498090	1.1455	0.9874
5208512000	1.1455	0.9874
5208516060	1.1455	0.9874
5208518090	1.1455	0.9874
5208523020	1.1455	0.9874
5208523045	1.1455	0.9874
5208523090	1.1455	0.9874
5208524020	1.1455	0.9874
5208524045	1.1455	0.9874
5208524065	1.1455	0.9874
5208525020	1.1455	0.9874
5208530000	1.1455	0.9874
5208592025	1.1455	0.9874
5208592095	1.1455	0.9874
5208594090	1.1455	0.9874
5208596090	1.1455	0.9874
5209110020	1.1455	0.9874
5209110035	1.1455	0.9874
5209110090	1.1455	0.9874
5209120020	1.1455	0.9874
5209120040	1.1455	0.9874
5209190020	1.1455	0.9874
5209190040	1.1455	0.9874
5209190060	1.1455	0.9874
5209190090	1.1455	0.9874
5209210090	1.1455	0.9874
5209220020	1.1455	0.9874
5209220040	1.1455	0.9874
5209290040	1.1455	0.9874
5209290090	1.1455	0.9874
5209313000	1.1455	0.9874
5209316020	1.1455	0.9874
5209316035	1.1455	0.9874
5209316050	1.1455	0.9874
5209316090	1.1455	0.9874
5209320020	1.1455	0.9874
5209320040	1.1455	0.9874
5209390020	1.1455	0.9874
5209390040	1.1455	0.9874
5209390060	1.1455	0.9874
5209390080	1.1455	0.9874
5209390090	1.1455	0.9874
5209413000	1.1455	0.9874
5209416020	1.1455	0.9874
5209416040	1.1455	0.9874
5209420020	1.0309	0.8886
5209420040	1.0309	0.8886
5209430030	1.1455	0.9874
5209430050	1.1455	0.9874
5209490020	1.1455	0.9874

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5209490090	1.1455	0.9874
5209516035	1.1455	0.9874
5209516050	1.1455	0.9874
5209520020	1.1455	0.9874
5209590025	1.1455	0.9874
5209590040	1.1455	0.9874
5209590090	1.1455	0.9874
5210114020	0.6873	0.5925
5210114040	0.6873	0.5925
5210116020	0.6873	0.5925
5210116040	0.6873	0.5925
5210116060	0.6873	0.5925
5210118020	0.6873	0.5925
5210120000	0.6873	0.5925
5210192090	0.6873	0.5925
5210214040	0.6873	0.5925
5210216020	0.6873	0.5925
5210216060	0.6873	0.5925
5210218020	0.6873	0.5925
5210314020	0.6873	0.5925
5210314040	0.6873	0.5925
5210316020	0.6873	0.5925
5210318020	0.6873	0.5925
5210414000	0.6873	0.5925
5210416000	0.6873	0.5925
5210418000	0.6873	0.5925
5210498090	0.6873	0.5925
5210514040	0.6873	0.5925
5210516020	0.6873	0.5925
5210516040	0.6873	0.5925
5210516060	0.6873	0.5925
5211110090	0.6873	0.5925
5211120020	0.6873	0.5925
5211190020	0.6873	0.5925
5211190060	0.6873	0.5925
5211210025	0.6873	0.5925
5211210035	0.4165	0.3590
5211210050	0.6873	0.5925
5211290090	0.6873	0.5925
5211320020	0.6873	0.5925
5211390040	0.6873	0.5925
5211390060	0.6873	0.5925
5211490020	0.6873	0.5925
5211490090	0.6873	0.5925
5211590025	0.6873	0.5925
5212146090	0.9164	0.7899
5212156020	0.9164	0.7899
5212216090	0.9164	0.7899
5509530030	0.5556	0.4789
5509530060	0.5556	0.4789
5513110020	0.4009	0.3456
5513110040	0.4009	0.3456
5513110060	0.4009	0.3456
5513110090	0.4009	0.3456
5513120000	0.4009	0.3456
5513130020	0.4009	0.3456
5513210020	0.4009	0.3456
5513310000	0.4009	0.3456
5514120020	0.4009	0.3456
5516420060	0.4009	0.3456
5516910060	0.4009	0.3456
5516930090	0.4009	0.3456
5601210010	1.1455	0.9874
5601210090	1.1455	0.9874
5601300000	1.1455	0.9874
5602109090	0.5727	0.4937
5602290000	1.1455	0.9874
5602906000	0.526	0.4534
5604900000	0.5556	0.4789

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5607909000	0.8889	0.7662
5608901000	1.1111	0.9578
5608902300	1.1111	0.9578
5609001000	1.1111	0.9578
5609004000	0.5556	0.4789
5701104000	0.0556	0.0479
5701109000	0.1111	0.0958
5701901010	1.0444	0.9003
5702109020	1.1	0.9482
5702312000	0.0778	0.0671
5702411000	0.0722	0.0622
5702412000	0.0778	0.0671
5702421000	0.0778	0.0671
5702913000	0.0889	0.0766
5702991010	1.1111	0.9578
5702991090	1.1111	0.9578
5703900000	0.4489	0.3870
5801210000	1.1455	0.9874
5801230000	1.1455	0.9874
5801250010	1.1455	0.9874
5801250020	1.1455	0.9874
5801260020	1.1455	0.9874
5802190000	1.1455	0.9874
5802300030	0.5727	0.4937
5804291000	1.1455	0.9874
5806200010	0.3534	0.3046
5806200090	0.3534	0.3046
5806310000	1.1455	0.9874
5806400000	0.4296	0.3703
5808107000	0.5727	0.4937
5808900010	0.5727	0.4937
5811002000	1.1455	0.9874
6001106000	1.1455	0.9874
6001210000	0.8591	0.7405
6001220000	0.2864	0.2469
6001910010	0.8591	0.7405
6001910020	0.8591	0.7405
6001920020	0.2864	0.2469
6001920030	0.2864	0.2469
6001920040	0.2864	0.2469
6003203000	0.8681	0.7483
6003306000	0.2894	0.2495
6003406000	0.2894	0.2495
6005210000	0.8681	0.7483
6005220000	0.8681	0.7483
6005230000	0.8681	0.7483
6005240000	0.8681	0.7483
6005310010	0.2894	0.2495
6005320010	0.2894	0.2495
6005330010	0.2894	0.2495
6005340010	0.2894	0.2495
6005410010	0.2894	0.2495
6005420010	0.2894	0.2495
6005430010	0.2894	0.2495
6005440010	0.2894	0.2495
6005310080	0.2894	0.2495
6005320080	0.2894	0.2495
6005330080	0.2894	0.2495
6005340080	0.2894	0.2495
6005410080	0.2894	0.2495
6005420080	0.2894	0.2495
6005430080	0.2894	0.2495
6005440080	0.2894	0.2495
6006211000	1.1574	0.9977
6006221000	1.1574	0.9977
6006231000	1.1574	0.9977
6006241000	1.1574	0.9977
6006310040	0.1157	0.0997
6006320040	0.1157	0.0997

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6006330040	0.1157	0.0997
6006340040	0.1157	0.0997
6006310080	0.1157	0.0997
6006320080	0.1157	0.0997
6006330080	0.1157	0.0997
6006340080	0.1157	0.0997
6006410085	0.1157	0.0997
6006420085	0.1157	0.0997
6006430085	0.1157	0.0997
6006440085	0.1157	0.0997
6101200010	1.0094	0.8701
6101200020	1.0094	0.8701
6102200010	1.0094	0.8701
6102200020	1.0094	0.8701
6103421020	0.8806	0.7591
6103421040	0.8806	0.7591
6103421050	0.8806	0.7591
6103421070	0.8806	0.7591
6103431520	0.2516	0.2169
6103431540	0.2516	0.2169
6103431550	0.2516	0.2169
6103431570	0.2516	0.2169
6104220040	0.9002	0.7760
6104220060	0.9002	0.7760
6104320000	0.9207	0.7936
6104420010	0.9002	0.7760
6104420020	0.9002	0.7760
6104520010	0.9312	0.8027
6104520020	0.9312	0.8027
6104622006	0.8806	0.7591
6104622011	0.8806	0.7591
6104622016	0.8806	0.7591
6104622021	0.8806	0.7591
6104622026	0.8806	0.7591
6104622028	0.8806	0.7591
6104622030	0.8806	0.7591
6104622060	0.8806	0.7591
6104632006	0.3774	0.3253
6104632011	0.3774	0.3253
6104632026	0.3774	0.3253
6104632028	0.3774	0.3253
6104632030	0.3774	0.3253
6104632060	0.3774	0.3253
6104692030	0.3858	0.3326
6105100010	0.985	0.8491
6105100020	0.985	0.8491
6105100030	0.985	0.8491
6105202010	0.3078	0.2653
6105202030	0.3078	0.2653
6106100010	0.985	0.8491
6106100020	0.985	0.8491
6106100030	0.985	0.8491
6106202010	0.3078	0.2653
6106202030	0.3078	0.2653
6107110010	1.1322	0.9760
6107110020	1.1322	0.9760
6107120010	0.5032	0.4338
6107210010	0.8806	0.7591
6107220015	0.3774	0.3253
6107220025	0.3774	0.3253
6107910040	1.2581	1.0845
6108210010	1.2445	1.0728
6108210020	1.2445	1.0728
6108310010	1.1201	0.9655
6108310020	1.1201	0.9655
6108320010	0.2489	0.2146
6108320015	0.2489	0.2146
6108320025	0.2489	0.2146
6108910005	1.2445	1.0728

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6108910015	1.2445	1.0728
6108910025	1.2445	1.0728
6108910030	1.2445	1.0728
6108920030	0.2489	0.2146
6109100005	0.9956	0.8582
6109100007	0.9956	0.8582
6109100009	0.9956	0.8582
6109100012	0.9956	0.8582
6109100014	0.9956	0.8582
6109100018	0.9956	0.8582
6109100023	0.9956	0.8582
6109100027	0.9956	0.8582
6109100037	0.9956	0.8582
6109100040	0.9956	0.8582
6109100045	0.9956	0.8582
6109100060	0.9956	0.8582
6109100065	0.9956	0.8582
6109100070	0.9956	0.8582
6109901007	0.3111	0.2682
6109901009	0.3111	0.2682
6109901049	0.3111	0.2682
6109901050	0.3111	0.2682
6109901060	0.3111	0.2682
6109901065	0.3111	0.2682
6109901090	0.3111	0.2682
6110202005	1.1837	1.0203
6110202010	1.1837	1.0203
6110202015	1.1837	1.0203
6110202020	1.1837	1.0203
6110202025	1.1837	1.0203
6110202030	1.1837	1.0203
6110202035	1.1837	1.0203
6110202040	1.1574	0.9977
6110202045	1.1574	0.9977
6110202065	1.1574	0.9977
6110202075	1.1574	0.9977
6110909022	0.263	0.2267
6110909024	0.263	0.2267
6110909030	0.3946	0.3401
6110909040	0.263	0.2267
6110909042	0.263	0.2267
6111201000	1.2581	1.0845
6111202000	1.2581	1.0845
6111203000	1.0064	0.8675
6111205000	1.0064	0.8675
6111206010	1.0064	0.8675
6111206020	1.0064	0.8675
6111206030	1.0064	0.8675
6111206040	1.0064	0.8675
6111305020	0.2516	0.2169
6111305040	0.2516	0.2169
6112110050	0.7548	0.6506
6112120010	0.2516	0.2169
6112120030	0.2516	0.2169
6112120040	0.2516	0.2169
6112120050	0.2516	0.2169
6112120060	0.2516	0.2169
6112390010	1.1322	0.9760
6112490010	0.9435	0.8133
6114200005	0.9002	0.7760
6114200010	0.9002	0.7760
6114200015	0.9002	0.7760
6114200020	1.286	1.1085
6114200040	0.9002	0.7760
6114200046	0.9002	0.7760
6114200052	0.9002	0.7760
6114200060	0.9002	0.7760
6114301010	0.2572	0.2217
6114301020	0.2572	0.2217

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6114303030	0.2572	0.2217
6115198010	1.0417	0.8979
6115929000	1.0417	0.8979
6115936020	0.2315	0.1996
6116101300	0.3655	0.3151
6116101720	0.8528	0.7351
6116926420	1.0965	0.9452
6116926430	1.2183	1.0502
6116926440	1.0965	0.9452
6116928800	1.0965	0.9452
6117809510	0.9747	0.8402
6117809540	0.3655	0.3151
6201121000	0.948	0.8172
6201122010	0.8953	0.7717
6201122050	0.6847	0.5902
6201122060	0.6847	0.5902
6201134030	0.2633	0.2270
6201921000	0.9267	0.7988
6201921500	1.1583	0.9985
6201922010	1.0296	0.8875
6201922021	1.2871	1.1095
6201922031	1.2871	1.1095
6201922041	1.2871	1.1095
6201922051	1.0296	0.8875
6201922061	1.0296	0.8875
6201931000	0.3089	0.2663
6201933511	0.2574	0.2219
6201933521	0.2574	0.2219
6201999060	0.2574	0.2219
6202121000	0.9372	0.8079
6202122010	1.1064	0.9537
6202122025	1.3017	1.1221
6202122050	0.8461	0.7293
6202122060	0.8461	0.7293
6202134005	0.2664	0.2296
6202134020	0.333	0.2870
6202921000	1.0413	0.8976
6202921500	1.0413	0.8976
6202922026	1.3017	1.1221
6202922061	1.0413	0.8976
6202922071	1.0413	0.8976
6202931000	0.3124	0.2693
6202935011	0.2603	0.2244
6202935021	0.2603	0.2244
6203122010	0.1302	0.1122
6203221000	1.3017	1.1221
6203322010	1.2366	1.0659
6203322040	1.2366	1.0659
6203332010	0.1302	0.1122
6203392010	1.1715	1.0098
6203399060	0.2603	0.2244
6203422010	0.9961	0.8586
6203422025	0.9961	0.8586
6203422050	0.9961	0.8586
6203422090	0.9961	0.8586
6203424005	1.2451	1.0733
6203424010	1.2451	1.0733
6203424015	0.9961	0.8586
6203424020	1.2451	1.0733
6203424025	1.2451	1.0733
6203424030	1.2451	1.0733
6203424035	1.2451	1.0733
6203424040	0.9961	0.8586
6203424045	0.9961	0.8586
6203424050	0.9238	0.7963
6203424055	0.9238	0.7963
6203424060	0.9238	0.7963
6203431500	0.1245	0.1073
6203434010	0.1232	0.1062

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6203434020	0.1232	0.1062
6203434030	0.1232	0.1062
6203434040	0.1232	0.1062
6203498045	0.249	0.2146
6204132010	0.1302	0.1122
6204192000	0.1302	0.1122
6204198090	0.2603	0.2244
6204221000	1.3017	1.1221
6204223030	1.0413	0.8976
6204223040	1.0413	0.8976
6204223050	1.0413	0.8976
6204223060	1.0413	0.8976
6204223065	1.0413	0.8976
6204292040	0.3254	0.2805
6204322010	1.2366	1.0659
6204322030	1.0413	0.8976
6204322040	1.0413	0.8976
6204423010	1.2728	1.0972
6204423030	0.9546	0.8229
6204423040	0.9546	0.8229
6204423050	0.9546	0.8229
6204423060	0.9546	0.8229
6204522010	1.2654	1.0908
6204522030	1.2654	1.0908
6204522040	1.2654	1.0908
6204522070	1.0656	0.9185
6204522080	1.0656	0.9185
6204533010	0.2664	0.2296
6204594060	0.2664	0.2296
6204622010	0.9961	0.8586
6204622025	0.9961	0.8586
6204622050	0.9961	0.8586
6204624005	1.2451	1.0733
6204624010	1.2451	1.0733
6204624020	0.9961	0.8586
6204624025	1.2451	1.0733
6204624030	1.2451	1.0733
6204624035	1.2451	1.0733
6204624040	1.2451	1.0733
6204624045	0.9961	0.8586
6204624050	0.9961	0.8586
6204624055	0.9854	0.8494
6204624060	0.9854	0.8494
6204624065	0.9854	0.8494
6204633510	0.2546	0.2195
6204633530	0.2546	0.2195
6204633532	0.2437	0.2101
6204633540	0.2437	0.2101
6204692510	0.249	0.2146
6204692540	0.2437	0.2101
6204699044	0.249	0.2146
6204699046	0.249	0.2146
6204699050	0.249	0.2146
6205202015	0.9961	0.8586
6205202020	0.9961	0.8586
6205202025	0.9961	0.8586
6205202030	0.9961	0.8586
6205202035	1.1206	0.9660
6205202046	0.9961	0.8586
6205202050	0.9961	0.8586
6205202060	0.9961	0.8586
6205202065	0.9961	0.8586
6205202070	0.9961	0.8586
6205202075	0.9961	0.8586
6205302010	0.3113	0.2683
6205302030	0.3113	0.2683
6205302040	0.3113	0.2683
6205302050	0.3113	0.2683
6505302070	0.3113	0.2683

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6205302080	0.3113	0.2683
6206100040	0.1245	0.1073
6206303010	0.9961	0.8586
6206303020	0.9961	0.8586
6206303030	0.9961	0.8586
6206303040	0.9961	0.8586
6206303050	0.9961	0.8586
6206303060	0.9961	0.8586
6206403010	0.3113	0.2683
6206403030	0.3113	0.2683
6206900040	0.249	0.2146
6207110000	1.0852	0.9354
6207199010	0.3617	0.3118
6207210030	1.1085	0.9555
6207220000	0.3695	0.3185
6207911000	1.1455	0.9874
6207913010	1.1455	0.9874
6207913020	1.1455	0.9874
6208210010	1.0583	0.9123
6208210020	1.0583	0.9123
6208220000	0.1245	0.1073
6208911010	1.1455	0.9874
6208911020	1.1455	0.9874
6208913010	1.1455	0.9874
6209201000	1.1577	0.9979
6209203000	0.9749	0.8404
6209205030	0.9749	0.8404
6209205035	0.9749	0.8404
6209205040	1.2186	1.0504
6209205045	0.9749	0.8404
6209205050	0.9749	0.8404
6209303020	0.2463	0.2123
6209303040	0.2463	0.2123
6210109010	0.2291	0.1975
6210403000	0.0391	0.0337
6210405020	0.4556	0.3927
6211111010	0.1273	0.1097
6211111020	0.1273	0.1097
6211118010	1.1455	0.9874
6211118020	1.1455	0.9874
6211320007	0.8461	0.7293
6211320010	1.0413	0.8976
6211320015	1.0413	0.8976
6211320030	0.9763	0.8416
6211320060	0.9763	0.8416
6211320070	0.9763	0.8416
6211330010	0.3254	0.2805
6211330030	0.3905	0.3366
6211330035	0.3905	0.3366
6211330040	0.3905	0.3366
6211420010	1.0413	0.8976
6211420020	1.0413	0.8976
6211420025	1.1715	1.0098
6211420060	1.0413	0.8976
6211420070	1.1715	1.0098
6211430010	0.2603	0.2244
6211430030	0.2603	0.2244
6211430040	0.2603	0.2244
6211430050	0.2603	0.2244
6211430060	0.2603	0.2244
6211430066	0.2603	0.2244
6212105020	0.2412	0.2079
6212109010	0.9646	0.8315
6212109020	0.2412	0.2079
6212200020	0.3014	0.2598
6212900030	0.1929	0.1663
6213201000	1.1809	1.0179
6213202000	1.0628	0.9161
6213901000	0.4724	0.4072

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6214900010	0.9043	0.7795
6216000800	0.2351	0.2027
6216001720	0.6752	0.5820
6216003800	1.2058	1.0394
6216004100	1.2058	1.0394
6217109510	1.0182	0.8777
6217109530	0.2546	0.2195
6301300010	0.8766	0.7556
6301300020	0.8766	0.7556
6302100005	1.1689	1.0076
6302100008	1.1689	1.0076
6302100015	1.1689	1.0076
6302215010	0.8182	0.7053
6302215020	0.8182	0.7053
6302217010	1.1689	1.0076
6302217020	1.1689	1.0076
6302217050	1.1689	1.0076
6302219010	0.8182	0.7053
6302219020	0.8182	0.7053
6302219050	0.8182	0.7053
6302222010	0.4091	0.3526
6302222020	0.4091	0.3526
6302313010	0.8182	0.7053
6302313050	1.1689	1.0076
6302315050	0.8182	0.7053
6302317010	1.1689	1.0076
6302317020	1.1689	1.0076
6302317040	1.1689	1.0076
6302317050	1.1689	1.0076
6302319010	0.8182	0.7053
6302319040	0.8182	0.7053
6302319050	0.8182	0.7053
6302322020	0.4091	0.3526
6302322040	0.4091	0.3526
6302402010	0.9935	0.8564
6302511000	0.5844	0.5038
6302512000	0.8766	0.7556
6302513000	0.5844	0.5038
6302514000	0.8182	0.7053
6302600010	1.1689	1.0076
6302600020	1.052	0.9068
6302600030	1.052	0.9068
6302910005	1.052	0.9068
6302910015	1.1689	1.0076
6302910025	1.052	0.9068
6302910035	1.052	0.9068
6302910045	1.052	0.9068
6302910050	1.052	0.9068
6302910060	1.052	0.9068
6303110000	0.9448	0.8144
6303910010	0.6429	0.5542
6303910020	0.6429	0.5542
6304111000	1.0629	0.9162
6304190500	1.052	0.9068
6304191000	1.1689	1.0076
6304191500	0.4091	0.3526
6304192000	0.4091	0.3526
6304910020	0.9351	0.8061
6304920000	0.9351	0.8061
6505901540	0.181	0.1560
6505902060	0.9935	0.8564
6505902545	0.5844	0.5038

* * * * *

Dated: March 27, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7919 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Ch. III

[Docket No. 02–005N]

Regulatory Flexibility Act; Plan for Regulations Reviewed Under Section 610 Requirements

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Schedule of regulations to be reviewed under section 610 requirements of the Regulatory Flexibility Act.

SUMMARY: The Food Safety and Inspection Service (FSIS) is publishing a scheduling plan for regulations that will be reviewed based on the Regulatory Flexibility Act's (RFA) Section 610 provisions. These provisions provide that all Federal agencies are to review existing regulations that have a significant economic impact on a substantial number of small entities to determine whether these rules should be withdrawn, modified, or left intact as a means to minimize the impact imposed. As such, FSIS has identified regulations that meet this threshold requirement for mandatory review. Accordingly, these rules will be reviewed within the timeframes indicated below.

FOR FURTHER INFORMATION CONTACT: Daniel Engeljohn, Ph.D., Director, Regulations and Directives Development Staff, FSIS, USDA, 300 12th Street, SW., Room 112, Washington, DC 20250–3700, (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

Section 610 of the Regulatory Flexibility Act instructs all federal agencies to review any regulations that have been identified as having a significant economic impact on a substantial number of small entities as a means to determine whether the associated impact can be minimized by considering the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and to the extent feasible, with State and local governmental rules; and (5) the length of time since the rule has been initially evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. In accordance with the aforementioned provisions, the mandatory reviews must be conducted and completed within ten years succeeding the rule's publication date.

Accordingly, FSIS has prepared a plan for reviewing its rules. In addition, a brief description of the regulation, which includes the purpose for its promulgation and the legal basis, scheduled to be reviewed during the corresponding year identified below will be included in FSIS' regulatory agenda that is printed in the **Federal Register** as part of the Unified Regulatory Agenda.

FOOD SAFETY AND INSPECTION SERVICE'S REGULATIONS IDENTIFIED FOR THE REGULATORY FLEXIBILITY ACT'S SECTION 610 REVIEW

CFR part(s) affected and legal authority	Docket No.	Regulation title	Publication citation and date	Review date
9 CFR Pts. 317, 318, 319; 21 U.S.C. 607, 621; 7 CFR 2.18, 2.53 .	81–016F	Standards and Labeling Requirements for Mechanically Separated (Species) and Products in Which It is Used .	47 FR 28214; June 29, 1982 .	2002
9 CFR Pts. 317, 320, 381; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 450; 7 CFR 2.18, 2.53 .	91–006F	Nutrition Labeling of Meat and Poultry Products .	58 FR 632; January 6, 1993 .	2003
9 CFR Pts. 317, 381; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 450; 7 CFR 2.18, 2.53 .	91–006F–HLTH	Nutrition Labeling; Use of ''Healthy'' and Similar Terms on Meat and Poultry Product Labeling .	59 FR 24220; May 10, 1994 .	2004
9 CFR Pts. 304, 308, 310, 320, 327, 381, 416, 417; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 138f, 450, 1901–1906; 7 CFR 2.18, 2.53 .	93–016F	Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems .	61 FR 38806; July 25, 1996 .	2006
9 CFR Pts. 381, 424; 21 U.S.C. 451–470; 7 U.S.C. 138f, 450; 7 CFR 2.18, 2.53 .	97–076F	Irradiation of Meat Food Products	64 FR 72150; December 29, 1999 .	2009
9 CFR Pts. 381, 441; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 138f, 450, 1901–1906; 7 CFR 2.18, 2.53 .	97–054F	Retained Water in Raw Meat and Poultry Products; Poultry Chilling Requirements .	66 FR 1750; January 9, 2001 .	2011

Done at Washington, DC, on: March 28, 2002.

Margaret O'K. Glavin,

Acting Administrator.

[FR Doc. 02–7917 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–01]

Proposed Establishment of Class D Airspace, Proposed Modification of Class E Airspace, Marquette, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Document proposes to create Class D airspace, and modify Class E airspace at Marquette, MI. The opening of a Federal Contract Tower is being planned for the Sawyer International Airport. Class D airspace is required during the hours the control tower is operating. Sawyer International Airport is served by Federal Aviation Regulations Part 121 (14 CFR 121) air carriers operations. During periods when the control tower is closed, controlled airspace extending upward from the surface is needed to contain aircraft executing instrument flight procedures and provide a safer operating environment. The airport meets the minimum communications and weather observation and reporting requirements for controlled airspace extending upward from the surface. This action proposes to create Class D airspace, and modify Class E airspace with a 4.6-mile radius for this airport.

EFFECTIVE DATE: Comments must be received on or before May 6, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 02–AGL–01, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–AGL–01.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to create Class D airspace, and modify Class E airspace at Marquette, MI, to support the operation of a Federal Contract Tower, and to provide a safer operating environment after the tower is closed. Controlled airspace extending from the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class D airspace areas are published in paragraph 5000 and Class E airspace areas extending upward from the surface in paragraph 6002, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace

Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL MI D Marquette, MI [New]

Marquette, Sawyer International Airport, MI (Lat. 46°21′13″ N, long 87°23′45″ W.)

That airspace extending upward from the surface to the including 3,700 feet MSL, within a 4.6-mile radius of the Sawyer International Airport. This Class D airspace area is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class D airspace areas extending upward from the surface of the earth.

* * * * *

AGL MI E2 Marquette, MI [Revised]

Marquette, Sawyer International Airport, MI (Lat. 46°21′13″ N 87°23′45″ W.)

That airsapce extending upward from the surface within a 4.6-mile radius of the Sawyer International Airport. This Class E airspace area is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 4, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7853 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–03]

Proposed Modification of Class E Airspace; Jackson, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class E airspace at Jackson, OH. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 01, and an RNAV SIAP to Rwy 19, have been developed for James A. Rhodes Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action would increase the radius of the existing controlled airspace for James A. Rhodes Airport.

DATES: Comment must be received on or before May 20, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 02–AGL–03, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–AGL–03.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CRR part 71 to modify Class E airspace at Jackson, OH, for James A. Rhodes Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

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

List of Subjects 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL OH E5 Jackson, OH [Revised]

James A. Rhodes Airport, OH
(Lat. 38°58′53″ N., long. 82°34′41″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the James A. Rhodes Airport.

* * * * *

Issued in Des Plaines, Illinois, on March 15, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7857 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–02]

Proposed Modification of Class E Airspace; Tecumseh, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Document proposes to modify Class E airspace at Tecumseh, MI. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 13, and an RNAV SIAP to RWY 31 have been developed for Tecumseh Products Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing this approach. This action would increase the area of the existing controlled airspace at Al Meyers Airport, by adding a radius of controlled airspace around Tecumseh Products Airport.

DATES: Comments must be received on or before May 6, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 02–AGL–02, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–AGL–02.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Tecumseh, MI, by adding a radius of controlled airspace around the Tecumseh Products Airport, thus increasing the existing Class E airspace area for Al Meyers Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MI E5 Tecumseh, MI [Revised]

Tecumseh, Al Meyers Airport, MI
(Lat. 42° 01′ 30″N., long. 83° 56′ 21″W.)
Tecumseh, Tecumseh Products Airport, MI
(Lat. 42° 02′ 00″N., long. 83° 52′ 42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2-mile radius of the Al Meyers Airport, and within a 6.4-mile radius of Tecumseh Products Airport, excluding that airspace within the Adrian, Lenawee County Airport, MI, and the Detroit, MI, Class E Airspace areas.

* * * * *

Issued in Des Plaines, Illinois on March 4, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7854 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD08–01–043]

RIN 2115–AG31

Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone around a petroleum and gas production facility in Green Canyon 205A of the Outer Continental Shelf in the Gulf of Mexico. The facility needs to be protected from vessels operating outside the normal shipping channels and fairways, and placing a safety zone around this facility would significantly reduce the threat of allisions, oil spills and releases of natural gas. The proposed regulation would prevent all vessels from entering or remaining in the specified area around the facility except for the following: an attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth Coast Guard District Commander.

DATES: Comments and related material must reach the Coast Guard on or before June 3, 2002.

ADDRESSES: You may mail comments and related material to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, or comments and related material may be delivered to Room 1341 at the same address between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–6271. Commander, Eighth Coast Guard District (m) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander, Eighth Coast Guard District (m) between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, telephone (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Requests 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 [CGD08–01–043], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (m) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish a safety zone around a petroleum producing facility in the Gulf of Mexico: Chevron Genesis Spar (Genesis), Green Canyon 205A (GC205A), located at position 27°46′46.365″ N, 90°31′6.553″ W.

This proposed safety zone is in the deepwater area of the Gulf of Mexico. For the purposes of this regulation it is considered to be in waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the proposed safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. The fairways include the Gulf of Mexico East-West Fairway, the entrance/exit route of the Mississippi River, and the Houston-Galveston Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area.

Chevron U.S.A. Production Company, hereafter referred to as Chevron, has

requested that the Coast Guard establish a safety zone in the Gulf of Mexico around the moored spar buoy, the Chevron Genesis Spar, hereafter referred to as Genesis.

The request for the safety zone was made due to the high level of shipping activity around the facility and the safety concerns for both the personnel on board the facility and the environment. Chevron indicated that the location, production level, and personnel levels on board the facility make it highly likely that any allision with the facility would result in a catastrophic event. The Genesis is located in open waters where no fixed structures previously existed. It is a high production oil and gas drilling facility producing approximately 55,000 barrels of oil per day, 95 million cubic feet of gas per day and is manned with a crew of approximately 160 people.

The Coast Guard has reviewed Chevron's concerns and agrees that the risk of allision to the facility and the potential for loss of life and damage to the environment resulting from such an accident warrants the establishment of this safety zone. The proposed regulation would significantly reduce the threat of allisions, oil spills and natural gas releases and increase the safety of life, property, and the environment in the Gulf of Mexico. This regulation is issued pursuant to 14 U.S.C. 85 and 43 U.S.C. 1333 as set out in the authority citation for 33 CFR part 147.

Discussion of Proposed Rule

The following specific risk factors that necessitate a safety zone exist at Genesis: (1) There is no designated fairway at this distance offshore and mariners use the facility as a navigational aid; (2) The facility has a high production capacity of 55,000 barrels of petroleum oil per day and 95 million cubic feet of gas per day; and (3) The facility is manned with a crew of 160.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The impacts on routine navigation are expected to be minimal because the safety zone will not encompass any of the safety fairways within the Gulf of Mexico.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. Since the Genesis is located far offshore, few privately owned fishing vessels and recreational boats/yachts operate in the area and alternate routes are available for these vessels. Use of an alternate route may cause a vessel to incur a delay of 4 to 10 minutes in arriving at their destinations depending on how fast the vessel is traveling. Therefore, the Coast Guard expects the impact of this regulation on small entities to be minimal.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, telephone (504) 589–6271.

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

safety that may disproportionately affect children.

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

Environment

We have considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. Add § 147.825 to read as follows:

§ 147.825 Chevron Genesis Spar safety zone.

(a) *Description.* The Chevron Genesis Spar, Green Canyon 205A (GC205A), is located at position 27°46′46.365″ N, 90°31′6.553″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: December 19, 2001.

Roy J. Casto,

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

[FR Doc. 02–7828 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–033]

RIN 2115–AA97

Safety Zone; Lake Champlain Challenge, Cumberland Bay, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the Lake Champlain Challenge Hydroplane race located on Cumberland Bay, NY. This action is necessary to provide for the safety of life on navigable waters during this event scheduled for June 29 and 30, 2002. This action is intended to restrict vessel traffic in the affected waterway.

DATES: Comments and related material must reach the Coast Guard on or before May 2, 2002.

ADDRESSES: You may mail comments and related material to Waterways Oversight Branch (CGD01–02–033), Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305. The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 204, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

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 (CGD01–02–033), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Oversight Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The New England Inboard Racing Association sponsors this high-speed powerboat race with less than 100 powerboats, propelled by 1.5 to 6 liter engines, at the north end of Cumberland Bay, Plattsburgh, NY. The safety zone includes all waters of Cumberland Bay north of a line drawn from the east end of the old Canal Terminal Pier in approximate position 44°42′26.0″ N 073°26′28.5″ W, to approximate position 44°43′00.8″ N 073°24′37.3″ W (NAD 1983) on Cumberland Head.

Marine traffic would still be able to transit through the Saranac River and southern Cumberland Bay while the safety zone is in effect. Additionally, vessels would not be precluded from mooring at or getting underway from recreational piers in the vicinity of the proposed safety zone. Commercial piers

located within the safety zone are no longer used.

The proposed regulation would be effective from 11:30 a.m. to 6:30 p.m. on Saturday, June 29, and Sunday, June 30, 2002. It would prohibit all vessels and swimmers from transiting this portion of Cumberland Bay and is needed to protect the waterway users from the hazards associated with high-speed powerboats racing in confined waters.

Discussion of Proposed Rule

The proposed safety zone is for the Lake Champlain Challenge held at the northern end of Cumberland Bay, north of the old Canal Terminal Pier. The event would be held on Saturday, June 29, and Sunday, June 30, 2002. This rule is being proposed to provide for the safety of life on navigable waters during the event.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This finding is based on the minimal time that vessels will be restricted from the zone, and the relatively small number of vessels that normally would be expected to operate in the vicinity of the zone. Vessels may transit through the Saranac River and southern Cumberland Bay throughout the safety zone's duration. Vessels would not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the proposed safety zone. Advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Cumberland Bay during the times this zone is activated.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can still transit through the Saranac River and southern Cumberland Bay during the event; vessels would not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the proposed safety zone before the effective period, we will ensure wide dissemination of maritime advisories to users of Lake Champlain via Local Notice to Mariners and marine information broadcasts.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

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 cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because

it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This proposed rule fits paragraph 34(g) as it establishes a safety zone. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. From 11:30 a.m. June 29, 2002, to 6:30 p.m. June 30, 2002, add temporary § 165.T01–033 to read as follows:

§ 165.T01–033 Safety Zone: Lake Champlain Challenge, Cumberland Bay, NY.

(a) *Regulated area.* The following area is a safety zone: All waters of Cumberland Bay north of a line drawn from the east end of the old Canal Terminal Pier in approximate position 44°42′26.0″ N 073°26′28.5″ W, to approximate position 44°43′00.8″ N 073°24′37.3″ W (NAD 1983) on Cumberland Head.

(b) *Enforcement period.* This section will be enforced from 11:30 a.m. to 6:30 p.m. on Saturday, June 29, and Sunday, June 30, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: March 22, 2002.

C.E. Bone,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 02–7915 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–15–U

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

[Docket No. 99–1]

RIN 3014–AA20

Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Availability of draft final guidelines.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has placed in the docket for public review a draft of the final guidelines revising the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines. The Board has placed this document in the docket to inform the building codes community of the actions taken by the Board to promote the harmonization of the Board's guidelines with the International Code Council/American National Standards Institute A117.1 Standard on Accessible and Usable Buildings and Facilities and the International Building Code.

ADDRESSES: The draft final guidelines will be available for inspection at the offices of the Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111 from 9:00 a.m. to 5:00 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: Marsha Mazz, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–0020 (Voice); (202) 272–0082 (TTY). These are not toll-free numbers. Electronic mail address: *mazz@access-board.gov.*

SUPPLEMENTARY INFORMATION: On November 16, 1999, the Architectural and Transportation Barriers Compliance Board (Access Board) published a Notice of Proposed Rulemaking to amend the accessibility guidelines for the Americans with Disabilities Act (ADA) of 1990 and the Architectural Barriers Act (ABA) of 1968. 64 FR 62248 (November 16, 1999). The proposed rule was based on recommendations made by the Board's ADAAG Review Advisory Committee. The committee was established in 1994 by the Board to conduct a complete review of the guidelines and to recommend changes. The committee was charged with reviewing ADAAG in its entirety and making recommendations to the Board on:

- Improving the format and usability of ADAAG;
- Reconciling differences between ADAAG and national consensus standards, including model codes and industry standards;
- Updating ADAAG to reflect technological developments and to continue to meet the needs of persons with disabilities; and
- Coordinating future ADAAG revisions with national standards and model code organizations.

The committee recommended significant changes to the format and style of ADAAG. The changes were recommended to provide a guideline that is organized and written in a manner that can be more readily understood, interpreted and applied. The recommended changes would also make the arrangement and format of ADAAG more consistent with model building codes and industry standards.

Subsequent to the committee's recommendations, the 1998 edition of the International Code Council (ICC)/American National Standards Institute (ANSI) A117.1 Standard on Accessible and Usable Buildings and Facilities was published. Its requirements were ''harmonized'' with the committee's recommendations. An important goal of the Board throughout this rulemaking has been to promote the harmonization of its guidelines and private sector standards.

At its March 13, 2002, meeting, the Access Board decided to place in the rulemaking docket for public review a draft of the guidelines revising the ADA and ABA Accessibility Guidelines. The Board expects to complete action on the final guidelines in the next few months. The final guidelines will then be submitted to the Office of Management and Budget for review in accordance with Executive Order 12866. The Board expects to publish the final guidelines

in the **Federal Register** later this summer.

The Board is not soliciting comments on the draft of the final guidelines, but has placed the document in the docket for public inspection to promote the harmonization of the Board's guidelines with the ICC/ANSI standards and the International Building Code. The ANSI Committee and the International Codes Council are currently in the process of revising the private sector accessibility provisions and proposed changes must be submitted during the Spring of 2002. Without taking this step, an important opportunity would have been missed to harmonize the Board's guidelines with those of the private sector.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 02–7884 Filed 4–1–02; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[WV001–1000b; FRL–7166–7]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of West Virginia; Division of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve West Virginia Department of Environmental Protection's (WVDEP's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations once WVDEP incorporates these amendments into its regulations. In addition, EPA is proposing to approve of WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails WVDEP's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and WVDEP's notification to EPA of such incorporation. This action pertains only to affected sources, as defined by the Clean Air Act hazardous air pollutant program, which are not located at major sources, as defined by the Clean Air Act operating permit program. In the Final Rules section of this **Federal Register**, EPA is approving the State's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before May 2, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and John A. Benedict, West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE, Charleston, WV 25304–2943. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE, Charleston, WV 25304–2943.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.* Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of WVDEP's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: March 21, 2002

Judith M. Katz,

Director, Air Protection Division, Region III.

[FR Doc. 02–7940 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, and 175

[Docket No. RSPA–02–11989 (HM–224C)]

RIN 2137–AD48

Hazardous Materials; Transportation of Lithium Batteries

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

ACTION: Notice of proposed rulemaking.

SUMMARY: RSPA (we) proposes to amend the Hazardous Materials Regulations (HMR) regarding the transportation of lithium batteries. These proposals are consistent with changes recently made to the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). They would increase the level of safety associated with the transportation of lithium batteries and facilitate the transport of these materials in international commerce.

DATES: Comments must be received by June 14, 2002.

ADDRESSES: Submit written comments to the Docket Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW., Washington, DC 20590–0001. Identify the docket number, RSPA–02–11989 (HM–224C) at the beginning of your comments and submit two copies. If you wish to receive confirmation of receipt of your comments, include a self-addressed stamped postcard. You may also submit comments by e-mail by accessing the Docket Management System website at *http://dms.dot.gov.* Click on ''Help'' to obtain instructions for filing the document electronically.

The Docket Management System is located on the Plaza Level of the Nassif Building at the U.S. DOT at the above address. You can view public dockets between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. You can also view comments on-line at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: John Gale, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

I. Background

Under the HMR, 49 CFR parts 171–180, most lithium batteries and equipment containing or packed with lithium batteries are regulated as Class 9 materials. Lithium batteries have to be tested in accordance with the UN Manual of Tests and Criteria, and, among other things, must be equipped with an effective means of preventing short circuits, packaged in Packing Group II performance level packagings, and identified on shipping papers and package markings and labels. 49 CFR 173.185(e). However, § 173.185 contains two significant exceptions for lithium batteries. The first exception, in 173.185(b), excepts from the requirements of the HMR:

(1) Liquid cathode cells containing no more than 0.5 grams of lithium or lithium alloy per cell;

(2) Liquid cathode batteries containing an aggregate quantity of no more than 1 gram of lithium or lithium alloy;

(3) Solid cathode cells containing no more than 1 gram of lithium or lithium alloy per cell;

(4) Solid cathode batteries containing an aggregate quantity of no more than 2 grams of lithium or lithium alloy;

(5) Lithium ion cells containing no more than 1.5 grams of equivalent lithium content; and

(6) Lithium ion batteries containing no more than 8.0 grams of equivalent lithium content.

Though these batteries and cells need to meet some additional requirements, such as being protected against short circuits and packaged in strong outer packagings, the batteries are not required to be tested in accordance with UN Manual of Tests and Criteria and there are no requirements for markings or labels on packages or shipping documents to communicate to a carrier, emergency response personnel or the public the presence of lithium batteries. The second exception, in § 173.185(c), excepts from the HMR those lithium batteries and cells where the anode of each cell, when fully charged, does not contain more than 5 grams of lithium content and the aggregate lithium content of the anodes of each battery, when fully charged, is not more than 25 grams. These batteries and cells must be tested in accordance with UN Manual of Tests and Criteria and be designed or packed in such a way as to prevent short circuits under conditions normally incident to transportation. A package containing these batteries and cells is also not required to be marked or labeled and a shipping document is not required to accompany a shipment to communicate the presence of lithium batteries.

The requirements in the HMR relative to the transportation of lithium batteries are generally consistent with those in the UN Recommendations, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) and the International Maritime Dangerous Goods Code (IMDG Code). Recently, in order to maintain consistency with the international regulations and in particular the 11th Edition of the UN Recommendations, RSPA revised § 173.185 (Docket HM–215D; June 21, 2001, 66 FR 33316) to include a definition for equivalent lithium content for lithium ion cells and batteries and to provide the applicable aggregate lithium quantities relevant to excepting lithium ion cells and batteries from the requirements of the HMR. In December 2000, the 12th Edition of the UN Recommendations relative to the transportation lithium batteries was again revised. It is anticipated that the ICAO Technical Instructions and IMDG Code will also be revised in the near future to reflect these changes. Therefore, the amendments being proposed today would, in addition to increasing the level of safety associated with the transport of lithium batteries, maintain the consistency of the HMR with the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) and, thus, facilitate the transport of these materials in international commerce.

The changes adopted into UN Recommendations were a result of an incident involving lithium batteries that occurred on April 28, 1999, at Los Angeles International Airport (LAX). In that incident a shipment of two pallets of lithium batteries that were excepted from the HMR caught fire and burned after being off-loaded from a Northwest Airlines flight from Osaka, Japan. While the pallets were being handled by cargo handling personnel, the packages were damaged. This is believed to have initiated the subsequent fire. The fire was initially fought by Northwest employees with portable fire extinguishers and a fire hose. Each time the fire appeared to be extinguished, it flared up again. The two pallets involved in the fire contained 120,000 non-rechargeable lithium batteries. Because of the exceptions in § 173.185(b), these batteries were not required to be tested in accordance with UN Manual of Tests and Criteria and the packages were excepted from hazard communication requirements (i.e., marking, labeling and shipping papers). On November 7, 2000, another incident occurred involving lithium batteries. In this incident, which involved a declared shipment of lithium sulfur dioxide batteries, a battery short circuited causing a small fire and rupture of the battery. The battery burned through its inner packaging and charred an adjoining package.

On November 16, 1999, also in response to the LAX incident, the National Transportation Safety Board (NTSB) issued five recommendations to RSPA on the transportation of lithium batteries. A copy of those recommendations and a copy of our response to the NTSB can be found in the public docket.

On September 7, 2000, we published a Safety Advisory in the **Federal Register** (65 FR 54366) to:

(1) Inform persons of the LAX incident and the potential hazards that shipments of lithium batteries may present while in transportation;

(2) Recommend actions to offerors and transporters to ensure the safety of such shipments;

(3) Provide information concerning the current requirements for the transportation of lithium batteries;

(4) Inform persons of recommendations we received from the NTSB on the transportation of lithium batteries and our response to those recommendations;

(5) Inform persons of the actions we have taken to date and plan to take in the future to address the hazards of these batteries; and

(6) Provide information concerning initiatives being taken by members of the battery manufacturing and distribution industry to address concerns relating to transportation of these batteries.

As noted in the Safety Advisory, we are currently reevaluating the hazards posed by lithium batteries in transportation. Information is being collected from lithium battery manufacturers, shippers, and Federal agencies with extensive experience in testing and the use of lithium batteries. DOT is also conducting other evaluations to obtain additional information. We stated in the Safety Advisory that upon completion of our evaluation of lithium batteries, we would initiate any additional actions

necessary to address the hazards posed by the transportation of lithium batteries. Though we have not completed our reevaluation of the hazards posed by lithium batteries in transportation, we believe that it is in the best interest of safety and international commerce to amend the HMR at this time based on the amendments to the UN Recommendations.

On July 9, 2001, we received a petition (P–1417) from the Portable Rechargeable Battery Association (PRBA) requesting that this NPRM allow aircraft passengers and crew to carry in checked or carry-on baggage certain lithium ion and lithium polymer rechargeable batteries and to provide an exception from the testing requirements in the UN Manual of Tests and Criteria for certain lithium and lithium ion cells and batteries manufactured prior to January 1, 2003. Our response to P–1417 is discussed below.

II. Proposed Amendments

The changes being proposed in this notice can be summarized into the following categories: (1) Changes to test methods for lithium batteries; (2) revisions to exceptions for small batteries (*e.g.*, those of 1 gram or less of lithium content); (3) elimination of an exception for larger batteries (e.g., cells up to 5 grams of lithium content and batteries up to 25 grams of lithium content); (4) exceptions for aircraft passengers and crew; and (5) editorial changes. The following paragraphs discuss these changes in detail.

A. Changes to the Test Methods for Lithium Batteries

The test methods for lithium batteries and cells in the UN Manual of Tests and Criteria were revised to provide more precise descriptions of the procedures and criteria. The revised test method consists of eight tests compared to six in the previous test method series. The tests are designed to measure the ability of the cells or batteries to maintain their construction integrities against internal or external shorts in normal transport environments. Parameters considered for the transport environments include temperature, altitude, vibration, shock, impact, overcharge, forced discharge and intentional short. The test criteria were developed to minimize the probability that lithium cells or batteries will become an ignition (fire) source during transport by all modes.

B. Revisions to the Exceptions for Small Batteries

We believe that in order for small batteries to be excepted from most of the requirements of the HMR, they should be shown to demonstrate that they are significantly robust and can withstand conditions of transport. Therefore, in order for these batteries and cells to continue to be excepted from the HMR, we are proposing that they be tested in accordance with the UN Manual of Tests and Criteria. The LAX incident highlighted the need for some kind of hazard communication to appear on the outside of the packages and on shipping documents and to increase the integrity of packages containing lithium batteries and cells. Therefore, we are proposing that each package containing more than 24 cells or 12 batteries: (1) Be marked to indicate that it contains lithium batteries, and that special procedures be followed in the event that the package is damaged; (2) be accompanied by a document indicating that the package contains lithium batteries and that special procedures be followed in the event that the package is damaged; (3) weigh no more than 30 kilograms (gross weight); and (4) be capable of withstanding a 1.2 meter drop test in any orientation without shifting of the contents that would allow short circuiting, and without release of package contents. We are not proposing to impose these requirements on packages that contain either 12 or fewer lithium batteries or 24 or fewer cells, so as to minimize potential cost impacts on aircraft passengers, small retail outlets, and similar small volume shippers. We are also proposing to adopt one quantity limit for these cells and batteries in place of the limits that currently depend on cathode type (i.e., liquid or solid). These proposed changes are consistent with the recent amendments to the UN Recommendations and the ICAO TI. The hazard communication and packaging provisions are also consistent with the industry-adopted voluntary program that was discussed in the Advisory Notice.

PRBA requested that we include in the proposed rule a provision that will clarify when all lithium and lithium ion cells and batteries will be subject to the new UN testing requirements. PRBA requested that testing not be required on those lithium cells and batteries that are manufactured prior to January 1, 2003 and that:

(1) For lithium metal or lithium alloy cells, contain no more than 1 gram of lithium;

(2) For lithium ion cells, contain no more than 1.5 grams of equivalent lithium content;

(3) For lithium metal or lithium alloy batteries, contain no more than an aggregate lithium content of 2 grams; and

(4) For lithium ion batteries, contain no more than 8 grams of equivalent lithium content. PRBA stated that these exceptions are necessary to allow sufficient time to exhaust current inventories and for implementation of testing procedures.

RSPA agrees that a period of time should be provided to manufacturers of lithium batteries to test those battery designs that are currently on the market. RSPA believes that it would be unreasonable to require these manufacturers to test these designs immediately or in just a few months after the effective date of a final rule. However, RSPA does not agree that these batteries should be allowed to be transported for an indefinite period of time without being subject to the tests in the UN Manual of Tests and Criteria. Therefore, consistent with changes recently adopted into the ICAO Technical Instructions, we are proposing that those lithium battery designs manufactured before January 1, 2003, not be required to be tested until January 1, 2005.

C. Elimination of the Exception for Larger Batteries

Currently in the HMR, cells that contain 5 grams or less of lithium or lithium alloy and not more than 25 grams of lithium or lithium alloy per battery are excepted from the HMR if they pass tests specified in the UN Manual of Tests and Criteria. Cells and batteries that do not meet the test requirements and cells and batteries that contain lithium and lithium alloys above these limits are subject to the HMR as a Class 9 material and must be packed in UN performance-oriented packagings, and marked, labeled, and described on shipping papers in accordance with the HMR. We no longer believe that these cells or batteries containing relatively large quantities of lithium should be excepted from the hazard communication and packaging requirements of the HMR and, therefore, are proposing to eliminate the exception found in § 173.185(c).

D. Exceptions for Aircraft Passengers and Crew

Consistent with the amendments recently adopted into the ICAO Technical Instructions, RSPA is also proposing to except from the HMR the carriage aboard an aircraft of consumer electronic devices by passengers and crew. In addition, RSPA would allow passengers and crew to carry spare batteries for such devices subject to limits as to lithium content and number for larger batteries. These proposed amendments are also consistent with a

PRBA petition for rulemaking requesting that we allow aircraft passengers and crew to carry up to three lithium ion or lithium polymer rechargeable batteries that contain between 8 and 25 grams of equivalent lithium content, provided they pass the tests in the UN Manual of Tests and Criteria. PRBA states that under the current HMR, passengers using these batteries in electronic devices can transport these items unregulated but that under the changes adopted by UN Recommendations, and consequently proposed in this NPRM, they would have to be transported as Class 9 materials. Though RSPA agrees that we should continue to allow aircraft passengers and crew to transport consumer electronic devices containing such lithium or lithium ion cells or batteries and their spares as unregulated, RSPA does not agree that the exception provided for lithium ion batteries should also be provided for lithium polymer batteries. First, for lithium polymer batteries, the exception in § 173.185(c) only allows those lithium polymer batteries that contain between 5 and 25 grams of lithium, not equivalent lithium content. Second, lithium polymer batteries are the same as lithium metal or lithium alloy batteries for purposes of compliance with the requirements of § 173.185; there are no provisions for determining equivalent lithium content for these batteries.

E. Editorial Changes

We are proposing to make several editorial changes to § 173.185 to help users better understand their responsibilities. First, we are proposing to move the definition of ''lithium content'' from § 173.185(a) to § 171.8 and eliminate the first sentence of § 173.185(a) because it is unnecessary. We would move the provisions of paragraph (e) to paragraph (a) and move all the exceptions into paragraph (d). The exceptions would also be revised for clarity. We would also remove Special Provision 29 because it is unnecessary.

We are also proposing to add provisions to § 173.220, consistent with recent changes adopted in the ICAO Technical Instruction, for the shipment of vehicles and engines that contain lithium batteries. These provisions would require that such lithium batteries be of the same type that has passed the UN Tests, be securely packed in a battery holder and be protected against short circuits.

III. Rulemaking Analysis and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule, if adopted, would not be considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to formal review by the Office of Management and Budget. This proposed rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). The hazard communication and packaging provisions proposed in this NPRM are consistent with a voluntary program implemented by the lithium battery industry following the LAX incident and, therefore, would impose no appreciable new cost on the industry. The testing of currently manufactured batteries or cells would not be required until January 1, 2005, thus, providing two years to test current designs of batteries or cells. In addition, (1) these tests have been adopted in the ICAO Technical Instruction; (2) the vast majority of the these cells and batteries are manufactured outside the U.S. and subsequently transported by aircraft into the U.S. under the ICAO Technical Instructions; and (3) the small number of cells and batteries manufactured in the U.S. are subsequently transported by aircraft in the U.S. under the ICAO Technical Instructions. For these reasons, the costs associated with these proposals are negligible. Benefits resulting from this proposal include enhanced transportation safety by decreasing the likelihood and severity of a transportation incident involving lithium cells and batteries and consistency of domestic and international standards. Interested persons are invited to provide comments on RSPA's preliminary regulatory evaluation which is available for review in the public docket. We are particularly interested in receiving well-documented comments that substantiate or refute our understanding that the costs associated with this proposal are negligible.

B. Executive Order 13132

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

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

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

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

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

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

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

This proposed rule addresses covered subject items (1), (2), and (3) above and would preempt State, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. This proposed rule is necessary to incorporate changes recently adopted in international standards and increase the level of safety associated with the transportation of lithium batteries.

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

C. Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–611) requires each agency to analyze proposed regulations and assess their impact on small businesses and other small entities to determine whether the proposed rule is expected to have a significant impact on a substantial number of small entities. The provisions of this proposal would apply to lithium battery manufacturers and other persons who offer lithium batteries for transportation in commerce, some whom are small entities. However, it is anticipated that the costs associated with the more stringent requirements of this proposal, such as the testing of lithium batteries, would be incurred by lithium battery manufacturers, which are not small businesses. In addition, an exception from the new hazard communication system has been provided for small shipments of lithium batteries. It is our belief that most small businesses that offer lithium batteries for transportation would be able to utilize that exception. Therefore, RSPA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not, if adopted, result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

F. Paperwork Reduction Act

RSPA believes that this proposed rule may result in a modest increase in annual burden and costs based on a new information collection requirement. The proposals regarding the shipment of lithium batteries that result in a new information collection requirement have been submitted to OMB for review and approval.

Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies a new information collection request (i.e., the requirement to indicate on shipping documents that packages contain lithium batteries) that RSPA has submitted to OMB for approval based on the requirements in this proposed rule. RSPA has developed burden estimates to reflect changes in this proposed rule. RSPA estimates that the total information collection and recordkeeping burden proposed in this rule would be as follows:

OMB No. 2137-xxxx:

Total Annual Number of Respondents: 1,000.

Total Annual Responses: 100,000.

Total Annual Burden Hours: 834.

Total Annual Burden Cost: $10,000.

RSPA specifically requests comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this proposed rule.

Requests for a copy of the information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

Written comments should be addressed to the Docket Management System as identified in the **ADDRESSES** section of this rulemaking. Comments should be received prior to the close of the comment period identified in the DATES section of this rulemaking. Under the Paperwork Reduction Act of 1995, no person is required to respond to or comply with an information collection requirement unless it displays a valid OMB control number. If these proposed requirements are adopted in a final rule, RSPA will submit the information collection and recordkeeping requirements to the Office of Management and Budget for approval.

G. Regulation Identifier Number (RIN)

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

List of Subjects

49 CFR Part 171

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

49 CFR Part 172

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

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and Recordkeeping Requirements, Uranium.

49 CFR Part 175

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

In consideration of the foregoing, 49 CFR Chapter I would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

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

2. In § 171.7, in the paragraph (a)(3) table, under the entry ''United Nations'', the second entry would be revised to read as follows:

§ 171.7 Reference material.

(a) * * *

(3) * * *

Source and name of material	49 CFR reference
* * * * * * *	
United Nations	
* * * * * * *	
UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Third Revised Edition (1999) including the revisions contained in the Report of the Committee of Experts on its Twenty-First Session ''Amendments to Third Revised Edition of the UN Manual of Tests and Criteria, ST/SG/AC.10/27 Add.2''	172.102; 173.21; 173.56; 173.57; 173.124; 173.128; 173.166; 173.185

* * * * *

3. In § 171.8, a definition for ''Equivalent lithium content'' and ''Lithium content'' would be added in appropriate alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Equivalent lithium content means, for a lithium ion cell, the product of the rated capacity, in ampere-hours, of a lithium ion cell times 0.3. The equivalent lithium content of a battery equals the sum of the grams of equivalent lithium content contained in the component cells of the battery.

* * * * *

Lithium content means the mass of lithium in the anode of a lithium metal or lithium alloy cell. For a lithium ion cell see the definition for ''equivalent lithium content''.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

4. The authority citation for part 172 would continue to read as follows:

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

§ 172.102 [Amended]

5. In § 172.102(c)(1), special provision ''29'' would be removed.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

6. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

7. Section 173.185 would be revised to read as follows:

§ 173.185 Lithium cells and batteries.

(a) *Cells and batteries.* A lithium cell or battery, including a lithium polymer cell or battery and a lithium ion cell or battery, must meet the following requirements:

(1) Be of a type proven to meet the requirements of each test in the UN Manual of Tests and Criteria, Third Revised Edition (1999), Part III, subsection 38.3. A cell or battery and equipment containing a cell or battery which was first transported prior to [effective date of the final rule] and is of a type proven to meet the criteria of Class 9 by testing in accordance with the tests in the UN Manual of Tests and Criteria, Second Edition, 1990 is not required to be retested in accordance with the UN Manual of Tests and Criteria, Third Revised Edition (1999), Part III, subsection 38.3;

(2) Incorporate a safety venting device or otherwise be designed in a manner that will preclude a violent rupture under conditions normally incident to transportation;

(3) For a battery containing cells or series of cells that are connected in parallel, be equipped with an effective means to prevent dangerous current flow (e.g., diodes, fuses, etc.);

(4) Be packed in inner packagings in such a manner as to prevent short circuits, including movement which could lead to short circuits;

(5) Be packaged in combination packagings conforming to the requirements of part 178 of this subchapter at the Packing Group II performance level. Inner packagings must be packed within metal boxes (4A or 4B), wooden boxes (4C1, 4C2, 4D,or 4F), fiberboard boxes (4G), solid plastic boxes (4H2), fiber drums (1G), metal drums (1A2 or 1B2), plywood drums (1D), plastic jerricans (3H2), or metal jerricans (3A2 or 3B2);

(6) Be equipped with an effective means of preventing external short circuits; and

(7) Not be offered for transportation or transported if any cell has been discharged to the extent that the open circuit voltage is less than two volts or is less than ⅔ of the voltage of the fully charged cell, whichever is less.

(b) *Cells or batteries packed with equipment.* Cells or batteries packed with equipment may be transported as items of Class 9 if the batteries and cells meet all the requirements of paragraph (a) of this section, except paragraph (a)(5) of this section. The cells or batteries must be packed in an inner packaging that is further packed with the equipment in a strong outer packaging.

(c) *Equipment containing cells and batteries.* Cells and batteries contained in equipment may be transported as items of Class 9 if the batteries and cells meet all the requirements of paragraph (a) of this section, except paragraphs (a)(4) and (a)(5) of this section, and the equipment is packed in a strong outer packaging that is waterproof or is made waterproof through the use of a liner unless the equipment is made waterproof by nature of its construction. The equipment and cells or batteries must be secured within the outer packaging and be packed as to effectively prevent movement, short circuits, and accidental operation during transport.

(d) *Exceptions.* (1) *Small cells and batteries.* A lithium cell or battery, including a cell or battery packed with or contained in equipment, is not subject to any other requirements of this subchapter if it meets the following requirements:

(i) For a lithium metal or lithium alloy cell, the lithium content is not more than 1.0 g. For a lithium-ion cell, the equivalent lithium content is not more than 1.5 g;

(ii) For a lithium metal or lithium alloy battery, the aggregate lithium content is not more than 2.0 g. For a lithium-ion battery, the aggregate equivalent lithium content is not more than 8 g;

(iii) The cell or battery is of the type that meets the lithium battery testing requirements in the UN Manual of Tests and Criteria, Part III, subsection 38.3. A cell or battery that was manufactured before January 1, 2003 is not required to be tested until January 1, 2005;

(iv) Cells or batteries are separated so as to prevent short circuits and are packed in a strong outer packaging or are contained in equipment; and

(v) Each package containing more than 24 lithium cells or 12 lithium batteries must be:

(A) Marked to indicate that it contains lithium batteries, and that special procedures should be followed in the event that the package is damaged;

(B) Accompanied by a document indicating that the package contains lithium batteries and that special procedures should be followed in the event that the package is damaged;

(C) Capable of withstanding a 1.2 meter drop test in any orientation without damage to cells or batteries contained in the package, without shifting of the contents that would allow short circuiting and without release of package contents; and

(D) Except in the case of lithium cells or batteries packed with or contained in equipment, in packages not exceeding 30 kg gross mass.

(2) *Cells and batteries, for disposal.* A lithium cell or battery offered for transportation or transported to a permitted storage facility or disposal site by motor vehicle is excepted from the specification packaging requirements of this subchapter and the requirements of paragraphs (a)(1) and (a)(7) of this section when protected against short circuits and packed in a strong outer packaging conforming to the requirements of §§ 173.24 and 173.24a.

(3) *Shipments for testing.* A lithium cell or battery is excepted from the requirement of (a)(1) of this section when transported by motor vehicle for

purposes of testing. The cell or battery must be individually packed in an inner packaging, surrounded by cushioning material that is non-combustible, and nonconductive.

(e) A lithium cell or battery that does not comply with the provisions of this section may be transported only under conditions approved by the Associate Administrator.

8. In § 173.220, paragraph (b)(5) would be added to read as follows:

§ 173.220 Internal combustion engines, self-propelled vehicles, mechanical equipment containing internal combustion engines, and battery powered vehicles and equipment.

* * * * *

(b) * * *

(5) *Lithium batteries.* Lithium batteries contained in vehicles or engines must be of a type that has successfully passed each test in the UN Manual of Tests and Criteria, Part III, subsection 38.3, be securely fastened in the battery holder of the vehicle or engine, and be protected in such a manner as to prevent damage and short circuits. Equipment, other than vehicles or engines, containing lithium batteries must be transported in accordance with § 173.185.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

9. The authority citation for part 175 would continue to read as follows:

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

10. In § 175.10, paragraph (a)(27) would be added to read as follows:

§ 175.10 Exceptions.

(a) * * *

(27) Consumer electronic devices (watches, calculating machines, cameras, cellular phones, lap-top computers, camcorders, etc.) containing lithium or lithium ion cells or batteries when carried by passengers or crew member for personal use. Each spare battery must be individually protected so as to prevent short circuits and carried in carry-on baggage only. In addition, each spare battery must not exceed the following:

(i) For a lithium metal or lithium alloy battery, a lithium content of not more than 2 grams per battery; or

(ii) For a lithium ion battery, an aggregate equivalent lithium content of not more than 8 grams per battery, except that up to two batteries with an aggregate equivalent lithium content of more than 8 grams but not more than 25 grams may be carried.

* * * * *

Issued in Washington, DC, on March 28, 2002, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–7959 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 031802B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. Therefore, NMFS announces that the Regional Administrator proposes to issue EFPs that would allow up to three vessels to conduct fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. EFPs would allow for exemptions to the minimum fish size requirements of the FMP. The experiment proposes to collect approximately 50 lb (22.68 kg) of juvenile black sea bass smaller than the current 11–inch (27.94–cm) minimum commercial fish size from Federal waters during the winter months, while the commercial black sea bass fishing season is open. The samples would be obtained with commercial handline tackle during the course of regular commercial fishing activity. The samples would be used by researchers at the Virginia Institute of Marine Science (VIMS) for population studies.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before April 17, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Black Sea BASS EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 978–281–9279.

SUPPLEMENTARY INFORMATION: The Virginia Institute of Marine Science submitted an application for EFPs on January 18, 2002, with final revisions received on February 19, 2002. The EFPs would facilitate the collection of data on the age, growth, and population structure of the black sea bass (*Centropristis striata*) population in the Mid-Atlantic region.

The experiment proposes to collect approximately 50 lb (22.68 kg) per month of sublegal juvenile black sea bass (<11 inches (27.94 cm)). The collection of undersized black sea bass would occur within Federal waters off the coasts of Maryland, Virginia and North Carolina. All sample collections would be conducted while the commercial fishing season is open, principally during the winter months. There would not be observers or researchers on every participating vessel. The samples would be collected by three federally permitted commercial vessels during the course of regular commercial fishing activity and would consist of sublegal fish that would otherwise have to be discarded. The juvenile black sea bass would be obtained using commercial handline tackle and kept on ice until landed. Upon landing, VIMS personnel would retrieve the samples and take them to the VIMS laboratory for analysis. None of the juvenile black sea bass would be sold. The participating vessels would be required to report the landings in their Vessel Trip Reports. The catch levels of approximately 50 lb (22.67 kg) per month are expected to have very little detrimental impact on the black sea bass resource.

The purpose of the VIMS study is to investigate the age, growth and

population structure of black sea bass. The study would determine the ages of the undersized black sea bass using otoliths and scales. Then, using those data, the age, size, and sex composition of the current population would be compared with historic population data (Mercer 1978) that were obtained before the Mid-Atlantic black sea bass population was declared overfished. In addition, the study would seek to define the composition of commercial black sea bass catches off the Mid-Atlantic coast and Essential Fish Habitat for black sea bass using the NMFS groundfish database for offshore areas and the VIMS survey trawl database for inshore nursery areas.

EFPs would exempt up to three vessels from the 11–inch (27.94- cm) minimum commercial black sea bass fish size specified in the FMP and found at 50 CFR part 648, subpart I.

Based on the results of this EFP, this action may lead to future rulemaking.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 26, 2002.

John H. Dunnigan,

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

[FR Doc. 02–7931 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic Atmospheric Administration

50 CFR Part 679

[Docket No. 011219306–1306–01; I.D. 110501A]

RIN 0648 AM44

Fisheries of the Exclusive Economic Zone Off Alaska; Proposed Rule to Amend Regulations for Observer Coverage Requirements for Vessels and Shoreside Processors in the North Pacific Groundfish Fisheries

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 amend regulations governing the North Pacific Groundfish Observer Program (Observer Program). This action is necessary to refine observer coverage requirements and improve support for observers. The proposed rule is intended to ensure continued collection of high quality observer data to support the management objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). It is intended to promote the goals and objectives contained in those FMPs.

DATES: Comments on this proposed rule must be received by May 1, 2002.

ADDRESSES: Comments should 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 the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this proposed regulatory action and the Environmental Assessment (EA) prepared for the 1997 Extension of the Interim North Pacific Groundfish Observer Program may also be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands (BSAI) management areas in the exclusive economic zone (EEZ) under the FMPs for those areas. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. Regulations implementing the interim Groundfish Observer Program were published November 1, 1996 (61 FR 56425), amended December 30, 1997 (62 FR 67755), and December 15, 1998 (63 FR 69024), and extended through 2002 under a final rule published December 21, 2000 (65 FR 80381). NMFS' Observer Program provides for the collection of observer data necessary to manage Alaska groundfish fisheries. Observers provide information on total catch estimation, discard, prohibited species bycatch, and biological samples that are used for stock assessment purposes.

At its June 1998 meeting, the Council requested that NMFS analyze alternatives to respond to several areas of concern that the Council believes detract from the overall achievement of the goals of the Observer Program. At its June 2000 meeting, the Council adopted remedial actions to address these concerns. The actions in this proposed rule are intended to address concerns about (1) shoreside processor observer coverage; (2) shoreside processor observer logistics; and (3) observer coverage requirements for vessels fishing with groundfish pot gear. These issues are separate such that agency approval or disapproval of one proposed action would not affect the others.

The need, justification, and economic impacts for each of the actions in this proposed rule, as well as impacts of the alternatives considered, were analyzed in the RIR/IRFA prepared for this action (see **ADDRESSES**). A description for each proposed measure follows:

Shoreside Processor Observer Coverage

Current regulations at § 679.50(d) require each shoreside processor to project for each calendar month the amount, in metric tons (mt), of groundfish that is expected to be received or processed at that facility. Observer coverage requirements for each month are based on those projections. A shoreside processor that processes 1,000 mt or more in round weight equivalent of groundfish during a calendar month is required to have an observer present at the facility each day it receives or processes groundfish during that month. These processors are considered to have 100-percent coverage. A shoreside processor that processes 500 to 1,000 mt in round weight equivalent of groundfish during a calendar month is required to have an observer present at the facility at least 30 percent of the days it receives or processes groundfish during that month. These shoreside processors are considered to have 30-percent coverage. Some shoreside processors may alternate between 30-percent and 100-percent coverage from month to month.

The current monthly observer coverage regime can result in coverage in some shoreside processors during periods of a month when relatively small amounts of groundfish are received. This is experienced primarily by the shoreside processors with 100-percent coverage. For instance, if 1,000 mt of groundfish are received or processed by the end of the first or second week in a month, but the shoreside processor receives or processes very small amounts of groundfish for the remainder of the month, it would still be required to maintain 100-percent observer coverage for all delivery or processing days.

The proposed action would maintain the current monthly observer coverage periods at shoreside processors based on monthly landings projections. However, during a month when a directed fishery for pollock or Pacific cod closes, a shoreside processor with 100-percent coverage requirements that received

pollock or Pacific cod from the fishery that closed in that given month would have the option to reduce observer coverage to 30- percent coverage requirements for the remainder of that month under certain conditions. These conditions are: (1) The shoreside processor must maintain observer coverage for 30 percent of all days that groundfish are received or processed for the remainder of that month; and (2) groundfish landings received by the shoreside processor may not exceed 250 mt/calendar week for the remainder of that month. If a shoreside processor is expected to receive greater than 250 mt/wk during any calendar week of that month, the shoreside processor would be required to return to 100-percent observer coverage for the days fish are received or processed during that week and until processing of all groundfish received during that week is completed.

The reduced observer coverage period for a given shoreside processor would be authorized beginning on the fourth calendar day following the day that a pollock or cod fishery closes, allowing for observation of the delivery and processing of fish received prior to the closure, and would end on the last day of that month. Observer coverage for the month following would be based on monthly landings projections and thresholds as specified under current regulations at § 679.50, but also may be reduced for that month under the conditions of this proposed action. The RIR/IRFA prepared for this action indicates that some observer costs borne by the shoreside processors would be relieved without significantly impacting the quality or quantity of data collected by observers necessary for scientific or management purposes.

The Community Development Quota (CDQ) and American Fisheries Act (AFA) programs' observer coverage requirements found at § 679.50(d)(4) and (5), respectively, currently supersede general observer coverage requirements for shoreside processors, and will continue to take precedence over this proposed action.

Shoreside Processor Observer Logistics

Regulations at § 679.50(i)(2)(v) require observer contractors to provide all logistics to place and maintain observers at the site of a processing facility. This responsibility includes all travel arrangements, lodging, per diem, and any other services required to place observers at the processing facility.

Observers have experienced logistical difficulties impeding their ability to be present at a shoreside processor to observe groundfish deliveries. These difficulties primarily have been due either to unreliable means of communication resulting in lack of notification by the shoreside processor or to unreliable transportation to the shoreside processor after being notified of an expected delivery. Observers have reported missing part of or entire deliveries when expected motorized transportation is delayed or does not arrive, and have had to walk or ride a bicycle between 1 mile and 5 miles in rain, snow, or sub-freezing temperatures when no alternative transportation is available.

Shoreside processor observers must be present at deliveries to perform prescribed duties. These include advising vessel observers of processing protocol at the shoreside processor, providing relief to vessel observers, verifying deliveries are weighed and accurately recorded, and obtaining biological samples from each delivery. When the shoreside processor observer is not present during a delivery, vessel observer sampling errors and loss of prohibited species data for that delivery may occur. Further, the shoreside processor observer cannot fulfill all prescribed duties, which could lead to loss of catch data and biological samples.

Observers have also reported being housed in substandard lodging while deployed at shoreside processors. Rooms with leaky ceilings or walls have been reported, as well as rooms located in shoreside processors next to loud machinery that operates 24 hours a day, preventing observers from sleeping. Observers generally spend from a week up to 3 months at a particular shoreside plant.

The Observer Program has determined that the difficulties described have generally been corrected by observer contractors, although these problems could resume at any time. Therefore, the intention of the proposed action is to ensure that such problems as described here do not recur in the future.

This proposed rule would amend the observer regulations to require the observer contractor to provide the following logistical support to observers deployed at shoreside processors: adequate housing meeting certain standards; reliable communication equipment such as an individually assigned phone or pager for notification of upcoming deliveries or other necessary communication; and, if the observer's accommodations are greater than 1 mile away from the processing facility, reliable motorized transportation to the shoreside processor that ensures timely arrival to allow the observer to complete assigned duties.

Groundfish Pot Fishery Observer Coverage Requirements.

Under current regulations at § 679.50(c)(1), all catcher/processors or catcher vessels 60 ft (18.3m) LOA and greater, but less than 125 ft (38.1 m) LOA that fish for groundfish in the BSAI or the GOA are required to have an observer aboard for at least 30 percent of all fishing days in a calendar quarter and for at least one complete fishing trip for each groundfish category it fishes in that same quarter. Catcher/processors or catcher vessels 125 ft (38.1 m) LOA and greater are required to have an observer aboard for 100 percent of all fishing days in a calendar quarter. Vessels 125 ft (38.1 m) LOA and greater using pot gear are only required to maintain observer coverage for 30 percent of their fishing days. There are no observer coverage requirements for catcher vessels delivering unsorted catch to motherships.

A fishing day is defined as ''a 24 hour period from 0001 hours Alaska local time (A.l.t.) through 2400 hours A.l.t., in which fishing gear is retrieved and groundfish are retained.'' For purposes of observer coverage, a fishing trip for catcher vessels not delivering to a mothership is defined in the following way: ''the time period during which one or more fishing days occur, that starts on the day when fishing gear is first deployed and ends on the day the vessel offloads groundfish, returns to an Alaskan port or leaves the EEZ off Alaska and adjacent waters of the State of Alaska.'' A fishing trip for a catcher/processor or catcher vessel delivering to a mothership is defined, with respect to observer coverage requirements, in the following way: ''a weekly reporting period during which one or more fishing days occur.''

With exceptions for CDQ and AFA fisheries, observer coverage levels have remained generally unchanged since they were implemented in 1989 under FMP Amendments 18/13, which established the domestic Observer Program in the North Pacific. Coverage levels were initially established based on an analysis of precision in observer catch estimates and program costs. A comprehensive review of coverage needs by fishery would take into account all scientific, management, and compliance needs. The issue of observer coverage requirements is beyond the scope of this analysis.

Reports have been filed since 1996 by observers documenting circumstances where vessel operators indicated that they were retrieving only one pot while the observer was aboard to meet the minimum coverage requirement. In

1998 alone, over 160 retrievals of one pot per day or trip were made. These pots have often been set within a 30-minute steam from the dock. This practice is not prohibited under the current regulations and technically satisfies the coverage requirements. However, it is not considered within the range of normal fishing activity. Overall, observer data for the groundfish pot fishery from 1998-1999 indicate that an average of 123 pots were retrieved per day when an observer was aboard.

NMFS understands that occasions may arise when a trip must be shortened or the number of pots retrieved in a day may be fewer than average, but deliberate effort reduction when an observer is aboard results in biased data that are not representative of fishing effort, as intended. Observer coverage requirements are intended to capture unbiased data for a given fishery under normal fishing conditions. Observer coverage of days with intentionally reduced gear retrieval, compared to normal fishing activity, results in far less observer data collected relative to actual overall fishing effort. This inhibits the opportunity to accurately monitor fishing practices, catch rates and discards for in-season management, and reduces opportunity for collection of biological data used in stock assessments. When extrapolated to the level of the pot fleet, observer data from deliberate low effort days become more significant and artificially bias effort downward. Observer data show that the majority of pot retrievals per vessel per day is approximately between 95 and 200, with an average of 123, although daily retrieval rates range up to 500 or more per day.

The proposed action is intended to improve observer coverage requirements by ensuring that observer coverage levels more accurately reflect normal fishing effort across the groundfish pot fleet. NMFS considers the number of pot retrievals to be a better measure of actual fishing effort in the groundfish pot fishery than the number of fishing days. Ensuring that a certain percentage of pot retrievals will be observed, while not changing the basic coverage level, gives fisheries managers greater confidence that observer data extrapolated across the pot gear fleet to unobserved vessels would better reflect fleet-wide prohibited species catch, target catch, and bycatch and discard rates, because actual fishing effort may vary considerably between days when gear is retrieved. Biological data collected for stock assessments would likewise benefit in the same way.

The proposed action would amend coverage requirements for the groundfish pot gear fishery such that a vessel equal to or longer than 60 ft (18.3 m) LOA fishing with pot gear that participates more than 3 days in a directed fishery for groundfish in a calendar quarter would need to carry an observer during at least 30 percent of the total number of pot retrievals for that calendar quarter. Such vessels also would need to continue to carry an observer for at least one entire fishing trip using pot gear in a calendar quarter, for each of the groundfish fishery categories in which the vessel participates during that calendar quarter. Groundfish will still be required to be retained each day the observer is on board and gear is retrieved, in order for the gear retrieved on that day to count toward observer coverage requirements.

Confidentiality of Observer Personal Information

Since 1991, observers have reported that resumes containing employment histories, home addresses and phone numbers, as well as past observer deployment evaluations, have been forwarded to fishing companies by the observer contractors without the observer's permission. This personal information was often forwarded on to individual vessels aboard which the observer was deployed.

The potential exists for misuse and abuse of this personal information, with overt intimidation of observers being the primary concern. Observers have reported that such personal information has been referred to by vessel personnel during discussions of potential violations raised by the observer. The manner in which such information was referred to has been interpreted by some observers as an implication of potential forthcoming repercussions or the questioning of an observer's qualifications. This type of direct or implied intimidation can result in observers, particularly those less experienced, declining to report potential violations witnessed during a deployment, thus undermining their effectiveness in monitoring fisheries activities and practices.

In 1996, a group of observers asked both NMFS and the Association of Professional Observers (APO) to request that observer providers cease the practice of distributing observer's personal information. Upon such a request by NMFS and the APO, observer providers verbally agreed to stop forwarding personal information about observers to industry. However, concerns remain that this practice could resume in the future in the absence of regulations prohibiting it.

At the Council's request, alternatives for resolution of this issue were presented at the April 2000 Council meeting and final action was taken by the Council in June 2000. The Council voted to add an additional alternative to the analysis which would prohibit the release of personal information such as might be found on an observer's resume, including social security number, home address and phone number, and employment history, but would exclude observers' deployment scores and evaluations from the prohibition on distribution. Subject to exceptions, however, the Privacy Act generally prohibits the release of records on individuals held by the Federal government without prior written consent by that individual. As such, there are restrictions on the release of, among other information, an observer's deployment scores or evaluations, except under certain circumstances as explained below.

Under the current observer service delivery model, in which observers are not Federal employees and no contract exists between the government and observer providers (providers), NMFS' control over deployment of observers is limited. Providers have responsibility for providing qualified observers and monitoring their performance to ensure satisfactory execution of their duties (see § 679.50(i)(2)(i) and (xiii)). The providers' chief means of monitoring observer performance, and thus of deciding whether to continue to hire an individual, is through observer deployment evaluations and scores that are issued by NMFS and forwarded to the contractor upon the completion of each deployment.

Observer provider companies' monitoring of observer performance is considered by NMFS to be beneficial toward achieving an Observer Program goal of maintaining high quality data. NMFS is in the process of establishing a Privacy Act ''system of records'' for individual observer information. One routine use that will be established will be to provide observer deployment scores and evaluations to observer providers.

The Council stated that its concern in voting to allow interested industry participants access to observer evaluations and deployment scores is based on instances related by vessel or plant owner/operators that their complaints against observers were not adequately addressed by NMFS. The Council stated that it felt that if an observer with a poor deployment record continued to be deployed, industry participants should have access to this information. However, NMFS has long-standing policies for handling observers with poor deployment scores or

evaluations and for addressing complaints about observers by vessel or plant owner/operators. The agency believes these policies are more effective in resolving potential problems than having contractors provide industry access to personal information about an observer.

For each completed deployment, the observer is thoroughly debriefed by Observer Program staff who are all prior observers and are professionally trained to conduct debriefings. The debriefer reviews all data, observer logbooks, and other assigned tasks related to this deployment for accuracy and completion of duties for all the vessels or plants covered by the observer during that deployment. A review of the observer's sampling techniques and handling of other procedural issues is conducted and any needed improvements are discussed. All necessary data corrections are made by the observer during the debriefing. Any necessary affidavits are also prepared by the observer at this time. Upon completion of the debriefing, the debriefer prepares a written final evaluation of the observer's performance for that deployment. It includes descriptions of the challenges faced by the observer and whether the observer handled each issue successfully or unsuccessfully. The evaluation also includes a recommendation on rehiring the observer, and any conditions required to be met by the observer upon rehire, such as specific training or briefing requirements.

Currently, observers are also given an overall score of 0 or 1 for each deployment. A score of 1 indicates that the observer has met Observer Program expectations, and a score of 0 indicates that the observer has not met Observer Program expectations for that deployment. The severity of circumstances and reasons may vary for NMFS issuing a deployment score of 0. When such circumstances are considered quite serious, an investigation may be initiated. An observer in such cases may be suspended, and in the most serious cases, decertified. However, each case is considered individually with due diligence by Observer Program staff.

Complaints from vessel owner/operators or plant managers regarding specific observers are considered individually by the Observer Program. If a chronic, valid problem is found with an individual observer, a recommendation for not rehiring that observer may be issued. In the most extreme cases, an observer could be suspended or decertified. While some complaints about observers may be valid and are dealt with according to program policy, vessel or plant owner/operators sometimes may be concerned by activities of an observer who is appropriately following NMFS protocol. In these cases, NMFS will work with vessel or plant personnel to facilitate a better understanding of the observer's duties.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule would extend without change existing collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by the Office of Management and Budget (OMB) under OMB control number 0648-0318.

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 PRA, unless that collection of information displays a currently valid OMB control number.

NMFS determined that this proposed rule warrants a Categorical Exclusion from National Environmental Policy Act (NEPA) requirements for an EA. The changes proposed in this action are consistent with the intent and purpose of the Interim Observer Program, and the proposed actions fall within the scope of the EA, the RIR and the Final Regulatory Flexibility Act (FRFA) analyses prepared for the 1997 Interim Groundfish Observer Program (August 27, 1996). The proposed actions will not result in a significant change from those assessed in that EA/RIR/FRFA, because it would implement only minor administrative and technical changes to an existing regulation. The changes will provide improved benefits to those listed in the August 27, 1996, EA/RIR/FRFA for the Interim Observer Program, the RIR/FRFA for the extension of the Interim Observer Program through 1998 dated October 28, 1997, and the RIR/FRFA for the extension of the Interim Observer Program through 2000, dated June 4, 1998. Copies of these analyses are available from NMFS (see **ADDRESSES**).

NMFS prepared an IRFA, which describes the impact this proposed rule would have on small entities, if adopted. The RFA requires that the IRFA describe significant alternatives to the proposed rule that accomplish the stated objectives of the applicable statutes and minimize any impact on small entities. The IRFA must discuss significant alternatives to the proposed rule such as (1) establishing different reporting requirements for small entities that take into account the resources available to small entities, (2) consolidating or simplifying of reporting requirements, (3) using performance rather than design standards, and (4) allowing exemptions from coverage for small entities. A copy of this analysis is also available from NMFS (see **ADDRESSES**).

Observer costs borne by vessels and processors are based on whether an observer is deployed aboard a vessel or at a shoreside processor, and on overall coverage needs. Higher costs are borne by those vessels and shoreside processors that require higher levels of coverage. Most of the catcher vessels participating in the groundfish fisheries off Alaska that are required to carry an observer (i.e., vessels 60 ft (18.3 m) LOA and longer) meet the definition of a small entity under the Regulatory Flexibility Act (RFA). Since 1995, about 270 catcher vessels annually carry observers. The FRFAs prepared for the 1998 and 2000 Interim Observer Program describe the degree to which these vessels may be economically impacted by observer coverage levels or other regulatory provisions of the Observer Program.

This proposed action is expected to result in economic impacts benefitting shoreside processors that are able to reduce observer coverage levels during a month in which the closure of a pollock or cod fishery occurs. Exact quantification of the overall effects on observer coverage at shoreside plants in the BSAI and GOA is not possible due to the number of unpredictable variables involved, particularly fishery closure dates. However, the approximate timing of pollock and cod fishery closures could result in some reduced observer coverage five months per year under this proposed change. The CDQ and AFA observer requirements, which would take precedence over general coverage requirements under this alternative, are not factored into the IRFA analysis, except to note that plants receiving fish caught under those programs would benefit less in terms of cost savings from coverage reduction. Reduction in observer coverage under the conditions of this proposed action are most likely to result in savings between $270-$1,620 per month per plant, based on per-day observer costs to industry, excluding additional costs such as the observer's airfare. This action does provide the opportunity for a plant that has decided to reduce observer coverage in a month to return to 100-percent observer coverage for the remainder of the month and lift the 250-

mt/week cap on landings received if a fishery is reopened.

Requiring both adequate observer housing and reliable motorized transportation when observers stay a mile or more from their duty stations is unlikely to cause significant economic effects. Furthermore, there are no alternatives that would meet statutory objectives yet impose fewer economic impacts.

Economic impacts from the requirement that shoreside observers be assigned cell phones or pagers to ensure notification of upcoming deliveries is estimated for cell phones to be approximately $5,250 for the first year and $4,243 for each subsequent year per contractor, and pager costs per contractor would be $1,820 for the first year and $1,288 for each subsequent year.

Distributed equally between the five active contractors, costs per contractor for cell phones would be $5,250 for the first year and $4,243 for each subsequent year. Pager costs would be $1,820 for the first year and $1,288 in subsequent years. These estimations will vary as the number of shoreside processors needing observer coverage varies and as the number of contractors that provide observers to the shoreside processor varies.

Based on NMFS' understanding of current financial arrangements between observer contractors and industry clients, it is assumed that any costs associated with provision of individually assigned cell phones or pagers to observers will be passed by the contractors on to their industry clients, and will not ultimately impact the contractors. Of the approximately 27 shoreside processors that would absorb these costs, approximately 5 might be considered small entities. These industry clients are regulated entities such that they are required to have observer coverage, but would not be directly required to supply the cell phones or pagers. Total annual costs that would be passed onto each of these small entities are estimated to be $750 per cell phone for the first year of this service, with subsequent years at $600 per year. Total annual costs that would be passed onto each of these small entities for the first year of pager service, including purchase and activation fee, are estimated to be $260, while subsequent years are estimated at $180 per pager.

Two options are proposed for communications devices, cell phones and pagers, with pagers offered as a much less expensive option, minimizing significant economic impact on affected small entities. Additional alternatives for direct communication devices for observer communication with shoreside processors are not available, since observers are highly mobile. VHF radios were not considered since they would not be restricted to use with vessels at sea.

Alternatives were also considered to better achieve observer coverage reflecting actual fishing effort within the groundfish pot fishery, so that observer data received by in-season managers accurately reflect catch and effort levels. The status quo alternative, while posing no additional burden to small entities, would fail to achieve these important management and monitoring objectives. The preferred alternative would require that pot vessels carry observers for 30 percent of the pots retrieved instead of for 30 percent of the fishing days in a calendar quarter. This does not change overall coverage requirements and presents minimal impact on small entities, with a possible exception of a small number of vessels who legally, but intentionally, minimize their observer coverage relative to their actual fishing effort, contrary to the intent of coverage requirements. While this alternative may result in an increase in costs for this small group of vessels as a result of more observer days to meet coverage requirements, this theoretically should not be necessary. This alternative actually offers to all vessels the possibility of saving some observer costs by introducing an incentive to retrieve more gear while an observer is aboard, thereby reducing observer days.

Four other alternatives and/or options considered, while achieving the management goals of collection of observer data representative of catch and effort levels, would each impose greater costs on small entities than either the status quo or preferred alternatives. These alternatives/options include: (1) requiring a groundfish pot vessel to have an observer aboard during at least 30 percent of the total pot retrievals by that vessel in that calendar quarter and for at least 30 percent of its fishing days in that calendar quarter; (2) requiring a groundfish pot vessel have an observer aboard during at least 30 percent of the total pot retrievals by that vessel in that calendar quarter, and for at least 30 percent of its fishing days in that calendar quarter, and for the retrieval and delivery of at least 30 percent of the landed catch by that vessel for that calendar quarter; (3) amending the definition of a fishing day for pot vessels, for purposes of observer coverage, as a 24-hour period from 0001 hrs A.l.t. - 2400 hrs A.l.t. during which at least 12 sets are retrieved and groundfish are retained; and (4) requiring all groundfish pot vessels equal to or greater than 60 ft (18.3 m) LOA to carry an observer each day it fishes with pot gear during a calendar quarter.

The overall implementation of the Interim Observer Program includes measures that minimize the significant economic impacts of observer coverage requirements on at least some small entities. Vessels less than 60 ft (18.3 m) LOA are not required to carry an observer while fishing for groundfish. Similarly, vessels 60 ft (18.3 m) LOA and longer, but less than 125 ft (38.1 m) LOA, have lower levels of observer coverage than those 125 ft (38.1 m) LOA and longer. These requirements, which have been incorporated into the requirements of the North Pacific Groundfish Observer Program since its inception in 1989, effectively mitigate the economic impacts on some small entities without significantly adversely affecting the implementation of the conservation and management responsibilities imposed by the FMPs and the Magnuson-Stevens Act.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: March 27, 2002.

Rebecca Lent,

Deputy Assistant Administrator, for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.,* 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.50, paragraphs (d)(3) through (6) are redesignated as (d)(4) through (7); paragraph (c)(1)(vii), newly redesignated paragraph (d)(4) and paragraphs (i)(2)(v) and (i)(2)(xiii) are revised; and new paragraph (d)(3) is added to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2002.

* * * * *

(c) * * *

(1) * * *

(vii) Vessels using pot gear. (A) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) LOA fishing with pot gear that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry an observer:

(1) For at least 30 percent of the total number of pot retrievals for that calendar quarter, and

(2) For at least one entire fishing trip using pot gear in a calendar quarter, for each of the groundfish fishery categories defined under paragraph (c)(2) of this section in which the vessel participates.

(B) Groundfish are required to be retained each day that pot gear is retrieved in order for that gear to count toward observer coverage requirements for all catcher vessels and catcher/processors using pot gear and required to carry observers.

* * * * *

(d) * * *

(3) Is subject to observer requirements specified in paragraph (d)(1) of this section that receives pollock or Pacific cod, may reduce observer coverage in the event that a directed fishery for such species closes, subject to the following conditions:

(i) The shoreside processor must maintain observer coverage for 30 percent of all days that groundfish are received or processed, beginning on the fourth calendar day following the day that the directed fishery for pollock or Pacific cod was closed and ending on the last day of the month, except as allowed in paragraph (d)(3)(iv) of this section.

(ii) Observer coverage for the month following the month with reduced observer coverage will be based on monthly landings projections and thresholds as specified in paragraphs (d)(1) and (2) of this section, but may also be reduced for that subsequent month as specified in this paragraph (d)(3) of this section.

(iii) Total groundfish landings received by a shoreside processor under reduced observer coverage as authorized under this paragraph (d)(3) may not exceed 250 mt per calendar week.

(iv) If greater than 250 mt in round weight equivalent of groundfish are projected to be received in a given calender week by a shoreside processor during a month with reduced observer coverage, as authorized under this paragraph (d)(3), the shoreside processor must return to observer coverage requirements as specified in paragraph (d)(1) of this section until processing of all fish received during that week is completed. The shoreside processor may then return to reduced observer coverage as authorized under this paragraph (d)(3) for the remainder of the calendar month.

(4) Offloads pollock at more than one location on the same dock and has distinct and separate equipment at each location to process those pollock and that receives pollock harvested by catcher vessels in the catcher vessel operational area.

* * * * *

(i) * * *

(2) * * *

(v) Providing all necessary transportation, including arrangements and logistics, of observers to the initial location of deployment, to all subsequent vessel and shoreside processor assignments during that deployment, and to the debriefing location when a deployment ends for any reason. It is the responsibility of the observer provider company to ensure the maintenance of the observers aboard the fishing vessels, including lodging, per diem, and any other necessary services. It is the responsibility of the observer provider company to maintain observers at the site of a shoreside processing facility by providing lodging and per diem and any other necessary services. Each observer deployed to a shoreside processing facility, and each observer between vessel or shoreside assignments while still under contract with a certified observer provider company, shall be provided with accommodations at a licensed hotel, motel, bed and breakfast, or with private land-based accommodations for the duration of each shoreside assignment or period between vessel or shoreside assignments. Such accommodations must include an individually assigned bed for each observer for the duration of that observer's shoreside assignment or period between vessel or shoreside assignments, such that no other person is assigned to that bed during the same period of the observer's shoreside assignment or period between vessel or shoreside assignments. Additionally, no more than four beds may be in any individual room housing observers at accommodations meeting the requirements of this section. Each observer deployed to shoreside processing facilities shall be provided with individually assigned communication equipment in working order, such as a cell phone or pager for notification of upcoming deliveries or other necessary communication. Each observer assigned to a shoreside processing facility located more than 1 mile from the observer's local accommodations shall be provided with motorized transportation that will ensure the observer's arrival at the processing facility in a timely manner such that the observer can complete his or her assigned duties. Unless alternative arrangements are approved by the Observer Program Office.

* * * * *

(xiii) Monitoring observers' performance to ensure satisfactory execution of duties by observers and observer conformance with NMFS' standards of conduct under paragraph (h)(2) of this section and ensuring that all records on individual observer performance received from NMFS under the routine use provision of the Privacy Act remain confidential and are not further released to anyone outside the employ of the observer provider company to whom the observer was contracted except with written permission of the observer.

* * * * *

[FR Doc. 02–7930 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 63
Tuesday, April 2, 2002

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[Doc. #CN–02–002]

Cotton Board Rules and Regulations: Adjusting Supplemental Assessment on Imports, (2002 Amendments)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to amend the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. An adjustment is required on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton.

DATES: Comments must be received on or before May 2, 2002.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to Whitney Rick, Chief, Research and Promotion Staff, Cotton Program, Agricultural Marketing Service, USDA, STOP 0224, Washington, DC 20250–0224. Comments should be submitted in triplicate. Comments may also be submitted electronically to: *cottoncomments@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at Cotton Program, AMS, USDA, Room 2641–S, 1400 Independence Ave., SW., Washington, DC 20250 during regular business hours. A copy of this notice may be found at: *www.ams.usda.gov/cotton/rulemaking.htm.*

FOR FURTHER INFORMATION CONTACT: Whitney Rick, Chief, Research and Promotion Staff, Cotton Program, AMS, USDA, Stop 0224, 1400 Independence Ave., SW., Washington, DC 20250–0224, telephone (202) 720–2259, facsimile (202) 690–1718, or e-mail at *whitney.rick@usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This proposed rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Cotton Research and Promotion Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 12 of the Act, any person subject to an order may file with the Secretary a petition stating that the order, any provision of the plan, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the person is an inhabitant, or has his principal place of business, has jurisdiction to review the Secretary's ruling, provided a complaint is filed within 20 days from the date of the entry of ruling.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) AMS has considered the economic impact of this action on small entities and has determined that its implementation will not have a significant economic impact on a substantial number of small businesses.

There are an estimated 10,000 importers who are presently subject to rules and regulations issued pursuant to the Cotton Research and Promotion Order. This proposed rule would affect importers of cotton and cotton-containing products. The majority of these importers are small businesses under the criteria established by the Small Business Administration. This proposed rule would lower the assessments paid by the importers under the Cotton Research and Promotion Order. Even though the assessment would be lowered, the decrease is small and will not significantly affect small businesses. The current assessment on imported cotton is $0.009965 per kilogram of imported cotton. The proposed assessment is $0.00862, a decrease of $0.001345 or a 13.5 percent decrease. From January through December 2001 approximately $22 million was collected. Should the volume of cotton products imported into the U.S. remain at the same level in 2002, one could expect the decreased assessment to generate approximately $19 million or a 13.5 percent decrease from 2001.

Paperwork Reduction

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*) the information collection requirements contained in the regulation to be amended have been previously approved by OMB and were assigned control number 0581–0093.

Background

The Cotton Research and Promotion Act Amendments of 1990 enacted by Congress under Subtitle G of Title XIX of the Food, Agriculture, Conservation and Trade Act of 1990 on November 28, 1990, contained two provisions that authorized changes in the funding procedures for the Cotton Research and Promotion Program.

These provisions are: (1) The assessment of imported cotton and cotton products; and (2) termination of the right of cotton producers to demand a refund of assessments.

An amended Cotton Research and Promotion Order was approved by producers and importers voting in a referendum held July 17–26, 1991, and the amended Order was published in the **Federal Register** on December 10, 1991, (56 FR 64470). A proposed rule implementing the amended Order was published in the **Federal Register** on

December 17, 1991, (56 FR 65450). Implementing rules were published on July 1 and 2, 1992, (57 FR 29181) and (57 FR 29431), respectively.

This proposed rule would decrease the value assigned to imported cotton in the Cotton Board Rules and Regulations (7 CFR 1205.510(b)(2)). This value is used to calculate supplemental assessments on imported cotton and the cotton content of imported products. Supplemental assessments are the second part of a two-part assessment. The first part of the assessment is levied on the weight of cotton produced or imported at a rate of $1 per bale of cotton which is equivalent to 500 pounds or $1 per 226.8 kilograms of cotton.

Supplemental assessments are levied at a rate of five-tenths of one percent of the value of domestically produced cotton, imported cotton, and the cotton content of imported products. The agency has adopted the practice of assigning the calendar year weighted average price received by U.S. farmers for Upland cotton to represent the value of imported cotton. This is done so that the assessment on domestically produced cotton and the assessment on imported cotton and the cotton content of imported products remain similar. The source for the average price statistic is ''Agricultural Prices'', a publication of the National Agricultural Statistics Service (NASS) of the Department of Agriculture. Use of the weighted average price figure in the calculation of supplemental assessments on imported cotton and the cotton content of imported products yields an assessment that approximates assessments paid on domestically produced cotton in the prior calendar year.

The current value of imported cotton as published in the **Federal Register** (66 FR 58051) on November 20, 2001, for the purpose of calculating supplemental assessments on imported cotton is $1.1111 per kilogram. This number was calculated using the annual weighted average price received by farmers for Upland cotton during the calendar year 2000 which was $0.504 per pound and multiplying by the conversion factor 2.2046. Using the Average Weighted Price Received by U.S. farmers for Upland cotton for the calendar year 2001, which is $0.382 per pound, the new value of imported cotton is $0.8422 per kilogram. The proposed value is $.2689 per kilogram less than the previous value.

An example of the complete assessment formula and how the various figures are obtained is as follows:

One bale is equal to 500 pounds.
One kilogram equals 2.2046 pounds.
One pound equals 0.453597 kilograms.

One Dollar Per Bale Assessment Converted to Kilograms

A 500 pound bale equals 226.8 kg. (500 × .453597).

$1 per bale assessment equals $0.002000 per pound (1/500) or $0.004409 per kg. (1/226.8).

Supplemental Assessment of 5/10 of One Percent of the Value of the Cotton Converted to Kilograms

The 2001 calendar year weighted average price received by producers for Upland cotton is $0.382 per pound or $0.8422 per kg. (0.382 × 2.2046).

Five tenths of one percent of the average price in kg. equals $0.004211 per kg. (0.8422 x .005).

Total Assessment

The total assessment per kilogram of raw cotton is obtained by adding the $1 per bale equivalent assessment of $0.004409 per kg. and the supplemental assessment $0.004211 per kg. which equals $0.00862 per kg.

The current assessment on imported cotton is $0.009965 per kilogram of imported cotton. The proposed assessment is $0.00862, a decrease of $0.001345 per kilogram. This decrease reflects the decrease in the Average Weighted Price of Upland Cotton Received by U.S. Farmers during the period January through December 2001.

Since the value of cotton is the basis of the supplemental assessment calculation and the figures shown in the right hand column of the Import Assessment Table 1205.510(b)(3) are a result of such a calculation, the figures in this table have been revised. These figures indicate the total assessment per kilogram due for each Harmonized Tariff Schedule (HTS) number subject to assessment.

A thirty day comment period is provided to comment on the changes to the Cotton Board Rules and Regulations proposed herein. This period is deemed appropriate because this proposal would lower the assessments paid by importers under the Cotton Research and Promotion Order. Accordingly, the change proposed in this rule, if adopted, should be implemented as soon as possible.

Several changes in the harmonized tariff schedule numbering have occurred. Modifications to the harmonized tariff schedule were published in the December 26, 2001, **Federal Register** at 66 FR 66549 (Proclamation 7515 of December 18, 2001, by the President of the United States of America). These changes are as follows:

Numbers changed:

Old No.	New No(s).	Conversion factor	Assessment cents/kg
5607902000	5607909000	0.8889	0.7662
6002203000	6003203000	0.8681	0.7483
6002206000	6003306000	0.2894	0.2495
	6003406000		
600242000	6005210000	0.8681	0.7483
	6005220000		
	6005220000		
	6005230000		
	6005240000		
6002430010	6005310010	0.2894	0.2495
	6005320010		
	6005330010		
	6005340010		
	6005410010		
	6005420010		
	6005430010		
	6005440010		
6002430080	6005310080	0.2894	0.2495
	6005320080		
	6005330080		

Old No.	New No(s).	Conversion factor	Assessment cents/kg
	6005340080		
	6005410080		
	6005420080		
	6005430080		
	6005440080		
6002921000	6006211000	1.1574	0.9977
	6006221000		
	6006231000		
	6006241000		
6002930040	6006310040	0.1157	0.0997
	6006320040		
	6006330040		
	6006340040		
6002930080	6006310080	0.1157	0.0897
	6006320080		
	6006330080		
	6006340080		
	6006410085		
	6006420085		
	6006430085		
	6006440085		

List of Subjects in 7 CFR Part 1205

Advertising, Agricultural research, Cotton, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble 7 CFR part 1205 is proposed to be amended as follows:

PART 1205—COTTON RESEARCH AND PROMOTION

1. The authority citation for Part 1205 continues to read as follows:

Authority: 7 U.S.C. 2101–2118.

2. In ''1205.510, paragraph (b)(2) and the table in paragraph (b)(3)(ii) are revised to read as follows:

1205.510 Levy of assessments.

* * * * *

(b) * * *

(2) The 12-month average of monthly weighted average prices received by U.S. farmers will be calculated annually. Such weighted average will be used as the value of imported cotton for the purpose of levying the supplemental assessment on imported cotton and will be expressed in kilograms. The value of imported cotton for the purpose of levying this supplemental assessment is $0.862 per kilogram.

(3) * * *

(ii) * * *

IMPORT ASSESSMENT TABLE

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
5201000500	0	0.8620
5201001200	0	0.8620
5201001400	0	0.8620

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
5201001800	0	0.8620
5201002200	0	0.8620
5201002400	0	0.8620
5201002800	0	0.8620
5201003400	0	0.8620
5201003800	0	0.8620
5204110000	1.1111	0.9578
5204200000	1.1111	0.9578
5205111000	1.1111	0.9578
5205112000	1.1111	0.9578
5205121000	1.1111	0.9578
5205122000	1.1111	0.9578
5205131000	1.1111	0.9578
5205132000	1.1111	0.9578
5205141000	1.1111	0.9578
5205210020	1.1111	0.9578
5205210090	1.1111	0.9578
5205220020	1.1111	0.9578
5205220090	1.1111	0.9578
5205230020	1.1111	0.9578
5205230090	1.1111	0.9578
5205240020	1.1111	0.9578
5205240090	1.1111	0.9578
5205310000	1.1111	0.9578
5205320000	1.1111	0.9578
5205330000	1.1111	0.9578
5205340000	1.1111	0.9578
5205410020	1.1111	0.9578
5205410090	1.1111	0.9578
5205420020	1.1111	0.9578
5205420090	1.1111	0.9578
5205440020	1.1111	0.9578
5205440090	1.1111	0.9578
5206120000	0.5556	0.4789
5206130000	0.5556	0.4789
5206140000	0.5556	0.4789
5206220000	0.5556	0.4789
5206230000	0.5556	0.4789
5206240000	0.5556	0.4789
5206310000	0.5556	0.4789
5207100000	1.1111	0.9578
5207900000	0.5556	0.4789

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/ kg.
5208112020	1.1455	0.9874
5208112040	1.1455	0.9874
5208112090	1.1455	0.9874
5208114020	1.1455	0.9874
5208114060	1.1455	0.9874
5208114090	1.1455	0.9874
5208118090	1.1455	0.9874
5208124020	1.1455	0.9874
5208124040	1.1455	0.9874
5208124090	1.1455	0.9874
5208126020	1.1455	0.9874
5208126040	1.1455	0.9874
5208126060	1.1455	0.9874
5208126090	1.1455	0.9874
5208128020	1.1455	0.9874
5208128090	1.1455	0.9874
5208130000	1.1455	0.9874
5208192020	1.1455	0.9874
5208192090	1.1455	0.9874
5208194020	1.1455	0.9874
5208194090	1.1455	0.9874
5208196020	1.1455	0.9874
5208196090	1.1455	0.9874
5208224040	1.1455	0.9874
5208224090	1.1455	0.9874
5208226020	1.1455	0.9874
5208226060	1.1455	0.9874
5208228020	1.1455	0.9874
5208230000	1.1455	0.9874
5208292020	1.1455	0.9874
5208292090	1.1455	0.9874
5208294090	1.1455	0.9874
5208296090	1.1455	0.9874
5208298020	1.1455	0.9874
5208312000	1.1455	0.9874
5208321000	1.1455	0.9874
5208323020	1.1455	0.9874
5208323040	1.1455	0.9874
5208323090	1.1455	0.9874
5208324020	1.1455	0.9874
5208324040	1.1455	0.9874
5208325020	1.1455	0.9874

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5208330000	1.1455	0.9874
5208392020	1.1455	0.9874
5208392090	1.1455	0.9874
5208394090	1.1455	0.9874
5208396090	1.1455	0.9874
5208398020	1.1455	0.9874
5208412000	1.1455	0.9874
5208416000	1.1455	0.9874
5208418000	1.1455	0.9874
5208421000	1.1455	0.9874
5208423000	1.1455	0.9874
5208424000	1.1455	0.9874
5208425000	1.1455	0.9874
5208430000	1.1455	0.9874
5208492000	1.1455	0.9874
5208494020	1.1455	0.9874
5208494090	1.1455	0.9874
5208496010	1.1455	0.9874
5208496090	1.1455	0.9874
5208498090	1.1455	0.9874
5208512000	1.1455	0.9874
5208516060	1.1455	0.9874
5208518090	1.1455	0.9874
5208523020	1.1455	0.9874
5208523045	1.1455	0.9874
5208523090	1.1455	0.9874
5208524020	1.1455	0.9874
5208524045	1.1455	0.9874
5208524065	1.1455	0.9874
5208525020	1.1455	0.9874
5208530000	1.1455	0.9874
5208592025	1.1455	0.9874
5208592095	1.1455	0.9874
5208594090	1.1455	0.9874
5208596090	1.1455	0.9874
5209110020	1.1455	0.9874
5209110035	1.1455	0.9874
5209110090	1.1455	0.9874
5209120020	1.1455	0.9874
5209120040	1.1455	0.9874
5209190020	1.1455	0.9874
5209190040	1.1455	0.9874
5209190060	1.1455	0.9874
5209190090	1.1455	0.9874
5209210090	1.1455	0.9874
5209220020	1.1455	0.9874
5209220040	1.1455	0.9874
5209290040	1.1455	0.9874
5209290090	1.1455	0.9874
5209313000	1.1455	0.9874
5209316020	1.1455	0.9874
5209316035	1.1455	0.9874
5209316050	1.1455	0.9874
5209316090	1.1455	0.9874
5209320020	1.1455	0.9874
5209320040	1.1455	0.9874
5209390020	1.1455	0.9874
5209390040	1.1455	0.9874
5209390060	1.1455	0.9874
5209390080	1.1455	0.9874
5209390090	1.1455	0.9874
5209413000	1.1455	0.9874
5209416020	1.1455	0.9874
5209416040	1.1455	0.9874
5209420020	1.0309	0.8886
5209420040	1.0309	0.8886
5209430030	1.1455	0.9874
5209430050	1.1455	0.9874
5209490020	1.1455	0.9874

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5209490090	1.1455	0.9874
5209516035	1.1455	0.9874
5209516050	1.1455	0.9874
5209520020	1.1455	0.9874
5209590025	1.1455	0.9874
5209590040	1.1455	0.9874
5209590090	1.1455	0.9874
5210114020	0.6873	0.5925
5210114040	0.6873	0.5925
5210116020	0.6873	0.5925
5210116040	0.6873	0.5925
5210116060	0.6873	0.5925
5210118020	0.6873	0.5925
5210120000	0.6873	0.5925
5210192090	0.6873	0.5925
5210214040	0.6873	0.5925
5210216020	0.6873	0.5925
5210216060	0.6873	0.5925
5210218020	0.6873	0.5925
5210314020	0.6873	0.5925
5210314040	0.6873	0.5925
5210316020	0.6873	0.5925
5210318020	0.6873	0.5925
5210414000	0.6873	0.5925
5210416000	0.6873	0.5925
5210418000	0.6873	0.5925
5210498090	0.6873	0.5925
5210514040	0.6873	0.5925
5210516020	0.6873	0.5925
5210516040	0.6873	0.5925
5210516060	0.6873	0.5925
5211110090	0.6873	0.5925
5211120020	0.6873	0.5925
5211190020	0.6873	0.5925
5211190060	0.6873	0.5925
5211210025	0.6873	0.5925
5211210035	0.4165	0.3590
5211210050	0.6873	0.5925
5211290090	0.6873	0.5925
5211320020	0.6873	0.5925
5211390040	0.6873	0.5925
5211390060	0.6873	0.5925
5211490020	0.6873	0.5925
5211490090	0.6873	0.5925
5211590025	0.6873	0.5925
5212146090	0.9164	0.7899
5212156020	0.9164	0.7899
5212216090	0.9164	0.7899
5509530030	0.5556	0.4789
5509530060	0.5556	0.4789
5513110020	0.4009	0.3456
5513110040	0.4009	0.3456
5513110060	0.4009	0.3456
5513110090	0.4009	0.3456
5513120000	0.4009	0.3456
5513130020	0.4009	0.3456
5513210020	0.4009	0.3456
5513310000	0.4009	0.3456
5514120020	0.4009	0.3456
5516420060	0.4009	0.3456
5516910060	0.4009	0.3456
5516930090	0.4009	0.3456
5601210010	1.1455	0.9874
5601210090	1.1455	0.9874
5601300000	1.1455	0.9874
5602109090	0.5727	0.4937
5602290000	1.1455	0.9874
5602906000	0.526	0.4534
5604900000	0.5556	0.4789

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
5607909000	0.8889	0.7662
5608901000	1.1111	0.9578
5608902300	1.1111	0.9578
5609001000	1.1111	0.9578
5609004000	0.5556	0.4789
5701104000	0.0556	0.0479
5701109000	0.1111	0.0958
5701901010	1.0444	0.9003
5702109020	1.1	0.9482
5702312000	0.0778	0.0671
5702411000	0.0722	0.0622
5702412000	0.0778	0.0671
5702421000	0.0778	0.0671
5702913000	0.0889	0.0766
5702991010	1.1111	0.9578
5702991090	1.1111	0.9578
5703900000	0.4489	0.3870
5801210000	1.1455	0.9874
5801230000	1.1455	0.9874
5801250010	1.1455	0.9874
5801250020	1.1455	0.9874
5801260020	1.1455	0.9874
5802190000	1.1455	0.9874
5802300030	0.5727	0.4937
5804291000	1.1455	0.9874
5806200010	0.3534	0.3046
5806200090	0.3534	0.3046
5806310000	1.1455	0.9874
5806400000	0.4296	0.3703
5808107000	0.5727	0.4937
5808900010	0.5727	0.4937
5811002000	1.1455	0.9874
6001106000	1.1455	0.9874
6001210000	0.8591	0.7405
6001220000	0.2864	0.2469
6001910010	0.8591	0.7405
6001910020	0.8591	0.7405
6001920020	0.2864	0.2469
6001920030	0.2864	0.2469
6001920040	0.2864	0.2469
6003203000	0.8681	0.7483
6003306000	0.2894	0.2495
6003406000	0.2894	0.2495
6005210000	0.8681	0.7483
6005220000	0.8681	0.7483
6005230000	0.8681	0.7483
6005240000	0.8681	0.7483
6005310010	0.2894	0.2495
6005320010	0.2894	0.2495
6005330010	0.2894	0.2495
6005340010	0.2894	0.2495
6005410010	0.2894	0.2495
6005420010	0.2894	0.2495
6005430010	0.2894	0.2495
6005440010	0.2894	0.2495
6005310080	0.2894	0.2495
6005320080	0.2894	0.2495
6005330080	0.2894	0.2495
6005340080	0.2894	0.2495
6005410080	0.2894	0.2495
6005420080	0.2894	0.2495
6005430080	0.2894	0.2495
6005440080	0.2894	0.2495
6006211000	1.1574	0.9977
6006221000	1.1574	0.9977
6006231000	1.1574	0.9977
6006241000	1.1574	0.9977
6006310040	0.1157	0.0997
6006320040	0.1157	0.0997

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6006330040	0.1157	0.0997
6006340040	0.1157	0.0997
6006310080	0.1157	0.0997
6006320080	0.1157	0.0997
6006330080	0.1157	0.0997
6006340080	0.1157	0.0997
6006410085	0.1157	0.0997
6006420085	0.1157	0.0997
6006430085	0.1157	0.0997
6006440085	0.1157	0.0997
6101200010	1.0094	0.8701
6101200020	1.0094	0.8701
6102200010	1.0094	0.8701
6102200020	1.0094	0.8701
6103421020	0.8806	0.7591
6103421040	0.8806	0.7591
6103421050	0.8806	0.7591
6103421070	0.8806	0.7591
6103431520	0.2516	0.2169
6103431540	0.2516	0.2169
6103431550	0.2516	0.2169
6103431570	0.2516	0.2169
6104220040	0.9002	0.7760
6104220060	0.9002	0.7760
6104320000	0.9207	0.7936
6104420010	0.9002	0.7760
6104420020	0.9002	0.7760
6104520010	0.9312	0.8027
6104520020	0.9312	0.8027
6104622006	0.8806	0.7591
6104622011	0.8806	0.7591
6104622016	0.8806	0.7591
6104622021	0.8806	0.7591
6104622026	0.8806	0.7591
6104622028	0.8806	0.7591
6104622030	0.8806	0.7591
6104622060	0.8806	0.7591
6104632006	0.3774	0.3253
6104632011	0.3774	0.3253
6104632026	0.3774	0.3253
6104632028	0.3774	0.3253
6104632030	0.3774	0.3253
6104632060	0.3774	0.3253
6104692030	0.3858	0.3326
6105100010	0.985	0.8491
6105100020	0.985	0.8491
6105100030	0.985	0.8491
6105202010	0.3078	0.2653
6105202030	0.3078	0.2653
6106100010	0.985	0.8491
6106100020	0.985	0.8491
6106100030	0.985	0.8491
6106202010	0.3078	0.2653
6106202030	0.3078	0.2653
6107110010	1.1322	0.9760
6107110020	1.1322	0.9760
6107120010	0.5032	0.4338
6107210010	0.8806	0.7591
6107220015	0.3774	0.3253
6107220025	0.3774	0.3253
6107910040	1.2581	1.0845
6108210010	1.2445	1.0728
6108210020	1.2445	1.0728
6108310010	1.1201	0.9655
6108310020	1.1201	0.9655
6108320010	0.2489	0.2146
6108320015	0.2489	0.2146
6108320025	0.2489	0.2146
6108910005	1.2445	1.0728

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6108910015	1.2445	1.0728
6108910025	1.2445	1.0728
6108910030	1.2445	1.0728
6108920030	0.2489	0.2146
6109100005	0.9956	0.8582
6109100007	0.9956	0.8582
6109100009	0.9956	0.8582
6109100012	0.9956	0.8582
6109100014	0.9956	0.8582
6109100018	0.9956	0.8582
6109100023	0.9956	0.8582
6109100027	0.9956	0.8582
6109100037	0.9956	0.8582
6109100040	0.9956	0.8582
6109100045	0.9956	0.8582
6109100060	0.9956	0.8582
6109100065	0.9956	0.8582
6109100070	0.9956	0.8582
6109901007	0.3111	0.2682
6109901009	0.3111	0.2682
6109901049	0.3111	0.2682
6109901050	0.3111	0.2682
6109901060	0.3111	0.2682
6109901065	0.3111	0.2682
6109901090	0.3111	0.2682
6110202005	1.1837	1.0203
6110202010	1.1837	1.0203
6110202015	1.1837	1.0203
6110202020	1.1837	1.0203
6110202025	1.1837	1.0203
6110202030	1.1837	1.0203
6110202035	1.1837	1.0203
6110202040	1.1574	0.9977
6110202045	1.1574	0.9977
6110202065	1.1574	0.9977
6110202075	1.1574	0.9977
6110909022	0.263	0.2267
6110909024	0.263	0.2267
6110909030	0.3946	0.3401
6110909040	0.263	0.2267
6110909042	0.263	0.2267
6111201000	1.2581	1.0845
6111202000	1.2581	1.0845
6111203000	1.0064	0.8675
6111205000	1.0064	0.8675
6111206010	1.0064	0.8675
6111206020	1.0064	0.8675
6111206030	1.0064	0.8675
6111206040	1.0064	0.8675
6111305020	0.2516	0.2169
6111305040	0.2516	0.2169
6112110050	0.7548	0.6506
6112120010	0.2516	0.2169
6112120030	0.2516	0.2169
6112120040	0.2516	0.2169
6112120050	0.2516	0.2169
6112120060	0.2516	0.2169
6112390010	1.1322	0.9760
6112490010	0.9435	0.8133
6114200005	0.9002	0.7760
6114200010	0.9002	0.7760
6114200015	0.9002	0.7760
6114200020	1.286	1.1085
6114200040	0.9002	0.7760
6114200046	0.9002	0.7760
6114200052	0.9002	0.7760
6114200060	0.9002	0.7760
6114301010	0.2572	0.2217
6114301020	0.2572	0.2217

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6114303030	0.2572	0.2217
6115198010	1.0417	0.8979
6115929000	1.0417	0.8979
6115936020	0.2315	0.1996
6116101300	0.3655	0.3151
6116101720	0.8528	0.7351
6116926420	1.0965	0.9452
6116926430	1.2183	1.0502
6116926440	1.0965	0.9452
6116928800	1.0965	0.9452
6117809510	0.9747	0.8402
6117809540	0.3655	0.3151
6201121000	0.948	0.8172
6201122010	0.8953	0.7717
6201122050	0.6847	0.5902
6201122060	0.6847	0.5902
6201134030	0.2633	0.2270
6201921000	0.9267	0.7988
6201921500	1.1583	0.9985
6201922010	1.0296	0.8875
6201922021	1.2871	1.1095
6201922031	1.2871	1.1095
6201922041	1.2871	1.1095
6201922051	1.0296	0.8875
6201922061	1.0296	0.8875
6201931000	0.3089	0.2663
6201933511	0.2574	0.2219
6201933521	0.2574	0.2219
6201999060	0.2574	0.2219
6202121000	0.9372	0.8079
6202122010	1.1064	0.9537
6202122025	1.3017	1.1221
6202122050	0.8461	0.7293
6202122060	0.8461	0.7293
6202134005	0.2664	0.2296
6202134020	0.333	0.2870
6202921000	1.0413	0.8976
6202921500	1.0413	0.8976
6202922026	1.3017	1.1221
6202922061	1.0413	0.8976
6202922071	1.0413	0.8976
6202931000	0.3124	0.2693
6202935011	0.2603	0.2244
6202935021	0.2603	0.2244
6203122010	0.1302	0.1122
6203221000	1.3017	1.1221
6203322010	1.2366	1.0659
6203322040	1.2366	1.0659
6203332010	0.1302	0.1122
6203392010	1.1715	1.0098
6203399060	0.2603	0.2244
6203422010	0.9961	0.8586
6203422025	0.9961	0.8586
6203422050	0.9961	0.8586
6203422090	0.9961	0.8586
6203424005	1.2451	1.0733
6203424010	1.2451	1.0733
6203424015	0.9961	0.8586
6203424020	1.2451	1.0733
6203424025	1.2451	1.0733
6203424030	1.2451	1.0733
6203424035	1.2451	1.0733
6203424040	0.9961	0.8586
6203424045	0.9961	0.8586
6203424050	0.9238	0.7963
6203424055	0.9238	0.7963
6203424060	0.9238	0.7963
6203431500	0.1245	0.1073
6203434010	0.1232	0.1062

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6203434020	0.1232	0.1062
6203434030	0.1232	0.1062
6203434040	0.1232	0.1062
6203498045	0.249	0.2146
6204132010	0.1302	0.1122
6204192000	0.1302	0.1122
6204198090	0.2603	0.2244
6204221000	1.3017	1.1221
6204223030	1.0413	0.8976
6204223040	1.0413	0.8976
6204223050	1.0413	0.8976
6204223060	1.0413	0.8976
6204223065	1.0413	0.8976
6204292040	0.3254	0.2805
6204322010	1.2366	1.0659
6204322030	1.0413	0.8976
6204322040	1.0413	0.8976
6204423010	1.2728	1.0972
6204423030	0.9546	0.8229
6204423040	0.9546	0.8229
6204423050	0.9546	0.8229
6204423060	0.9546	0.8229
6204522010	1.2654	1.0908
6204522030	1.2654	1.0908
6204522040	1.2654	1.0908
6204522070	1.0656	0.9185
6204522080	1.0656	0.9185
6204533010	0.2664	0.2296
6204594060	0.2664	0.2296
6204622010	0.9961	0.8586
6204622025	0.9961	0.8586
6204622050	0.9961	0.8586
6204624005	1.2451	1.0733
6204624010	1.2451	1.0733
6204624020	0.9961	0.8586
6204624025	1.2451	1.0733
6204624030	1.2451	1.0733
6204624035	1.2451	1.0733
6204624040	1.2451	1.0733
6204624045	0.9961	0.8586
6204624050	0.9961	0.8586
6204624055	0.9854	0.8494
6204624060	0.9854	0.8494
6204624065	0.9854	0.8494
6204633510	0.2546	0.2195
6204633530	0.2546	0.2195
6204633532	0.2437	0.2101
6204633540	0.2437	0.2101
6204692510	0.249	0.2146
6204692540	0.2437	0.2101
6204699044	0.249	0.2146
6204699046	0.249	0.2146
6204699050	0.249	0.2146
6205202015	0.9961	0.8586
6205202020	0.9961	0.8586
6205202025	0.9961	0.8586
6205202030	0.9961	0.8586
6205202035	1.1206	0.9660
6205202046	0.9961	0.8586
6205202050	0.9961	0.8586
6205202060	0.9961	0.8586
6205202065	0.9961	0.8586
6205202070	0.9961	0.8586
6205202075	0.9961	0.8586
6205302010	0.3113	0.2683
6205302030	0.3113	0.2683
6205302040	0.3113	0.2683
6205302050	0.3113	0.2683
6505302070	0.3113	0.2683

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6205302080	0.3113	0.2683
6206100040	0.1245	0.1073
6206303010	0.9961	0.8586
6206303020	0.9961	0.8586
6206303030	0.9961	0.8586
6206303040	0.9961	0.8586
6206303050	0.9961	0.8586
6206303060	0.9961	0.8586
6206403010	0.3113	0.2683
6206403030	0.3113	0.2683
6206900040	0.249	0.2146
6207110000	1.0852	0.9354
6207199010	0.3617	0.3118
6207210030	1.1085	0.9555
6207220000	0.3695	0.3185
6207911000	1.1455	0.9874
6207913010	1.1455	0.9874
6207913020	1.1455	0.9874
6208210010	1.0583	0.9123
6208210020	1.0583	0.9123
6208220000	0.1245	0.1073
6208911010	1.1455	0.9874
6208911020	1.1455	0.9874
6208913010	1.1455	0.9874
6209201000	1.1577	0.9979
6209203000	0.9749	0.8404
6209205030	0.9749	0.8404
6209205035	0.9749	0.8404
6209205040	1.2186	1.0504
6209205045	0.9749	0.8404
6209205050	0.9749	0.8404
6209303020	0.2463	0.2123
6209303040	0.2463	0.2123
6210109010	0.2291	0.1975
6210403000	0.0391	0.0337
6210405020	0.4556	0.3927
6211111010	0.1273	0.1097
6211111020	0.1273	0.1097
6211118010	1.1455	0.9874
6211118020	1.1455	0.9874
6211320007	0.8461	0.7293
6211320010	1.0413	0.8976
6211320015	1.0413	0.8976
6211320030	0.9763	0.8416
6211320060	0.9763	0.8416
6211320070	0.9763	0.8416
6211330010	0.3254	0.2805
6211330030	0.3905	0.3366
6211330035	0.3905	0.3366
6211330040	0.3905	0.3366
6211420010	1.0413	0.8976
6211420020	1.0413	0.8976
6211420025	1.1715	1.0098
6211420060	1.0413	0.8976
6211420070	1.1715	1.0098
6211430010	0.2603	0.2244
6211430030	0.2603	0.2244
6211430040	0.2603	0.2244
6211430050	0.2603	0.2244
6211430060	0.2603	0.2244
6211430066	0.2603	0.2244
6212105020	0.2412	0.2079
6212109010	0.9646	0.8315
6212109020	0.2412	0.2079
6212200020	0.3014	0.2598
6212900030	0.1929	0.1663
6213201000	1.1809	1.0179
6213202000	1.0628	0.9161
6213901000	0.4724	0.4072

IMPORT ASSESSMENT TABLE—Continued

[Raw cotton fiber]

HTS No.	Conv. fact.	Cents/kg.
6214900010	0.9043	0.7795
6216000800	0.2351	0.2027
6216001720	0.6752	0.5820
6216003800	1.2058	1.0394
6216004100	1.2058	1.0394
6217109510	1.0182	0.8777
6217109530	0.2546	0.2195
6301300010	0.8766	0.7556
6301300020	0.8766	0.7556
6302100005	1.1689	1.0076
6302100008	1.1689	1.0076
6302100015	1.1689	1.0076
6302215010	0.8182	0.7053
6302215020	0.8182	0.7053
6302217010	1.1689	1.0076
6302217020	1.1689	1.0076
6302217050	1.1689	1.0076
6302219010	0.8182	0.7053
6302219020	0.8182	0.7053
6302219050	0.8182	0.7053
6302222010	0.4091	0.3526
6302222020	0.4091	0.3526
6302313010	0.8182	0.7053
6302313050	1.1689	1.0076
6302315050	0.8182	0.7053
6302317010	1.1689	1.0076
6302317020	1.1689	1.0076
6302317040	1.1689	1.0076
6302317050	1.1689	1.0076
6302319010	0.8182	0.7053
6302319040	0.8182	0.7053
6302319050	0.8182	0.7053
6302322020	0.4091	0.3526
6302322040	0.4091	0.3526
6302402010	0.9935	0.8564
6302511000	0.5844	0.5038
6302512000	0.8766	0.7556
6302513000	0.5844	0.5038
6302514000	0.8182	0.7053
6302600010	1.1689	1.0076
6302600020	1.052	0.9068
6302600030	1.052	0.9068
6302910005	1.052	0.9068
6302910015	1.1689	1.0076
6302910025	1.052	0.9068
6302910035	1.052	0.9068
6302910045	1.052	0.9068
6302910050	1.052	0.9068
6302910060	1.052	0.9068
6303110000	0.9448	0.8144
6303910010	0.6429	0.5542
6303910020	0.6429	0.5542
6304111000	1.0629	0.9162
6304190500	1.052	0.9068
6304191000	1.1689	1.0076
6304191500	0.4091	0.3526
6304192000	0.4091	0.3526
6304910020	0.9351	0.8061
6304920000	0.9351	0.8061
6505901540	0.181	0.1560
6505902060	0.9935	0.8564
6505902545	0.5844	0.5038

* * * * *

Dated: March 27, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–7919 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Ch. III

[Docket No. 02–005N]

Regulatory Flexibility Act; Plan for Regulations Reviewed Under Section 610 Requirements

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Schedule of regulations to be reviewed under section 610 requirements of the Regulatory Flexibility Act.

SUMMARY: The Food Safety and Inspection Service (FSIS) is publishing a scheduling plan for regulations that will be reviewed based on the Regulatory Flexibility Act's (RFA) Section 610 provisions. These provisions provide that all Federal agencies are to review existing regulations that have a significant economic impact on a substantial number of small entities to determine whether these rules should be withdrawn, modified, or left intact as a means to minimize the impact imposed. As such, FSIS has identified regulations that meet this threshold requirement for mandatory review. Accordingly, these rules will be reviewed within the timeframes indicated below.

FOR FURTHER INFORMATION CONTACT: Daniel Engeljohn, Ph.D., Director, Regulations and Directives Development Staff, FSIS, USDA, 300 12th Street, SW., Room 112, Washington, DC 20250–3700, (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

Section 610 of the Regulatory Flexibility Act instructs all federal agencies to review any regulations that have been identified as having a significant economic impact on a substantial number of small entities as a means to determine whether the associated impact can be minimized by considering the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule from the public; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and to the extent feasible, with State and local governmental rules; and (5) the length of time since the rule has been initially evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. In accordance with the aforementioned provisions, the mandatory reviews must be conducted and completed within ten years succeeding the rule's publication date.

Accordingly, FSIS has prepared a plan for reviewing its rules. In addition, a brief description of the regulation, which includes the purpose for its promulgation and the legal basis, scheduled to be reviewed during the corresponding year identified below will be included in FSIS' regulatory agenda that is printed in the **Federal Register** as part of the Unified Regulatory Agenda.

FOOD SAFETY AND INSPECTION SERVICE'S REGULATIONS IDENTIFIED FOR THE REGULATORY FLEXIBILITY ACT'S SECTION 610 REVIEW

CFR part(s) affected and legal authority	Docket No.	Regulation title	Publication citation and date	Review date
9 CFR Pts. 317, 318, 319; 21 U.S.C. 607, 621; 7 CFR 2.18, 2.53 .	81–016F	Standards and Labeling Requirements for Mechanically Separated (Species) and Products in Which It is Used .	47 FR 28214; June 29, 1982 .	2002
9 CFR Pts. 317, 320, 381; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 450; 7 CFR 2.18, 2.53 .	91–006F	Nutrition Labeling of Meat and Poultry Products .	58 FR 632; January 6, 1993 .	2003
9 CFR Pts. 317, 381; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 450; 7 CFR 2.18, 2.53 .	91–006F–HLTH	Nutrition Labeling; Use of ''Healthy'' and Similar Terms on Meat and Poultry Product Labeling .	59 FR 24220; May 10, 1994 .	2004
9 CFR Pts. 304, 308, 310, 320, 327, 381, 416, 417; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 138f, 450, 1901–1906; 7 CFR 2.18, 2.53 .	93–016F	Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems .	61 FR 38806; July 25, 1996 .	2006
9 CFR Pts. 381, 424; 21 U.S.C. 451–470; 7 U.S.C. 138f, 450; 7 CFR 2.18, 2.53 .	97–076F	Irradiation of Meat Food Products	64 FR 72150; December 29, 1999 .	2009
9 CFR Pts. 381, 441; 21 U.S.C. 451–470, 601–695; 7 U.S.C. 138f, 450, 1901–1906; 7 CFR 2.18, 2.53 .	97–054F	Retained Water in Raw Meat and Poultry Products; Poultry Chilling Requirements .	66 FR 1750; January 9, 2001 .	2011

Done at Washington, DC, on: March 28, 2002.

Margaret O'K. Glavin,

Acting Administrator.

[FR Doc. 02–7917 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–01]

Proposed Establishment of Class D Airspace, Proposed Modification of Class E Airspace, Marquette, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Document proposes to create Class D airspace, and modify Class E airspace at Marquette, MI. The opening of a Federal Contract Tower is being planned for the Sawyer International Airport. Class D airspace is required during the hours the control tower is operating. Sawyer International Airport is served by Federal Aviation Regulations Part 121 (14 CFR 121) air carriers operations. During periods when the control tower is closed, controlled airspace extending upward from the surface is needed to contain aircraft executing instrument flight procedures and provide a safer operating environment. The airport meets the minimum communications and weather observation and reporting requirements for controlled airspace extending upward from the surface. This action proposes to create Class D airspace, and modify Class E airspace with a 4.6-mile radius for this airport.

EFFECTIVE DATE: Comments must be received on or before May 6, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 02–AGL–01, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–AGL–01.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with the rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to create Class D airspace, and modify Class E airspace at Marquette, MI, to support the operation of a Federal Contract Tower, and to provide a safer operating environment after the tower is closed. Controlled airspace extending from the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class D airspace areas are published in paragraph 5000 and Class E airspace areas extending upward from the surface in paragraph 6002, of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace

Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace.

* * * * *

AGL MI D Marquette, MI [New]

Marquette, Sawyer International Airport, MI (Lat. 46°21′13″ N, long 87°23′45″ W.)

That airspace extending upward from the surface to the including 3,700 feet MSL, within a 4.6-mile radius of the Sawyer International Airport. This Class D airspace area is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class D airspace areas extending upward from the surface of the earth.

* * * * *

AGL MI E2 Marquette, MI [Revised]

Marquette, Sawyer International Airport, MI (Lat. 46°21′13″ N 87°23′45″ W.)

That airsapce extending upward from the surface within a 4.6-mile radius of the Sawyer International Airport. This Class E airspace area is effective during the dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 4, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7853 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–03]

Proposed Modification of Class E Airspace; Jackson, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class E airspace at Jackson, OH. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 01, and an RNAV SIAP to Rwy 19, have been developed for James A. Rhodes Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action would increase the radius of the existing controlled airspace for James A. Rhodes Airport.

DATES: Comment must be received on or before May 20, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 02–AGL–03, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–AGL–03.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CRR part 71 to modify Class E airspace at Jackson, OH, for James A. Rhodes Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

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

List of Subjects 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL OH E5 Jackson, OH [Revised]

James A. Rhodes Airport, OH
(Lat. 38°58′53″ N., long. 82°34′41″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the James A. Rhodes Airport.

* * * * *

Issued in Des Plaines, Illinois, on March 15, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7857 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AGL–02]

Proposed Modification of Class E Airspace; Tecumseh, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Document proposes to modify Class E airspace at Tecumseh, MI. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 13, and an RNAV SIAP to RWY 31 have been developed for Tecumseh Products Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing this approach. This action would increase the area of the existing controlled airspace at Al Meyers Airport, by adding a radius of controlled airspace around Tecumseh Products Airport.

DATES: Comments must be received on or before May 6, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Regional Counsel, AGL–7, Rules Docket No. 02–AGL–02, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–AGL–02.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Tecumseh, MI, by adding a radius of controlled airspace around the Tecumseh Products Airport, thus increasing the existing Class E airspace area for Al Meyers Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

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

* * * * *

AGL MI E5 Tecumseh, MI [Revised]

Tecumseh, Al Meyers Airport, MI
(Lat. 42° 01′ 30″N., long. 83° 56′ 21″W.)
Tecumseh, Tecumseh Products Airport, MI
(Lat. 42° 02′ 00″N., long. 83° 52′ 42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2-mile radius of the Al Meyers Airport, and within a 6.4-mile radius of Tecumseh Products Airport, excluding that airspace within the Adrian, Lenawee County Airport, MI, and the Detroit, MI, Class E Airspace areas.

* * * * *

Issued in Des Plaines, Illinois on March 4, 2002.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 02–7854 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 147

[CGD08–01–043]

RIN 2115–AG31

Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone around a petroleum and gas production facility in Green Canyon 205A of the Outer Continental Shelf in the Gulf of Mexico. The facility needs to be protected from vessels operating outside the normal shipping channels and fairways, and placing a safety zone around this facility would significantly reduce the threat of allisions, oil spills and releases of natural gas. The proposed regulation would prevent all vessels from entering or remaining in the specified area around the facility except for the following: an attending vessel; a vessel under 100 feet in length overall not engaged in towing; or a vessel authorized by the Eighth Coast Guard District Commander.

DATES: Comments and related material must reach the Coast Guard on or before June 3, 2002.

ADDRESSES: You may mail comments and related material to Commander, Eighth Coast Guard District (m), Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, or comments and related material may be delivered to Room 1341 at the same address between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–6271. Commander, Eighth Coast Guard District (m) maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander, Eighth Coast Guard District (m) between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, telephone (504) 589–6271.

SUPPLEMENTARY INFORMATION:

Requests 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 [CGD08–01–043], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not plan to hold a public meeting. However, you may submit a request for a meeting by writing to Commander, Eighth Coast Guard District (m) at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to establish a safety zone around a petroleum producing facility in the Gulf of Mexico: Chevron Genesis Spar (Genesis), Green Canyon 205A (GC205A), located at position 27°46′46.365″ N, 90°31′6.553″ W.

This proposed safety zone is in the deepwater area of the Gulf of Mexico. For the purposes of this regulation it is considered to be in waters of 304.8 meters (1,000 feet) or greater depth extending to the limits of the Exclusive Economic Zone (EEZ) contiguous to the territorial sea of the United States and extending to a distance up to 200 nautical miles from the baseline from which the breadth of the sea is measured. Navigation in the area of the proposed safety zone consists of large commercial shipping vessels, fishing vessels, cruise ships, tugs with tows and the occasional recreational vessel. The deepwater area also includes an extensive system of fairways. The fairways include the Gulf of Mexico East-West Fairway, the entrance/exit route of the Mississippi River, and the Houston-Galveston Safety Fairway. Significant amounts of vessel traffic occur in or near the various fairways in the deepwater area.

Chevron U.S.A. Production Company, hereafter referred to as Chevron, has

requested that the Coast Guard establish a safety zone in the Gulf of Mexico around the moored spar buoy, the Chevron Genesis Spar, hereafter referred to as Genesis.

The request for the safety zone was made due to the high level of shipping activity around the facility and the safety concerns for both the personnel on board the facility and the environment. Chevron indicated that the location, production level, and personnel levels on board the facility make it highly likely that any allision with the facility would result in a catastrophic event. The Genesis is located in open waters where no fixed structures previously existed. It is a high production oil and gas drilling facility producing approximately 55,000 barrels of oil per day, 95 million cubic feet of gas per day and is manned with a crew of approximately 160 people.

The Coast Guard has reviewed Chevron's concerns and agrees that the risk of allision to the facility and the potential for loss of life and damage to the environment resulting from such an accident warrants the establishment of this safety zone. The proposed regulation would significantly reduce the threat of allisions, oil spills and natural gas releases and increase the safety of life, property, and the environment in the Gulf of Mexico. This regulation is issued pursuant to 14 U.S.C. 85 and 43 U.S.C. 1333 as set out in the authority citation for 33 CFR part 147.

Discussion of Proposed Rule

The following specific risk factors that necessitate a safety zone exist at Genesis: (1) There is no designated fairway at this distance offshore and mariners use the facility as a navigational aid; (2) The facility has a high production capacity of 55,000 barrels of petroleum oil per day and 95 million cubic feet of gas per day; and (3) The facility is manned with a crew of 160.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The impacts on routine navigation are expected to be minimal because the safety zone will not encompass any of the safety fairways within the Gulf of Mexico.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. Since the Genesis is located far offshore, few privately owned fishing vessels and recreational boats/yachts operate in the area and alternate routes are available for these vessels. Use of an alternate route may cause a vessel to incur a delay of 4 to 10 minutes in arriving at their destinations depending on how fast the vessel is traveling. Therefore, the Coast Guard expects the impact of this regulation on small entities to be minimal.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Karrie Trebbe, Project Manager for Eighth Coast Guard District Commander, Hale Boggs Federal Bldg., 501 Magazine Street, New Orleans LA 70130, telephone (504) 589–6271.

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

safety that may disproportionately affect children.

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

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

Environment

We have considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46.

2. Add § 147.825 to read as follows:

§ 147.825 Chevron Genesis Spar safety zone.

(a) *Description.* The Chevron Genesis Spar, Green Canyon 205A (GC205A), is located at position 27°46′46.365″ N, 90°31′6.553″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: December 19, 2001.

Roy J. Casto,

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

[FR Doc. 02–7828 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–033]

RIN 2115–AA97

Safety Zone; Lake Champlain Challenge, Cumberland Bay, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for the Lake Champlain Challenge Hydroplane race located on Cumberland Bay, NY. This action is necessary to provide for the safety of life on navigable waters during this event scheduled for June 29 and 30, 2002. This action is intended to restrict vessel traffic in the affected waterway.

DATES: Comments and related material must reach the Coast Guard on or before May 2, 2002.

ADDRESSES: You may mail comments and related material to Waterways Oversight Branch (CGD01–02–033), Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305. The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 204, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

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 (CGD01–02–033), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Oversight Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The New England Inboard Racing Association sponsors this high-speed powerboat race with less than 100 powerboats, propelled by 1.5 to 6 liter engines, at the north end of Cumberland Bay, Plattsburgh, NY. The safety zone includes all waters of Cumberland Bay north of a line drawn from the east end of the old Canal Terminal Pier in approximate position 44°42′26.0″ N 073°26′28.5″ W, to approximate position 44°43′00.8″ N 073°24′37.3″ W (NAD 1983) on Cumberland Head.

Marine traffic would still be able to transit through the Saranac River and southern Cumberland Bay while the safety zone is in effect. Additionally, vessels would not be precluded from mooring at or getting underway from recreational piers in the vicinity of the proposed safety zone. Commercial piers

located within the safety zone are no longer used.

The proposed regulation would be effective from 11:30 a.m. to 6:30 p.m. on Saturday, June 29, and Sunday, June 30, 2002. It would prohibit all vessels and swimmers from transiting this portion of Cumberland Bay and is needed to protect the waterway users from the hazards associated with high-speed powerboats racing in confined waters.

Discussion of Proposed Rule

The proposed safety zone is for the Lake Champlain Challenge held at the northern end of Cumberland Bay, north of the old Canal Terminal Pier. The event would be held on Saturday, June 29, and Sunday, June 30, 2002. This rule is being proposed to provide for the safety of life on navigable waters during the event.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This finding is based on the minimal time that vessels will be restricted from the zone, and the relatively small number of vessels that normally would be expected to operate in the vicinity of the zone. Vessels may transit through the Saranac River and southern Cumberland Bay throughout the safety zone's duration. Vessels would not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the proposed safety zone. Advance notifications will be made to the local maritime community by the Local Notice to Mariners and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Cumberland Bay during the times this zone is activated.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can still transit through the Saranac River and southern Cumberland Bay during the event; vessels would not be precluded from getting underway, or mooring at, any piers or marinas currently located in the vicinity of the proposed safety zone before the effective period, we will ensure wide dissemination of maritime advisories to users of Lake Champlain via Local Notice to Mariners and marine information broadcasts.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

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 cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because

it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This proposed rule fits paragraph 34(g) as it establishes a safety zone. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. From 11:30 a.m. June 29, 2002, to 6:30 p.m. June 30, 2002, add temporary § 165.T01–033 to read as follows:

§ 165.T01–033 Safety Zone: Lake Champlain Challenge, Cumberland Bay, NY.

(a) *Regulated area.* The following area is a safety zone: All waters of Cumberland Bay north of a line drawn from the east end of the old Canal Terminal Pier in approximate position 44°42′26.0″ N 073°26′28.5″ W, to approximate position 44°43′00.8″ N 073°24′37.3″ W (NAD 1983) on Cumberland Head.

(b) *Enforcement period.* This section will be enforced from 11:30 a.m. to 6:30 p.m. on Saturday, June 29, and Sunday, June 30, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: March 22, 2002.

C.E. Bone,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 02–7915 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–15–U

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

[Docket No. 99–1]

RIN 3014–AA20

Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities; Architectural Barriers Act (ABA) Accessibility Guidelines

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Availability of draft final guidelines.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has placed in the docket for public review a draft of the final guidelines revising the Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines. The Board has placed this document in the docket to inform the building codes community of the actions taken by the Board to promote the harmonization of the Board's guidelines with the International Code Council/American National Standards Institute A117.1 Standard on Accessible and Usable Buildings and Facilities and the International Building Code.

ADDRESSES: The draft final guidelines will be available for inspection at the offices of the Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., suite 1000, Washington, DC 20004–1111 from 9:00 a.m. to 5:00 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: Marsha Mazz, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–0020 (Voice); (202) 272–0082 (TTY). These are not toll-free numbers. Electronic mail address: *mazz@access-board.gov.*

SUPPLEMENTARY INFORMATION: On November 16, 1999, the Architectural and Transportation Barriers Compliance Board (Access Board) published a Notice of Proposed Rulemaking to amend the accessibility guidelines for the Americans with Disabilities Act (ADA) of 1990 and the Architectural Barriers Act (ABA) of 1968. 64 FR 62248 (November 16, 1999). The proposed rule was based on recommendations made by the Board's ADAAG Review Advisory Committee. The committee was established in 1994 by the Board to conduct a complete review of the guidelines and to recommend changes. The committee was charged with reviewing ADAAG in its entirety and making recommendations to the Board on:

- Improving the format and usability of ADAAG;
- Reconciling differences between ADAAG and national consensus standards, including model codes and industry standards;
- Updating ADAAG to reflect technological developments and to continue to meet the needs of persons with disabilities; and
- Coordinating future ADAAG revisions with national standards and model code organizations.

The committee recommended significant changes to the format and style of ADAAG. The changes were recommended to provide a guideline that is organized and written in a manner that can be more readily understood, interpreted and applied. The recommended changes would also make the arrangement and format of ADAAG more consistent with model building codes and industry standards.

Subsequent to the committee's recommendations, the 1998 edition of the International Code Council (ICC)/American National Standards Institute (ANSI) A117.1 Standard on Accessible and Usable Buildings and Facilities was published. Its requirements were ''harmonized'' with the committee's recommendations. An important goal of the Board throughout this rulemaking has been to promote the harmonization of its guidelines and private sector standards.

At its March 13, 2002, meeting, the Access Board decided to place in the rulemaking docket for public review a draft of the guidelines revising the ADA and ABA Accessibility Guidelines. The Board expects to complete action on the final guidelines in the next few months. The final guidelines will then be submitted to the Office of Management and Budget for review in accordance with Executive Order 12866. The Board expects to publish the final guidelines

in the **Federal Register** later this summer.

The Board is not soliciting comments on the draft of the final guidelines, but has placed the document in the docket for public inspection to promote the harmonization of the Board's guidelines with the ICC/ANSI standards and the International Building Code. The ANSI Committee and the International Codes Council are currently in the process of revising the private sector accessibility provisions and proposed changes must be submitted during the Spring of 2002. Without taking this step, an important opportunity would have been missed to harmonize the Board's guidelines with those of the private sector.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 02–7884 Filed 4–1–02; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[WV001–1000b; FRL–7166–7]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of West Virginia; Division of Environmental Protection

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve West Virginia Department of Environmental Protection's (WVDEP's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations once WVDEP incorporates these amendments into its regulations. In addition, EPA is proposing to approve of WVDEP's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails WVDEP's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and WVDEP's notification to EPA of such incorporation. This action pertains only to affected sources, as defined by the Clean Air Act hazardous air pollutant program, which are not located at major sources, as defined by the Clean Air Act operating permit program. In the Final Rules section of this **Federal Register**, EPA is approving the State's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before May 2, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and John A. Benedict, West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE, Charleston, WV 25304–2943. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the West Virginia Department of Environmental Protection, Division of Air Quality, 7012 MacCorkle Avenue, SE, Charleston, WV 25304–2943.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.* Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of WVDEP's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, and secondary lead smelting (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: March 21, 2002

Judith M. Katz,

Director, Air Protection Division, Region III.

[FR Doc. 02–7940 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, and 175

[Docket No. RSPA–02–11989 (HM–224C)]

RIN 2137–AD48

Hazardous Materials; Transportation of Lithium Batteries

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

ACTION: Notice of proposed rulemaking.

SUMMARY: RSPA (we) proposes to amend the Hazardous Materials Regulations (HMR) regarding the transportation of lithium batteries. These proposals are consistent with changes recently made to the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations). They would increase the level of safety associated with the transportation of lithium batteries and facilitate the transport of these materials in international commerce.

DATES: Comments must be received by June 14, 2002.

ADDRESSES: Submit written comments to the Docket Management System, U.S. Department of Transportation, Room PL 401, 400 Seventh St., SW., Washington, DC 20590–0001. Identify the docket number, RSPA–02–11989 (HM–224C) at the beginning of your comments and submit two copies. If you wish to receive confirmation of receipt of your comments, include a self-addressed stamped postcard. You may also submit comments by e-mail by accessing the Docket Management System website at *http://dms.dot.gov.* Click on ''Help'' to obtain instructions for filing the document electronically.

The Docket Management System is located on the Plaza Level of the Nassif Building at the U.S. DOT at the above address. You can view public dockets between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. You can also view comments on-line at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: John Gale, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

I. Background

Under the HMR, 49 CFR parts 171–180, most lithium batteries and equipment containing or packed with lithium batteries are regulated as Class 9 materials. Lithium batteries have to be tested in accordance with the UN Manual of Tests and Criteria, and, among other things, must be equipped with an effective means of preventing short circuits, packaged in Packing Group II performance level packagings, and identified on shipping papers and package markings and labels. 49 CFR 173.185(e). However, § 173.185 contains two significant exceptions for lithium batteries. The first exception, in 173.185(b), excepts from the requirements of the HMR:

(1) Liquid cathode cells containing no more than 0.5 grams of lithium or lithium alloy per cell;

(2) Liquid cathode batteries containing an aggregate quantity of no more than 1 gram of lithium or lithium alloy;

(3) Solid cathode cells containing no more than 1 gram of lithium or lithium alloy per cell;

(4) Solid cathode batteries containing an aggregate quantity of no more than 2 grams of lithium or lithium alloy;

(5) Lithium ion cells containing no more than 1.5 grams of equivalent lithium content; and

(6) Lithium ion batteries containing no more than 8.0 grams of equivalent lithium content.

Though these batteries and cells need to meet some additional requirements, such as being protected against short circuits and packaged in strong outer packagings, the batteries are not required to be tested in accordance with UN Manual of Tests and Criteria and there are no requirements for markings or labels on packages or shipping documents to communicate to a carrier, emergency response personnel or the public the presence of lithium batteries. The second exception, in § 173.185(c), excepts from the HMR those lithium batteries and cells where the anode of each cell, when fully charged, does not contain more than 5 grams of lithium content and the aggregate lithium content of the anodes of each battery, when fully charged, is not more than 25 grams. These batteries and cells must be tested in accordance with UN Manual of Tests and Criteria and be designed or packed in such a way as to prevent short circuits under conditions normally incident to transportation. A package containing these batteries and cells is also not required to be marked or labeled and a shipping document is not required to accompany a shipment to communicate the presence of lithium batteries.

The requirements in the HMR relative to the transportation of lithium batteries are generally consistent with those in the UN Recommendations, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions) and the International Maritime Dangerous Goods Code (IMDG Code). Recently, in order to maintain consistency with the international regulations and in particular the 11th Edition of the UN Recommendations, RSPA revised § 173.185 (Docket HM–215D; June 21, 2001, 66 FR 33316) to include a definition for equivalent lithium content for lithium ion cells and batteries and to provide the applicable aggregate lithium quantities relevant to excepting lithium ion cells and batteries from the requirements of the HMR. In December 2000, the 12th Edition of the UN Recommendations relative to the transportation lithium batteries was again revised. It is anticipated that the ICAO Technical Instructions and IMDG Code will also be revised in the near future to reflect these changes. Therefore, the amendments being proposed today would, in addition to increasing the level of safety associated with the transport of lithium batteries, maintain the consistency of the HMR with the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) and, thus, facilitate the transport of these materials in international commerce.

The changes adopted into UN Recommendations were a result of an incident involving lithium batteries that occurred on April 28, 1999, at Los Angeles International Airport (LAX). In that incident a shipment of two pallets of lithium batteries that were excepted from the HMR caught fire and burned after being off-loaded from a Northwest Airlines flight from Osaka, Japan. While the pallets were being handled by cargo handling personnel, the packages were damaged. This is believed to have initiated the subsequent fire. The fire was initially fought by Northwest employees with portable fire extinguishers and a fire hose. Each time the fire appeared to be extinguished, it flared up again. The two pallets involved in the fire contained 120,000 non-rechargeable lithium batteries. Because of the exceptions in § 173.185(b), these batteries were not required to be tested in accordance with UN Manual of Tests and Criteria and the packages were excepted from hazard communication requirements (i.e., marking, labeling and shipping papers). On November 7, 2000, another incident occurred involving lithium batteries. In this incident, which involved a declared shipment of lithium sulfur dioxide batteries, a battery short circuited causing a small fire and rupture of the battery. The battery burned through its inner packaging and charred an adjoining package.

On November 16, 1999, also in response to the LAX incident, the National Transportation Safety Board (NTSB) issued five recommendations to RSPA on the transportation of lithium batteries. A copy of those recommendations and a copy of our response to the NTSB can be found in the public docket.

On September 7, 2000, we published a Safety Advisory in the **Federal Register** (65 FR 54366) to:

(1) Inform persons of the LAX incident and the potential hazards that shipments of lithium batteries may present while in transportation;

(2) Recommend actions to offerors and transporters to ensure the safety of such shipments;

(3) Provide information concerning the current requirements for the transportation of lithium batteries;

(4) Inform persons of recommendations we received from the NTSB on the transportation of lithium batteries and our response to those recommendations;

(5) Inform persons of the actions we have taken to date and plan to take in the future to address the hazards of these batteries; and

(6) Provide information concerning initiatives being taken by members of the battery manufacturing and distribution industry to address concerns relating to transportation of these batteries.

As noted in the Safety Advisory, we are currently reevaluating the hazards posed by lithium batteries in transportation. Information is being collected from lithium battery manufacturers, shippers, and Federal agencies with extensive experience in testing and the use of lithium batteries. DOT is also conducting other evaluations to obtain additional information. We stated in the Safety Advisory that upon completion of our evaluation of lithium batteries, we would initiate any additional actions

necessary to address the hazards posed by the transportation of lithium batteries. Though we have not completed our reevaluation of the hazards posed by lithium batteries in transportation, we believe that it is in the best interest of safety and international commerce to amend the HMR at this time based on the amendments to the UN Recommendations.

On July 9, 2001, we received a petition (P–1417) from the Portable Rechargeable Battery Association (PRBA) requesting that this NPRM allow aircraft passengers and crew to carry in checked or carry-on baggage certain lithium ion and lithium polymer rechargeable batteries and to provide an exception from the testing requirements in the UN Manual of Tests and Criteria for certain lithium and lithium ion cells and batteries manufactured prior to January 1, 2003. Our response to P–1417 is discussed below.

II. Proposed Amendments

The changes being proposed in this notice can be summarized into the following categories: (1) Changes to test methods for lithium batteries; (2) revisions to exceptions for small batteries (*e.g.*, those of 1 gram or less of lithium content); (3) elimination of an exception for larger batteries (e.g., cells up to 5 grams of lithium content and batteries up to 25 grams of lithium content); (4) exceptions for aircraft passengers and crew; and (5) editorial changes. The following paragraphs discuss these changes in detail.

A. Changes to the Test Methods for Lithium Batteries

The test methods for lithium batteries and cells in the UN Manual of Tests and Criteria were revised to provide more precise descriptions of the procedures and criteria. The revised test method consists of eight tests compared to six in the previous test method series. The tests are designed to measure the ability of the cells or batteries to maintain their construction integrities against internal or external shorts in normal transport environments. Parameters considered for the transport environments include temperature, altitude, vibration, shock, impact, overcharge, forced discharge and intentional short. The test criteria were developed to minimize the probability that lithium cells or batteries will become an ignition (fire) source during transport by all modes.

B. Revisions to the Exceptions for Small Batteries

We believe that in order for small batteries to be excepted from most of the requirements of the HMR, they should be shown to demonstrate that they are significantly robust and can withstand conditions of transport. Therefore, in order for these batteries and cells to continue to be excepted from the HMR, we are proposing that they be tested in accordance with the UN Manual of Tests and Criteria. The LAX incident highlighted the need for some kind of hazard communication to appear on the outside of the packages and on shipping documents and to increase the integrity of packages containing lithium batteries and cells. Therefore, we are proposing that each package containing more than 24 cells or 12 batteries: (1) Be marked to indicate that it contains lithium batteries, and that special procedures be followed in the event that the package is damaged; (2) be accompanied by a document indicating that the package contains lithium batteries and that special procedures be followed in the event that the package is damaged; (3) weigh no more than 30 kilograms (gross weight); and (4) be capable of withstanding a 1.2 meter drop test in any orientation without shifting of the contents that would allow short circuiting, and without release of package contents. We are not proposing to impose these requirements on packages that contain either 12 or fewer lithium batteries or 24 or fewer cells, so as to minimize potential cost impacts on aircraft passengers, small retail outlets, and similar small volume shippers. We are also proposing to adopt one quantity limit for these cells and batteries in place of the limits that currently depend on cathode type (i.e., liquid or solid). These proposed changes are consistent with the recent amendments to the UN Recommendations and the ICAO TI. The hazard communication and packaging provisions are also consistent with the industry-adopted voluntary program that was discussed in the Advisory Notice.

PRBA requested that we include in the proposed rule a provision that will clarify when all lithium and lithium ion cells and batteries will be subject to the new UN testing requirements. PRBA requested that testing not be required on those lithium cells and batteries that are manufactured prior to January 1, 2003 and that:

(1) For lithium metal or lithium alloy cells, contain no more than 1 gram of lithium;

(2) For lithium ion cells, contain no more than 1.5 grams of equivalent lithium content;

(3) For lithium metal or lithium alloy batteries, contain no more than an aggregate lithium content of 2 grams; and

(4) For lithium ion batteries, contain no more than 8 grams of equivalent lithium content. PRBA stated that these exceptions are necessary to allow sufficient time to exhaust current inventories and for implementation of testing procedures.

RSPA agrees that a period of time should be provided to manufacturers of lithium batteries to test those battery designs that are currently on the market. RSPA believes that it would be unreasonable to require these manufacturers to test these designs immediately or in just a few months after the effective date of a final rule. However, RSPA does not agree that these batteries should be allowed to be transported for an indefinite period of time without being subject to the tests in the UN Manual of Tests and Criteria. Therefore, consistent with changes recently adopted into the ICAO Technical Instructions, we are proposing that those lithium battery designs manufactured before January 1, 2003, not be required to be tested until January 1, 2005.

C. Elimination of the Exception for Larger Batteries

Currently in the HMR, cells that contain 5 grams or less of lithium or lithium alloy and not more than 25 grams of lithium or lithium alloy per battery are excepted from the HMR if they pass tests specified in the UN Manual of Tests and Criteria. Cells and batteries that do not meet the test requirements and cells and batteries that contain lithium and lithium alloys above these limits are subject to the HMR as a Class 9 material and must be packed in UN performance-oriented packagings, and marked, labeled, and described on shipping papers in accordance with the HMR. We no longer believe that these cells or batteries containing relatively large quantities of lithium should be excepted from the hazard communication and packaging requirements of the HMR and, therefore, are proposing to eliminate the exception found in § 173.185(c).

D. Exceptions for Aircraft Passengers and Crew

Consistent with the amendments recently adopted into the ICAO Technical Instructions, RSPA is also proposing to except from the HMR the carriage aboard an aircraft of consumer electronic devices by passengers and crew. In addition, RSPA would allow passengers and crew to carry spare batteries for such devices subject to limits as to lithium content and number for larger batteries. These proposed amendments are also consistent with a

PRBA petition for rulemaking requesting that we allow aircraft passengers and crew to carry up to three lithium ion or lithium polymer rechargeable batteries that contain between 8 and 25 grams of equivalent lithium content, provided they pass the tests in the UN Manual of Tests and Criteria. PRBA states that under the current HMR, passengers using these batteries in electronic devices can transport these items unregulated but that under the changes adopted by UN Recommendations, and consequently proposed in this NPRM, they would have to be transported as Class 9 materials. Though RSPA agrees that we should continue to allow aircraft passengers and crew to transport consumer electronic devices containing such lithium or lithium ion cells or batteries and their spares as unregulated, RSPA does not agree that the exception provided for lithium ion batteries should also be provided for lithium polymer batteries. First, for lithium polymer batteries, the exception in § 173.185(c) only allows those lithium polymer batteries that contain between 5 and 25 grams of lithium, not equivalent lithium content. Second, lithium polymer batteries are the same as lithium metal or lithium alloy batteries for purposes of compliance with the requirements of § 173.185; there are no provisions for determining equivalent lithium content for these batteries.

E. Editorial Changes

We are proposing to make several editorial changes to § 173.185 to help users better understand their responsibilities. First, we are proposing to move the definition of ''lithium content'' from § 173.185(a) to § 171.8 and eliminate the first sentence of § 173.185(a) because it is unnecessary. We would move the provisions of paragraph (e) to paragraph (a) and move all the exceptions into paragraph (d). The exceptions would also be revised for clarity. We would also remove Special Provision 29 because it is unnecessary.

We are also proposing to add provisions to § 173.220, consistent with recent changes adopted in the ICAO Technical Instruction, for the shipment of vehicles and engines that contain lithium batteries. These provisions would require that such lithium batteries be of the same type that has passed the UN Tests, be securely packed in a battery holder and be protected against short circuits.

III. Rulemaking Analysis and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule, if adopted, would not be considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to formal review by the Office of Management and Budget. This proposed rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). The hazard communication and packaging provisions proposed in this NPRM are consistent with a voluntary program implemented by the lithium battery industry following the LAX incident and, therefore, would impose no appreciable new cost on the industry. The testing of currently manufactured batteries or cells would not be required until January 1, 2005, thus, providing two years to test current designs of batteries or cells. In addition, (1) these tests have been adopted in the ICAO Technical Instruction; (2) the vast majority of the these cells and batteries are manufactured outside the U.S. and subsequently transported by aircraft into the U.S. under the ICAO Technical Instructions; and (3) the small number of cells and batteries manufactured in the U.S. are subsequently transported by aircraft in the U.S. under the ICAO Technical Instructions. For these reasons, the costs associated with these proposals are negligible. Benefits resulting from this proposal include enhanced transportation safety by decreasing the likelihood and severity of a transportation incident involving lithium cells and batteries and consistency of domestic and international standards. Interested persons are invited to provide comments on RSPA's preliminary regulatory evaluation which is available for review in the public docket. We are particularly interested in receiving well-documented comments that substantiate or refute our understanding that the costs associated with this proposal are negligible.

B. Executive Order 13132

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

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

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

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

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

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

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

This proposed rule addresses covered subject items (1), (2), and (3) above and would preempt State, local, and Indian tribe requirements not meeting the ''substantively the same'' standard. This proposed rule is necessary to incorporate changes recently adopted in international standards and increase the level of safety associated with the transportation of lithium batteries.

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

C. Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–611) requires each agency to analyze proposed regulations and assess their impact on small businesses and other small entities to determine whether the proposed rule is expected to have a significant impact on a substantial number of small entities. The provisions of this proposal would apply to lithium battery manufacturers and other persons who offer lithium batteries for transportation in commerce, some whom are small entities. However, it is anticipated that the costs associated with the more stringent requirements of this proposal, such as the testing of lithium batteries, would be incurred by lithium battery manufacturers, which are not small businesses. In addition, an exception from the new hazard communication system has been provided for small shipments of lithium batteries. It is our belief that most small businesses that offer lithium batteries for transportation would be able to utilize that exception. Therefore, RSPA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities.

E. Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not, if adopted, result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

F. Paperwork Reduction Act

RSPA believes that this proposed rule may result in a modest increase in annual burden and costs based on a new information collection requirement. The proposals regarding the shipment of lithium batteries that result in a new information collection requirement have been submitted to OMB for review and approval.

Section 1320.8(d), Title 5, Code of Federal Regulations requires that RSPA provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies a new information collection request (i.e., the requirement to indicate on shipping documents that packages contain lithium batteries) that RSPA has submitted to OMB for approval based on the requirements in this proposed rule. RSPA has developed burden estimates to reflect changes in this proposed rule. RSPA estimates that the total information collection and recordkeeping burden proposed in this rule would be as follows:

OMB No. 2137-xxxx:

Total Annual Number of Respondents: 1,000.

Total Annual Responses: 100,000.

Total Annual Burden Hours: 834.

Total Annual Burden Cost: $10,000.

RSPA specifically requests comments on the information collection and recordkeeping burdens associated with developing, implementing, and maintaining these requirements for approval under this proposed rule.

Requests for a copy of the information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

Written comments should be addressed to the Docket Management System as identified in the **ADDRESSES** section of this rulemaking. Comments should be received prior to the close of the comment period identified in the DATES section of this rulemaking. Under the Paperwork Reduction Act of 1995, no person is required to respond to or comply with an information collection requirement unless it displays a valid OMB control number. If these proposed requirements are adopted in a final rule, RSPA will submit the information collection and recordkeeping requirements to the Office of Management and Budget for approval.

G. Regulation Identifier Number (RIN)

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

List of Subjects

49 CFR Part 171

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

49 CFR Part 172

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

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and Recordkeeping Requirements, Uranium.

49 CFR Part 175

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

In consideration of the foregoing, 49 CFR Chapter I would be amended as follows:

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

1. The authority citation for part 171 would continue to read as follows:

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

2. In § 171.7, in the paragraph (a)(3) table, under the entry ''United Nations'', the second entry would be revised to read as follows:

§ 171.7 Reference material.

(a) * * *

(3) * * *

Source and name of material	49 CFR reference
* * * * * * *	
United Nations	
* * * * * * *	
UN Recommendations on the Transport of Dangerous Goods, Manual of Tests and Criteria, Third Revised Edition (1999) including the revisions contained in the Report of the Committee of Experts on its Twenty-First Session ''Amendments to Third Revised Edition of the UN Manual of Tests and Criteria, ST/SG/AC.10/27 Add.2''	172.102; 173.21; 173.56; 173.57; 173.124; 173.128; 173.166; 173.185

* * * * *

3. In § 171.8, a definition for ''Equivalent lithium content'' and ''Lithium content'' would be added in appropriate alphabetical order to read as follows:

§ 171.8 Definitions and abbreviations.

* * * * *

Equivalent lithium content means, for a lithium ion cell, the product of the rated capacity, in ampere-hours, of a lithium ion cell times 0.3. The equivalent lithium content of a battery equals the sum of the grams of equivalent lithium content contained in the component cells of the battery.

* * * * *

Lithium content means the mass of lithium in the anode of a lithium metal or lithium alloy cell. For a lithium ion cell see the definition for ''equivalent lithium content''.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

4. The authority citation for part 172 would continue to read as follows:

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

§ 172.102 [Amended]

5. In § 172.102(c)(1), special provision ''29'' would be removed.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

6. The authority citation for part 173 would continue to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

7. Section 173.185 would be revised to read as follows:

§ 173.185 Lithium cells and batteries.

(a) *Cells and batteries.* A lithium cell or battery, including a lithium polymer cell or battery and a lithium ion cell or battery, must meet the following requirements:

(1) Be of a type proven to meet the requirements of each test in the UN Manual of Tests and Criteria, Third Revised Edition (1999), Part III, subsection 38.3. A cell or battery and equipment containing a cell or battery which was first transported prior to [effective date of the final rule] and is of a type proven to meet the criteria of Class 9 by testing in accordance with the tests in the UN Manual of Tests and Criteria, Second Edition, 1990 is not required to be retested in accordance with the UN Manual of Tests and Criteria, Third Revised Edition (1999), Part III, subsection 38.3;

(2) Incorporate a safety venting device or otherwise be designed in a manner that will preclude a violent rupture under conditions normally incident to transportation;

(3) For a battery containing cells or series of cells that are connected in parallel, be equipped with an effective means to prevent dangerous current flow (e.g., diodes, fuses, etc.);

(4) Be packed in inner packagings in such a manner as to prevent short circuits, including movement which could lead to short circuits;

(5) Be packaged in combination packagings conforming to the requirements of part 178 of this subchapter at the Packing Group II performance level. Inner packagings must be packed within metal boxes (4A or 4B), wooden boxes (4C1, 4C2, 4D,or 4F), fiberboard boxes (4G), solid plastic boxes (4H2), fiber drums (1G), metal drums (1A2 or 1B2), plywood drums (1D), plastic jerricans (3H2), or metal jerricans (3A2 or 3B2);

(6) Be equipped with an effective means of preventing external short circuits; and

(7) Not be offered for transportation or transported if any cell has been discharged to the extent that the open circuit voltage is less than two volts or is less than ⅔ of the voltage of the fully charged cell, whichever is less.

(b) *Cells or batteries packed with equipment.* Cells or batteries packed with equipment may be transported as items of Class 9 if the batteries and cells meet all the requirements of paragraph (a) of this section, except paragraph (a)(5) of this section. The cells or batteries must be packed in an inner packaging that is further packed with the equipment in a strong outer packaging.

(c) *Equipment containing cells and batteries.* Cells and batteries contained in equipment may be transported as items of Class 9 if the batteries and cells meet all the requirements of paragraph (a) of this section, except paragraphs (a)(4) and (a)(5) of this section, and the equipment is packed in a strong outer packaging that is waterproof or is made waterproof through the use of a liner unless the equipment is made waterproof by nature of its construction. The equipment and cells or batteries must be secured within the outer packaging and be packed as to effectively prevent movement, short circuits, and accidental operation during transport.

(d) *Exceptions.* (1) *Small cells and batteries.* A lithium cell or battery, including a cell or battery packed with or contained in equipment, is not subject to any other requirements of this subchapter if it meets the following requirements:

(i) For a lithium metal or lithium alloy cell, the lithium content is not more than 1.0 g. For a lithium-ion cell, the equivalent lithium content is not more than 1.5 g;

(ii) For a lithium metal or lithium alloy battery, the aggregate lithium content is not more than 2.0 g. For a lithium-ion battery, the aggregate equivalent lithium content is not more than 8 g;

(iii) The cell or battery is of the type that meets the lithium battery testing requirements in the UN Manual of Tests and Criteria, Part III, subsection 38.3. A cell or battery that was manufactured before January 1, 2003 is not required to be tested until January 1, 2005;

(iv) Cells or batteries are separated so as to prevent short circuits and are packed in a strong outer packaging or are contained in equipment; and

(v) Each package containing more than 24 lithium cells or 12 lithium batteries must be:

(A) Marked to indicate that it contains lithium batteries, and that special procedures should be followed in the event that the package is damaged;

(B) Accompanied by a document indicating that the package contains lithium batteries and that special procedures should be followed in the event that the package is damaged;

(C) Capable of withstanding a 1.2 meter drop test in any orientation without damage to cells or batteries contained in the package, without shifting of the contents that would allow short circuiting and without release of package contents; and

(D) Except in the case of lithium cells or batteries packed with or contained in equipment, in packages not exceeding 30 kg gross mass.

(2) *Cells and batteries, for disposal.* A lithium cell or battery offered for transportation or transported to a permitted storage facility or disposal site by motor vehicle is excepted from the specification packaging requirements of this subchapter and the requirements of paragraphs (a)(1) and (a)(7) of this section when protected against short circuits and packed in a strong outer packaging conforming to the requirements of §§ 173.24 and 173.24a.

(3) *Shipments for testing.* A lithium cell or battery is excepted from the requirement of (a)(1) of this section when transported by motor vehicle for

purposes of testing. The cell or battery must be individually packed in an inner packaging, surrounded by cushioning material that is non-combustible, and nonconductive.

(e) A lithium cell or battery that does not comply with the provisions of this section may be transported only under conditions approved by the Associate Administrator.

8. In § 173.220, paragraph (b)(5) would be added to read as follows:

§ 173.220 Internal combustion engines, self-propelled vehicles, mechanical equipment containing internal combustion engines, and battery powered vehicles and equipment.

* * * * *

(b) * * *

(5) *Lithium batteries.* Lithium batteries contained in vehicles or engines must be of a type that has successfully passed each test in the UN Manual of Tests and Criteria, Part III, subsection 38.3, be securely fastened in the battery holder of the vehicle or engine, and be protected in such a manner as to prevent damage and short circuits. Equipment, other than vehicles or engines, containing lithium batteries must be transported in accordance with § 173.185.

* * * * *

PART 175—CARRIAGE BY AIRCRAFT

9. The authority citation for part 175 would continue to read as follows:

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

10. In § 175.10, paragraph (a)(27) would be added to read as follows:

§ 175.10 Exceptions.

(a) * * *

(27) Consumer electronic devices (watches, calculating machines, cameras, cellular phones, lap-top computers, camcorders, etc.) containing lithium or lithium ion cells or batteries when carried by passengers or crew member for personal use. Each spare battery must be individually protected so as to prevent short circuits and carried in carry-on baggage only. In addition, each spare battery must not exceed the following:

(i) For a lithium metal or lithium alloy battery, a lithium content of not more than 2 grams per battery; or

(ii) For a lithium ion battery, an aggregate equivalent lithium content of not more than 8 grams per battery, except that up to two batteries with an aggregate equivalent lithium content of more than 8 grams but not more than 25 grams may be carried.

* * * * *

Issued in Washington, DC, on March 28, 2002, under authority delegated in 49 CFR part 106.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 02–7959 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 031802B]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue EFPs. Therefore, NMFS announces that the Regional Administrator proposes to issue EFPs that would allow up to three vessels to conduct fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. EFPs would allow for exemptions to the minimum fish size requirements of the FMP. The experiment proposes to collect approximately 50 lb (22.68 kg) of juvenile black sea bass smaller than the current 11–inch (27.94–cm) minimum commercial fish size from Federal waters during the winter months, while the commercial black sea bass fishing season is open. The samples would be obtained with commercial handline tackle during the course of regular commercial fishing activity. The samples would be used by researchers at the Virginia Institute of Marine Science (VIMS) for population studies.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments on this document must be received on or before April 17, 2002.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Black Sea BASS EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, 978–281–9279.

SUPPLEMENTARY INFORMATION: The Virginia Institute of Marine Science submitted an application for EFPs on January 18, 2002, with final revisions received on February 19, 2002. The EFPs would facilitate the collection of data on the age, growth, and population structure of the black sea bass (*Centropristis striata*) population in the Mid-Atlantic region.

The experiment proposes to collect approximately 50 lb (22.68 kg) per month of sublegal juvenile black sea bass (<11 inches (27.94 cm)). The collection of undersized black sea bass would occur within Federal waters off the coasts of Maryland, Virginia and North Carolina. All sample collections would be conducted while the commercial fishing season is open, principally during the winter months. There would not be observers or researchers on every participating vessel. The samples would be collected by three federally permitted commercial vessels during the course of regular commercial fishing activity and would consist of sublegal fish that would otherwise have to be discarded. The juvenile black sea bass would be obtained using commercial handline tackle and kept on ice until landed. Upon landing, VIMS personnel would retrieve the samples and take them to the VIMS laboratory for analysis. None of the juvenile black sea bass would be sold. The participating vessels would be required to report the landings in their Vessel Trip Reports. The catch levels of approximately 50 lb (22.67 kg) per month are expected to have very little detrimental impact on the black sea bass resource.

The purpose of the VIMS study is to investigate the age, growth and

population structure of black sea bass. The study would determine the ages of the undersized black sea bass using otoliths and scales. Then, using those data, the age, size, and sex composition of the current population would be compared with historic population data (Mercer 1978) that were obtained before the Mid-Atlantic black sea bass population was declared overfished. In addition, the study would seek to define the composition of commercial black sea bass catches off the Mid-Atlantic coast and Essential Fish Habitat for black sea bass using the NMFS groundfish database for offshore areas and the VIMS survey trawl database for inshore nursery areas.

EFPs would exempt up to three vessels from the 11–inch (27.94- cm) minimum commercial black sea bass fish size specified in the FMP and found at 50 CFR part 648, subpart I.

Based on the results of this EFP, this action may lead to future rulemaking.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 26, 2002.

John H. Dunnigan,

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

[FR Doc. 02–7931 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic Atmospheric Administration

50 CFR Part 679

[Docket No. 011219306–1306–01; I.D. 110501A]

RIN 0648 AM44

Fisheries of the Exclusive Economic Zone Off Alaska; Proposed Rule to Amend Regulations for Observer Coverage Requirements for Vessels and Shoreside Processors in the North Pacific Groundfish Fisheries

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 amend regulations governing the North Pacific Groundfish Observer Program (Observer Program). This action is necessary to refine observer coverage requirements and improve support for observers. The proposed rule is intended to ensure continued collection of high quality observer data to support the management objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). It is intended to promote the goals and objectives contained in those FMPs.

DATES: Comments on this proposed rule must be received by May 1, 2002.

ADDRESSES: Comments should 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 the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this proposed regulatory action and the Environmental Assessment (EA) prepared for the 1997 Extension of the Interim North Pacific Groundfish Observer Program may also be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands (BSAI) management areas in the exclusive economic zone (EEZ) under the FMPs for those areas. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. Regulations implementing the interim Groundfish Observer Program were published November 1, 1996 (61 FR 56425), amended December 30, 1997 (62 FR 67755), and December 15, 1998 (63 FR 69024), and extended through 2002 under a final rule published December 21, 2000 (65 FR 80381). NMFS' Observer Program provides for the collection of observer data necessary to manage Alaska groundfish fisheries. Observers provide information on total catch estimation, discard, prohibited species bycatch, and biological samples that are used for stock assessment purposes.

At its June 1998 meeting, the Council requested that NMFS analyze alternatives to respond to several areas of concern that the Council believes detract from the overall achievement of the goals of the Observer Program. At its June 2000 meeting, the Council adopted remedial actions to address these concerns. The actions in this proposed rule are intended to address concerns about (1) shoreside processor observer coverage; (2) shoreside processor observer logistics; and (3) observer coverage requirements for vessels fishing with groundfish pot gear. These issues are separate such that agency approval or disapproval of one proposed action would not affect the others.

The need, justification, and economic impacts for each of the actions in this proposed rule, as well as impacts of the alternatives considered, were analyzed in the RIR/IRFA prepared for this action (see **ADDRESSES**). A description for each proposed measure follows:

Shoreside Processor Observer Coverage

Current regulations at § 679.50(d) require each shoreside processor to project for each calendar month the amount, in metric tons (mt), of groundfish that is expected to be received or processed at that facility. Observer coverage requirements for each month are based on those projections. A shoreside processor that processes 1,000 mt or more in round weight equivalent of groundfish during a calendar month is required to have an observer present at the facility each day it receives or processes groundfish during that month. These processors are considered to have 100-percent coverage. A shoreside processor that processes 500 to 1,000 mt in round weight equivalent of groundfish during a calendar month is required to have an observer present at the facility at least 30 percent of the days it receives or processes groundfish during that month. These shoreside processors are considered to have 30-percent coverage. Some shoreside processors may alternate between 30-percent and 100-percent coverage from month to month.

The current monthly observer coverage regime can result in coverage in some shoreside processors during periods of a month when relatively small amounts of groundfish are received. This is experienced primarily by the shoreside processors with 100-percent coverage. For instance, if 1,000 mt of groundfish are received or processed by the end of the first or second week in a month, but the shoreside processor receives or processes very small amounts of groundfish for the remainder of the month, it would still be required to maintain 100-percent observer coverage for all delivery or processing days.

The proposed action would maintain the current monthly observer coverage periods at shoreside processors based on monthly landings projections. However, during a month when a directed fishery for pollock or Pacific cod closes, a shoreside processor with 100-percent coverage requirements that received

pollock or Pacific cod from the fishery that closed in that given month would have the option to reduce observer coverage to 30- percent coverage requirements for the remainder of that month under certain conditions. These conditions are: (1) The shoreside processor must maintain observer coverage for 30 percent of all days that groundfish are received or processed for the remainder of that month; and (2) groundfish landings received by the shoreside processor may not exceed 250 mt/calendar week for the remainder of that month. If a shoreside processor is expected to receive greater than 250 mt/wk during any calendar week of that month, the shoreside processor would be required to return to 100-percent observer coverage for the days fish are received or processed during that week and until processing of all groundfish received during that week is completed.

The reduced observer coverage period for a given shoreside processor would be authorized beginning on the fourth calendar day following the day that a pollock or cod fishery closes, allowing for observation of the delivery and processing of fish received prior to the closure, and would end on the last day of that month. Observer coverage for the month following would be based on monthly landings projections and thresholds as specified under current regulations at § 679.50, but also may be reduced for that month under the conditions of this proposed action. The RIR/IRFA prepared for this action indicates that some observer costs borne by the shoreside processors would be relieved without significantly impacting the quality or quantity of data collected by observers necessary for scientific or management purposes.

The Community Development Quota (CDQ) and American Fisheries Act (AFA) programs' observer coverage requirements found at § 679.50(d)(4) and (5), respectively, currently supersede general observer coverage requirements for shoreside processors, and will continue to take precedence over this proposed action.

Shoreside Processor Observer Logistics

Regulations at § 679.50(i)(2)(v) require observer contractors to provide all logistics to place and maintain observers at the site of a processing facility. This responsibility includes all travel arrangements, lodging, per diem, and any other services required to place observers at the processing facility.

Observers have experienced logistical difficulties impeding their ability to be present at a shoreside processor to observe groundfish deliveries. These difficulties primarily have been due either to unreliable means of communication resulting in lack of notification by the shoreside processor or to unreliable transportation to the shoreside processor after being notified of an expected delivery. Observers have reported missing part of or entire deliveries when expected motorized transportation is delayed or does not arrive, and have had to walk or ride a bicycle between 1 mile and 5 miles in rain, snow, or sub-freezing temperatures when no alternative transportation is available.

Shoreside processor observers must be present at deliveries to perform prescribed duties. These include advising vessel observers of processing protocol at the shoreside processor, providing relief to vessel observers, verifying deliveries are weighed and accurately recorded, and obtaining biological samples from each delivery. When the shoreside processor observer is not present during a delivery, vessel observer sampling errors and loss of prohibited species data for that delivery may occur. Further, the shoreside processor observer cannot fulfill all prescribed duties, which could lead to loss of catch data and biological samples.

Observers have also reported being housed in substandard lodging while deployed at shoreside processors. Rooms with leaky ceilings or walls have been reported, as well as rooms located in shoreside processors next to loud machinery that operates 24 hours a day, preventing observers from sleeping. Observers generally spend from a week up to 3 months at a particular shoreside plant.

The Observer Program has determined that the difficulties described have generally been corrected by observer contractors, although these problems could resume at any time. Therefore, the intention of the proposed action is to ensure that such problems as described here do not recur in the future.

This proposed rule would amend the observer regulations to require the observer contractor to provide the following logistical support to observers deployed at shoreside processors: adequate housing meeting certain standards; reliable communication equipment such as an individually assigned phone or pager for notification of upcoming deliveries or other necessary communication; and, if the observer's accommodations are greater than 1 mile away from the processing facility, reliable motorized transportation to the shoreside processor that ensures timely arrival to allow the observer to complete assigned duties.

Groundfish Pot Fishery Observer Coverage Requirements.

Under current regulations at § 679.50(c)(1), all catcher/processors or catcher vessels 60 ft (18.3m) LOA and greater, but less than 125 ft (38.1 m) LOA that fish for groundfish in the BSAI or the GOA are required to have an observer aboard for at least 30 percent of all fishing days in a calendar quarter and for at least one complete fishing trip for each groundfish category it fishes in that same quarter. Catcher/processors or catcher vessels 125 ft (38.1 m) LOA and greater are required to have an observer aboard for 100 percent of all fishing days in a calendar quarter. Vessels 125 ft (38.1 m) LOA and greater using pot gear are only required to maintain observer coverage for 30 percent of their fishing days. There are no observer coverage requirements for catcher vessels delivering unsorted catch to motherships.

A fishing day is defined as ''a 24 hour period from 0001 hours Alaska local time (A.l.t.) through 2400 hours A.l.t., in which fishing gear is retrieved and groundfish are retained.'' For purposes of observer coverage, a fishing trip for catcher vessels not delivering to a mothership is defined in the following way: ''the time period during which one or more fishing days occur, that starts on the day when fishing gear is first deployed and ends on the day the vessel offloads groundfish, returns to an Alaskan port or leaves the EEZ off Alaska and adjacent waters of the State of Alaska.'' A fishing trip for a catcher/processor or catcher vessel delivering to a mothership is defined, with respect to observer coverage requirements, in the following way: ''a weekly reporting period during which one or more fishing days occur.''

With exceptions for CDQ and AFA fisheries, observer coverage levels have remained generally unchanged since they were implemented in 1989 under FMP Amendments 18/13, which established the domestic Observer Program in the North Pacific. Coverage levels were initially established based on an analysis of precision in observer catch estimates and program costs. A comprehensive review of coverage needs by fishery would take into account all scientific, management, and compliance needs. The issue of observer coverage requirements is beyond the scope of this analysis.

Reports have been filed since 1996 by observers documenting circumstances where vessel operators indicated that they were retrieving only one pot while the observer was aboard to meet the minimum coverage requirement. In

1998 alone, over 160 retrievals of one pot per day or trip were made. These pots have often been set within a 30-minute steam from the dock. This practice is not prohibited under the current regulations and technically satisfies the coverage requirements. However, it is not considered within the range of normal fishing activity. Overall, observer data for the groundfish pot fishery from 1998-1999 indicate that an average of 123 pots were retrieved per day when an observer was aboard.

NMFS understands that occasions may arise when a trip must be shortened or the number of pots retrieved in a day may be fewer than average, but deliberate effort reduction when an observer is aboard results in biased data that are not representative of fishing effort, as intended. Observer coverage requirements are intended to capture unbiased data for a given fishery under normal fishing conditions. Observer coverage of days with intentionally reduced gear retrieval, compared to normal fishing activity, results in far less observer data collected relative to actual overall fishing effort. This inhibits the opportunity to accurately monitor fishing practices, catch rates and discards for in-season management, and reduces opportunity for collection of biological data used in stock assessments. When extrapolated to the level of the pot fleet, observer data from deliberate low effort days become more significant and artificially bias effort downward. Observer data show that the majority of pot retrievals per vessel per day is approximately between 95 and 200, with an average of 123, although daily retrieval rates range up to 500 or more per day.

The proposed action is intended to improve observer coverage requirements by ensuring that observer coverage levels more accurately reflect normal fishing effort across the groundfish pot fleet. NMFS considers the number of pot retrievals to be a better measure of actual fishing effort in the groundfish pot fishery than the number of fishing days. Ensuring that a certain percentage of pot retrievals will be observed, while not changing the basic coverage level, gives fisheries managers greater confidence that observer data extrapolated across the pot gear fleet to unobserved vessels would better reflect fleet-wide prohibited species catch, target catch, and bycatch and discard rates, because actual fishing effort may vary considerably between days when gear is retrieved. Biological data collected for stock assessments would likewise benefit in the same way.

The proposed action would amend coverage requirements for the groundfish pot gear fishery such that a vessel equal to or longer than 60 ft (18.3 m) LOA fishing with pot gear that participates more than 3 days in a directed fishery for groundfish in a calendar quarter would need to carry an observer during at least 30 percent of the total number of pot retrievals for that calendar quarter. Such vessels also would need to continue to carry an observer for at least one entire fishing trip using pot gear in a calendar quarter, for each of the groundfish fishery categories in which the vessel participates during that calendar quarter. Groundfish will still be required to be retained each day the observer is on board and gear is retrieved, in order for the gear retrieved on that day to count toward observer coverage requirements.

Confidentiality of Observer Personal Information

Since 1991, observers have reported that resumes containing employment histories, home addresses and phone numbers, as well as past observer deployment evaluations, have been forwarded to fishing companies by the observer contractors without the observer's permission. This personal information was often forwarded on to individual vessels aboard which the observer was deployed.

The potential exists for misuse and abuse of this personal information, with overt intimidation of observers being the primary concern. Observers have reported that such personal information has been referred to by vessel personnel during discussions of potential violations raised by the observer. The manner in which such information was referred to has been interpreted by some observers as an implication of potential forthcoming repercussions or the questioning of an observer's qualifications. This type of direct or implied intimidation can result in observers, particularly those less experienced, declining to report potential violations witnessed during a deployment, thus undermining their effectiveness in monitoring fisheries activities and practices.

In 1996, a group of observers asked both NMFS and the Association of Professional Observers (APO) to request that observer providers cease the practice of distributing observer's personal information. Upon such a request by NMFS and the APO, observer providers verbally agreed to stop forwarding personal information about observers to industry. However, concerns remain that this practice could resume in the future in the absence of regulations prohibiting it.

At the Council's request, alternatives for resolution of this issue were presented at the April 2000 Council meeting and final action was taken by the Council in June 2000. The Council voted to add an additional alternative to the analysis which would prohibit the release of personal information such as might be found on an observer's resume, including social security number, home address and phone number, and employment history, but would exclude observers' deployment scores and evaluations from the prohibition on distribution. Subject to exceptions, however, the Privacy Act generally prohibits the release of records on individuals held by the Federal government without prior written consent by that individual. As such, there are restrictions on the release of, among other information, an observer's deployment scores or evaluations, except under certain circumstances as explained below.

Under the current observer service delivery model, in which observers are not Federal employees and no contract exists between the government and observer providers (providers), NMFS' control over deployment of observers is limited. Providers have responsibility for providing qualified observers and monitoring their performance to ensure satisfactory execution of their duties (see § 679.50(i)(2)(i) and (xiii)). The providers' chief means of monitoring observer performance, and thus of deciding whether to continue to hire an individual, is through observer deployment evaluations and scores that are issued by NMFS and forwarded to the contractor upon the completion of each deployment.

Observer provider companies' monitoring of observer performance is considered by NMFS to be beneficial toward achieving an Observer Program goal of maintaining high quality data. NMFS is in the process of establishing a Privacy Act ''system of records'' for individual observer information. One routine use that will be established will be to provide observer deployment scores and evaluations to observer providers.

The Council stated that its concern in voting to allow interested industry participants access to observer evaluations and deployment scores is based on instances related by vessel or plant owner/operators that their complaints against observers were not adequately addressed by NMFS. The Council stated that it felt that if an observer with a poor deployment record continued to be deployed, industry participants should have access to this information. However, NMFS has long-standing policies for handling observers with poor deployment scores or

evaluations and for addressing complaints about observers by vessel or plant owner/operators. The agency believes these policies are more effective in resolving potential problems than having contractors provide industry access to personal information about an observer.

For each completed deployment, the observer is thoroughly debriefed by Observer Program staff who are all prior observers and are professionally trained to conduct debriefings. The debriefer reviews all data, observer logbooks, and other assigned tasks related to this deployment for accuracy and completion of duties for all the vessels or plants covered by the observer during that deployment. A review of the observer's sampling techniques and handling of other procedural issues is conducted and any needed improvements are discussed. All necessary data corrections are made by the observer during the debriefing. Any necessary affidavits are also prepared by the observer at this time. Upon completion of the debriefing, the debriefer prepares a written final evaluation of the observer's performance for that deployment. It includes descriptions of the challenges faced by the observer and whether the observer handled each issue successfully or unsuccessfully. The evaluation also includes a recommendation on rehiring the observer, and any conditions required to be met by the observer upon rehire, such as specific training or briefing requirements.

Currently, observers are also given an overall score of 0 or 1 for each deployment. A score of 1 indicates that the observer has met Observer Program expectations, and a score of 0 indicates that the observer has not met Observer Program expectations for that deployment. The severity of circumstances and reasons may vary for NMFS issuing a deployment score of 0. When such circumstances are considered quite serious, an investigation may be initiated. An observer in such cases may be suspended, and in the most serious cases, decertified. However, each case is considered individually with due diligence by Observer Program staff.

Complaints from vessel owner/operators or plant managers regarding specific observers are considered individually by the Observer Program. If a chronic, valid problem is found with an individual observer, a recommendation for not rehiring that observer may be issued. In the most extreme cases, an observer could be suspended or decertified. While some complaints about observers may be valid and are dealt with according to program policy, vessel or plant owner/operators sometimes may be concerned by activities of an observer who is appropriately following NMFS protocol. In these cases, NMFS will work with vessel or plant personnel to facilitate a better understanding of the observer's duties.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule would extend without change existing collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by the Office of Management and Budget (OMB) under OMB control number 0648-0318.

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 PRA, unless that collection of information displays a currently valid OMB control number.

NMFS determined that this proposed rule warrants a Categorical Exclusion from National Environmental Policy Act (NEPA) requirements for an EA. The changes proposed in this action are consistent with the intent and purpose of the Interim Observer Program, and the proposed actions fall within the scope of the EA, the RIR and the Final Regulatory Flexibility Act (FRFA) analyses prepared for the 1997 Interim Groundfish Observer Program (August 27, 1996). The proposed actions will not result in a significant change from those assessed in that EA/RIR/FRFA, because it would implement only minor administrative and technical changes to an existing regulation. The changes will provide improved benefits to those listed in the August 27, 1996, EA/RIR/FRFA for the Interim Observer Program, the RIR/FRFA for the extension of the Interim Observer Program through 1998 dated October 28, 1997, and the RIR/FRFA for the extension of the Interim Observer Program through 2000, dated June 4, 1998. Copies of these analyses are available from NMFS (see **ADDRESSES**).

NMFS prepared an IRFA, which describes the impact this proposed rule would have on small entities, if adopted. The RFA requires that the IRFA describe significant alternatives to the proposed rule that accomplish the stated objectives of the applicable statutes and minimize any impact on small entities. The IRFA must discuss significant alternatives to the proposed rule such as (1) establishing different reporting requirements for small entities that take into account the resources available to small entities, (2) consolidating or simplifying of reporting requirements, (3) using performance rather than design standards, and (4) allowing exemptions from coverage for small entities. A copy of this analysis is also available from NMFS (see **ADDRESSES**).

Observer costs borne by vessels and processors are based on whether an observer is deployed aboard a vessel or at a shoreside processor, and on overall coverage needs. Higher costs are borne by those vessels and shoreside processors that require higher levels of coverage. Most of the catcher vessels participating in the groundfish fisheries off Alaska that are required to carry an observer (i.e., vessels 60 ft (18.3 m) LOA and longer) meet the definition of a small entity under the Regulatory Flexibility Act (RFA). Since 1995, about 270 catcher vessels annually carry observers. The FRFAs prepared for the 1998 and 2000 Interim Observer Program describe the degree to which these vessels may be economically impacted by observer coverage levels or other regulatory provisions of the Observer Program.

This proposed action is expected to result in economic impacts benefitting shoreside processors that are able to reduce observer coverage levels during a month in which the closure of a pollock or cod fishery occurs. Exact quantification of the overall effects on observer coverage at shoreside plants in the BSAI and GOA is not possible due to the number of unpredictable variables involved, particularly fishery closure dates. However, the approximate timing of pollock and cod fishery closures could result in some reduced observer coverage five months per year under this proposed change. The CDQ and AFA observer requirements, which would take precedence over general coverage requirements under this alternative, are not factored into the IRFA analysis, except to note that plants receiving fish caught under those programs would benefit less in terms of cost savings from coverage reduction. Reduction in observer coverage under the conditions of this proposed action are most likely to result in savings between $270-$1,620 per month per plant, based on per-day observer costs to industry, excluding additional costs such as the observer's airfare. This action does provide the opportunity for a plant that has decided to reduce observer coverage in a month to return to 100-percent observer coverage for the remainder of the month and lift the 250-

mt/week cap on landings received if a fishery is reopened.

Requiring both adequate observer housing and reliable motorized transportation when observers stay a mile or more from their duty stations is unlikely to cause significant economic effects. Furthermore, there are no alternatives that would meet statutory objectives yet impose fewer economic impacts.

Economic impacts from the requirement that shoreside observers be assigned cell phones or pagers to ensure notification of upcoming deliveries is estimated for cell phones to be approximately $5,250 for the first year and $4,243 for each subsequent year per contractor, and pager costs per contractor would be $1,820 for the first year and $1,288 for each subsequent year.

Distributed equally between the five active contractors, costs per contractor for cell phones would be $5,250 for the first year and $4,243 for each subsequent year. Pager costs would be $1,820 for the first year and $1,288 in subsequent years. These estimations will vary as the number of shoreside processors needing observer coverage varies and as the number of contractors that provide observers to the shoreside processor varies.

Based on NMFS' understanding of current financial arrangements between observer contractors and industry clients, it is assumed that any costs associated with provision of individually assigned cell phones or pagers to observers will be passed by the contractors on to their industry clients, and will not ultimately impact the contractors. Of the approximately 27 shoreside processors that would absorb these costs, approximately 5 might be considered small entities. These industry clients are regulated entities such that they are required to have observer coverage, but would not be directly required to supply the cell phones or pagers. Total annual costs that would be passed onto each of these small entities are estimated to be $750 per cell phone for the first year of this service, with subsequent years at $600 per year. Total annual costs that would be passed onto each of these small entities for the first year of pager service, including purchase and activation fee, are estimated to be $260, while subsequent years are estimated at $180 per pager.

Two options are proposed for communications devices, cell phones and pagers, with pagers offered as a much less expensive option, minimizing significant economic impact on affected small entities. Additional alternatives for direct communication devices for observer communication with shoreside processors are not available, since observers are highly mobile. VHF radios were not considered since they would not be restricted to use with vessels at sea.

Alternatives were also considered to better achieve observer coverage reflecting actual fishing effort within the groundfish pot fishery, so that observer data received by in-season managers accurately reflect catch and effort levels. The status quo alternative, while posing no additional burden to small entities, would fail to achieve these important management and monitoring objectives. The preferred alternative would require that pot vessels carry observers for 30 percent of the pots retrieved instead of for 30 percent of the fishing days in a calendar quarter. This does not change overall coverage requirements and presents minimal impact on small entities, with a possible exception of a small number of vessels who legally, but intentionally, minimize their observer coverage relative to their actual fishing effort, contrary to the intent of coverage requirements. While this alternative may result in an increase in costs for this small group of vessels as a result of more observer days to meet coverage requirements, this theoretically should not be necessary. This alternative actually offers to all vessels the possibility of saving some observer costs by introducing an incentive to retrieve more gear while an observer is aboard, thereby reducing observer days.

Four other alternatives and/or options considered, while achieving the management goals of collection of observer data representative of catch and effort levels, would each impose greater costs on small entities than either the status quo or preferred alternatives. These alternatives/options include: (1) requiring a groundfish pot vessel to have an observer aboard during at least 30 percent of the total pot retrievals by that vessel in that calendar quarter and for at least 30 percent of its fishing days in that calendar quarter; (2) requiring a groundfish pot vessel have an observer aboard during at least 30 percent of the total pot retrievals by that vessel in that calendar quarter, and for at least 30 percent of its fishing days in that calendar quarter, and for the retrieval and delivery of at least 30 percent of the landed catch by that vessel for that calendar quarter; (3) amending the definition of a fishing day for pot vessels, for purposes of observer coverage, as a 24-hour period from 0001 hrs A.l.t. - 2400 hrs A.l.t. during which at least 12 sets are retrieved and groundfish are retained; and (4) requiring all groundfish pot vessels equal to or greater than 60 ft (18.3 m) LOA to carry an observer each day it fishes with pot gear during a calendar quarter.

The overall implementation of the Interim Observer Program includes measures that minimize the significant economic impacts of observer coverage requirements on at least some small entities. Vessels less than 60 ft (18.3 m) LOA are not required to carry an observer while fishing for groundfish. Similarly, vessels 60 ft (18.3 m) LOA and longer, but less than 125 ft (38.1 m) LOA, have lower levels of observer coverage than those 125 ft (38.1 m) LOA and longer. These requirements, which have been incorporated into the requirements of the North Pacific Groundfish Observer Program since its inception in 1989, effectively mitigate the economic impacts on some small entities without significantly adversely affecting the implementation of the conservation and management responsibilities imposed by the FMPs and the Magnuson-Stevens Act.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: March 27, 2002.

Rebecca Lent,

Deputy Assistant Administrator, for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.,* 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.50, paragraphs (d)(3) through (6) are redesignated as (d)(4) through (7); paragraph (c)(1)(vii), newly redesignated paragraph (d)(4) and paragraphs (i)(2)(v) and (i)(2)(xiii) are revised; and new paragraph (d)(3) is added to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2002.

* * * * *

(c) * * *

(1) * * *

(vii) Vessels using pot gear. (A) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) LOA fishing with pot gear that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry an observer:

(1) For at least 30 percent of the total number of pot retrievals for that calendar quarter, and

(2) For at least one entire fishing trip using pot gear in a calendar quarter, for each of the groundfish fishery categories defined under paragraph (c)(2) of this section in which the vessel participates.

(B) Groundfish are required to be retained each day that pot gear is retrieved in order for that gear to count toward observer coverage requirements for all catcher vessels and catcher/processors using pot gear and required to carry observers.

* * * * *

(d) * * *

(3) Is subject to observer requirements specified in paragraph (d)(1) of this section that receives pollock or Pacific cod, may reduce observer coverage in the event that a directed fishery for such species closes, subject to the following conditions:

(i) The shoreside processor must maintain observer coverage for 30 percent of all days that groundfish are received or processed, beginning on the fourth calendar day following the day that the directed fishery for pollock or Pacific cod was closed and ending on the last day of the month, except as allowed in paragraph (d)(3)(iv) of this section.

(ii) Observer coverage for the month following the month with reduced observer coverage will be based on monthly landings projections and thresholds as specified in paragraphs (d)(1) and (2) of this section, but may also be reduced for that subsequent month as specified in this paragraph (d)(3) of this section.

(iii) Total groundfish landings received by a shoreside processor under reduced observer coverage as authorized under this paragraph (d)(3) may not exceed 250 mt per calendar week.

(iv) If greater than 250 mt in round weight equivalent of groundfish are projected to be received in a given calender week by a shoreside processor during a month with reduced observer coverage, as authorized under this paragraph (d)(3), the shoreside processor must return to observer coverage requirements as specified in paragraph (d)(1) of this section until processing of all fish received during that week is completed. The shoreside processor may then return to reduced observer coverage as authorized under this paragraph (d)(3) for the remainder of the calendar month.

(4) Offloads pollock at more than one location on the same dock and has distinct and separate equipment at each location to process those pollock and that receives pollock harvested by catcher vessels in the catcher vessel operational area.

* * * * *

(i) * * *

(2) * * *

(v) Providing all necessary transportation, including arrangements and logistics, of observers to the initial location of deployment, to all subsequent vessel and shoreside processor assignments during that deployment, and to the debriefing location when a deployment ends for any reason. It is the responsibility of the observer provider company to ensure the maintenance of the observers aboard the fishing vessels, including lodging, per diem, and any other necessary services. It is the responsibility of the observer provider company to maintain observers at the site of a shoreside processing facility by providing lodging and per diem and any other necessary services. Each observer deployed to a shoreside processing facility, and each observer between vessel or shoreside assignments while still under contract with a certified observer provider company, shall be provided with accommodations at a licensed hotel, motel, bed and breakfast, or with private land-based accommodations for the duration of each shoreside assignment or period between vessel or shoreside assignments. Such accommodations must include an individually assigned bed for each observer for the duration of that observer's shoreside assignment or period between vessel or shoreside assignments, such that no other person is assigned to that bed during the same period of the observer's shoreside assignment or period between vessel or shoreside assignments. Additionally, no more than four beds may be in any individual room housing observers at accommodations meeting the requirements of this section. Each observer deployed to shoreside processing facilities shall be provided with individually assigned communication equipment in working order, such as a cell phone or pager for notification of upcoming deliveries or other necessary communication. Each observer assigned to a shoreside processing facility located more than 1 mile from the observer's local accommodations shall be provided with motorized transportation that will ensure the observer's arrival at the processing facility in a timely manner such that the observer can complete his or her assigned duties. Unless alternative arrangements are approved by the Observer Program Office.

* * * * *

(xiii) Monitoring observers' performance to ensure satisfactory execution of duties by observers and observer conformance with NMFS' standards of conduct under paragraph (h)(2) of this section and ensuring that all records on individual observer performance received from NMFS under the routine use provision of the Privacy Act remain confidential and are not further released to anyone outside the employ of the observer provider company to whom the observer was contracted except with written permission of the observer.

* * * * *

[FR Doc. 02–7930 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 63
Tuesday, April 2, 2002

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

DEPARTMENT OF AGRICULTURE

Privacy Act of 1974: New System of Records

AGENCY: Department of Agriculture (USDA).

ACTION: Notice of a new system of records.

SUMMARY: USDA proposes to add a new system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency (5 U.S.C. 552a(e)(4)).

DATES: This notice will be adopted without further publication in the **Federal Register** on May 17, 2002, unless modified by a subsequent notice to incorporate comments received from the public. Although the Privacy Act requires only that the portion of the system that describes the ''routine uses'' of the system be published for comment, USDA invites comment on all portions of this notice. Comments must be received by the contact person listed below on or before May 2, 2002.

ADDRESSES: Send written comments to the Department of Agriculture, ATTN: Marge Adams, Office of Human Resources Management, 1400 Independence Ave, SW, Room 3027–S, Washington, DC 20250–9606.

FOR FURTHER INFORMATION CONTACT: Marge Adams, 202–720–3286.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is creating a new system of records to be maintained by either an external contractor such as the Federal Employee and Education Assistance Fund and/or mission areas/agencies/staff offices to support the USDA Child Care Tuition Assistance Program, a program to increase the affordability of licensed child care for lower income Federal employees, as provided for in Pub. L. 107–67, section 630. The information requested of these employees is necessary to establish and verify USDA employees' eligibility for child care tuition assistance and the amounts of the tuition assistance in order for USDA to provide monetary tuition assistance to its employees. It will also be used to collect information from the employee's child care provider(s) for verification purposes; *e.g.,* that the provider is licensed. Collection of data will be by tuition assistance application forms submitted by employees.

The purpose of the Child Care Tuition Assistance Program is to make child care more affordable for lower income Federal employees through the use of agency appropriated funds. This program will afford employees the opportunity to place their children in a licensed child day care programs regulated by State or local authorities or sponsored by the Federal government.

A ''Report on New System,'' required by 5 U.S.C. 552a(r), as implemented by OMB Circular A–130, was sent to the Chairman, Committee on Governmental Affairs, United States Senate, the Chairman, Committee on Government Reform and Oversight, House of Representatives, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on March 27, 2002.

Signed at Washington, DC on March 22, 2002.

Ann Veneman,

Secretary of Agriculture.

USDA/OHRM–5

SYSTEM NAME:

USDA Child Care Tuition Assistance Records System, USDA/OHRM–5.

SYSTEM LOCATION:

Paper and electronic records may be maintained by an external contractor such as the Federal Employee and Education Assistance Fund, Suite 200, 8441 West Bowles Avenue, Littleton, CO 80123–9501; and/or mission areas/agencies/staff offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of Agriculture who voluntarily apply for child care tuition assistance, their spouses, and their children who are enrolled in a licensed child day care program.

Child-care providers of these employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms (OPM–1046 will be used) for child day care assistance containing personal information, including the employee (parent) name, Social Security Number, pay grade, home and work numbers, addresses, and telephone numbers; total family income; spouse's name and Social Security Number; spouse's employment information; names of children on whose behalf the employee (parent) is applying for tuition assistance; each child's date of birth; information on child care providers used (including name, address, provider license number and State where issued, tuition cost, and provider tax identification number), amount of any other subsidies received; and copies of employees' and spouses' individual income tax returns for verification purposes. Other records may include the child's Social Security Number, weekly expenses, pay statements, records relating to direct deposits, and verification of qualification and administration for child care assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 107–67, section 630.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Relevant records relating to an individual may be disclosed to a congressional office in response to an inquiry from the Congressional office made at the request of that individual.

b. Relevant information may be disclosed to the Office of the President for responding to an individual.

c. Relevant records may be disclosed to representatives of the National Archives and Records Administration who are conducting records management inspections.

d. Records may be disclosed in response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding.

e. Relevant records may be disclosed to another Federal agency, to a court, or a party in litigation before a court or in

an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, relevant records may be disclosed if a subpoena has been signed by a judge of competent jurisdiction.

f. Records may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which USDA is authorized to appear, when:

(1) USDA, or any component thereof; or

(2) Any employee of USDA in his or her official capacity; or

(3) Any employee of USDA in his or her individual capacity where the Department of Justice or USDA has agreed to represent the employee; or

(4) The United States, when USDA determines that litigation is likely to affect USDA 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 USDA is deemed by USDA to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

g. In the event that material in this system indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or by regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order, issued pursuant thereto.

h. Relevant records may be disclosed to respond to a Federal agency's request made in connection with the hiring or retention of an employee, the letting of a contract or issuance of a grant, license or other benefit by the requesting agency, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter.

i. Relevant records may be disclosed to the Office of Personnel Management or the General Accounting Office when the information is required for evaluation of the subsidy program.

j. Records may be disclosed to a contractor, expert, consultant, grantee, or volunteer performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government requiring the use of these records.

k. Relevant records may be disclosed to child care providers to verify a covered child's dates of attendance at the provider's facility.

l. Records may be disclosed by USDA in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

m. Records may be disclosed to officials of the Merit Systems Protection Board of the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of USDA rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

n. Records may be disclosed to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures or other functions vested in the Commission and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

o. Records may be disclosed to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

p. Relevant records may be disclosed to the Internal Revenue Service in connection with tax audit and tax record administration, as well as suspected tax fraud.

PURPOSE(S):

To establish and verify USDA employees' eligibility for child care tuition assistance in order for USDA to provide monetary tuition assistance to its employees.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information may be collected on paper or electronically and may be stored as paper forms or on computers.

RETRIEVABILITY:

By name; may also be cross-referenced to Social Security Number.

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in lockable file cabinets or secured rooms. Electronic records are protected by the use of passwords.

RETENTION AND DISPOSAL:

Records disposition authority is being requested from the National Archives and Records Administration. Records will be retained until appropriate disposition authority is obtained, and records will then be disposed of in accordance with the authority granted. Records Administration (NARA) guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

USDA's system manager will be the Director, Office of Human Resources Management, Department of Agriculture, 1400 Independence Ave, SW., Washington, DC 20250–9606, with Mission Areas/Agencies/Staff Offices maintaining their own records.

NOTIFICATION PROCEDURE:

Individuals may submit a request on whether a system contains records about them to the system manager indicated. Individuals must furnish the following for their records to be located and identified:

Full name.

Social Security Number.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager indicated. Individuals must provide the following information for their records to be located and identified:

Full name.

Social Security Number.

Individuals requesting access must also follow the USDA's Privacy Act regulations regarding verification of identity and access to records (7 CFR part 1, subpart G).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should contact the system manager indicated. Individuals must furnish the following information for their records to be located and identified:

Full name.

Social Security Number.

Individuals requesting amendment must also follow the USDA's Privacy Act regulations regarding verification of identity and amendment of records (7 CFR part 1, subpart G).

RECORD SOURCE CATEGORIES:

Information is provided by USDA employees who apply for child care tuition assistance. Furnishing of the information is voluntary.

[FR Doc. 02–7860 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–96–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–003N]

Puerto Rico Conference on Animal and Egg Production Food Safety

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of meeting.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), is co-sponsoring, along with the Food and Drug Administration (FDA) and the University of Puerto Rico (UPR), a Conference on Animal and Egg Production Food Safety. The conference is to be held in San Juan, Puerto Rico on July 9–11, 2002. The conference grows out of a Memorandum of Understanding (MOU) 225–00–8002 among FDA, FSIS, and UPR, which was signed on December 7, 2000. The MOU provides a framework for all parties to collaborate on mutually agreed upon scientific and regulatory activities that pertain to products that are within the jurisdiction of FDA and FSIS. These activities are intended to support and encourage understanding of science-based regulatory systems in the countries of the Americas and to lead to enhanced cooperation among regulatory authorities. This conference is a part of the Action Plan between FSIS and FDA in support of the MOU. It is intended to serve as a model for future conferences. This conference should help to establish Puerto Rico as a Food Safety Center of Excellence for the Caribbean, and possibly all of Latin America, in animal and egg production food safety.

DATES: The meeting will be held July 9–11, 2002. On July 9, the registration will begin at 1 p.m. until 5 p.m. On July 10–11, 2002, the meeting will be held 9 a.m. until 6 p.m.

ADDRESSES: The meeting will be held at the Caribe Hilton San Juan Hotel, San Geronimo Grounds, San Juan, Puerto Rico 00901, (787) 721–0303.

FOR FURTHER INFORMATION CONTACT: To register for the meeting, contact either Mary Harris, Food Safety and Inspection Service, in Washington, DC (202) 690–6497, fax No: (202) 690–6500, or e-mail: *mary.harris@fsis.usda.gov,* or Dr. Edna Negron, University of Puerto Rico, Mayaguez, Puerto Rico, (787) 265–5410, fax No. (787) 265–5410 or e-mail: *ed_negron@rumad.uprm.edu.*

If you require a sign language interpreter or other special accommodations, please notify Ms. Harris at the above phone number on or before June 27. For technical information about the conference, contact Harry Walker, Food Safety and Inspection Service, Animal Production Food Safety Staff, FSIS (202) 720–4768 or by e-mail *harry.walker@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Puerto Rico Conference will review the status of food safety at the food animal production level, provide an update on industry quality assurance activities, and touch on research in support of animal production food safety practices. The conference will provide an opportunity for discussion of (1) what additional educational efforts are needed to improve food safety at the animal production level and (2) the gaps in research to address food safety at the animal production level. In developing the agenda, the Federal cooperators have been joined by industry and academia. These groups will also play important roles in the conference.

Participation in the conference will be limited to available seating (approximately 250 people). The target audience for the conference includes representatives from food safety regulatory agencies, animal producers, animal producer organizations, veterinarians, animal scientists, agricultural educators, extension agents, researchers, consumers and others with interest in food safety.

Additional Public Notification

Pursuant to Departmental Regulation 4300–4, ''Civil Rights Impact Analysis,'' dated September 22, 1993, FSIS has considered the potential civil rights impact of this notice on minorities, women, and persons with disabilities. Therefore, to better ensure that these groups and others are made aware of this meeting, FSIS will announce it and provide copies of the **Federal Register** publication in the FSIS Constituent Update.

The Agency provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding Agency policies, procedures, regulations, **Federal Register** Notices, FSIS public meetings, recalls and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals and other individuals that have requested to be included. Through these various channels, the Agency is able to provide information with a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

Done at Washington, DC on: March 28, 2002.

Margaret O'K Glavin,

Acting Administrator.

[FR Doc. 02–7916 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service, Alpine County, CA

Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Alpine County Resource Advisory Committee (RAC) will meet on April 10, 2002, in Markleeville, California. The purpose of the meeting is to discuss issues relating to implementing the *Secure Rural Schools and Community Self-Determination Act of 2000* (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, and Stanislaus National Forests in Alpine County.

DATES: The meeting will be held April 10, 2002 at 1 p.m.

ADDRESSES: The meeting will be held at the Turtle Rock County Park, Markleeville, CA.

FOR FURTHER INFORMATION CONTACT: Laura Williams, Committee Coordinator, USDA, Humboldt-Toiyabe National Forest, 1536 S Carson St., Carson City, NV 89701, (775) 884–8150, EMAIL: *ljwilliams@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Old business: Administrative functions and

changes to charter including answering questions from first meeting, and addressing any new questions or concerns from committee; (2) Determine procedural process/changes; (3) Develop criteria for choosing proposals; (4) Project review and initial screening by committee; (5) New business; (6) Public comment.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: March 27, 2002.

Gary Schiff,

Carson District Ranger.

[FR Doc. 02–7876 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Action of meeting.

SUMMARY: The Willamette Province Committee (PAC) will meet on Thursday, April 18, 2002. The meeting is scheduled to begin at 9:00 a.m., and will conclude at approximately 3 p.m. The meeting will be held at the Best Western New Kings Inn, 3658 Market Street NE, Salem, Oregon (503) 581–1559.

The tentative agenda include: (1) Presentation on watershed disturbance and stream succession, (2) An historical perspective of the Willamette River and restoration opportunities, (3) Restoration opportunities in the Willamette Province, (4) Update on the technical assistance program to watershed councils, (5) Subcommittee Reports, (6) Decision on PAC issue management proposal, (7) Public Forum. The Public Form is tentatively scheduled to begin at 1:00 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged and may be submitted prior to the April 18 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official Neal Forrester; Willamette National Forest; 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: March 27, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–7875 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Estimates of the Voting Age Population for 2001

AGENCY: Office of the Secretary, Commerce.

ACTION: General notice announcing population estimates.

SUMMARY: This notice announces the voting age population estimates, as of July 1, 2001, for each state and the District of Columbia. We are giving this notice in accordance with the 1976 amendment to the Federal Election Campaign Act, Title 2, United States Code, Section 441a(e).

FOR FURTHER INFORMATION CONTACT: John F. Long, Chief, Population Division, Bureau of the Census, Department of Commerce, Room 2011, Federal Building 3, Washington, DC 20233, telephone (301) 457–2071.

SUPPLEMENTARY INFORMATION: Under the requirements of the 1976 amendment to the Federal Election Campaign Act, Title 2, United States Code, Section 441a(e), I hereby give notice that the estimates of the voting age population for July 1, 2001, for each state and the District of Columbia are as shown in the following table:

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 2001

(In Thousands)

Area	Population 18 and over
United States	212,245
Alabama	3,327
Alaska	444
Arizona	3,825
Arkansas	1,998
California	24,800
Colorado	3,264
Connecticut	2,609
Delaware	598
District of Columbia	457
Florida	12,566
Georgia	6,119
Hawaii	920
Idaho	945
Illinois	9,349
Indiana	4,619
Iowa	2,196
Kansas	2,037

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 2001—Continued

(In Thousands)

Area	Population 18 and over
Kentucky	3,065
Louisiana	3,229
Maine	1,013
Maryland	3,969
Massachusetts	4,958
Michigan	7,525
Minnesota	3,773
Mississippi	2,077
Missouri	4,202
Montana	681
Nebraska	1,273
Nevada	1,544
New Hampshire	965
New Jersey	6,548
New Mexico	1,326
New York	14,406
North Carolina	6,114
North Dakota	495
Ohio	8,648
Oklahoma	2,580
Oregon	2,611
Pennsylvania	9,476
Rhode Island	813
South Carolina	3,037
South Dakota	571
Tennessee	4,331
Texas	15,205
Utah	1,544
Vermont	480
Virginia	5,386
Washington	4,460
West Virginia	1,404
Wisconsin	4,092
Wyoming	371

I have certified these counts to the Federal Election Commission.

Dated: March 26, 2002.

Donald L. Evans,

Secretary, Department of Commerce.

[FR Doc. 02–7909 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Closed Meeting

The Materials Technical Advisory Committee will meet on April 18, 2002, at 10:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street and Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions which affect the level of export controls applicable to materials and related technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 2002, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

For more information, call Lee Ann Carpenter at (202) 482–2583.

Dated: March 27, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–7937 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 18–2002]

Foreign-Trade Zone 46, Cincinnati, OH, Request for Manufacturing Authority (Automobile Transmissions)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign Trade Zone, Inc., grantee of FTZ 46, requesting, on behalf of ZF Batavia, LLC, authority to manufacture automobile transmissions under zone procedures within Site 3 (1981 Front Wheel Drive, Batavia, Ohio) of FTZ 46 (Cincinnati Customs port of entry). The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 20, 2002.

ZF Batavia currently operates 1.8 million square-feet of facilities at the above-described location (approximately 1200 employees) for the manufacture of automotive automatic transmissions, parts, components, and related products (imported under HTSUS headings 8708.40, 8413.60, 8481.20, 8708.93, and 8708.99, with duties ranging from duty-free to 2.5% ad valorem). The application indicates that foreign-sourced components comprise up to 60 percent of the finished product's value, and may include: transmission fluid; plastic and rubber articles; stainless steel wire; tubes, pipes or hollow profiles; tube or pipe fittings; screws, bolts, nuts, rivets, washers, and similar items; springs; retainers and clips; plugs and sealing rings; brackets and support plates; pumps; valves and similar articles; bearings; transmission shafts; gaskets; magnets; sensors; clutches and clutch parts; and various other motor vehicle parts (classifiable under HTS heading 8708.99). Duty rates on these categories of items range up to 9.9% ad valorem.

FTZ procedures would exempt ZF Batavia from Customs duty payments on the foreign components used in export activity. On its domestic sales, the company would be able to choose the duty rate that applies to finished automatic transmissions and assemblies (duty free to 2.5%) for foreign components, such as those noted above. The company would also be exempt from duty payments on foreign merchandise that becomes scrap/waste. The application indicates that the savings would help improve the facility's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is June 3, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 17, 2002. A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the Cincinnati U.S. Export Assistance Center, 36 East Seventh Street, Suite 2650, Cincinnati, Ohio 45202.

Dated: March 22, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–7850 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–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 (the Act), may request, in accordance with section 351.213 (2001) of the Department of Commerce (the Department) Regulations, 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 April 2002, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in April for the following periods:

	Period
Antidumping Duty Proceedings:	
France: Sorbitol, A–427–001	4/1/01–3/31/02
Norway: Fresh and Chilled Atlantic Salmon, A–403–801	4/1/01–3/31/02
The People's Republic of China: Brake Rotors, A–570–846	4/1/01–3/31/02
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807	4/1/01–3/31/02

	Period
Countervailing Duty Proceedings	
Norway: Fresh and Chilled Atlantic Salmon, C–403–802	1/1/01—12/31/01
Suspension Agreements: None .	

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 Antidumping/Countervailing Enforcement, Office 4, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(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 April 2002. If the Department does not receive, by the last day of April 2002, 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: March 25, 2002.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, Import Administration.

[FR Doc. 02–7852 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–837]

Amended Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final determination of sales at less than fair value.

EFFECTIVE DATE: April 2, 2002.

SUMMARY: On February 26, 2002, we published in the **Federal Register** our notice of final determination of sales at less than fair value. See *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada,* 67 FR 8781 (February 26, 2002). We are amending our final determination to correct ministerial errors discovered in relation to the antidumping duty margin calculations for BC Hot House Foods, Inc., J–D Marketing, Inc., Mastronardi Produce Ltd., and Red Zoo Marketing.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Minoo Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4794 or (202) 482–1690, respectively.

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's) regulations refer to 19 CFR part 351 (April 2001).

Background

On February 26, 2002, we published in the **Federal Register** our final determination that greenhouse tomatoes from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Act. See *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada,* 67 FR 8781 (February 26, 2002) (*Final Determination*). On March 4, 2002, the Department received timely filed allegations of ministerial errors in the final determination with respect to J–D Marketing, Inc., and Mastronardi Produce Ltd. On March 5, 2002, another respondent, BC Hot House Foods, Inc., timely filed an allegation that the Department had made certain ministerial errors in the final determination. On March 5, 2002, the petitioners, Carolina Hydroponic Growers Inc., Eurofresh, HydroAge, Sunblest Management LLC, Sunblest Farms LLC, and Village Farms (referred to hereafter as ''the petitioners'') also timely filed allegations that the Department made certain ministerial errors in its final determination. On March 6, 2002, however, the petitioners withdrew their allegations.

Scope of the Investigation

The merchandise subject to this investigation consists of all fresh or chilled tomatoes grown in greenhouses in Canada, *e.g.,* common round tomatoes, cherry tomatoes, plum or pear tomatoes, and cluster or ''on-the-vine'' tomatoes. Specifically excluded from the scope of this investigation are all field-grown tomatoes.

The merchandise subject to this investigation may enter under item numbers 0702.00.2000, 0702.00.2010, 0702.00.2030, 0702.00.2035, 0702.00.2060, 0702.00.2065, 0702.00.2090, 0702.00.2095, 0702.00.4000, 0702.00.4030, 0702.00.4060, 0702.00.4090, 0702.00.6000, 0702.00.6010, 0702.00.6030, 0702.00.6035, 0702.00.6060, 0702.00.6065, 0702.00.6090, and 0702.00.6095 of the Harmonized Tariff Schedule of the United States (HTSUS). These subheadings may also cover products that are outside the scope of this investigation, *i.e.,* field-grown tomatoes. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Ministerial-Error Allegations

BC Hot House Foods, Inc., alleges that the Department did not convert the freight expenses for shipments from the growers to the respondent from a per-kilogram basis to a per-pound basis and that the Department did not assign the appropriate cost of production to miniplum greenhouse tomatoes.

J–D Marketing, Inc., alleges that the Department used an outdated data file in its margin calculations and, in addition, did not recalculate U.S. credit expense properly.

Mastronardi Produce Ltd. alleges that the Department made the following errors: it did not include Amco Farms' cost-of-production data for beefsteak tomatoes in the calculation of a weighted-average cost for its beefsteak tomatoes; it omitted an offset adjustment for foreign-exchange gains in recalculating indirect selling expenses; it subtracted billing adjustments from the gross unit prices used to recalculate indirect selling expenses; it did not remove certain U.S. sales from the sales list that are of non-subject merchandise; and it treated certain indirect selling expenses and inventory carrying costs improperly for the calculation of the net constructed export price (CEP) and CEP profit.

On March 11, 2002, the petitioners commented on respondents' ministerial-error allegations. The petitioners assert that, because the Department can not know from information on the record that beefsteak tomatoes which Amco Farms supplied to Amco Produce were the ones that were in turn supplied to Mastronardi Produce Ltd., the Department's decision not to use the cost of production of Amco Farms' beefsteak tomatoes in calculating Mastronardi Produce Ltd.'s weighted-average costs was correct. The petitioners also made this comment with respect to Red Zoo Marketing, although the respondents did not raise the issue in their ministerial-error allegations.

No other party alleged that there were ministerial errors in the *Final Determination* or commented on ministerial-error allegations.

Ministerial Errors

The Department's regulations define a ministerial error as one involving ''addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' *See* 19 CFR 351.224(f). After reviewing the allegations we have determined, in accordance with 19 CFR 351.224, that the *Final Determination* includes ministerial errors.

We agree with BC Hot House Foods, Inc., that we did not convert the freight expenses for shipments from the growers to the respondent from a per-kilogram basis to a per-pound basis and that we did not assign the appropriate cost of production to miniplum greenhouse tomatoes. As discussed in the *Amended Final Determination Analysis Memorandum* from Mark Ross to the file, dated March 15, 2002, we have corrected these ministerial errors.

We agree with J-D Marketing, Inc., that we used an outdated data file in our margin calculations and, in addition, did not recalculate U.S. credit expense properly. As discussed in the *Amended Final Determination Analysis Memorandum* from Dmitry Vladimirov to the file, dated March 26, 2002, we have corrected these ministerial errors.

After re-evaluating the information on the record, we agree with Mastronardi Produce Ltd. that we should include Amco Farms' cost-of-production data for beefsteak tomatoes in the calculation of a weighted-average cost for its beefsteak tomatoes. Additionally, as a result of the petitioners' comments on the respondent's ministerial-error allegations, we also discovered that a similar ministerial error occurred in our calculations concerning Red Zoo Marketing. We should also have included Amco Farms' cost of production data for beefsteak tomatoes in the calculation of Red Zoo Marketing's weighted-average cost for beefsteak tomatoes.

We also agree with Mastronardi Produce Ltd. that the following corrections to our calculations are appropriate: (1) We should include the offset adjustment for foreign-exchange gains in recalculating indirect selling expenses; (2) we should not subtract billing adjustments from the gross unit prices used to recalculate indirect selling expenses; (3) we should remove certain U.S. sales from the sales list that are of non-subject merchandise.

We agree in part with Mastronardi Produce Ltd.'s allegation that we treated certain indirect selling expenses and inventory carrying costs improperly for the calculation of the net CEP and CEP profit. Specifically, in calculating the CEP profit we did not treat the inventory carrying costs properly because we did not include certain inventory carrying costs associated with U.S. economic activity in the calculation. We have corrected this error.

We disagree, however, with Mastronardi Produce Ltd. that we did not treat certain indirect selling expenses properly in the calculation of the net CEP and CEP profit. See the *Amended Final Determination Analysis Memorandum* from Dmitry Vladimirov to the file, dated March 26, 2002, which includes an explanation of how we have corrected the error in the calculation of CEP profit.

We disagree with the petitioners that, because we do not know with certainty that the beefsteak tomatoes produced by Amco Farms were the actual tomatoes sold to Mastronardi Produce Ltd. and Red Zoo Marketing, we cannot use Amco Farms' beefsteak tomato cost data. To the contrary, we selected the cost respondents which we found to be representative of all tomatoes sold by the exporters of greenhouse tomatoes from Canada. Therefore, it is not necessary to link the actual tomatoes produced by Amco Farms to Mastronardi Produce Ltd. or Red Zoo Marketing.

In accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of greenhouse tomatoes from Canada. As a result of the correction of ministerial errors for certain respondents, we determine that the following percentage weighted-average amended final margins exist for the period January 1, 2000, through December 31, 2000:

Exporter/Grower	Final determination	Amended final determination
BC Hot House Foods, Inc.	18.21	18.04
J–D Marketing, Inc.	1.53	0.83
Mastronardi Produce Ltd.	14.89	0.52
Red Zoo Marketing (a.k.a. Produce Distributors, Inc.)	1.86	1.85
All Others	16.22	16.53

Pursuant to section 735(c)(5)(A) of the Act, we have excluded from the calculation of the all-others rate margins which are zero, *de mimimis,* or determined entirely on facts available. Because we calculated *de minimis* margins for J–D Marketing, Inc., Mastronardi Produce Ltd., and Red Zoo Marketing (a.k.a. Produce Distributors, Inc.), we have calculated the all-others rate on the basis of the margins applicable to BC Hot House Foods, Inc., and Veg Gro Sales, Inc.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all imports of subject merchandise except for exports by J–D Marketing, Inc. (and J–D Marketing, Inc.''s affiliate, Special Edition Marketing), Mastronardi Produce Ltd., and Red Zoo Marketing (a.k.a. Produce Distributors, Inc.), that are entered, or withdrawn from warehouse, for consumption on or after October 5, 2001, the date of publication of the *Preliminary Determination* in the **Federal Register**. For BC Hot House Foods, Inc., and the companies subject to the all-others rate, we will instruct the Customs Service to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or CEP, as indicated in the chart above, effective the date of publication of this amended final determination. For Veg Gro Sales, Inc., for which we are not amending the *Final Determination,* we will instruct the Customs Service to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or CEP, as indicated in the *Final Determination* dated February 26, 2002.

Because J–D Marketing, Inc. (and its affiliate, Special Edition Marketing), Mastronardi Produce Ltd., and Red Zoo Marketing are non-producing exporters, in accordance with 19 CFR 351.204(e)(3), we are limiting the exclusion from these suspension-of-liquidation instructions to entries only of subject merchandise exported by these companies that is produced or supplied by the companies that supplied these respondents (and the affiliate identified above) during the period of investigation (POI). Any entries of subject merchandise exported by these companies which is not produced or supplied by a company that supplied these companies during the POI will be subject to the all-others rate.

For Mastronardi Produce Ltd., because its estimated weighted-average amended final dumping margin is *de minimis,* we are directing Customs to terminate suspension of liquidation of entries of merchandise exported by Mastronardi Produce Ltd. that were produced or supplied by the companies that supplied this company during the POI and refund all bonds and cash deposits posted on such subject merchandise. Because we never required suspension of liquidation or the posting of cash deposits or bonds for entries of merchandise from J–D Marketing, Inc., no such step is necessary. For Red Zoo Marketing, as indicated in the *Final Determination,* 67 FR at 8785, because its estimated weighted-average final dumping margin was *de minimis,* we directed Customs to terminate suspension of liquidation of entries of merchandise from Red Zoo Marketing that were produced by the companies that supplied Red Zoo Marketing during the POI and refund all bonds and cash deposits posted on such subject merchandise exported by Red Zoo Marketing.

These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with section 735(d) and 777(i)(1) of the Act.

Dated: March 27, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–7956 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–507–502]

Certain In-Shell Raw Pistachios From Iran: Extension of Time Limit for Preliminary Results of Antidumping New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping new shipper review.

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Dena Aliadinov at (202) 482–3362, or Donna Kinsella at (202) 482–0194, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (''the Department'') to make a preliminary determination within 180 days after the date on which the new shipper review is initiated, and a final determination within 90 days after the date the preliminary determination is issued. However, if the case is extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 300 days and for the final determination to 150 days after the date the preliminary determination is issued.

Background

On October 2, 2001 the Department initiated a new shipper review of the antidumping duty order on in-shell pistachios from Iran. *See Certain In-Shell Pistachios From Iran: Initiation of New Shipper Review*, 66 FR 51638 (October 10, 2001). This order covers raw in-shell pistachios and specifically excludes roasted in-shell pistachios. *See Certain In-Shell Pistachios From Iran; Clarification of Scope in Antidumping Duty Investigation*, 51 FR 23254 (June 26, 1986). The period of review (POR) is July 1, 2000 through June 30, 2001. The preliminary results are currently due on April 1, 2002.

Extension of Time Limit for Preliminary Results of Review

The instant review involves several complex issues that necessitate a greater amount of time in order to preliminarily complete this review, including Iran's dual exchange rate system, the classification of U.S. sales (EP vs. CEP), and the appropriate basis for normal value. Therefore, the Department is extending the time limit for completion of the preliminary results to 300 days, which is July 29, 2002, pursuant to 751(a)(2)(B)(iv) of the Act. The final results will continue to be 90 days after the date the preliminary results are issued.

This extension of the time limit is in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

Dated: March 26, 2002.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–7851 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823]

Silicomanganese from India: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos for Nava Bharat Ferro Alloys Ltd. at (202) 482–2243 and Mark Hoadley or Brett Royce for Universal Ferro & Allied Chemicals, Ltd. at (202) 482–0666 or (202) 482–4106, respectively; Office of Antidumping and Countervailing Duty Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Final Determination

We determine that silicomanganese from India is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended. On November 9, 2001, the Department published its preliminary determination of sales at less than fair value of silicomanganese from India. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001). Based on the results of verification and our analysis of the comments received, we have made changes to the margin calculations. The final weighted–average dumping margins of sales at LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Applicable Statue

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 (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

This investigation covers two producers/exporters: Nava Bharat Ferro Alloys, Ltd.(Nava Bharat) and Universal Ferro and Allied Chemicals, Ltd. (Universal). We published in the Federal Register the preliminary determination of critical circumstances in this investigation on October 19, 2001. *See Notice of Preliminary Determination of Critical Circumstances: Silicomanganese from India*, 66 FR 53207 (October 19, 2001) (Preliminary Determination of Critical Circumstances). We subsequently published in the Federal Register the preliminary determination in this investigation on November 9, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001) (*Preliminary Determination*).

On November 20, 2001, Universal requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the *Federal Register* and requested an extension of the provisional measures. On December 7, 2001, we extended the final determination until no later than 135 days after the publication of the preliminary determination in the *Federal Register*. *See Notice of Postponement of Final Antidumping Duty Determination: Silicomanganese from Kazakhstan and India*, 66 FR 63522 (December 7, 2001).

The Department verified sections A–D of Universal's questionnaire responses, from January 7, 2002 through January 16, 2002, at Universal's headquarters in Mumbai, India and at its production facility in Tumsar, India. *See Sales and Cost Verification Report for Universal Ferro & Allied Chemicals Ltd., in the Antidumping Duty Investigation of Silicomanganese from India*, from Abdelali Elouaradia and Brett Royce, Case Analysts, through Sally C. Gannon, Program Manager, to The File (February 14, 2002). The Department also verified sections A–D of the questionnaire responses of Nava Bharat in Hyderabad, India and at its production facility in Paloncha, India from January 11, 2002 through January 18, 2002. *See Verification of Sales in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Elfi Blum and Javier Barrientos, Case Analysts, through Sally Gannon, Program Manager, for The File (February 20, 2002); *see also Verification of Cost in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Elfi Blum and Javier Barrientos, Case Analysts, through Sally Gannon, Program Manager, for The File (February 22, 2002). Public versions of these, and all other Department memoranda referred to herein, are on file in the Central Records Unit, Room B–099, of the main Commerce Building.

On December 11, 2001, the petitioners, Eramet Marietta Inc. (''Eramet''), and the Paper, Allied–Industrial, Chemical and Energy Workers International Union, Local 5–0639, requested a public hearing. On February 25, 2002, we received Nava Bharat's case brief. On February 26, 2002, pursuant to an extension requested by petitioners and granted by the Department, we received case briefs from petitioners and Universal. We received rebuttal briefs from petitioners and Universal on March 4, 2002 and, pursuant to an extension requested by Nava Bharat and granted by the Department, from Nava Bharat on March 6, 2002. We held a public hearing in this investigation on March 7, 2002.

Period of Investigation

The period of investigation (POI) is April 1, 2000 through March 31, 2001.

Critical Circumstances

In the Department's *Preliminary Determination of Critical Circumstances*, we determined that critical circumstances exist for imports of silicomanganese from India produced by Universal and by ''All Other'' producers, except for Nava Bharat. For Nava Bharat, we preliminarily found that critical circumstances do not exist. For this final determination, we have found that critical circumstances do not exist for imports of silicomanganese from India produced by Universal, Nava Bharat or any other producer because one of the required criteria for finding critical circumstances has not been met. For a discussion of interested party comments, and the Department's position, on this issue, *see* the *Decision Memorandum*.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum in the Final Affirmative Antidumping Duty Determination on Silicomanganese from India*, from Joseph A. Spetrini, Deputy

Assistant Secretary for AD/CVD Enforcement III, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 25, 2002 (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in Room B–099 and accessible directly on the World Wide Web at **www.ia.ita.doc.gov**. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low–carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferro alloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferro silicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.

The low–carbon silicomanganese excluded from this scope is a ferro alloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low–carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferro manganese–silicon. Low–carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Fair Value Comparisons

To determine whether sales of silicomanganese from India were made in the United States at less than fair value, we compared export price (EP) to normal value (NV), as described in the ''Export Price and ''Normal Value'' sections of the *Preliminary Determination*. In accordance with section 777(A)(d)(1)(A)(i) of the Tariff Act, we calculated weighted–average EPs for comparison to weighted–average NVs.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations for the final determination. *See Decision Memorandum*, *Final Determination in the Antidumping Duty Investigation on Silicomanganese from India: Analysis of Universal Ferro & Allied Chemicals Ltd.*, from Mark Hoadley and Brett Royce, through Sally Gannon, for The File (March 25, 2002) (*Universal Analysis Memorandum*), and *Final Determination in the Antidumping Duty Investigation on Silicomanganese from India: Analysis of Nava Bharat Ferro Alloys Ltd.*, from Javier Barrientos, through Sally Gannon, for The File (March 25, 2002) (*Nava Bharat Analysis Memorandum*). In addition to the Decision Memorandum, public versions of the *Universal Analysis Memorandum* and *Nava Bharat Analysis Memorandum* are on file in the Central Records Unit, Room B–099, of the main Commerce Building. Specifically, we made the following changes.

Regarding Universal:

1. We used revised sales databases provided by Universal reflecting minor changes in sales dates, invoice dates, credit expenses, gross unit prices, and movement expenses based on verification.
2. We added bank charges discovered at verification to U.S. credit expenses.
3. We changed indirect selling expenses in both the U.S. and home markets to reflect information discovered at verification.
4. We added an amount to total raw materials cost for the value of slag used in production.
5. We removed the quantity of recycled fines from the production quantity used in the per unit cost calculation.
6. We reduced electricity costs by an amount found to have been forgiven by the electricity authority.
7. We removed refunded taxes from the cost of raw materials.
8. We offset interest expense by revenue earned on bank accounts (short–term interest revenue).

Regarding Nava Bharat:

1. We changed shipment date to reflect factory shipment instead of port shipment.
2. We recalculated U.S. imputed credit and inventory carrying costs using gross unit price.
3. We recalculated credit expense for one home market sale.
4. We removed the quantity of generated fines from the production quantity used in the per unit cost calculation.
5. We also changed the cost of electricity by using: a) using a weighted–average of the market prices of other electricity suppliers as representative of the market price of the power supplied by Nava Bharat's affiliated electricity supplier and b) the cost of production of Nava Bharat's self–produced power.
6. We subtracted short–term interest income from interest expense to arrive at the interest expense ratio.
7. We added Nava Bharat's reported interest revenue to home market gross unit price for the final determination.

Use of Partial Facts Available

Nava Bharat

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis for Nava Bharat. We used partial facts available where, despite the Department's repeated requests, essential company–specific information needed to make certain calculations for the final determination was unavailable. For a discussion of our determination with respect to these matters. See Decision Memorandum.

Universal

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis for Universal. We used partial facts available where, despite the Department's repeated requests, essential company–specific information needed to make certain calculations for the final determination was unavailable. For a discussion of our determination with respect to these matters. *See Decision Memorandum*.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of silicomanganese from India that are entered, or withdrawn from warehouse, for consumption on or after November 9, 2001 (the date of publication of the *Preliminary Determination* in the *Federal Register*). For Universal and ''all others,'' we will instruct Customs to terminate the retroactive suspension of liquidation, between August 11, 2001 (90 days prior to the date of publication of the *Preliminary Determination* in the Federal Register) and November 8, 2001, which was instituted upon publication of the *Preliminary Determination* in the *Federal Register* due to the preliminary affirmative critical circumstances finding. Customs shall also release any bond or other security, and refund any cash deposit required, under section 733(d)(1)(B) of the Act with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 733(e)(2). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice. We determine that the following weighted–average percentage dumping margins exist for the period April 1, 2000 through March 31, 2001:

Average Margin Percentage

Exporter/manufacturer	
Nava Bharat Ferro Alloys, Ltd.	15.32%
Universal Ferro and Allied Chemicals, Ltd.	20.42%
All Others	17.69%

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether these imports are materially injuring, or threatening material injury to, an industry in the United States. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 25, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I —Issues in Decision Memorandum

Regarding Universal Ferro & Allied Chemicals Ltd. (Universal):

1. Critical Circumstances
2. Clerical Errors in the Verification Report
3. Use of Revised Home Market Sales
4. Use of Revised Indirect Selling Expenses Found at Verification
5. Cost of Slag
6. Cost of Recycled Silicomanganese Fines
7. Inclusion of Losses on Inventory in Raw Materials Costs
8. Slag Handling Expenses
9. Disputed Electricity Charges
10. Refundable Tax Payments
11. Excise Duties on Closing Stock
12. Depreciation on Closed Furnaces and Furnaces Not Used to Produce Subject Merchandise
13. Use of Revalued Depreciation Costs
14. Calculation of General and Administrative Expenses
15. Offsetting Interest Expense by Interest Revenue
16. Severance Payments to Former Employees

Regarding Nava Bharat Ferro Alloys Ltd. (Nava Bharat):

17. Duty Drawback
18. Imputed Credit Expense (Home Market)
19. Imputed Credit Expense (U.S. Sales)
20. Tolling Raw Materials
21. Cost of Recycled Silicomanganese Fines
22. Cost of Power
23. Fixed Plant Overhead
24. Calculation of General & Administrative Expenses
25. Calculation of Net Interest Expense
26. Interest Revenue

[FR Doc. 02–7952 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-307-820]

Notice of Final Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: FOR FURTHER INFORMATION CONTACT: Deborah Scott at (202) 482-2657 or Robert James at (202) 482-0649; AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

The Department of Commerce is conducting an antidumping duty investigation of silicomanganese from Venezuela. We determine that silicomanganese from Venezuela is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended. On November 9, 2001, the Department published its preliminary determination of sales at less than fair value of silicomanganese from Venezuela. See Notice of Preliminary Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela, 66 FR

56635 (November 9, 2001). Based on the results of verification and our analysis of the comments received, we have made changes to the margin calculations. The final weighted-average dumping margins of sales at LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2001).

Case History

Since the publication of the preliminary determination in this investigation, the following events have occurred:

From November 28 through December 9, 2001, we conducted a verification of the sales and cost questionnaire responses and supplemental questionnaire responses submitted by Hornos Eléctricos de Venezuela, S.A. (Hevensa). We issued the cost verification report for Hevensa on January 29, 2002, and the sales verification report on January 31, 2002.

Although the deadline for this determination was originally January 23, 2002, on December 28, 2001 we published in the **Federal Register** our notice of the extension of time limits (see 66 FR 67185). This extension established the deadline for this final determination as March 25, 2002.

On February 14, 2002, we received case briefs from respondent and Eramet Marietta, Inc. and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639 (collectively, the petitioners). On February 19, 2002, we received rebuttal briefs from respondent and petitioners. On March 12, 2002, we held a public hearing in response to a request from the petitioners.

Period of Investigation

The period of investigation (POI) is April 1, 2000 through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., April 2001), in accordance with section 19 CFR 351.204(b)(1) of our regulations.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Facts Available

For the preliminary determination, we used partial facts available in accordance with section 776(a)(1) of the Tariff Act because we determined certain information was not available on the record. Specifically, in its original and supplemental questionnaire responses, Hevensa reported that it was owned by three holding companies who performed certain activities on its behalf during the POI, such as collection of payments from customers and payments to suppliers of inputs. Thus, we determined it was necessary to include a portion of the parents' financial and general and adminstrative (G&A) expenses in calculating HEVENSA's COP. However, despite repeated requests, Hevensa did not provide any financial statements or other relevant documents allowing us to quantify the G&A and financial expenses incurred by the three holding companies in conducting these activities on HEVENSA's behalf. Since we did not have the information necessary to include a portion of the parents' financial and G&A expenses in HEVENSA's COP in making our preliminary determination, we found, pursuant to section 776(a) of the Tariff Act, it was appropriate to use the facts otherwise available in calculating COP. Section 776(a) of the Tariff Act provides that the Department will, subject to section 782(d), use the facts otherwise available in reaching a determination if ''necessary information is not available on the record.'' As facts available for the preliminary determination, we used the G&A and financial expense ratios contained in the petition for Siderurgica Venezolana SIVENSA, S.A. (SIVENSA), a Venezuelan steel producer, to calculate HEVENSA's COP.

At verification, we determined none of the three holding companies engaged in any business activities on Hevensa's behalf during the POI. For information regarding the nature of the three holding companies, see ''Verification of the Sales Information Submitted by Hornos Electricos de Venezuela (Hevensa) in the Investigation of Silicomanganese from Venezuela (A-307-820),'' dated January 31, 2002, at 3 through 5 and ''Silicomanganese from Venezuela-COP/CV Verification of Hornos Electricos de Venezuela,'' dated January 29, 2002, at 5 (Cost Verification Report). Both documents are on file in the Central Records Unit, room B-099, of the main Department building. Additionally, we found Hevensa's financial statements fully captured the financial and G&A expenses incurred by Hevensa. Therefore, we have not found it necessary to use partial facts available for financial and G&A expenses for the final determination. However, we have not used Hevensa's financial and G&A expense ratios as reported, but rather have revised these ratios as discussed in the ''Issues and Decision Memorandum'' from Joseph A. Spetrini, Deputy Assistant Secretary, Group III, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 25, 2002 (Decision Memorandum), and the Department's Final Determination Analysis Memorandum, dated March 25, 2002.

Currency Conversion

We made currency conversions in accordance with section 773A of the

Tariff Act in the same manner as in the Preliminary Determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Decision Memorandum, dated March 25, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099, of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes in the margin calculations:

• We have revised the G&A expense ratio to include three expenses that were excluded from Hevensa's original calculation of G&A. Id. at Comment 2.

• We have revised the date of payment for certain of Hevensa's U.S. sales, and thus have recalculated imputed credit expenses for those sales. Id. at Comment 5.

• We have applied the corrections reported at the opening day of the Hevensa sales verification, and amended the indirect selling expense ratio (INDIRSH) and financial expense ratio (INTEX) pursuant to our findings at verification.

These changes are discussed in the relevant sections of the Decision Memorandum, accessible in room B-099 and on the Web at http://ia.ita.doc.gov.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the Customs Service to continue to suspend all entries of silicomanganese from Venezuela that are entered, or withdrawn from warehouse, for consumption on or after November 9, 2001, the date of publication of the preliminary determination in the Federal Register. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins for this LTFV proceeding are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Hornos Eléctricos de Venezuela, S.A.	24.62
All Others	24.62

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Tariff Act.

Dated: March 25, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix Issues in Decision Memorandum

Cost of Production

Comment 1. Inflation

Comment 2: G&A Expenses

Comment 3: Interest Expenses on Shareholder Loans

Comment 4: Transformer Failures

Adjustments to United States Price

Comment 5: Date of Payment Used to Calculate Credit Expenses

Comment 6: Duty Drawback

Adjustments to Normal Value

Comment 7: Home Market Credit Expenses Miscellaneous Issues

Comment 8: Level of Trade

Comment 9: Date of Sale

[FR Doc. 02–7953 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–807]

Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination in the less than fair value investigation of silicomanganese from Kazakhstan.

SUMMARY: We determine that silicomanganese from Kazakhstan is being, or is likely to be, sold in the United States at less than fair value. On November 9, 2001, the Department of Commerce published a notice of preliminary determination of sales at less than fair value in the investigation of silicomanganese from Kazakhstan. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Silicomanganese from Kazakhstan*, 66 FR 56639, November 9, 2001) (''*Preliminary Determination*''). This investigation covers one manufacturer and one exporter of the subject merchandise. The period of investigation (''POI'') is October 1, 2000 through March 31, 2001.

Based upon our verification of the data and analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination of this investigation differs from the preliminary determination. The final weighted-average dumping margin is listed below in the section titled ''Continuation of Suspension of Liquidation.''

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Jean Kemp, Brandon Farlander and Cheryl Werner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4037, (202) 482–0182, and (202) 482–2667 respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2000).

Background

This investigation was initiated on April 26, 2001. *See Notice of Initiation of Antidumping Duty Investigations: Silicomanganese From Kazakhstan, India and Venezuela*, 66 FR 22209 (May 3, 2001) (''*Notice of Initiation*'').

On May 17, 2001, Eramet Marietta Inc. and The Paper, Allied Industry, Chemical and Energy Workers International Union, Local 5–0639, (''petitioners'') proposed an amendment to the scope. On July 13, 2001, we excluded low-carbon silicomanganese from the scope of these investigations. *See Decision Memorandum* from Barbara Tillman, Richard Weible, and Edward Yang to Joseph Spetrini, dated July 13, 2001.

On October 23, 2001, the Department requested further financial information and documentation regarding certain sales from Alloy 2000 through Considar to customers in the U.S. market in a supplemental questionnaire to Kazchrome, Alloy 2000, and Considar. On October 29, 2001, the Department modified its request for financial information and documentation regarding certain sales from Alloy 2000 through Considar to customers in the U.S. market in another supplemental questionnaire to Kazchrome, Alloy 2000, and Considar.

On November 9, 2001, the Department published a notice of preliminary determination of sales at less than fair value (''LTFV'') in the investigation of silicomanganese from Kazakhstan. *See Preliminary Determination.*

On November 16, 2001, Kazchrome, Alloy 2000, and Considar submitted a response to the Department's modified October 29, 2001, request of the October 23, 2001, supplemental questionnaire. On November 19, 2001, the Government of the Republic of Kazakhstan (''GOK'') submitted a timely request for negotiation of a suspension agreement. On December 6, 2001, the Department requested a revised Section C database which reports all sales of subject merchandise during the POI based on the sale invoice date as the date of sale rather than the sale contract date and further information concerning Kazchrome, Alloy 2000, and Considar's November 16, 2001, response on reconciliation of Considar's expenses with Alloy 2000.

On December 7, 2001, the Department published a notice of postponement of the final determination in the investigation, as well as an extension of provisional measures from a four month period to a period not to exceed six months. *See Postponement of Final Determination for Antidumping Duty Investigation: Silicomanganese from Kazakhstan and India*, 66 FR 63522 (December 7, 2001).

We invited the public to comment on the GOK's request that Kazakhstan be treated as a market economy country. On December 10, 2001, the Department received comments on Kazakhstan's market economy request.

On December 11, 2001, petitioners submitted a request for a hearing and a request for an extension of the time period for requesting the hearing. On December 19, 2001, petitioners submitted additional surrogate country factor values pursuant to 19 CFR 351.301 (c)(3)(i). On December 20, 2001, Kazchrome, Alloy 2000, and Considar submitted an unsolicited Section B questionnaire response. On December 21, 2001, petitioners requested the Department return Kazchrome's, Alloy 2000's and Considar's December 20, 2001 unsolicited Section B questionnaire response. On December 21, 2001, Kazchrome, Alloy 2000, and Considar submitted a revised Section C database in response to the Department's December 6, 2001 supplemental questionnaire. On December 26, 2001, Kazchrome, Alloy 2000, and Considar submitted a response to the Department's December 6, 2001 supplemental questionnaire. On January 9, 2002, petitioners requested an extension of the deadline for alleging sales below cost if the Department determines to accept Kazchrome's, Alloy 2000's, and Considar's December 20, 2001 unsolicited Section B questionnaire response.

On January 9, 2002, through January 11, 2002, the Department conducted a sales and factors of production verification of Kazchrome. *See Verification of Sales and Factors of Production for Transnational Co. Kazchrome and Aksu Ferroalloy Plant* (February 22, 2002) (''Kazchrome Verification Report''). On January 14, 2002, through January 15, 2002, the Department conducted a sales verification of Alloy 2000. *See Verification of Sales and Factors of Production for Alloy 2000 S.A.* (February 22, 2002) (''Alloy Verification Report'').

On January 24, 2002, the Department received rebuttal comments concerning Kazakhstan's market economy request.

On February 13, 2002, through February 15, 2002, the Department conducted a sales verification of Considar. *See Verification of U.S. Sales for Considar Inc.* (February 22, 2002) (''Considar Verification Report'').

On March 7, 2002, the Department requested that the petitioners support surrogate values they had submitted on December 19, 2001, for factory overhead, selling, general and administrative and financial ratios they had submitted for Sinai Manganese, an Egyptian ferroalloys producer. On March 11, petitioners submitted a copy of an original financial statement for updated surrogate value information, with some English translation. On March 12, respondents submitted comments rebutting this surrogate value information.

We invited parties to comment on our *Preliminary Determination.* On March 4, 2002, petitioners and Kazchrome, Alloy 2000, and Considar submitted case briefs with respect to the sales and factors of production verification and the Department's *Preliminary Determination.* Petitioners and Kazchrome, Alloy 2000, and Considar submitted their rebuttal briefs on March 11, 2002 with respect to the sales and factors of production verification and the Department's *Preliminary Determination.* On March 13, 2002, the Department held a public hearing in accordance with 19 CFR 351.310(d)(1). Representatives for petitioners and Kazchrome, Alloy 2000, and Considar were present. All parties present were allowed an opportunity to make affirmative presentations only on arguments included in that party's case briefs and were also allowed to make rebuttal presentations only on

arguments included in that party's rebuttal brief.

The Department has conducted and completed the investigation in accordance with section 735 of the Act.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.

The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs to this investigation are addressed in the *Issues and Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary* (March 25, 2002) (''*Decision Memo*''), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, and other issues addressed, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the *Decision Memo*, a public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the *Decision Memo* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. *See Analysis Memorandum for Kazchrome, Alloy 2000, and Considar* (March 25, 2002) (''*Analysis Memo*'').

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Kazchrome, Alloy 2000, and Considar for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the Kazchrome, Alloy 2000, and Considar. For changes from the *Preliminary Determination* as a result of verification, see *Analysis Memo*.

Use of Partial Facts Available

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis of Kazchrome, Alloy 2000, and Considar. For a discussion of our determination with respect to this matter, see *Analysis Memo*.

Nonmarket Economy Country

As of the date of initiation of this investigation, Kazakhstan was considered a non-market economy (NME) country. On June 28, 2001, the Department received a request from respondent requesting that the Department revoke Kazakhstan's NME status under section 771(18)(A) of the Act. On July 5, 2001, the Department received a letter from the GOK also requesting that the Department revoke Kazakhstan's NME status. Consistent with the factors described in section 771(18)(B), the Department considers the extent to which resources are allocated by market or government, taking into account currency and labor markets, pricing, and production and investment decisions.

After a thorough examination of all relevant information available to the Department, we have revoked Kazakhstan's NME status under section 771(18)(A) of the Act, effective October 1, 2001. See Memorandum from George Smolik to Faryar Shirzad: Antidumping Duty Investigation of Silicomanganese from Kazakhstan—Request for Market Economy Status (March 25, 2002).

Kazakhstan today has a fully convertible currency for current account purposes, and exchange rates are market based. Legislation on wage reforms is well advanced in Kazakhstan, with workers able to unionize and engage in collective bargaining, negotiating wages and benefits; further, the mobile workforce is free to pursue new employment opportunities. Kazakhstan is open to foreign investment, and investors have responded, particularly into the oil, gas, and metals sectors. The allocation of resource decisions in Kazakhstan now rests with the private sector, with the GOK largely limiting price regulation to natural monopolies; the state's involvement in Kazakhstan's banking system is now limited to NBK supervision of commercial banks; further, recent increases in bank assets and deposits, and bank consolidation all indicate that Kazakhstan's banks are behaving as financial intermediaries. In addition, price liberalization is practically completed in Kazakhstan.

Kazakhstan has successfully privatized most of its economy, however, it has not advanced as far as other recently graduated market economies, and it appears to have stalled on additional privatization reforms. Nevertheless, Kazakhstan's lack of progress under this factor is only one of several price indicators in the economy, and does not reflect the country's other reforms.

Nevertheless, the totality of Kazakhstan's reforms in liberalizing its economy demonstrate that it has completed the transition to a market economy. Overall, deregulation and a new regulatory framework for the normal operation of a market economy has progressively replaced the old system of regulation. Based on economic reforms reached in Kazakhstan, as analyzed under section 771(18)(B) of the Act, the Department finds that Kazakhstan has operated as a market-economy country as of October 1, 2001, and that this finding be effective for all current and future administrative proceedings.

Therefore, because the POI for this investigation precedes the effective date of market economy status, this final determination is based on information contained in the non-market economy questionnaire responses submitted by respondents.

Market Oriented Industry

On July 12, 2001, Kazchrome requested that the Department make a determination that the silicomanganese industry in Kazakhstan operates as a market-oriented industry (''MOI''). For our preliminary determination, the Department found that we were not able to make a preliminary determination on the MOI claim because respondents had not yet responded to our supplemental questionnaire. On December 7, 2001, Kazchrome submitted a response to the Department's November 1, 2001, supplemental questionnaire.

For the final determination, we found Kazakhstan to be a market economy country effective October 1, 2001. Because Kazakhstan will now be treated as a market economy country for future proceedings, it is not necessary to address the issue of whether the silicomanganese industry operated as a MOI in this proceeding.

Separate Rates

For this final determination, the Department is continuing to regard Kazchrome as not eligible to receive a separate rate, as explained in the *Preliminary Determination,* because Kazchrome states that it has no knowledge of the destination of its merchandise prior to its sale to Alloy 2000 and we did not find information to show otherwise during the course of verification. *See* ''Separate Rates'' section of our *Preliminary Determination*.

Kazakhstan-Wide Rate

As discussed in our *Preliminary Determination*, the Kazakhstan-wide rate will be the calculated margin for Alloy 2000, the sole exporter. *See* ''Kazakhstan-Wide Rate'' section of our *Preliminary Determination.* There has been no other evidence submitted since the *Preliminary Determination* to change this determination. Accordingly, we have calculated a Kazakhstan-wide rate for this investigation based on the weighted-average margin determined for Alloy 2000. This Kazakhstan-wide rate applies to all entries of subject merchandise.

Suspension Agreement

On November 19, 2001, the GOK submitted a proposal for a suspension agreement in accordance with the Department's regulations at 19 CFR 351.208. On February 22, 2001, the Department met with representatives of the GOK to discuss the GOK's proposed suspension agreement. No agreement was concluded.

Fair Value Comparisons

To determine whether sales of silicomanganese from Kazakhstan were made in the United States at LTFV, we compared constructed export price (''CEP'') to NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of the *Preliminary Determination.* In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs.

Surrogate Country

For purposes of the final determination, we continue to find that Egypt remains the appropriate primary surrogate country for Kazakhstan. For further discussion and analysis regarding the surrogate country selection for Kazakhstan, see the ''Surrogate Country'' section of our *Preliminary Determination*.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service (''Customs'') to continue to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the Preliminary Determination in the **Federal Register**. We will instruct Customs to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
Alloy 2000, S.A.	247.88
Kazakhstan-Wide	247.88

Disclosure

The Department will disclose calculations performed, within five days of the date of publication of this notice, to the parties in this investigation, in accordance with section 351.224(b) of the Department's regulations.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our affirmative determination of sales at LTFV. As our final determination is affirmative, the ITC will determine within 45 days after our final determination whether imports of silicomanganese from Kazakhstan are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 25, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX I

A. Market Economy
- Comment 1: Market Economy
- Comment 2: Normal Value

B. General Issues:
- Comment 3: Financials Surrogate Values
- Comment 4: Manganese Ore Surrogate Value
- Comment 5: Rail Freight Surrogate Value for Russian Portion
- Comment 6: Indirect Selling Expenses

C. Verification Issues:
- Comment 7: Raw Material Losses in Usage Rates
- Comment 8: Electricity Usage Rate
- Comment 9: Raw Materials Transport Distances
- Comment 10: Inland Freight Distance
- Comment 11: Ocean Freight Charges
- Comment 12: Inventory Carrying Costs
- Comment 13: U.S. Insurance Charges
- Comment 14: U.S. Sales Database errors

[FR Doc. 02–7954 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Constance Handley, at (202) 482–0650 or (202) 482–0631, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

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 (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (2001).

Final Determination

We determine that certain softwood lumber products from Canada are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

The preliminary determination in this investigation was issued on October 31, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Softwood Lumber Products From Canada*, 66 FR 56062 (November 6, 2001). Since the publication of the preliminary determination, the following events have occurred:

In December 2001 and January – February 2002, the Department verified the responses submitted by the six respondents in the investigation: Abitibi–Consolidated Inc. (Abitibi); Canfor Corporation (Canfor); Slocan Forest Products Ltd. (Slocan); Tembec Inc. (Tembec); West Fraser Timber Co. Ltd. (West Fraser); and Weyerhaeuser Company (Weyerhaeuser). Verification reports were issued in January and February 2002.

On February 12, 2002, we received case briefs from the petitioners[1], the six respondents, and the Ontario Lumber Manufacturers Association (OLMA), Ontario Forest Industries Association (OFIA), Association of Consumers for Affordable Homes (ACAH), Bowater International, the Canadian Maritimes Provinces, the British Columbia Lumber Trade Council (BCLTC), Louisiana Pacific Corporation and Idaho Timber Corporation. On February 19, 2002, we received rebuttal briefs from the petitioners, respondents, OLMA, OFIA, BCLTC, the Government of Canada and the Government of Quebec. We held a public hearing on February 25, 2002.

A separate briefing schedule dealing with class or kind of merchandise and other scope issues was established. On March 15, 2002, we received case briefs from the petitioners, respondents Abitibi, Tembec and Weyerhaeuser, as well as from the Government of Canada, the Government of Quebec, OFIA and OLMA, the Quebec Lumber Manufacturers Association, the International Sleep Products Association, Sinclar Enterprises Inc., the U.S. Red Cedar Manufacturers Association, Lindal Cedar Homes, Fred Tebb & Sons, and the Natural Resources Defense Council pertaining to these issues.[2] Rebuttal briefs on these topics were submitted by the petitioners, Tembec, OFIA and OLMA and the QLMA on March 18, 2002. A public hearing limited to issues of scope and class or kind of merchandise was held on March 19, 2002.

Scope of Investigation

The products covered by this investigation are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized

Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger–jointed, of a thickness exceeding six millimeters;

(2) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V–jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger–jointed;

(3) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V–jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger–jointed; and

(4) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V–jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger–jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

A complete description of the scope of this investigation, including an itemized list of all product exclusions, is contained in the Issues and Decision Memorandum accompanying this notice.

Period of Investigation

The period of investigation is April 1, 2000, through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., April 2001).

Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by the six respondents. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation, as well as certain other findings by the Department which are summarized in this notice, are addressed in the ''Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada''

[1] The petitioners are the coalition for Fair Lumber Imports Executive Committee; the United Brotherhood of Carpenters and Joiners; and the Paper, Allied–Industrial, Chemical and Energy Workers International Union.

[2] On March 6, 2002, Anderson Wholesale Inc. and North Pacific Trading filed a joint case brief on scope issues.

(Decision Memorandum), from Bernard Carreau, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 21, 2002, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building and on the Web at: http://ia.ita.doc.gov/. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

From the outset of this investigation, a central issue has been the determination of the appropriate method by which to allocate joint production costs for the various lumber products produced. All of the respondents submitted data sets that allocated production costs on a per–unit volume (*i.e.*, per thousand board feet (MBF)) basis, which is consistent with their normal books and records. Four of the six respondents submitted an additional data set which allocated production costs using a value–based methodology. The petitioners have argued throughout the investigation that the joint lumber production costs should be allocated using a volume–based methodology. For the preliminary determination, the Department calculated cost of production (COP) and constructed value (CV) based on the volume–based cost allocation data sets submitted by each of the respondents.

The cost allocation issues raised in the context of this case are among the most complex that the Department has ever considered. Based on our analysis of comments received, we have reconsidered the appropriateness of the preliminary determination whereby we allocated costs on the basis of volume. After careful consideration, we believe it is appropriate to allocate wood and sawmill costs to particular grades of lumber using a value–based measure, because a volume–based allocation does not recognize the fact that there are separately identifiable grades of wood within a given log and that the producer factors their presence into the cost it is willing to incur to obtain those various grades.

In reaching this conclusion, we considered several factors, among them, that grade differences pre–exist in the raw material, that these grade differences do not result from the production process, and that they can be so significant that they often alter a product's intended end use. We concluded that it is reasonable to assume that a lumber producer considers these factors when deciding on how much cost to incur to acquire the raw material (*i.e.*, logs).

We recognize that a value–based cost allocation method can be problematic in an antidumping context, and that it is appropriate in only very limited instances. After a great deal of deliberation in consideration of the comments made with regard to our preliminary determination, we believe that the facts of this case support the use of a value–based allocation method for wood and sawmill costs. This issue is discussed further in the Decision Memorandum.

Based on our analysis of comments received, we have made other changes in the margin calculations, as well. Furthermore, prior to the start of their respective verifications, all six respondents presented corrections to their questionnaire responses which resulted from their preparation for verification. In addition, based on the Department's verification findings, various other corrections have been made to the margin calculations of all six respondents. These changes are discussed in the relevant sections of the Decision Memorandum or in each company's analysis memorandum.

Critical Circumstances

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In the preliminary determination, the Department found for all mandatory respondents and the companies within the ''all others''category that critical circumstances did not exist because the second prong of the statute regarding critical circumstances, *i.e.*, massive imports, had not been met. Since the preliminary critical circumstances determination, we have received and verified the shipment data for the subject merchandise for all mandatory respondents.

In determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine (i) the volume and value of the imports, (ii) seasonal trends, and (iii) the share of domestic consumption accounted for by the imports. Section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent or more during a ''relatively short period'' may be considered ''massive.'' In addition, section 351.206(i) of the Department's regulations defines ''relatively short period'' as generally the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. As a consequence, the Department compares import levels during at least the three–month period immediately after initiation with at least the three–month period immediately preceding initiation to determine whether there has been at least a 15–percent increase in imports of subject merchandise. Where information is available for longer periods, the Department will compare such data. *See, e.g., Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696, 70697 (November 27, 2000).

In this case, because data were available for additional months, for purposes of the final determination, the Department compared import and shipment data during the six–month period immediately after initiation with the six–month period immediately preceding initiation to determine whether there has been at least a 15–percent increase in imports of subject merchandise. Based on this comparison, the Department found that there were no massive imports with respect to the mandatory respondents nor the companies in the ''All Others'' category. For further details, *see* the Department's *Final Determination of Critical Circumstances memorandum* from Gary Taverman to Bernard T. Carreau, (March 21, 2002). As discussed in the above–referenced memorandum, the Department's finding that massive imports did not exist for these companies is based on seasonal adjustments of the relevant shipment and import data. Because this prong of the statute regarding critical circumstances has not been met for any company, the Department determined that critical circumstances do not exist for any company.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing Customs to continue to suspend liquidation of all entries of certain softwood lumber products from Canada that are entered, or withdrawn from warehouse, for consumption on or after November 6, 2001, the date of publication of the Preliminary Determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted–average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Manufacturer/Exporter	H=≥1≥≤Weighted–Average Margin
Abitibi (and its affiliates Produits Forestiers Petit Paris Inc., Produits Forestiers La Tuque Inc., Scieries Saguenay Ltee., Societe En Commandite Scierie Opticwan)	14.60
Canfor (and its affiliates Lakeland Mills Ltd., The Pas Lumber Company Ltd., Howe Sound Pulp and Paper Limited Partnership)	5.96
Slocan	7.55
Tembec (and its affiliates Marks Lumber Ltd., Excel Forest Products)	12.04
West Fraser (and its affiliates West Fraser Forest Products Inc., Seehta Forest Products Ltd.)	2.26
Weyerhaeuser (and its affiliates Monterra Lumber Mills Ltd., Weyerhaeuser Saskatchewan Ltd.)	15.83
All Others	9.67

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or are a threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 21, 2002

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

APPENDIX

I. General Issues

*Comment 1:*Whether the Department should rescind the initiation and terminate the investigation
Comment 2: Whether dumping exists
Comment 3: Critical circumstances
Comment 4: Value–based cost allocation methodology
Comment 5: Fair comparisons in the application of the sales below cost test
Comment 6: Constructed value profit
Comment 7: Product matching
Comment 8: Value–based difference in merchandise (difmer) adjustments
Comment 9: Whether Softwood Lumber Agreement (SLA) export taxes should be deducted from U.S. price
Comment 10: Treatment of trim ends/trim blocks
Comment 11: By–product revenue offset
Comment 12: Treatment of negative margins
Comment 13: Exclusion of Maritime Provinces

II. Company–Specific Issues

Issues Specific to Abitibi

Comment 14: Whether Scierie Saguenay Ltee. should be collapsed into the Abitibi Group
Comment 15: Financial expense ratio
Comment 16: General and administrative (G&A) expense ratio

Issues Specific to Canfor

Comment 17: Canfor, Lakeland, and The Pas' product reporting
Comment 18: Treatment of three U.S. sales
Comment 19: G&A expenses for Canfor, Lakeland, and The Pas
Comment 20: Canfor's packing cost

Issues Specific to Slocan

Comment 21: Futures contracts
Comment 22: Unreported freight expenses
Comment 23: Unreported comparison market freight rebates
Comment 24: Overstated freight rebates
Comment 25: Donations
Comment 26: Cost differences for precision end trimmed products
Comment 27: Mackenzie Ospika Division Lathe and Precut
Comment 28: Profits on log sales
Comment 29: Depreciation expenses at the Plateau Sawmill
Comment 30: Unreported foreign exchange losses
Comment 31: Timber tenure amortization
Comment 32: Startup adjustments

Issues Specific to Tembec

Comment 33: G&A expense

Issues Specific to West Fraser

Comment 34: Downstream sales
Comment 35: Inventory carrying costs
Comment 36: Log sales
Comment 37: Prior period stumpage and silviculture

Issues Specific to Weyerhaeuser

Comment 38: Sales verification
Comment 39: The petitioners received inadequate time to examine the Weyerhaeuser sales verification report
Comment 40: Warehousing expenses for WBM inventory sales
Comment 41: British Columbia Coastal's (BCC) warehousing expenses
Comment 42: Early payment discounts
Comment 43: CLB's SLA tax amounts
Comment 44: CLB's quota–transfer sales
Comment 45: Critical circumstances data for Monterra Lumber
Comment 46: Log/wood costs
Comment 47: Depletion expenses
Comment 48: G&A expenses
Comment 49: Interest expense

III. Scope Issues

Comment 50: Due process
Comment 51: Authority to define the scope
Comment 52: Class or kind of products
Comment 53: Other scope issues
Comment 54: Industry support
Comment 55: Whether including certain products is harmful to U.S. industry
Comment 56: Remanufactured products
Comment 57: Scope exclusion requests

[FR Doc. 02–7848 Filed 4–1–02; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review of stainless steel sheet and strip from Mexico.

EFFECTIVE DATE: April 2, 2002.

SUMMARY: On February 12, 2002, the Department of Commerce (the Department) published in the Federal Register its notice of final results of the antidumping duty administrative review of stainless steel sheet and strip in coils from Mexico for the period January 4, 1999 through June 30, 2000. *See Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 67 FR 6490 (February 12, 2002). We are amending our final determination to correct ministerial errors alleged by respondent and petitioners.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone : (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Scope of the Review

For purposes of this administrative 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 order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS 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 order 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).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

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 for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of 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 order. 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 between 0.002 and 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 order. 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.''[1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. 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.''[2]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this order. 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.≥[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[4] This steel is similar to ASTM grade 440F, 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 square micron. 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.''[5]

Amendment to Final Results

Ministerial Errors Allegation by Respondent

On February 11, 2002, respondent Mexinox, S.A. de C.V. (Mexinox) timely filed, pursuant to 19 CFR 351.224(c)(2), an allegation that the Department made two ministerial errors in its final results. First, Mexinox alleges that in performing the major inputs analysis the Department erroneously selected transfer price as the highest of transfer price, cost of production, and market price for purchases of grade 430 material from KTN for the months of March and April 2000, when it should have selected market price for those two months. Second, Mexinox alleges the Department erred by omitting the indicator which segregates prime and non–prime merchandise (represented by the variable PRIMEH/PRIMEU) from its model match program when creating the final concordance file. Petitioners submitted no rebuttal comments to Mexinox's ministerial errors allegation.

Department's Position:

We agree with Mexinox in both instances and, therefore, have amended our final results for these errors. For a detailed discussion of our implementation of these corrections, see the Department's Amended Final Results Analysis Memorandum, dated **March XX, 2002**.

Ministerial Errors Allegation by Petitioners

On February 12, 2002, Allegheny Ludlum Corporation, Armco Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethelehem Steel Corporation, United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, Zanesville Armco Independent Organization, Inc. (collectively, petitioners) timely filed a ministerial errors allegation. First, petitioners allege, the Department incorrectly included quantity adjustments (AQTYH/AQTYU) in testing for negative data since the

[1] ''Arnokrome III''' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36''' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

quantity field (QTYH/QTYU) already reflects these adjustments. Second, petitioners contend the Department ''double converted'' home market sales denominated in U.S. dollars. Although the Department agreed these were U.S. dollar sales, petitioners state, the Department utilized Mexinox's reported peso price and converted this price to U.S. dollars. Instead, petitioners claim, the Department should weight average the U.S. dollar prices reported in the home market sales listing and then combine them with converted peso prices at the ''FUPDOL'' stage of the margin calculation program. Petitioners suggest the Department could make this change by setting to zero the peso price on sales denominated in U.S. dollars, weight average U.S. dollar prices and net peso prices, and then sum these two variables at the ''FUPDOL'' stage of the margin calculation program. Third, petitioners assert the Department overstated deductions to normal value (NV) by allowing the sum of the commission offset and CEP offset to exceed total home market indirect selling expenses (ISEs).

On February 19, 2002, Mexinox timely submitted comments rebutting petitioners' ministerial error allegations. Mexinox argues petitioners' comments relate to computer programming language that existed at the time of the preliminary results; therefore, in accordance with 19 CFR 351.224(c)(1), petitioners should have addressed these matters in their case brief. Even if the Department considers these untimely allegations, Mexinox asserts, they should be dismissed because they are not ministerial in nature. Mexinox cites section 19 CFR 351.224(f), which defines ''ministerial error'' as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.''

Specifically, with respect to adding adjusted quantity (AQTYH/U) to quantity (QTYH/U) in testing for negative data, Mexinox states that while this argument may be ministerial in nature, it is untimely because the relevant programming language existed at the time of the preliminary results. Therefore, Mexinox contends, petitioners should have raised this issue in their case brief.

Referring to the ''double conversion'' of home market sales invoiced in U.S. dollars, Mexinox claims petitioners have simply offered a different methodology to reach the same result (*i.e.*, converting home market prices to U.S. dollars). Mexinox argues that alternative methodologies for obtaining the same arithmetic result are methological in nature and therefore should be rejected. Although the Department's regulations preclude it from considering this alternative methdology, Mexinox contends, petitioners' alternative is unnecessary and would be burdensome to implement from a programming standpoint, and could inadvertently lead to errors. Mexinox also asserts petitioners have not demonstrated their alternative methodology would lead to greater accuracy.

Lastly, regarding the argument that the sum of the commission and CEP offsets cannot exceed total home market ISEs, Mexinox maintains this argument is methodological in nature. Mexinox argues that petitioners do not point to any methodological errors or any errors meeting the definition in 19 CFR 351.224(f). Mexinox contends that petitioners simply assert these adjustments are limited to the total of home market ISEs, but do not cite to any legal authority or Department precedent in making this assertion. Further, Mexinox avers, since this methodological issue existed in the preliminary results, petitioners could have addressed it in their case brief but chose not to do so. Mexinox argues that petitioners cannot raise a methological argument at this time under the guise of a ministerial error.

Department's Position:

We disagree with Mexinox that petitioners have raised these points in an untimely manner. Section 351.224(c)(1) of the Department's regulations states ''[c]omments concerning ministerial errors made in the preliminary results of a review should be included in a party's case brief.'' While this provision expresses our preference that ministerial errors made in the preliminary results should be included in a party's case brief, it does not state that they must be included at that time in order for them to be considered. After reviewing petitioners' ministerial errors allegation, we determine that correcting ministerial errors made in the final results would yield a more accurate calculation of the dumping margin. Therefore, we have not rejected these comments on the grounds that they were not filed in a timely manner.

Based on the first and third points raised by petitioners, we have amended our final results. Petitioners are correct in stating we should not add quantity adjustments to quantity in testing for negative data because the quantity fields already account for quantity adjustments. See Mexinox's November 20, 2000 questionnaire response at B–18, C–20, KMC–17, and CBC–21. The addition of quantity adjustments to quantity constituted an unintentional error in arithmetic on our part, not a methodological error. Petitioners are also correct in asserting that the sum of the commission offset and CEP offset cannot be greater than total home market ISEs. Contrary to Mexinox's assertion, our inadvertent failure to cap the sum of the commission offset and CEP offset at the amount of total home market ISEs does not constitute a methodological error but rather a ministerial error which runs contrary to our well–established practice. Our regulations permit the Department to deduct ISEs from NV in two instances. The first instance (''the commission offset,'' which is governed by 19 CFR 351.410(e) of our regulations) stipulates that if a commission is paid in one of the markets under consideration, and no commission is paid in the other market, the Department will make an offset to the commission limited to the ISEs incurred in ''the one market or the commission allowed in the other market, whichever is less.'' The ''CEP offset'' is the second provision under which the Department is permitted to make a deduction from NV for ISEs. 19 CFR 351.412 limits the CEP offset ''to the amount of ISEs incurred in the United States.'' Because both the commission offset and CEP offset are limited by the total amount of home market ISEs, when there is both a commission offset and a CEP offset, the total amount of the two offsets is limited to the total amount of ISEs incurred in the home market. Since there is both a commission offset and CEP offset in the instant review, we have adjusted our calculations accordingly.

However, we disagree with petitioners' argument that for home market sales invoiced in U.S. dollars, we should use Mexinox's reported U.S. dollar prices to calculate NV. As noted by Mexinox, the proposal offered by petitioners simply constitutes a different methodology to reach the same result, i.e., the conversion of peso prices to U.S. dollars. Further, petitioners have not provided any evidence establishing that their alternative methodology would lead to greater accuracy in the margin calculation. Therefore, we have not made any changes to the manner in which home market sales invoiced in U.S. dollars are converted from Mexican pesos to U.S. dollars.

For a detailed discussion of our implementation of these corrections, see the Department's Amended Final

Results Analysis Memorandum, dated March 15, 2002.

Amended Final Results of Review

In accordance with 19 CFR 351.224(e), we are amending the final results of the 1999–2000 antidumping duty administrative review of stainless steel sheet and strip in coils from Mexico, as noted above. The revised weighted–average percentage margin for Mexinox is 2.28 percent.

This administrative review and notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: March 15, 2002

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–7955 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Notice of Court Decision: Tapered Roller Bearings and Parts Thereof from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 20, 2002, the United States Court of International Trade issued a final judgment with respect to the litigation in The Timken Company v. United States, Ct. No. 97–12–02156, Slip Op. 02–30. This case arises from the Department of Commerce's Final Results of Antidumping Administrative Review of Tapered Roller Bearings and Parts Thereof, from the People's Republic of China, 62 FR 61276 (November 17, 1997). The administrative review period was June 1, 1995, through May 31, 1996. The final judgment by the court in this case was not in harmony with the Department of Commerce's November, 1997 final results of review.

EFFECTIVE DATE: The effective date of this notice is April 1, 2002, which is 10 days from the date on which the court issued its judgment.

FOR FURTHER INFORMATION CONTACT: George Callen at (202) 482–0180 or Richard Rimlinger at (202) 482–4477, Import Administration, International Trade Administration, U.S. Department. of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: The decision of the Court of International Trade (''CIT'') in Slip Op. 02–30 is that Court's final decision concerning the calculation of various elements of constructed value. More specifically, the CIT ordered the Department of Commerce to make the following changes to its original calculations: 1) determine direct labor costs without relying on labor hours; 2) exclude the ''purchases of traded goods'' from its calculation of the cost of manufacturing; and 3) adjust United States price by recalculating marine insurance pursuant to a value–based methodology.

In its decision in Timken Co. v. United States, 893 F.2d 337, 341 (Fed.Cir.1990) (''Timken''), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 USC 1516a(e), the Department must publish a notice of a court decision which is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's decision in Slip Op.02–30 on March 20, 2002, constitutes a final decision of that court which is ''not in harmony'' with the Department's final results of administrative review. We are publishing this notice in fulfillment of the publication requirements of Timken.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, upon a ''conclusive'' court decision.

Dated: March 26, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–7951 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–839]

Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty determination and final negative critical circumstances determination.

SUMMARY: On August 17, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of softwood lumber products (subject merchandise) from Canada for the period April 1, 2000, through March 31, 2001 (66 FR 43186).

The net subsidy rate in the final determination differs from that of the preliminary determination. The revised final net subsidy rate is listed below in the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds at (202) 482–6071 or Stephanie Moore (202) 482–3692, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Background

On August 17, 2001, the Department published the preliminary determination of its investigation of softwood lumber products from Canada. *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Softwood Lumber Products from Canada,* 66 FR 43186 (August 17, 2001) (*Preliminary Determination*). This investigation covers the period April 1, 2000, through March 31, 2001.

We invited interested parties to comment on the *Preliminary Determination.* We received both case briefs and rebuttal briefs from interested parties. Public hearings were held on March 6 and March 19, 2002. All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (*Decision Memorandum*) dated March 21, 2002, which is hereby adopted by this notice.

Scope of Investigation

The products covered by this investigation are softwood lumber,

flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive. Preliminary scope exclusions and clarifications were published in three separate **Federal Register** notices.

Final Scope Exclusions

On February 11, 2002, we published an amendment to the preliminary antidumping (AD) determination which modified the list of products excluded from the scope of the AD and CVD softwood lumber investigations. See Notice of Amendment to Preliminary Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada; Amendment to Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Determination: Certain Softwood Lumber Products from Canada, 67 FR 6230, 6231 (February 11, 2002) (Amended Preliminary). In our review of the comments received throughout the course of these proceedings, we found that the definitions for some of the excluded products required further clarification and/or elaboration. Based on our analysis of the comments received, we have modified the list of excluded products as follows: [1]

Softwood lumber products excluded from the scope only if they meet certain requirements:

1. *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

2. *Box-spring frame kits:* if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length.

3. *Radius-cut box-spring-frame components,* not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

4. *Fence pickets* requiring no further processing and properly classified under HTSUS 4421.90.70, 1″ or less in actual thickness, up to 8″ wide, 6′ or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ inch or more.

5. *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of the investigations if the following conditions are met: (a) the processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (b) if the importer establishes to Customs' satisfaction that the lumber is of U. S. origin.

6. *Softwood lumber products contained in single family home packages or kits,* regardless of tariff classification, are excluded from the scope of the orders if the following criteria are met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, connectors and if included in purchase contract decking, trim, drywall and roof shingles specified in the plan, design or blueprint;

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

D. The whole package must be imported under a single consolidated entry when permitted by the U.S. Customs Service, whether or not on a single or multiple trucks, rail cars or other vehicles, which shall be on the same day except when the home is over 2,000 square feet;

E. the following documentation must be included with the entry documents:

1. A copy of the appropriate home design, plan, or blueprint matching the entry;

2. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

3. A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;

4. In the case of multiple shipments on the same contract, all items listed in E(3) which are included in the present shipment shall be identified as well.

We have determined that the excluded products listed above are outside the scope of these investigations provided the specified conditions are

[1] A group of products that were excluded from the scope as classified was listed in the preliminary determinations as Group A. This list remains applicable as we determined, through our review of the petition and factual information submitted, and consultations with the parties, that the products were outside the scope of the investigations.

Group A. Softwood lumber products excluded from the scope:

1. Trusses and truss kits, properly classified under HTSUS 4418.90.

2. I-Joist beams.

3. Assembled box spring frames.

4. Pallets and pallet kits, properly classified under HTSUS 4415.20.

5. Garage doors.

6. Edge-glued wood, properly classified under HTSUS item 4421.90.98.40.

7. Properly classified complete door frames.

8. Properly classified complete window frames.

9. Properly classified furniture.

met. *See* Section C (Scope Issues) and Section D (Scope Exclusion Analysis) of the March 21, 2002, Issues and Decision Memorandum for the Antidumping Duty Investigation of Certain Softwood Lumber Products From Canada for further discussion. Lumber products that Customs may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this investigation and may be classified under HTSUS subheadings 4418.90.40.90, 4421.90.70.40, and 4421.90.98.40. On January 24, 2002, Customs informed the Department of certain changes in the 2002 HTSUS affecting these products. Specifically, subheading 4418.90.40.90 and 4421.90.98.40 were changed to 4418.90.45.90 and 4421.90.97.40, respectively. Therefore, we are adding these subheadings as well.

Exclusion of Maritime Products

On July 27, 2001, we amended our Initiation Notice, to exempt certain softwood lumber products from the Provinces of New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland (the Maritime Provinces) from this investigation. This exemption does not apply to softwood lumber products produced in the Maritime Provinces from Crown timber harvested in any other Province. See Amendment to the Notice of Initiation of Countervailing Duty Investigation: Certain Softwood Lumber Products from Canada, 66 FR 40228 (August 2, 2001).

Company Exclusions

Based upon our review of exclusion requests received prior to the Preliminary Determination, the Department preliminarily excluded Frontier Lumber from the investigation. Since the Preliminary Determination, the deadline was extended and we received exclusion requests directly from companies and through the Government of Canada (GOC). By memorandum of February 20, 2002, the Department announced that we found it practicable to consider only 30 of the more than 300 company-specific requests for exclusion. We sent supplemental questionnaires to the selected companies and conducted verification of each of the company responses received.

Based upon the verified information on the record, the following companies have been granted company exclusions: Armand Duhamel et fils Inc., Bardeaux et Cedres, Beaubois Coaticook Inc., Busque & Laflamme Inc., Carrier & Begin Inc., Clermond Hamel, J.D. Irving, Ltd., Les Produits. Forestiers. D.G., Ltee, Marcel Lauzon Inc., Mobilier Rustique, Paul Vallee Inc., Rene Bernard, Inc., Roland Boulanger & Cite., Ltee, Scierie Alexandre Lemay, Scierie La Patrie, Inc., Scierie Tech, Inc., Wilfrid Paquet et fils, Ltee, B. Luken Logging Ltd., Frontier Lumber, and Sault Forest Products Ltd.

For further discussion of this issue, *see* the *Decision Memorandum*.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is April 1, 2000, through March 31, 2001, which is the most recently completed fiscal year of the GOC.

Negative Critical Circumstances

In the *Preliminary Determination*, the Department determined that critical circumstances exist with respect to imports of softwood lumber from Canada, pursuant to section 703(e) of the Act and section 351.206 of the regulations. Based on further investigation, the Department is not finding critical circumstances in this final determination. For further discussion on this issue, *see* the *Decision Memorandum*.

Verification

As provided in section 782(i) of the Act, we conducted verification of the government responses from January 13, 2002 through February 5, 2002. We also conducted verification of the responses of companies seeking exclusion from February 27 through March 6, 2002. We used standard verification procedures, including meeting with government and company officials and examining relevant accounting records and original source documents provided by the respondents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce (Room B–099).

Analysis of Comments Received

A list of issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at http://ia.ita.doc.gov, under the heading ''**Federal Register** Notices.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

In accordance with sections 705(c)(1)(B)(i)(II) and 777A(e)(2)(B) of the Act, we have calculated a single country-wide subsidy rate to be applied to all producers and exporters of the subject merchandise from Canada. This rate is summarized below:

Producer/exporter	Net subsidy rate
All Producers/Exporters .	19.34 *Ad Valorem*.

In accordance with the preliminary affirmative determination of critical circumstances, we instructed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from Canada, which were entered or withdrawn from warehouse, on or after May 19, 2001, which is 90 days prior to August 17, 2001, the date of publication of the Preliminary Determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered, or withdrawn from warehouse, for consumption on or after December 15, 2001. Because we do not find critical circumstances in this final determination, we will instruct U.S. Customs to terminate suspension of liquidation, and release any cash deposits or bonds, on imports during the 90 day period prior to the date of publication of the *Preliminary Determination*.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the International Trade Commission (ITC) issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

As indicated above, the Department exempted certain softwood lumber products from the Maritime Provinces from this investigation. This exemption, however, does not apply to softwood lumber products produced in the Maritime Provinces from Crown timber harvested in any other province. Additionally, as explained above in the

''Exclusions'' section of the notice, we are excluding the following companies: Armand Duhamel et fils Inc., Bardeaux et Cedres, Beaubois Coaticook Inc., Busque & Laflamme Inc., Carrier & Begin Inc., Clermond Hamel, J.D. Irving, Ltd., Les Produits. Forestiers. D.G., Ltee, Marcel Lauzon Inc., Mobilier Rustique, Paul Vallee Inc., Rene Bernard, Inc., Roland Boulanger & Cite., Ltee, Scierie Alexandre Lemay, Scierie La Patrie, Inc., Scierie Tech, Inc., Wilfrid Paquet et fils, Ltee, B. Luken Logging Ltd., Frontier Lumber, and Sault Forest Products Ltd. Therefore, we are directing the U.S. Customs Service to exempt from the suspension of liquidation only entries of softwood lumber products from Canada which are accompanied by an original Certificate of Origin issued by the Maritime Lumber Bureau (MLB), and those of the excluded companies listed above. The MLB certificate will specifically state that the corresponding entries cover softwood lumber products produced in the Maritime Provinces from logs originating in Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and the state of Maine.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 21, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

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Comment 8: The Industry, Trade and Economics Program is Not Countervailable

[FR Doc. 02–7849 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 000929279–1219–02]

RIN 0693–ZA41

Announcing Approval of Federal Information Processing Standard (FIPS) 198, The Keyed-Hash Message Authentication Code (HMAC)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The Secretary of Commerce approves FIPS 198, The Keyed-Hash Message Authentication Code (HMAC), and makes it compulsory and binding on Federal agencies for the protection of sensitive, unclassified information. FIPS 198 is an essential component of a comprehensive group of cryptographic techniques that government agencies need to protect data, communications, and operations. The Key-Hashed Message Authentication Code specifies a cryptographic process for protecting

the integrity of information and verifying the sender of the information. This FIPS will benefit federal agencies by providing a robust cryptographic algorithm that can be used to protect sensitive electronic data for many years.

EFFECTIVE DATE: This standard is effective August 6, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Barker, (301) 975–2911, National Institute of Standards and Technology, 100 Bureau Drive, STOP 8930, Gaithersburg, MD 20899–8930.

A copy of FIPS 198 is available electronically from the NIST website at: http://csrc.nist.gov/publications/drafts/dfips-HMAC.pdf.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** (Volume 66, Number 4, pp.1088–9) on January 5, 2001, announcing the proposed FIPS for Keyed-Hash Message Authentication Code (HMAC) for public review and comment. The **Federal Register** notice solicited comments from the public, academic and research communities, manufacturers, voluntary standards organizations, and Federal, state, and local government organizations. In addition to being published in the **Federal Register**, the notice was posted on the NIST Web pages; information was provided about the submission of electronic comments. Comments and responses were received from four individuals and private sector organizations, and from one Canadian government organization. None of the comments opposed the adoption of the Keyed-Hash Message Authentication Code (HMAC) as a Federal Information Processing Standard. Some comments offered editorial suggestions that were reviewed. Changes were made to the standard where appropriate.

Following is an analysis of the technical and related comments received.

Comment: A comment expressed concern about the security of the recommended FIPS. It specifies a 32-bit MAC, as compared to a requirement of a voluntary industry standard of the retail banking community for an 80-bit MAC (using the Triple Data Encryption Algorithm). Also a clarification was requested concerning the requirement in the recommended FIPS for ''periodic key changes.''

Response: HMAC for the banking community is specified in a draft voluntary industry standard (ANSI X9.71), and mandates a 80-bit MAC. This recommended FIPS is based on that draft standard, but was written to allow the 32-bit MAC, which is used by the banking community and in other applications where there is little risk in the use of a relatively short MAC. NIST believes that the strengths of the 32-bit HMAC and the Triple DES MAC against collision type attacks mentioned in the comment are equivalent; collision type attacks use trial and error tactics to try to guess the MAC. NIST believes that the recommended FIPS provides adequate security, and that it will encourage a broad application of message authentication techniques.

NIST believes that changing keys periodically is a good practice. This issue is not addressed in ANSI X9.71. Key changes are recommended even when very strong algorithms with large keys are used, since keys can be compromised in ways that do not depend on the strength of the algorithm. The recommended FIPS does not specify how often keys should be changed. This will be addressed in a guidance document on key management that is currently under development. Information about this guidance document is posted on NIST's web pages *(http://www.nist.gov/kms).*

Comment: A comment suggested that a table of equivalent key sizes for different algorithms was needed, and that the values allowed for the key size and MAC length should be more restrictive.

Response: Advice about key sizes and the equivalent sizes between different cryptographic algorithms is more properly addressed in FIPS 180–1, Secure Hash Standard (currently under revision as FIPS 180–2) and the planned guidance document on key management. With regard to restrictions on the key size and MAC length, NIST believes that the marketplace will determine the predominating sizes.

Comment: A comment recommended that references to and examples of new hash algorithms (SHA–256, SHA–384 and SHA–512) be included.

Response: The new hash algorithms mentioned have not yet been approved for use. NIST believes that it is inappropriate to provide references to and examples of algorithms that are not yet approved standards. When the new hash algorithms have been approved, examples using these algorithms will be available on NIST's web pages. *http://www.nist.gov/cryptotoolkit.*

Comment: A comment recommended that OIDs (Object Identifiers) should be included for HMAC using the new hash algorithms mentioned above.

Response: The need for different object identifiers keeps changing. In addition, the new hash algorithms have not been approved as standards. Therefore, NIST believes that OIDs should not be included in this recommended standard. A reference to a NIST web site has been provided in the standard to help users obtain HMAC OIDs.

Comment: An observation was made regarding the different restrictions for the key size and MAC size (truncated output) for the recommended FIPS, for RFC 2104 and for ANSI X9.71. The comment mentioned incompatibilities when products are validated against these standards.

Authority: Under Section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987, the Secretary of Commerce is authorized to approve standards and guidelines for the cost effective security and privacy of sensitive information processed by federal computer systems.

E.O. 12866: This notice has been determined to be significant for the purposes of E.O. 12866.

Dated: March 25, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–7880 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032602F]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council (Council) will convene public meetings to discuss the content of a Programmatic Environmental Impact Statement (PEIS) for the Council's Generic Amendment for Essential Fish Habitat (EFH) in the Gulf of Mexico and potential alternatives.

DATES: The meetings will be held on Tuesday April 16, 2002 in Silver Spring, MD, and Wednesday, April 17, 2002 in Kenner, LA, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting on April 16, 2002 will be held at the Holiday Inn, 8777 Georgia Avenue (Route 97), Silver Spring, MD; telephone: 301-589-0800. The meeting on April 17, 2002 will be held at the New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA; telephone: 504-469-5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S.

Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Heidi Lovett, MRAG Americas (Contractor), 110 South Hoover Blvd, Suite 212, Tampa, FL 33609; telephone: 813-639-9519; email: heidilovett@compuserve.com.

SUPPLEMENTARY INFORMATION: The meetings will begin with a focus group workshop of interested participants that will be held from 9 a.m. to 12 noon, to discuss the PEIS for the Council's Generic Amendment for EFH in the Gulf of Mexico and to discuss structural components and potential alternatives. The goal is to get input from various stakeholders early in this process. A public comment session will be scheduled from 1 p.m. to 3 p.m. These meetings are being coordinated by the Council's Consultant (MRAG Americas) that is developing the PEIS. These will not be the only workshops scheduled; other opportunities for public and stakeholders involvement exist through the PEIS development process and will be noticed accordingly. Interested participants/attendees should contact Heidi Lovett.

A copy of the agenda and related materials can be obtained by calling the Council office at 813-228-2815.

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 identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by April 9, 2002.

Dated: March 27, 2002.

Theophilus R. Brainerd,

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

[FR Doc. 02–7932 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032602E]

Pacific 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 Pacific Fishery Management Council's (Council) Highly Migratory Species Plan Development Team (HMSPDT) will hold a work session, which is open to the public.

DATES: The HMSPDT will meet on Wednesday, April 17, 2002; Thursday, April 18, 2002; and Friday, April 19, 2002. The HMSPDT will meet each day from 8 a.m. until 5 p.m., except for Friday, when the HMSPDT will meet from 8 a.m. until business for the day is completed.

ADDRESSES: The work session will be held in the large conference room at the NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, Room D-203, La Jolla, CA 92037; telephone: (858) 546–7000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Pacific Fishery Management Council; (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the work session is to scope and review revisions to the draft fishery management plan for West Coast highly migratory species fisheries per Council guidance from the March 2002 Council meeting.

Although nonemergency issues not contained in the HMSPDT meeting agenda may come before the HMSPDT for discussion, those issues may not be the subject of formal HMSPDT action during this meeting. HMSPDT action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the HMSPDT's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: March 27, 2002.

Theophilus R. Brainerd,

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

[FR Doc. 02–7933 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Macau

March 26, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also

see 66 FR 63028, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 26, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on April 2, 2002, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit
Levels in Group I	
339	2,218,464 dozen.
345	89,443 dozen.
347/348	1,245,753 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–7832 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

March 26, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 5, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63030, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 26, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on April 5, 2002, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit
Other specific limits	
331pt./631pt. [2]	628,689 dozen pairs.
345	225,129 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–7833 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, April 5, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR MORE INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–7980 Filed 3–28–02; 4:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, April 12, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERD: Surveillance Matters.

FOR MORE INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–7981 Filed 3–28–02; 4:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, April 19, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR MORE INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–7982 Filed 3–28–02; 4:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, April 26, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR MORE INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–7983 Filed 3–28–02; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Reestablishment of the Defense Advisory Committee on Women in the Services

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Advisory Committee on Women in the Services (DACOWITS) is reestablished, in consonance with the public interest, and in accordance with the provisions of the ''Federal Advisory Committee Act.'' On March 5, 2002, the Deputy Secretary of Defense approved a revised charter for the DACOWITS.

The Committee shall provide the Secretary of Defense, through the Assistant Secretary of Defense (Force Management Policy), advice and recommendations on matters and policies relating to the recruitment and retention, treatment, employment, integration, and well-being of highly qualified professional women in the Armed Forces. In addition, the Committee shall provide advice and recommendations on family issues related to the recruitment and retention of a highly qualified professional military.

The Defense Advisory Committee on Women in the Services (DACOWITS) will be well balanced in terms of the interest groups represented and functions to be performed. The Committee shall be composed of not more than 35 civilian members, representing an equitable distribution of demography, professional career fields, community service, and geography, and selected on the basis of their experience in the military, as a member of a military family, or with women's or family-related workforce issues.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Spaeth, DoD Committee Management Officer, 703–695–4281.

Dated: March 26, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–7861 Filed 4–1–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children With Disabilities

AGENCY: Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS).

ACTION: Notice.

SUMMARY: Pursuant ot Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children with Disabilities is scheduled to be held from 8:30 a.m. to 3:30 p.m. on May 6–7, 2002. The meeting is open to the public and will be held in the DDESS Director's offices at 700 Westpark Drive, third floor, Peachtree City, GA 30269–1498. The purpose of the meeting is to: review the response to the panel's recommendations from its November 2001 meeting; review and comment on data and information provided by DDESS; and establish subcommittees as necessary. Persons desiring to attend the meeting or desiring to make oral presentations or submit written statements for consideration by the panel must contact Dr. Cynthia Chen at (770) 486–2990.

Dated: March 25, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–7899 Filed 4–1–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 2, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision,

extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 27, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Child Care Access Means Parents in School (CCAMPIS) Program—A Guide for Preparation of Applications.

Frequency: Annually.

Affected Public: Not-for-profit institutions; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 300.

Burden Hours: 18,000.

Abstract: Collection of information is necessary in order for the Secretary of Education to make new grants under the Child Care Access Means Parents in School Program. This collection will also be used to obtain the programmatic and budgetary information needed to evaluate applications and make funding decisions based on the authorizing statute of Section 419N of subpart 7, Title IV of the Higher Education Act of 1965, as amended.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO—IMG—Issues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–8900 or via his internet address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–7885 Filed 4–1–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.357]

Reading First—Applications for State Grants

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

SUMMARY: The Department of Education invites State educational agencies to apply for Reading First grants. Reading First is the largest—and yet most focused—early reading initiative this country has ever undertaken. Reading First focuses on what works, and will support scientifically based, proven methods of early reading instruction for students in kindergarten through third grade.

Purpose of Program: Reading First provides assistance to State and local educational agencies to establish scientifically based reading programs in kindergarten through third grade classrooms, to ensure that all children learn to read well by the end of third grade.

Eligible Applicants: State educational agencies from the 50 states, the District of Columbia, Puerto Rico, the Bureau of Indian Affairs, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

Applications Available: April 2, 2002.

Deadline for Transmittal of Applications: May 29, 2002 in order to receive funds on July 1, 2002 (pending approval). Final deadline: July 1, 2003.

Deadline for Intergovernmental Review: September 1, 2003.

Estimated Available Funds: $872,500,000.

Estimated Number of Awards: 57.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 72 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 76, 77, 79, 80, 82, 85, 97, 98, and 99.

For Applications Contact: Sandi Jacobs, Reading First Program Office, U.S. Department of Education, 400 Maryland Avenue, SW., room 2W108, Washington, DC 20202–6201. Telephone: (202) 401–4877 or via Internet: *http://www.ed.gov/offices/OESE/readingfirst.*

FOR FURTHER INFORMATION CONTACT: Chris Doherty, Reading First Program Office, U.S. Department of Education, 400 Maryland Avenue, SW., room 2w108, Washington, DC 20202–6201. Telephone: (202) 401–4877 or via email: *ReadingFirst@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

You may also view this document at the following site: *http://www.ed.gov/offices/OESE/readingfirst/index.html*

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 1201–1208.

Dated: March 29, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–8036 Filed 4–1–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Office of Los Alamos Site Operations Notice of Floodplain Involvement for the Connector Road Between Technical Areas 22 and 8 at Los Alamos National Laboratory, Los Alamos, New Mexico

AGENCY: National Nuclear Security Administration, Office of Los Alamos Site Operations, DOE.

ACTION: Notice of floodplain involvement.

SUMMARY: The National Nuclear Security Administration (NNSA) of the Los Alamos Area Office at the Department of Energy (DOE) plans to construct a connector road about one mile in length between Technical Areas (TAs) 22 and 8 at Los Alamos National Laboratory (LANL). A short segment, less than 200 feet in length, of the road will cross a floodplain area within Pajarito Canyon, located within the western portion of LANL. In accordance with 10 CFR Part 1022, DOE has prepared a floodplain/wetland assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain.

DATES: Comments are due to the address below no later than April 17, 2002.

ADDRESSES: Written comments should be addressed to: Elizabeth Withers, Department of Energy, National Nuclear Security Administration, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544, or submit them to the Mail Room at the above address between the hours of 8:00 am and 4:30 p.m., Monday through Friday. Written comments may also be sent electronically to: ewithers@doeal.gov or by facsimile to (505) 667–9998.

FOR FURTHER INFORMATION CONTACT: Tom Rush, Department of Energy, National Nuclear Security Administration, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544. Telephone (505) 667–5280, facsimile (505) 667–9998.

For Further Information on General DOE Floodplain Environmental Review Requirements, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, Department of Energy, 100 Independence Avenue, SW., Washington DC 20585–0119. Telephone (202) 586–4600 or (800) 472–2756, facsimile (202) 586–7031.

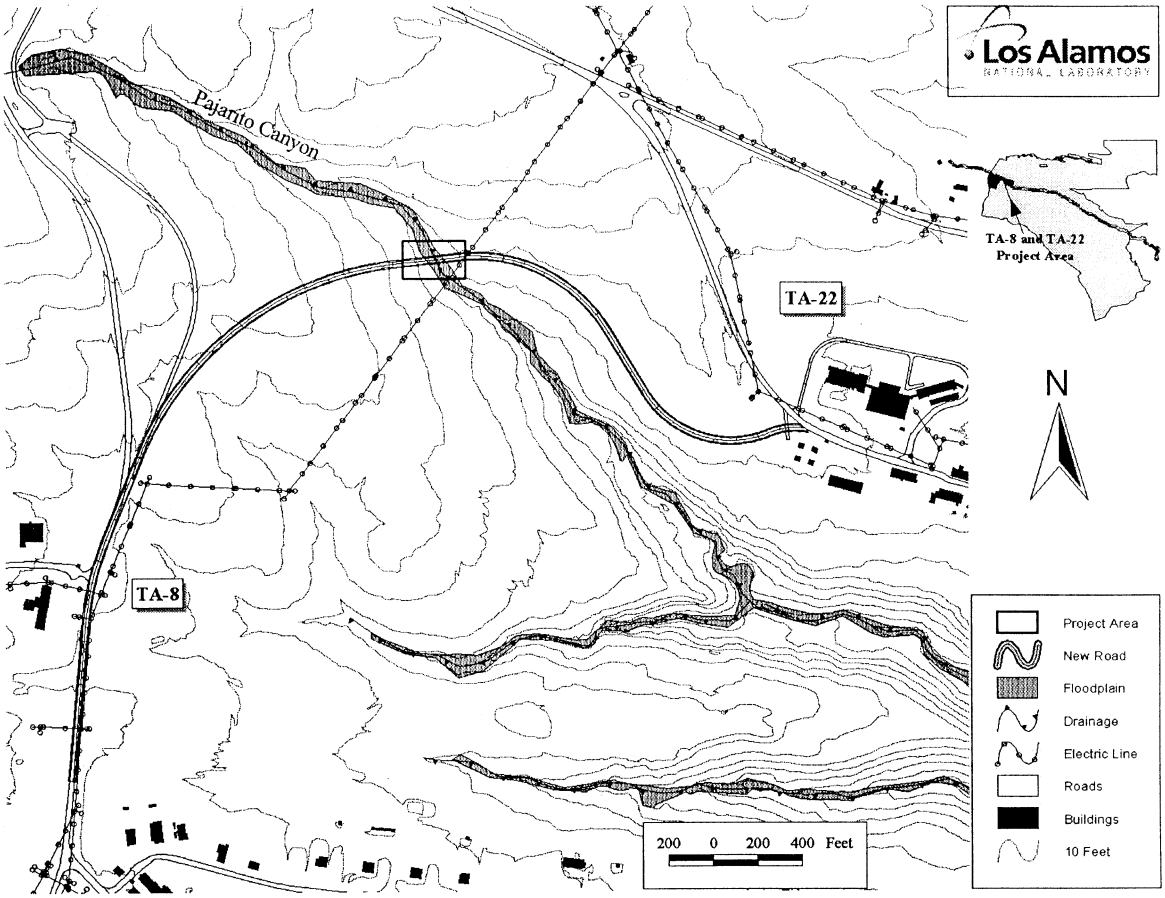
SUPPLEMENTARY INFORMATION: In March 2002, NNSA considered a proposal for constructing about a mile-long, two lane paved road that would link TA–22 with an existing road, Anchor Ranch Road, within TA–8. This new road will provide a second means for access to facilities located at TA–22; the existing TA–22 access road will be restricted to emergency use. The new road will correct traffic safety hazards associated with use of the existing TA–22 access road. The area surrounding TA–22 and TA–8 is forested and having a secondary access road to the TA–22 facilities is an important fire safety measure. Construction of the road will commence in fiscal year 2003 and be completed in less than 12 months.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), NNSA has prepared a floodplain/wetland assessment for this action, which is available by contacting Elizabeth Withers at the previously identified addresses, phone and facsimile numbers. The floodplain/wetland assessment is available for review at the DOE Reading Room at the Los Alamos Outreach Center, 1619 Central Avenue, Los Alamos, NM 878544; and the DOE Reading Room at the Zimmerman Library, University of New Mexico, Albuquerque, NM 87131. The NNSA will publish a floodplain statement of findings for this project in the **Federal Register** no sooner than April 17, 2002.

Issued in Los Alamos, NM on March 25, 2002.

Corey A. Cruz,

Acting Director, U. S. Department of Energy, National Nuclear Security Administration, Office of Los Alamos Site Operations.



[FR Doc. 02–7920 Filed 4–1–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Floodplain Statement of Finding for the Disposition of the Omega West Facility at Los Alamos National Laboratory, Los Alamos, NM

AGENCY: Office of Los Alamos Site Operations, National Nuclear Security Administration, Department of Energy.

ACTION: Floodplain statement of finding.

SUMMARY: This Floodplain Statement of Findings is for the disposition of the Omega West Facility from the Los Alamos Canyon floodplain at Los Alamos National Laboratory (LANL), Los Alamos, New Mexico. This Statement of Findings is prepared in accordance with 10 CFR part 1022. The Department of Energy's (DOE) National Nuclear Security Administration (NNSA), Office of Los Alamos Site Operations plans to decontaminate and demolish the Omega West Facility from the Los Alamos Canyon bottom to reduce the potential for radioactive contaminant spread and debris dissemination in the event of a major flood. The Omega West Facility (the Facility) housed an old research reactor known as the Omega West Reactor (OWR). The OWR was shut down in 1992 and the fuel rods were removed from the Facility in 1994. The Facility, originally constructed in 1944, and its associated structures are of advanced age and not in a condition suitable for renovation or reapplication. Further, they are located within a potential flood pathway. There is no foreseeable future use for the Facility, which is eligible for inclusion in the National Register of Historic Places. NNSA prepared a floodplain assessment describing the effects, and measures designed to avoid or minimize potential harm to or within the affected floodplains.

FOR FURTHER INFORMATION CONTACT: Elizabeth Withers, U. S. Department of Energy, National Nuclear Security Administration, Los Alamos Site Operations Office, 528 35th Street, Los Alamos NM 87544. Telephone (505) 667–8690, or facsimile (505) 667–9998; or electronic address: *ewithers@doeal.gov*. For Further Information on General DOE Floodplain Environmental Review Requirements, Contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, Telephone (202) 586–4600 or (800) 472–2756; facsimile (202) 586–7031.

SUPPLEMENTARY INFORMATION:

Background

A Notice of Floodplain Involvement was published in the **Federal Register** on February 20, 2002 (67 FR 7674). This Notice announced that the Floodplain Assessment would be issued together as part of the draft Environmental Assessment (EA). The draft EA was distributed to the State, Tribes, and interested parties, and was also placed in the DOE's public Reading Rooms in Los Alamos and Albuquerque, New Mexico on March 4, 2002 for a 21-day comment period. No comments were received from the **Federal Register** notice on the proposed floodplain action.

In May 2000, the Cerro Grande Fire burned across the upper and mid-elevation zones of several watersheds, including the Los Alamos Canyon watershed. Several of the Omega Facility's small support buildings and structures were demolished and

disposed of during the first 6 months post Cerro Grande Fire. The remaining buildings, including Building 2–1 that houses the OWR vessel, and the associated structures and utilities and infrastructure, continue to be vulnerable to damage from flooding and mudflows as a result of the fire and the changed environmental conditions upstream from the Facility. While all buildings are vulnerable, the support buildings and structures are especially at risk due to their construction characteristics.

Project Description

NNSA proposes to decontaminate and demolish (D&D) the OWR vessel and the remaining Omega West Facility structures located within Los Alamos Canyon at Los Alamos National Laboratory, Los Alamos, New Mexico. The activities would consist of characterization and removal of radiological and other potential contamination in all the structures and subsequent demolition of the structures; dismantlement of the reactor vessel; segregation, size reduction, packaging, transportation, and disposal of wastes; and removal of several feet of potentially contaminated soil from beneath the reactor vessel; and recontouring and reseeding of the site. Decontamination of the Omega West Facility would include the removal of nonradiological and radiological contamination from building and structure surfaces throughout the Omega West Facility. The extent of decontamination performed would be limited to those activities required to minimize radiological and hazardous material exposure to workers, the public, and the environment. Once the Omega West Facility has been decontaminated, the buildings, structures, foundations, and other facility components would be demolished. All building and structural materials would be removed from the canyon and sent to appropriate disposal sites.

Alternatives

The draft EA considers one alternative, the Phased Removal Alternative, in addition to the Proposed Action and the No Action alternatives. Under Phased Removal Alternative, part of the Omega West Facility would be demolished in the near-term and part would be left undemolished until some point in the next 20 to 30 years. The Proposed Alternative would remove the entire Omega West Facility from the floodplain, out of the canyon, disposition the waste from the demolition, and would restore the site to a near natural condition.

Floodplain Impacts

The proposed action would benefit the floodplain. Removal of the Omega West Facility would restore floodplain values by removing obstructions to the natural flow and function of the floodplain. It would also remove a source of potential radioactive and non-radiological contamination to the downstream floodplain. Should a rain event occur during this activity, there may be some sediment movement down canyon because of the loosened condition of the soil from all the demolition and disposition.

Floodplain Mitigation

Best management practices for minimizing soil disturbance would be in place to reduce the potential for erosion. No debris would be left in the canyon bottom. There would be no vehicle maintenance or fueling within 100 feet of the stream channel. Any sediment movement from the site would be short term and temporary.

Issued in Los Alamos, New Mexico on March 19, 2002.

Corey A. Cruz,

Acting Director, U.S. Department of Energy, National Nuclear Security Administration, Office of Los Alamos Site Operations.

[FR Doc. 02–7923 Filed 4–1–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel; Meeting

AGENCY: Department of Energy.

ACTION: Amendment to notice of open meeting.

On March 5, 2002, the Department of Energy published a notice of open meeting announcing a meeting of the High Energy Physics Advisory Panel 67 FR 9962. This notice announces information on how to gain access to the upcoming High Energy Physics Advisory Panel meeting that will be held April 26–27, 2002 at Fermi National Accelerator Laboratory.

Due to security requirements at Fermi National Accelerator Laboratory (FNAL), you must enter the Laboratory via the Pine Street entrance. Please visit their website at: http://www.fnal.gov—go to the visiting Fermi web link which will give directions along with maps of the area. If you wish to be added to the visitor list ahead of time, you must contact Mary Cullen of FNAL at 630–840–3211 no later than April 19, 2002. When arriving at the Laboratory via the Pine Street entrance, the guard will direct you to the Lederman Science Center to pickup your badge. If your name is not on the list, the guard will direct you go to the Lederman Science Center to sign in the appropriate forms and then they will set up a badge for you to attend the meeting.

Also, this meeting will be webcast for those who cannot attend. The address to logon to this meeting is: *http://www-visualmedia.fnal.gov/real/HEPAP.htm.*

Issued in Washington, DC March 28, 2002.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 02–7922 Filed 4–1–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; Coal Policy Committee of the National Coal Council Advisory Committee; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Coal Policy Committee of the National Coal Council Advisory Committee. Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 25, 2002, at 11:00 am.

ADDRESSES: Chicago Hilton & Towers, 720 South Michigan Avenue, Chicago, IL.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The purpose of the Coal Policy Committee of the National Coal Council is to provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues. The purpose of this meeting is to review the Council's draft report on electricity supply and emissions control.

Tentative Agenda

- Call to order by Mr. Malcolm Thomas, Chairman, Coal Policy Committee.
- Review and discuss the Council's draft report on electricity supply and emissions control.
- Discussion of other business properly brought before the Coal Policy Committee.
- Public comment—10 minute rule.
- Adjournment.

Public Participation

The meeting is open to the public. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Margie D. Biggerstaff at the address or telephone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule.

Transcripts

The transcript will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on March 28, 2002.

Rachel M. Samuel,

Deputy Committee Management Officer.

[FR Doc. 02–7921 Filed 4–1–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–169–003]

Alliance Pipeline L. P.; Notice of Application

March 27, 2002.

Take notice that on March 18, 2002, Alliance Pipeline L.P. (Alliance), pursuant to section 3 of the Natural Gas Act (NGA), and Subparts B and C of Part 153 of the Federal Energy Regulatory Commission's (Commission) regulations under the NGA filed an application to amend its Presidential Permit (Permit) to reflect the actual peak day capacity of the authorized border-crossing facilities between the United States and Canada. The current Permit, issued on September 17, 1998, 84 FERC 61,239 (1998), indicates a capacity of 1.632 Billion cubic feet per day (Bcfd) or 1.593 Bcfd plus fuel. The proposed amendment would have the Permit reflect actual operating experience and results of recent engineering analyses not currently reflected in the Permit, all as more fully set forth in the application, which is on file with the Commission, and open for public inspection. This filing may 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).

Alliance requests that the Commission amend the Presidential Permit to reflect the actual peak day capacity, a flow which could occur in very limited circumstances, of 1.8 Bcfd, inclusive of fuel, for the authorized border-crossing facilities. No new rates or rate schedules are proposed. The facilities will continue to provide improved access to supplies of natural gas and improve the dependability of international energy trade. No changes are proposed to the currently authorized facilities.

Questions regarding this filing should be directed to Dennis Prince, Vice President-Regulatory Strategy and Stakeholder Relations, Alliance Pipeline L.P., Old Shady Oak Road, Eden Prairie, Minnesota 55344–3252 or call (952) 983–1000.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 17, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7888 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP94–2–011]

Columbia Gas Transmission Corporation; Notice of Refund Report

March 27, 2002.

Take notice that on March 22, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Commission its Refund Report made to comply with the April 17, 1995 Settlement (Settlement) in Docket No. GP94–02, *et al.* as approved by the Commission on June 15, 1995 (Columbia Gas Transmission Corp., 71 FERC ¶ 61,337 (1995)).

On February 20, 2002 Columbia states that it made refunds, as billing credits and with checks, in the amount of $308,553.40. The refunds represent deferred tax refunds received from Trailblazer Pipeline Company and Overthrust Pipeline Company. These refunds were made pursuant to Article VIII, Section E of the Settlement using the allocation percentages shown on Appendix G, Schedule 5 of the Settlement. The refunds include interest at the FERC rate, in accordance with the Code of Federal Regulations, Subpart F, Section 154.501(d).

Columbia states that copies of its filing have been mailed to all affected customers and state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be

filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7891 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–26–000]

Hennepin Energy Resource Co., Limited Partnership; Notice of Application

March 27, 2002.

Take notice that on March 20, 2002, Hennepin Energy Resource Co., Limited Partnership (Hennepin) submitted an application pursuant to section 204(a) of the Federal Power Act seeking authorization for a blanket authorization to issue securities and assume liabilities.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before April 15, 2002. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7890 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–165–001]

Horizon Pipeline Company, L.L.C.; Notice of Withdrawal of Proposed Tariff Sheet

March 27, 2002.

Take notice that on March 18, 2002, Horizon Pipeline Company, L.L.C. (Horizon) filed with the Federal Energy Regulatory Commission (Commission) to withdraw its First Revised Sheet No. 209 from its pending February 27, 2002 filing in Docket No. RP02–165–000 (February 27th Filing).

Horizon states that one of the proposed changes in its February 27th Filing was to place responsibility for damages on the party tendering non-conforming gas. That change was reflected on First Revised Sheet No. 209 in the February 27th Filing. Subsequently, as a result of discussions between Horizon and Nicor Gas, which will be a major shipper on Horizon, Horizon agreed to withdraw First Revised Sheet No. 209 from its February 27th filing.

Horizon states that copies of the filing are being mailed to interested state commissions and all parties set out on the Commission's official service lists in Docket Nos. RP02–165 and CP00–129, *et al*.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7894 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–205–000]

K N Wattenberg Transmission Limited Liability Company; Notice of Request for Waiver

March 27, 2002.

Take notice that on March 18, 2002, K N Wattenberg Transmission Limited Liability Company (KNW) tendered for filing a petition to the Commission to waive its filing requirement contained in 18 CFR 206, *et seq*. to the extent such rules require KNW to file a FERC Form No. 2 for the calendar year 2001.

KNW states that by year end 2001, KNW neither owned nor operated facilities subject to the Commission's jurisdiction and it was no longer a natural gas company as defined in the Natural Gas Act. KNW does not believe that the intent of the Form No. 2 filing requirement would be served if the requirement is imposed on KNW for the reporting year 2001.

KNW requests that the Commission issue an order to KNW waiving the applicability of the FERC Form No. 2 filing requirement contained in 18 CFR 260 for the year 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7897 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–207–000]

K N Wattenberg Transmission Limited Liability Company; Notice of Request for Waiver

March 27, 2002.

Take notice that on March 18, 2002, K N Wattenberg Transmission Limited Liability Company (KNW) tendered for filing a petition to the Commission to waive its filing requirement contained in 18 CFR 206, *et seq.* to the extent such rules require KNW to file a FERC Form No. 567 for the calendar year 2001.

KNW states that by year end 2001, KNW neither owned nor operated facilities subject to the Commission's jurisdiction and it was no longer a natural gas company as defined in the Natural Gas Act. KNW does not believe that the intent of the Form No. 567 filing requirement would be served if the requirement is imposed on KNW for the reporting year 2001.

KNW requests that the Commission issue an order to KNW waiving the applicability of the FERC Form No. 567 filing requirement contained in 18 CFR 260.8 for the year 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7898 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–292–006]

Mississippi River Transmission Corporation; Notice of Report of Refunds

March 27, 2002.

Take notice that on March 22, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing a report of refunds pursuant to § 154.501 of the Commission's Regulations, 18 CFR 154.501.

MRT states that the purpose of this filing is to report the refunds that resulted from the Period One Settlement Rates for Firm Storage Service (FSS) customers for the period October 1, 2001, the effective date of the settlement rates, through December 31, 2001.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7895 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1392–000]

New England Power Pool; Notice of Filing

March 28, 2002.

Take notice that on March 26, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to effectuate the allocation to NEPOOL Participants of costs associated with the Load Response Program Southwest Connecticut Emergency Capability Supplement.

The Participants Committee requests an effective date of June 1, 2002 for commencement of the allocation of such costs. The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: April 8, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7999 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–208–000]

Southern LNG Inc.; Notice of Proposed Changes in FERC Tariff

March 28, 2002.

Take notice that on March 26, 2002, Southern LNG Inc. (Southern LNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective April 15, 2002:

First Revised Sheet No. 106

Southern LNG states that the purpose of this filing is to revise the Tariff with respect to the generic types of rate discounts that may be granted by Southern LNG without having to file an individual Service Agreement.

Southern LNG states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8003 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–209–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Tariff

March 28, 2002.

Take notice that on March 26, 2002, Southern Natural Gas Company (Southern), tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised tariff sheets pertaining to its tariff provisions containing the ''net present value'' (NPV) methodology for awarding available capacity, with an effective date of May 1, 2002:

2nd Revised Sheet No. 101A
1st Revised Sheet No. 101B
2nd Revised Sheet No. 102
1st Revised Sheet No. 102A

Southern is requesting authority: (1) To allow shippers with prearranged deals a one-time right to match any bid made in an open season with a higher NPV, and (2) to award contracts for capacity for terms of 90 days or less without holding an open season.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8004 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11959–002]

Symbiotics, LLC.; Notice of Surrender of Preliminary Permit

March 28, 2002.

Take notice that Symbiotics, LLC., permittee for the proposed Savage Rapids Dam Project, has requested the Commission to accept the voluntary surrender of its preliminary permit. The permit was issued on September 27, 2001, and would have expired on August 31, 2004. The project would have been located on the Rogue River, in Josephine and Jackson Counties, Oregon.

The permittee filed the request on March 20, 2002, and the preliminary permit for Project No. 11959 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8002 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–116–000 and CP02–117–000]

Tennessee Gas Pipeline Company; Notice of Applications

March 27, 2002.

Take notice that on March 18, 2002, Tennessee Gas Pipeline Company (Tennessee), Nine E. Greenway Plaza, Houston, Texas 77046, filed in Docket Nos. CP02–116–000 and CP02–117–000 applications pursuant to section 7(c) and section 3 of the Natural Gas Act (NGA) and Parts 157 and 153 of the Commission's regulations for: a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities, referred to as the South Texas Expansion Project, and Section 3 authorization pursuant NGA and a Presidential Permit pursuant to

Executive Order No. 10485, as amended by Executive Order No. 12038, to site, construct, operate, connect, and maintain facilities at the International Boundary between the United States and Mexico for the import and export of up to 320,000 Dth/d of natural gas between Hidalgo, County, Texas and the State of Tamaulipas, Mexico, all as more fully set forth in the application. Copies of this filing are on file with the Commission and are available for public inspection. 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).

Specifically, Tennessee proposes to construct, in Hidalgo County, Texas, a 9.28-mile, 30-inch diameter lateral (Rio Bravo Lateral) from Tennessee's Pipeline No. 409A–100 (Donna Line) to the border crossing. A measurement facility will be constructed at the intersection of the Rio Bravo Lateral and the border crossing facilities. In addition, Tennessee proposes to construct, all in Hidalgo County, 7.58 miles of 24-inch pipeline loop adjacent to the existing Donna Line, and a new compressor station consisting of 9,470 horsepower near the town of Edinburg. The project also includes modifications of Tennessee's existing Compressor Station 1, in Nueces County, Texas, and Station 9 in Victoria County, Texas to accommodate bi-directional flow through the stations. The proposed border crossing facilities consist of 1000 feet of 30-inch pipeline extending from the Rio Bravo Lateral to the midpoint of the Rio Grande River for interconnection with Gasoducto del Rio's facilities. The total estimated cost of the proposed project is estimated to be $39.8 million. Tennessee requests authorization no later than December 23, 2002.

Tennessee states that natural gas is required to fuel four electric power generation plants located in the Northern Mexico Municipalities of Rio Bravo and Valle Hermoso, Tamaulipas. Two of the plants are currently receiving service from Pemex Gas y Petroquimica Basica, but, Tennessee states that its project will be the only source of gas supply for the other two plants, one scheduled to be ready for commercial operation on April 1, 2004, and the last on April 1, 2005.

Tennessee states that it has executed binding, 15-year precedent agreements with MGI Supply, Ltd. For 130,000 Dth/d beginning June 1, 2003, El Paso Merchant Energy, LP for 95,000 Dth/d beginning April 1, 2004, and EDF International for 95,000 Dth/d beginning April 1, 2005. The shippers elected to pay negotiated rates consisting of a reservation charge of $0.0975 per Dth/d, fixed for the primary term of the agreement, and a commodity rate ranging from $0.005 to $0.050 per Dth, depending on the receipt and delivery points and the year in the life of the contract. The negotiated rates include all applicable surcharges and fuel and loss percentages. The recourse rate is the maximum applicable rate under Tennessee's Rate Schedule FT–A. Tennessee states that it is not seeking a predetermination in favor of rolled-in rate treatment, but believes that rolled-in rate treatment is appropriate because revenues will exceed the incremental cost of service in all but the first year of service.

Tennessee notes several differences between the project's transportation agreements and Tennessee's pro forma FT–A transportation agreement having to do with contemplating the construction of necessary facilities, the commencement date for service, the need for necessary authorizations, and the superceding and cancellation of the precedent agreements. In addition, Article XV of the MGI Supply Ltd. transportation agreement contains differing provisions concerning choice of law requiring that any dispute which cannot be resolved informally and which is not subject to the Commission's exclusive jurisdiction must be submitted to and resolved by binding arbitration. Tennessee submits that these differences do not constitute material deviations and that the project transportation agreements are not non-conforming agreements. If, however, the Commission finds otherwise, Tennessee requests that the Commission pre-approve the project transportation agreements.

Any questions concerning this application may be directed to Marguerite Woung-Chapman, General Counsel., Tennessee Pipeline Company, Nine E. Greenway Plaza, Suite 740, Houston, Texas 77046, call (832) 676–7329, fax (832) 676–1733.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 17, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a

final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7889 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–203–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

March 27, 2002.

Take notice that on March 12, 2002, Transcontinental Gas Pipe Line Corporation (Transco) filed a report reflecting the flow through of refunds received from Dominion Transmission, Inc.

On March 13, 2002, in accordance with Section 4 of its Rate Schedule LSS and Section 3 of its Rate Schedule GSS, Transco states that it refunded to its LSS and GSS customers $621,962.47 resulting from the refund of Dominion Transmission, Inc. Docket No. RP00–632–000. The refund covers the period from April 2001 to October 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7896 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–339–001, et al.]

Deseret Generation & Transmission Co-operative, Inc., et al. Electric Rate and Corporate Regulation Filings

March 27, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–339–001]

Take notice that on March 22, 2002, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report as directed by the Commission's January 23, 2002 letter order in the above-captioned proceeding.

Comment Date: April 12, 2002.

2. Delta Energy Center, LLC

[Docket No. ER02–600–001]

Take notice that on March 25, 2002, Delta Energy Center, LLC resubmitted for filing with the Federal Energy Regulatory Commission (Commission) all of its tariff sheets to reflect the correct effective date in compliance with the Commission order issued in this docket on February 13, 2002.

Comment Date: April 15, 2002.

3. Michigan Electric Transmission Company

[Docket No. ER02–924–001]

Take notice that on March 22, 2002, Michigan Electric Transmission Company, (METC) filed two executed Service Agreements for Network Integration Transmission and Network Operating Agreements (Agreements) with the Cities of Bay City and Hart (Customers) as Substitute Service Agreement Nos. 138 and 141 to replace the unexecuted agreements originally filed in this docket. Except for the fact that they have been fully executed, there are no changes between the Substitute Service Agreements being filed and those originally filed in this proceeding.

Michigan Transco is requesting an effective date of January 1, 2002 for the Agreements. Copies of the filed Agreements were served upon the Michigan Public Service Commission, ITC, the Customers and those on the service list in this proceeding.

Comment Date: April 12, 2002.

3. Sierra Pacific Power Company

[Docket No. ER02–1371–000]

Take notice that on March 25, 2002, Sierra Pacific Power Company (Sierra) tendered for filing pursuant to Section 205 of the Federal Power Act, an executed Amended and Restated Transmission Service Agreement (TSA), and an executed Amended and Restated Operating Agreement No. 2 (OA). Both agreements are between Sierra and Mt. Wheeler Power, Inc. The TSA will terminate and replace the Transmission Service Agreement, and the OA will terminate and replace the Amendment No. 1 to Operating Agreement No. 2, which were accepted for filing effective June 27, 1994. The TSA and OA are being filed at the request of Sierra and Mt. Wheeler Power, Inc.

Sierra has requested that the Commission accept the TSA and OA and permit service in accordance therewith effective May 1, 2002.

Comment Date: April 15, 2002.

4. American Electric Power Service Corporation

[Docket No. ER02–1372–000]

Take notice that on March 25, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing seven (7) Service Agreements which include Service Agreements for new customers and replacement Service Agreements for existing customers under the AEP Companies' Power Sales Tariffs. The Power Sales Tariffs were accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5 (Wholesale Tariff of the AEP Operating Companies) and FERC Electric Tariff Original Volume No. 8, Effective January 8, 1998 in Docket ER 98–542–000 (Market-Based Rate Power Sales Tariff of the CSW Operating Companies). AEPSC respectfully requests waiver of notice to permit the attached Service Agreements to be made effective on or prior to January1, 2002.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: April 15, 2002.

5. Shady Hills Power Company, L.L.C.

[Docket No. ER02–1373–000]

Take notice that on March 25, 2002, Shady Hills Power Company, L.L.C. (Shady Hills) tendered for filing with the Federal Energy Regulatory

Commission (Commission) Purchase Power Agreement (PPA) between Shady Hills and Reliant Energy Services, Inc. This filing is made pursuant to Shady Hills' authority to sell power at market-based rates under FERC Electric Tariff, Original Volume No. 1, approved by the Commission January 30, 2002, in Docket No. ER02–537–000.

Comment Date: April 15, 2002.

6. Xcel Energy Services, Inc.

[Docket No. ER02–1374–000]

Take notice that on March 25, 2002, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company (Minnesota) (hereinafter NSP), submitted for filing a Third Revision to the Service Schedule A to the Municipal Interconnection and Interchange Agreement between NSP and they City of Buffalo. XES requests that this agreement become effective on January 1, 2002.

Comment Date: April 15, 2002.

7. Xcel Energy Services, Inc.

[Docket No. ER02–1375–000]

Take notice that on March 25, 2002, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company (Minnesota) (hereinafter NSP), submitted for filing a Third Revision to the Service Schedule A to the Municipal Interconnection and Interchange Agreement between NSP and they City of Kasota. XES requests that this agreement become effective on January 1, 2002.

Comment Date: April 15, 2002.

8. Xcel Energy Services, Inc].

[Docket No. ER02–1376–000]

Take notice that on March 25, 2002, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company (Minnesota) (hereinafter NSP), submitted for filing a Third Revision to the Service Schedule A to the Municipal Interconnection and Interchange Agreement between NSP and they City of Kasson. XES requests that this agreement become effective on January 1, 2002.

Comment Date: April 15, 2002.

9. Kansas Gas & Electric Company

[Docket No. ER02–1377–000]

Take notice that on March 25, 2002, Kansas Gas & Electric Company (KGE) (d.b.a. Westar Energy) tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. (WR) under Service Schedule M to FPC Rate Schedule No. 93 for the period from June 1, 2002 through May 31, 2003. KGE requests an effective date of June 1, 2002.

Notice of the filing has been served upon the Kansas Corporation Commission.

Comment Date: April 15, 2002.

10. ISO New England Inc].

[Docket No. ER02–1378–000]

Take notice that on March 25, 2002, ISO New England Inc. filed revisions to its Tariff for Transmission Dispatch and Power Administration Services.Copies of said filing have been served upon the New England Power Pool participants and non-participant transmission customers, as well as upon the state regulatory agencies and governors of the New England states.

Comment Date: April 15, 2002.

11. Delta Energy Center LLC

[Docket No. ER02–1379–000]

Take notice that on March 25, 2002, Delta Energy Center LLC (DEC) filed an executed power marketing agreement under which DEC will make wholesale sales of electric energy to Calpine Energy Services, L.P. at market-based rates. DEC requests privileged treatment of this agreement pursuant to 18 CFR 388.112.

Comment Date: April 15, 2002.

12. Consumers Energy Company

[Docket No. ER02–1380–000]

Take notice that on March 25, 2002 Consumers Energy Company (Consumers) tendered for filing a Service Agreement with Ameren Energy, Inc., as agent for and on behalf of Union Electric Company d/b/a Ameren UE and Ameren Energy Generating Company (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective as of March 18, 2002. Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment Date: April 15, 2002.

13. Aquila Merchant Services, Inc].

[Docket No. ER02–1381–000]

Take notice that on March 25, 2002, Aquila Merchant Services, Inc. submitted a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations, 18 CFR 35.16 (2001). Aquila Merchant Services, Inc. is succeeding to the FERC Electric Rate Schedule No. 1 of Aquila Inc., (successor by merger to Aquila Energy Marketing Corporation) effective March 1, 2002.

Comment Date: April 15, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–7887 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 400–033—Colorado]

Public Service Company of Colorado; Notice of Availability of Environmental Assessment

March 27, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed a proposed recreation and land management plan for the Tacoma Development of the Tacoma-Ames Project and has prepared an Environmental Assessment (EA). The Tacoma Development primarily consists of Electra Lake and the surrounding lands and is located on the Animas River, near the town of Durango, in La Plata and San Juan Counties, Colorado. Lands within the San Juan and Uncompahgre National Forests and

under the jurisdiction of the Bureau of Land Management are located with the project boundary. No Indian Tribal lands are located within the project boundary.

The proposed plan establishes the Public Service Company of Colorado's (project licensee) future management practices and guidelines for public recreation and private development at Electra Lake and the adjoining project lands. The proposed plan is intended to ensure that recreation use and private development at Electra Lake is consistent with hydroelectric operations, the terms and conditions of the project license, including the project's existing recreation plan; an existing lease agreement between the licensee and the Electra Sporting Club, a private recreation club; and all other applicable Federal, state, and local laws and regulations. The proposed plan contains provisions addressing existing and future private development, public recreation use and opportunities, and the preservation of natural resources, including scenic and environmental values, at Electra Lake and the adjoining project lands. The EA contains Commission staff's analysis of the potential environmental impacts of implementation of the proposed plan and concludes that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link—select ''P–400'' and follow the instructions (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7893 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2077–016—New Hampshire, Vermont]

USGen New England, Inc.; Notice of Availability of Final Environmental Assessment

March 28, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the Fifteen Mile Falls Hydroelectric Project, located on the Connecticut River, in Grafton County, New Hampshire and Caledonia County, Vermont, and has prepared a final Environmental Assessment (EA) for the project. The project does not occupy any Federal lands.

On November 16, 2001, the Commission staff issued an EA for the Fifteen Mile Falls Project and requested that any comments be filed within 30 days. Comments were filed by various entities and are addressed in the final EA.

The final EA contains the staff's analysis of the potential environmental effects of the Fifteen Mile Falls Project and various alternatives, including no-action, and concludes that licensing the project, with appropriate environmental measures, would not constitute a major Federal action that would significantly affect the quality of the human environment.

A copy of the final EA is available for public review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426. The final EA may also be viewed on the web at *http://www.ferc.fed.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions. Please call (202) 208–2222 for assistance.

For further information, contact William Guey-Lee at (202) 219–2808.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8001 Filed 3–29–02; 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

March 27, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Change Project Boundary.

b. *Project No:* 67–102.

c. *Date Filed:* February 4, 2002.

d. *Applicant:* Southern California Edison.

e. *Name of Project:* Big Creek 2A, 8, and Eastwood.

f. *Location:* San Joaquin River, Eastern Fresno County, California. The project occupies in part, lands of the Sierra National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a) 825(r) and secs. 799 and 801.

h. *Applicant Contact:* Mr. Lawrence D. Hamlin, Vice Presindent, Southern California Edison Company, 300 N. Lone Hill Ave., San Dimas, CA 91773, (559)893–3646.

i. *FERC Contact:* Any questions on this notice should be addressed to:Anumzziatta Purchiaroni at (202) 219–3297, or e-mail address: *anumzziatta.purchiaroni@ferc.fed.us*.

j. *Deadline for filing comments and or motions:* April 27, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–67–102) on any comments or motions filed.

k. *Description of Request:* Southern California Edison is requesting the Commission's approval to install a 1,296-foot-long overhead, 33-kV distribution line extending from the existing Kokanee 33 kV-line to the Pitman Creek Diversion Dam. The line is needed to operate refurbished slide gates, power instrumentation, heating elements and other power operated devices at the facility. The proposed modification would increase the land for right-of-way across National Forest lands by 1.1 acres. The work is scheduled to begin in August 2002, pending Commission's approval.

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 be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202)208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

m. *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, 385.211, 385.214. 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.

q. 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 at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7892 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Draft License Application and Preliminary Draft Environmental Assessment (PDEA) and Request for Preliminary Terms and Conditions

March 28, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Draft—New License.

b. *Project No.:* 201–013.

c. *Applicant:* Petersburg Municipal Power and Light (Petersburg).

d. *Name of Project:* Blind Slough Hydroelectic Project.

e. *Location:* On Crystal Creek, Mitkof Island, near the City of Petersburg, Alaska.

f. *Applicant Contacts:* Dennis C. Lewis, Superintendent, Petersburg Municipal Power and Light, P.O. Box 329, 11 South Nordic, Petersburg, Alaska 99833, 907–772–4203, email: *pmpl@alaska.net*; and Nan A. Nalder, Relicensing Manager, Acres International, 150 Nickerson St., Suite 310, Seattle, WA 98109, 206–352–5730 email: *acresnan@serv.net*.

g. *FERC Contact:* Vince Yearick, FERC, 888 First Street, NE, Room 61–11, Washington, DC 20426, (202) 219–3073, email: *vince.yearick@ferc.gov*.

h. Petersburg distributed, to interested parties and Commission staff, the PDEA and draft application on March 18, 2002.

i. With this notice we are soliciting preliminary terms, conditions, and recommendations on the PDEA and draft license application. All comments on the PDEA and draft license application should be sent to the applicant contact address above in item (f) with an optional copy sent to Commission staff at the address above in item (g). For those wishing to file comments with the Commission, an original and eight copies must be filed at the following address: Secretary, Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426. All comments should include the project name and number, and bear the heading ''Preliminary Comments,'' Preliminary Recommendations,'' ''Preliminary Terms and Conditions,'' or ''Preliminary Prescriptions.'' Comments and preliminary recommendations, terms and conditions, and prescriptions 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 *(http://www.ferc.gov)* under the ''e-Filing'' link.

j. *Comment deadline:* Any party interested in commenting must do so before May 28, 2002.

k. *Locations of the application:* A copy of the draft application and PDEA are on file with the Commission and are available for public inspection. 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). Copies are also available for inspection and reproduction at the Petersburg, Alaska address in item f above.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8000 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7166–9]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB): Human Exposure to Particulates of High-risk Subpopulations; EPA ICR #: 1887.01; OMB Control # 2080–0058 Expiration Date: 7/31/2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 3, 2002.

ADDRESSES: National Exposure Research Laboratory; US EPA; Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Barbara Blackwell, Phone: 919–541–2886, Fax: 919–541–1111, E-mail: *blackwell.barbara@epa.gov*. For Technical Information Contact Lance Wallace., Phone: 703–648–4287, Fax: 703–648–4290, E-mail: *wallace.lance@epa.gov*.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those individuals that may be requested to take part in a study of human exposure to airborne particles.

Title: Human Exposure to Particulates in High-Risk Subpopulations, EPA ICR #: 1887.01, OMB Control Number: 2080–0058, Expires July 31, 2002.

Abstract: This information collection has been fully described in an earlier **Federal Register** notice of March 5, 1999 (63 FR 69073). Briefly, because of epidemiological studies relating daily mortality to fluctuations in outdoor particle concentrations, it has been deemed desirable by EPA and the National Academy of Sciences to determine the relationship between exposure of high-risk subpopulations and ambient concentrations of particles. Three cooperative agreements were awarded to University consortia to pursue studies of persons with respiratory and cardiovascular problems. Under the terms of the agreements, personal, indoor and

outdoor measurements of particle concentrations were to have been performed on a voluntary sample of residents of six cities. To help determine activities and conditions leading to increased exposure, each resident was to answer a questionnaire and fill out a time-activity daily diary, both of which have been approved by OMB. Two of the Universities have completed their field work, but the third will still be completing its planned field work past the expiration date of the OMB-approved questionnaire. This action is simply to extend the approval to use this questionnaire beyond the July 31, 2002 expiration date. No new burden beyond what has been already approved is planned. All responses to the questionnaire are voluntary. The information will be used to support the Agency's regulatory responsibilities under the Clean Air Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: The cost and hour burden on respondents has been fully described in the previous **Federal Register** notice. Since this request is only for an extension without any new information collection, the cost and burden detailed previously is unchanged. Briefly, the burden on the average respondent is estimated to be about 36 minutes per day filling out the questionnaire and time-activity diary. The cost to the respondent includes electricity to operate the monitors. This cost is repaid by the government, and the respondent also receives a small monetary award to repay him or her for other costs. A total of no more than 50 respondents will be enrolled in the months following the original expiration date of July 31, 2002.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 21, 2002.

Jewel F. Morris,

Acting Deputy Director or the National Exposure Research Laboratory.

[FR Doc. 02–7943 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

Office of Research and Development

[FRL–7166–8]

Ambient Air Monitoring Reference and Equivalent Methods: Designation of One New Reference Method for PM_{10}, Four New Equivalent Methods for $PM_{2.5}$, and One New Reference Method for NO_2

AGENCY: Environmental Protection Agency.

ACTION: Notice of designation of reference and equivalent methods.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated one new reference method for measuring concentrations of PM_{10} in ambient air, four new equivalent methods for measuring concentrations of $PM_{2.5}$ in ambient air, and one new reference method for measuring concentrations of NO_2 in ambient air.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hunike, Human Exposure and Atmospheric Sciences Division (MD–46), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Phone: (919) 541–3737, email: *Hunike.Elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR part 53, the EPA examines various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs), as set forth in 40 CFR part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR part 58 by States and other agencies for determining attainment of the NAAQSs. The EPA hereby announces the designation of one new reference method for measuring concentrations of particulate matter as PM_{10} in ambient air, four new equivalent methods for measuring concentrations of particulate matter as $PM_{2.5}$ in ambient air, and one new reference method for measuring concentrations of NO_2 in ambient air. These designations are made under the provisions of 40 CFR part 53, as amended on July 18, 1997 (62 FR 38764).

The new reference method for PM_{10} is a manual method that is based on a particular, commercially available high volume PM_{10} sampler, as specified in appendixes J and M of 40 CFR part 50. The newly designated reference method is identified as follows:

RFPS–0202–141, ''Tisch Environmental Model TE–6070 PM_{10} High-Volume Air Sampler,'' consisting of a TE–6001 PM_{10} size-selective inlet, 8″ x 10″ filter holder, aluminum outdoor shelter, mass flow controller or volumetric flow controller with brush or brushless motor, 7 day mechanical off/on-elapsed timer or 11 day digital off/on-elapsed timer, and any of the high volume sampler variants identified as TE–6070, TE–6070–BL, TE–6070D, TE–6070D–BL, TE–6070V, TE–6070V–BL, TE–6070–DV, or TE–6070DV–BL, with or without the optional stainless steel filter media holder/filter cartridge or continuous flow/pressure recorder.

An application for a reference method determination for the method based on this Tisch sampler was received by the EPA on September 24, 1998. The sampler is available commercially from the applicant, Tisch Environmental, Inc., 145 South Miami Avenue, Village of Cleves, Ohio 45002.

The four new equivalent methods for $PM_{2.5}$ are manual monitoring methods that are based on particular, commercially available $PM_{2.5}$ samplers. The methods are identified as Class II equivalent methods, which means that they are based on an integrated, filtered air sample with gravimetric analysis,

but deviate significantly from the specifications for reference methods set forth in appendix L of 40 CFR part 50. In this case, each of the four new equivalent method samplers is nearly identical to a corresponding sampler that has been previously designated by EPA as a reference method sampler for $PM_{2.5}$. (Three of the samplers, with modest reconfiguration, have also been designated as reference methods for PM_{10}.) The significant difference is that these newly designated $PM_{2.5}$ equivalent method samplers are configured to use a specific, very sharp cut cyclone device as the principle particle size separator (fractionator) for the sampler rather than the WINS impactor used in the corresponding $PM_{2.5}$ reference method sampler. The newly designated Class II equivalent methods are identified as follows:

EQPM–0202–142, ''BGI Incorporated Models PQ200–VSCC or PQ200A–VSCC $PM_{2.5}$ Ambient Fine Particle Sampler,'' configured with a BGI VSCC™ Very Sharp Cut Cyclone particle size separator (in lieu of a WINS impactor) and operated with firmware version 3.88, 3.91, 3.89R, or 3.91R, for 24-hour continuous sample periods, in accordance with the Model PQ200/PQ200A Instruction Manual and VSCC supplemental manual and with the requirements and sample collection filters specified in 40 CFR part 50, appendix L, and with or without the optional Solar Power Supply or the optional dual-filter cassette (P/N F–21/6) and associated lower impactor housing (P/N B2027), where the upper filter is used for $PM_{2.5}$. The Model PQ200A VSCC is described as a portable audit sampler and includes a set of three carrying cases.

EQPM–0202–143, ''Rupprecht & Patashnick Co., Inc. Partisol®-FRM Model 2000 PM–2.5 FEM Air Sampler,'' configured with a BGI VSCC™ Very Sharp Cut Cyclone particle size separator (in lieu of a WINS impactor) and operated with software versions 1.102–1.202, with either R&P-specified machined or molded filter cassettes, for 24-hour continuous sample periods, in accordance with the Model 2000 Instruction Manual and VSCC supplemental manual, with the requirements and sample collection filters specified in 40 CFR part 50, appendix L, and with or without the optional insulating jacket for cold weather operation.

EQPM–0202–144, ''Rupprecht & Patashnick Co., Inc. Partisol® Model 2000 PM–2.5 FEM Audit Sampler,'' configured with a BGI VSCC™ Very Sharp Cut Cyclone particle size separator (in lieu of a WINS impactor), and operated with software (firmware) version 1.2–1.202, for 24-hour continuous sample periods at a flow rate of 16.67 liters/minute, in accordance with the Partisol® Model 2000 Operating Manual and VSCC supplemental manual and with the requirements and sample collection filters specified in 40 CFR part 50, appendix L.

EQPM–0202–145, ''Rupprecht & Patashnick Co., Inc. Partisol®-Plus Model 2025 PM–2.5 FEM Sequential Air Sampler,'' configured with a BGI VSCC'' Very Sharp Cut Cyclone particle size separator (in lieu of a WINS impactor), and operated with any software version 1.003 through 1.413, with either R&P-specified machined or molded filter cassettes, for 24-hour continuous sample periods, in accordance with the Model 2025 Instruction Manual and VSCC supplemental manual and with the requirements and sample collection filters specified in 40 CFR part 50, appendix L.

Related applications for equivalent method determinations for methods based on these BGI and Rupprecht & Patashnick samplers were received by the EPA on June 21, 2001, and November 6, 2001, (respectively) from BGI, Incorported and Rupprecht and Patashnick, Co., Inc. (R&P). The samplers are available commercially from the respective applicants, BGI Incorporated, 58 Guinan Street, Waltham, Massachusetts 02154, and Rupprecht & Patashnick Co., Inc., 25 Corporate Circle, Albany, New York 12203.

The new reference method for NO_2 is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in appendix F of 40 CFR part 50. The newly designated reference method is identified as follows:

RFNA–0202–146, ''Environnement S. A. Model AC32M Chemiluminescent Nitrogen Oxides Analyzer,'' operated with a full scale range of 0—500 ppb, at any temperature in the range of 10° C to 35° C, with a 5-micron PTFE sample particulate filter, with response time setting 11 (automatic response time), and with or without the following option: Internal permeation oven.

An application for a reference method determination for this method was received by the EPA on September 24, 2001. The method is available commercially from the applicant, Environnement S. A., 111, Boulevard Robespierre, 78304 Poissy, France.

Test samplers or a test analyzer representative of each of these methods have been tested by the corresponding applicants in accordance with the applicable test procedures specified in 40 CFR part 53 (as amended on July 18, 1997). After reviewing the results of those tests and other information submitted by the applicants, EPA has determined, in accordance with part 53, that each of these methods should be designated as a reference or equivalent method, as indicated. The information submitted by the applicants will be kept on file, either at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 or in an approved archive storage facility, and will be available for inspection (with advance notice) to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated reference or equivalent method, each of these methods is acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (e.g., configuration, sample period, or temperature range) specified in the applicable designation method description (see the identification of the methods above). Use of the method should also be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, EPA/600/R–94/0386'' and with the Quality Assurance Guidance Document 2.12 (available at *www.epa.gov/ttn/amtic/pmqainf.html*). Vendor modifications of a designated reference or equivalent method used for purposes of part 58 are permitted only with prior approval of the EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under section 2.8 of appendix C to 40 CFR part 58 (Modifications of Methods by Users).

In general, a method designation applies to any sampler or analyzer which is identical to the sampler or analyzer described in the application for designation. In some cases, similar samplers or analyzers manufactured prior to the designation may be upgraded or converted (*e.g.*, by minor modification or by substitution of the approved operation or instruction manual) so as to be identical to the designated method and thus achieve designated status. The manufacturer should be consulted to determine the feasibility of such upgrading or conversion.

In the particular case of the four new $PM_{2.5}$ Class II equivalent methods, a corresponding $PM_{2.5}$ (or PM_{10}) reference method sampler may be converted to the equivalent method configuration by replacement of the WINS impactor (or the PM_{10} extension tube for the PM_{10} version) with the BGI Very Sharp Cut Cyclone (VSCC™) device specified in the equivalent method description. Such a conversion may be made by the sampler owner or operator. The VSCC™ device should be purchased from the sampler manufacturer, who will also furnish installation, conversion,

operation, and maintenance instructions for the VSCC™ as well as a new equivalent method identification label to be installed on the sampler. If the conversion is to be permanent, the original designated reference method label should be removed from the sampler and replaced with the new designated equivalent method label. In a case where a converted sampler may need to be restored later to its original reference method configuration (such as for an application specifically requiring a reference method) by re-installation of the WINS impactor (or PM_{10} extension tube), the new equivalent method label may be installed on the sampler without removing the original reference method label, such that the sampler bears both labels. (Alternatively, the new label may describe multiple configurations.) In this situation, the sampler shall be clearly and conspicuously marked by the operator to indicate its current configuration (*i.e.* WINS/$PM_{2.5}$ reference method, VSCC™/$PM_{2.5}$ equivalent method, or PM_{10} reference method) so that the monitoring method is correctly identified and the correct method code is used when reporting monitoring data obtained with the sampler.

Part 53 requires that sellers of designated reference or equivalent method analyzers or samplers comply with certain conditions. These conditions are specified in 40 CFR 53.9 and are summarized below:

(a) A copy of the approved operation or instruction manual must accompany the sampler or analyzer when it is delivered to the ultimate purchaser.

(b) The sampler or analyzer must not generate any unreasonable hazard to operators or to the environment.

(c) The sampler or analyzer must function within the limits of the applicable performance specifications given in 40 CFR parts 50 and 53 for at least one year after delivery when maintained and operated in accordance with the operation or instruction manual.

(d) Any sampler or analyzer offered for sale as part of a reference or equivalent method must bear a label or sticker indicating that it has been designated as part of a reference or equivalent method in accordance with part 53 and showing its designated method identification number.

(e) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(f) An applicant who offers samplers or analyzers for sale as part of a reference or equivalent method is required to maintain a list of ultimate purchasers of such samplers or analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the method has been canceled or if adjustment of the sampler or analyzer is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(g) An applicant who modifies a sampler or analyzer previously designated as part of a reference or equivalent method is not permitted to sell the sampler or analyzer (as modified) as part of a reference or equivalent method (although it may be sold without such representation), nor to attach a designation label or sticker to the sampler or analyzer (as modified) under the provisions described above, until the applicant has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified, or until the applicant has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the sampler or analyzer as modified.

(h) An applicant who offers $PM_{2.5}$ samplers for sale as part of a reference or equivalent method is required to maintain the manufacturing facility in which the sampler is manufactured as an ISO 9001-certified facility.

(i) An applicant who offers $PM_{2.5}$ samplers for sale as part of a reference or equivalent method is required to submit annually a properly completed Product Manufacturing Checklist, as specified in part 53.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–77), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these reference and equivalent methods is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR part 58.

Questions concerning the commercial availability or technical aspects of any of these methods should be directed to the appropriate applicant.

Dated: March 21, 2002.

Jewel F. Morris,

Acting Deputy Director, National Exposure Research Laboratory.

[FR Doc. 02–7944 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7167–1]

Environmental Laboratory Advisory Board (ELAB) Meeting Dates, and Agenda

AGENCY: Environmental Protection Agency.

ACTION: Notice of Teleconference Meeting.

SUMMARY: The Environmental Protection Agency's Environmental Laboratory Advisory Board (ELAB) will have a teleconference meeting on April 17, 2002, at 11 A.M. EST to discuss the ideas and views presented at the previous ELAB meetings, as well as new business. Items to be discussed include (1) Review of NELAC mission, (2) update on recommendations to restructure the National Environmental Laboratory Accreditation Conference (NELAC) to allow it to better serve the future needs of EPA, the States, and the private sector, (3) approaches to facilitate NELAP accreditation of smaller environmental laboratories, and (4) Discussion of ELAB recommendations to EPA, ELAB is soliciting input from the public on these and other issues related to the National Environmental Laboratory Accreditation Program (NELAP) and the NELAC standards. Written comments on NELAP laboratory accreditation and the NELAC standards are encouraged and should be sent to Mr. Edward Kantor, DFO, PO Box 93478, Las Vegas NV 89193, faxed to (702) 798–2261, or emailed to *kantor.edward@epa.gov.* Members of the public are invited to listen to the teleconference calls and, time permitting, will be allowed to comment on issues discussed during this and previous ELAB meetings. Those persons interested in attending should call Edward Kantor at 702–798–2690 to obtain teleconference information. The number of lines are limited and will be distributed on a first come, first serve basis. Preference will be given to a group wishing to attend over a request from an individual.

John G. Lyon

Director, Environmental Sciences Division, National Environmental Research Laboratory.

[FR Doc. 02–7941 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34232A; FRL–6821–6]

Molinate; Availability of Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of documents that were developed as part of EPA's process for making pesticide reregistration eligibility decisions and tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the human health, environmental fate and ecological effects risk assessments and related documents for molinate. This notice also starts a 60–day public comment period for the risk assessment. Comments are to be limited to issues directly associated with molinate and raised by the risk assessment or other documents placed in the docket. By allowing access and opportunity for comment on the risk assessment, EPA is seeking to strengthen stakeholder involvement and help ensure that EPA's decisions under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply. The Agency cautions that the risk assessment for molinate is preliminary and that further refinements may be appropriate. Risk assessments reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

DATES: Comments, identified by the docket control number OPP–34232A for molinate, must be received on or before June 3, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34232A for molinate in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Wilhelmena Livingston, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8025; e-mail address: Livingston.Wilhelmena@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk assessment and other related documents for molinate, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34232A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34232A for molinate in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34232A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of

the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

EPA is making available risk assessments that have been developed as part of the Agency's public participation process for making reregistration eligibility and tolerance reassessment decisions for the organophosphate and other pesticides consistent with FFDCA, as amended by FQPA. The Agency's human health, environmental fate and ecological effects risk assessment and other related documents for molinate are available in the individual pesticide docket. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for molinate.

The Agency cautions that the molinate risk assessment is preliminary and that further refinements may be appropriate. Risk assessment documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

EPA is providing an opportunity, through this notice, for interested parties to provide written comments and input to the Agency on the risk assessment for the pesticide specified in this notice. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific chemical. Comments should be limited to issues raised within the risk assessment and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the pesticide tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments should be submitted by June 3, 2002 using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION.** Comments will become part of the Agency record for molinate.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: March 18, 2002.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–7946 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7166–4]

Murray Ohio Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement with Murray Inc., pursuant to 122(h) of the comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, regarding the Murray Ohio Superfund Site located in Lawrenceburg, Tennessee. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms Paula V. Batchelor, U.S. EPA region 4 (WMD–CPSB), Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta Georgia 30303, (404) 562–8887.

Written Comments may be submitted to Ms. Batchelor within thirty (30) calendar days of the date of this publication.

Dated: March 12, 2002.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–7942 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final fiscal year 2002 program guidelines/application solicitation for labor-management committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the final Fiscal Year 2002 Program Guidelines/Application Solicitation for the Labor-Management Cooperation program to inform the public. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. This Solicitation contains changes in the length of time for the grant budget period. No public comments were received.

FOR FURTHER INFORMATION CONTACT: Jane A. Lorber, 2026068181.

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY2002

A. Introduction

The following is the final solicitation for the Fiscal Year (FY) 2002 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978, which was initially implemented in FY81. The Act

authorizes FMCS to provide assistance in the establishment and operation of company/plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that company/plant, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a company/plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the company/plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the fore mentioned general criteria. The term ''labor'' refers to employees represented by a labor organization and covered by a formal collection bargaining agreement. These committees may be found at either the plant (company), area, industry, or public sector levels.

A plant or company committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within the focusing upon a particular city, county, contiguous multicounty, or statewide jurisdiction. An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a labor, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and managers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 2002, competition will be open to company/plant, area, private industry, and public sector committees. Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, medication of contract disputes, etc.

Required Program Elements

1. *Problem Statement*—The application should have numbered pages and discuss in detail what specific problem(s) face the company/plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the company/plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses WHY the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee will accomplish during the life of the grant. Applications that promise to provide objectives *after* a grant is awarded will receive little or not credit in this area. While a goal of ''improving communication between employers and employees'' may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in *specific* and *measurable terms.* Applicants should focus on the outcome, impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the grantee, as well as the FMCS grants program.

3. *Approach*—This section of the application specifies *HOW* the goals and objective will be accomplished. At a minimum, the following elements will be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or company/plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet (we require meetings at least every other month) as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees, a discussion of past efforts

and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1, 2002, as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives. An evaluation plan must be developed which briefly discusses what basic questions for issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend schedule committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under Section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws (if any), a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and *measurable* goals and objectives have been developed to address the problems/needs of the applicant.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligiblity

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third-party private non-profit entities on behalf of one of more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party, non-profit entities that can document that a major purpose or function of their organization is the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third-parties failing to meet the above criteria.

Applicants who received funding under this program in the past for committee operations are not eligible to re-apply. The only exception will be made for grantees that seek funds on behalf of an entirely different committee whose efforts are totally outside of the scope of the original grant.

D. Allocations

The FY2002 appropriation for this program anticipated to be $1.5 million, of which at least $1,000,000 available competitively for new applicants. Specific funding levels will not be established for each type of committee. The review process will be conducted in such a manner that at least two awards will be made in each category (company/plant, industry, public sector, and area), provided that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining application swill be considered according to merit without regard to category.

In addition to the competitive process identified in the preceding paragraph, FMCS will set aside a sum not to exceed thirty percent of its non-reserved appropriation to be awarded on a non-competitive basis. These funds will be used only to support applications that have been solicited by the Director of the Service and are not subject to the dollar range noted in Section E. All funds returned to FMCS from a competitive grant award may be awarded on a non-competitive basis in accordance with budgetary requirements.

FMCS reserves the right to retain up to five percent of the FY2002 appropriation to contract for program

support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants

Awards to expand existing or establish new labor-management committees will be for a period of up to 18 months. If successful progress is made during this initial budget period and all grant funds are not obligated within the specified period, these grants may be extended for up to six months. No continuation awards will be made.

The dollar range of awards is as follows:

—Up to $65,000 over a period of up to 18 months for company/plant committees or single department public sector applicants;

—Up to $125,000 per 18-month period for area, industry, and multidepartment public sector committee applicants.

Applicants are reminded that these figures *represent maximum Federal funds only.* If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources. Applicants are also strongly encouraged to consult with their local or regional FMCS field office to determine what kinds of training may be available at no cost before budgeting for such training in their applications. A list of our field leadership team and their phone numbers is included in the application kit.

F. Cash Match Requirements and Cost Allowability

All applicants must provide at least 10 percent of the total allowable project costs in cash. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered ''project income,'' and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as ''in-kind'' match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for committee purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in committee training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* full-time staff as an expense or match contribution. For a more complete discussion of cost allowability, applicants are encouraged to consult the FY2002 FMCS Financial and Administrative Grants Manual, which will be included in the application kit.

G. Application Submission and Review Process

The Application for Federal Assistance (SF–424) form must be signed by *both* a labor and management representative. In lieu of signing the SF–424 form representatives may type their name, title, and organization on plain bond paper with a signature line signed and dated, in accordance with block 18 of the SF–424 form. Applications must be postmarked or electronically transmitted no later than June 28, 2002. No applications or supplementary materials will be accepted after the deadline. It is the responsibility of the applicant to ensure that the U.S. Postal Service or other carrier correctly postmarks the application. An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored preliminarily by one or more Grant Review Boards. The Board(s) will recommend selected applications for rejection or further funding consideration. The Director, Labor-Management Grants Program, will finalize the scoring and selection process. The individual listed as contact person in Item 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process. Please be sure that person is available between June and September of 2002.

All FY2002 grant applicants will be notified of results and all grant awards will be made before October 1, 2002. Applications submitted after the June 28 deadline date or fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Grants Program.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. Please consult the FMCS Web site (*www.fmcs.gov*) to download forms and information.

These kits and additional information or clarification can be obtained free of charge by contacting the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427; or by calling 202–606–8181.

George W. Buckingham,

Deputy Director, Federal Mediation and Conciliation Service.

[FR Doc. 02–7926 Filed 4–1–02; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 16, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Nancy C. Day, Menahga, Minnesota; to acquire voting shares of Menahga Bancshares, Inc., Menahga, Minnesota, and thereby indirectly acquire voting shares of First National Bank of Menahga, Menahga, Minnesota.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. David Moorhouse, Friday Harbor, Washington; to acquire additional voting shares of San Juan Bank Holding Company, Friday Harbor, Washington, and thereby indirectly acquire voting

shares of Islanders Bank, Friday Harbor, Washington.

Board of Governors of the Federal Reserve System, March 27, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–7863 Filed 4–1–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Regulatory Reform

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a public hearing by the Department of Health and Human Services (HHS) Secretary's Advisory Committee on Regulatory Reform. As governed by the Federal Advisory Committee Act in accordance with Section 10(a)(2), the Secretary Advisory Committee on Regulatory Reform is seeking guidance for the Department's efforts to streamline regulatory requirements. The Advisory Committee will advise and make recommendations for changes that would be beneficial in four broad areas: health care delivery, health systems operations, biomedical and health research, and the development of pharmaceuticals and other products. The Committee will review changes identified through regional public hearings, written comments from the public, and consultation with HHS staff.

All meetings and hearings of the Committee are open to the general public. During each meeting, invited witnesses will address how regulations affect health-related issues. Meeting agendas will also allow some time for public comment. Additional information on each meeting's agenda and list of participating witnesses will be posted on the Committee's Web site prior to the meetings (*http://www.regreform.hhs.gov*).

DATES: The third public hearing of the Secretary's Advisory Committee on Regulatory Reform will be held on Wednesday, April 17, 2002, from 9:00 a.m. to 5:00 p.m. and on Thursday, April 18, 2002, from 8:00 a.m. to 1:00 p.m.

ADDRESSES: The Secretary's Advisory Committee on Regulatory Reform will meet on Wednesday, April 17, 2002, in the Philadelphia Room, Ramada Plaza Suites and Conference Center, One Bigelow Square, Pittsburgh, Pennsylvania, 15219. On Thursday, April 18, 2002, the Committee will meet in the Pittsburgh Room, Ramada Plaza Suites and Conference Center, One Bigelow Square, Pittsburgh, Pennsylvania, 15219.

FOR FURTHER INFORMATION CONTACT: Christy Schmidt, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 344G, Washington, DC, 20201, (202) 401–5182.

SUPPLEMENTARY INFORMATION: The Ramada Plaza Suites and Conference Center is in compliance with the Americans with Disabilities Act. Anyone planning to attend the meeting who requires special disability-related arrangements such as sign-language interpretation should provide notice of their need by Friday, April 12, 2002. Please make any request to Michael Starkweather by phone: 301–628–3141; fax: 301–628–3101; e-mail: *mstarkweather@s-3.com*. On June 8, 2001, HHS Secretary Thompson announced a Department-wide initiative to reduce regulatory burdens in health care, to improve patient care, and to respond to the concerns of health care providers and industry, State and local Governments, and individual Americans who are affected by HHS rules. Common sense approaches and careful balancing of needs can help improve patient care. As part of this initiative, the Department is establishing the Secretary's Advisory Committee on Regulatory Reform to provide findings and recommendations regarding potential regulatory changes. These changes would enable HHS programs to reduce burdens and costs associated with departmental regulations and paperwork, while at the same time maintaining or enhancing the effectiveness, efficiency, impact, and access of HHS programs.

Dated: March 26, 2002.

William Raub,

Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–7831 Filed 4–1–02; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–180]

Availability of the Draft Document, Public Health Assessment Guidance Manual (Update), Public Comment Draft

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability and request for public comment of the draft document, Public Health Assessment Guidance Manual (Update). The draft is a revision and update of the 1992 Public Health Assessment Guidance Manual.

SUMMARY: ATSDR is mandated to conduct public health assessments under Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) [42 U.S.C. 9604(i)] and the Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6939a(c)].

The general procedures for the conduct of public health assessments are included in the ATSDR Final Rule on Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (55 FR 5136, February 13, 1990, codified at 42 CFR part 90). The revision of the 1992 Guidance Manual sets forth in detail the public health assessment process as developed and modified by ATSDR since 1992 and presents the methodologies and guidelines that will be used by ATSDR staff and agents of ATSDR in conducting public health assessments. Areas emphasized in this updated guidance include community involvement, exposure assessment, and weight-of-evidence (WOE) approaches to decision making about hazards associated with sites.

Availability

The draft Public Health Assessment Guidance Manual (Update) will be available to the public on or about March 25, 2002. A 60-day public comment period will be provided for the draft manual, which will begin on the date of this publication. The close of the comment period will be indicated on the front of the draft manual. Comments received after close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for the draft manual should be sent to: Chief, Program Evaluation, Records, and Information Services Branch, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., MS E–56, Atlanta, GA 30333. Upon receipt of the request, one copy of the report will be forwarded free of charge. ATSDR reserves the right to provide only one copy of this draft document free of charge. The document may also be accessed at the ATSDR home page News section at *www.atsdr.cdc.gov*.

One copy of all comments and supporting documents should be sent to the above address by the end of the comment period noted above. All written comments and data submitted in response to this notice and the draft manual should bear the docket control number ATSDR–180.

FOR FURTHER INFORMATION CONTACT: Further information may be obtained by contacting Dr. Allan S. Susten, ATSDR (Mailstop E–32), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 498–0007 or (toll free) 1–888–42–ATSDR, 1–888–422–8737, or Email: *asusten@cdc.gov*.

SUPPLEMENTARY INFORMATION: ATSDR is required by CERCLA to conduct public health assessments at all sites on, or proposed for inclusion on, the National Priorities List [42 U.S.C. 9604(i)(6)(A)] and may also conduct public health assessments in response to a request from the public [42 U.S.C. 9604(i)(6)(B)]. In addition, the U.S. Environmental Protection Agency (EPA) may request the conduct of a public health assessment under RCRA [42 U.S.C. 6939a(b)].

The ATSDR public health assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any past, current or future impact on public health and develop or recommend appropriate public health actions which could include health studies or actions needed to evaluate and mitigate or prevent human health effects.

The ATSDR public health assessment includes an analysis and statement of the public health implications posed by the site under consideration. This analysis generally involves an evaluation of relevant environmental data, the potential for exposures to substances related to the site, available toxicologic, epidemiologic and health outcome data, and community concerns associated with a site where hazardous substances have been released. The public health assessment also identifies populations living or working on or near hazardous waste sites for which more extensive public health actions or studies are indicated.

This notice announces the projected availability of the draft Public Health Assessment Guidance Manual (Update). The manual has undergone extensive internal review and will be subjected to scientific and technical review by the ATSDR Board of Scientific Counselors. ATSDR encourages the public's participation and comment on the further development of this manual.

Dated: March 27, 2002.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 02–7878 Filed 4–1–02; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Mining Occupational Safety and Health Research Grants, Program Announcement OH–02–005

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Mining Occupational Safety and Health Research Grants, PA# OH–02–005.

Times and Dates: 8:30 a.m.–9 a.m., April 9, 2002 (Open); 9:10 a.m.–5:30 p.m., April 9, 2002 (Closed); 8:30 a.m.–5:30 p.m., April 10, 2002 (Closed); 8:30 a.m.–5:30 p.m., April 11, 2002 (Closed).

Place: Parc St. Charles, 500 St. Charles Avenue & Poydras Street, New Orleans, Louisiana.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office CDC, pursuant to Public Law 92–463.

Matters to Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to PA# OH–02–005.

Note: Due to programmatic issues that had to be resolved, this **Federal Register** Notice is being published less than fifteen days prior to the date of the meeting.

For Further Information Contact: Gwendolyn H. Cattledge, Ph.D., Health Science Administrator, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE., M/S E74, telephone (404) 498–2508.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 27, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–7874 Filed 3–28–02; 12:04 pm]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Implementation of Promoting Safe and Stable Families by Indian Tribes.

OMB No.: New Collection.

Description: The purpose of this study is to examine the ways in which Indian Tribes used funds they received under title IV–B, subpart 2 to provide services that strengthen families' abilities to care for their children. Additionally, a broad range of related child welfare issues with respect to Indian Tribes will be explored. Consistent with this approach, the research framework for this study documents and analyzes a full range of implementation issues for Promoting Safe and Stable Families (PSSF)—planning; accomplishments and changes; organization and infrastructure; related services and practices; and resource uses and allocation—over time and across the various stakeholders involved. This study also provides a historical perspective on Tribal implementation of the PSSF legislation including recent emphasis on strengthening parental relationships and promoting healthy marriages.

Respondents: Tribal Leaders, Program Managers for title IV B subpart 1 and 2 and Front Line Workers for title IV B subpart 1 and 2, Child Welfare/Human Service Collaborators, Funding Officials, and Court Officials.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tribal Leaders	40	1	1	40
Program Managers and Front Line Workers	120	1	1	120
Funding Officials	20	1	1	20
Child Welfare/Human Service Collaborators	60	1	1	60
Court Officials	20	1	1	20

Estimated Total Annual Burden Hours: 260.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 26, 2002.

Bob Sargis,

Reports Clearance, Officer.

[FR Doc. 02–7907 Filed 4–1–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research, and Evaluation, Grant to the University of Georgia

AGENCY: Office of Planning, Research and Evaluation, ACF, DHHS.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that a noncompetitive grant award is being made to the University of Georgia to conduct a study to identify rural counties in the Southern Black Belt experience persistent poverty and to examine their social, demographic, and economic conditions.

As a Congressional setaside, this one-year project is being funded noncompetitively. The university has several facilities and resources on campus for undertaking the feasibility study. The university also will rely upon several outside sources with specialized expertise to conduct various activities related to the project. The cost of this one-year project is $250,000.

FOR FURTHER INFORMATION CONTACT: Hossein Faris, Administration for Children and Families, Office of Planning, Research And Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Phone: 202–205–4922.

Dated: March 22, 2002.

Howard Rolston,

Director, Office of Planning, Research, and Evaluation.

[FR Doc. 02–7906 Filed 4–1–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0095]

Draft Guidance for Industry on Exposure-Response Relationships: Study Design, Data Analysis, and Regulatory Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Exposure-Response Relationships: Study Design, Data Analysis, and Regulatory Applications.'' The guidance is intended to provide recommendations for sponsors of investigational new drug applications (INDs) and applicants submitting new drug applications (NDAs) or biologics license applications (BLAs) on the use of exposure-response information in the development of drugs, including therapeutic biologics.

DATES: Submit written or electronic comments on the draft guidance by June 3, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lesko, Office of Clinical Pharmacology and Biopharmaceutics, Center for Drug Evaluation and Research (HFD–850), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5690, or David Green, Center for Biologics Evaluation and Research (HFM–579), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5349.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Exposure-Response Relationships: Study Design, Data Analysis, and

Regulatory Applications.'' This guidance provides recommendations on the use of exposure-response information in the development of drugs, including therapeutic biologics. The guidance describes: (1) The uses of exposure-response studies in regulatory decisionmaking, (2) the important considerations in exposure-response study designs to ensure valid information, (3) the strategy for prospective planning and data analyses in the exposure-response modeling process, (4) the integration of assessment of exposure-response relationships into all phases of drug development, and (5) the format and content of reports of exposure-response studies.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on study design, data analysis, and regulatory applications of exposure-response relationships. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm, http://www.fda.gov/cber/guidelines.htm, or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: March 25, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–7883 Filed 4–1–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Fiscal Year 2002 Competitive Cycle for the Graduate Psychology Education Program 93.191a

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for the Graduate Psychology Education Program (GPEP) for Fiscal Year 2002.

Authorizing Legislation: These applications are solicited under section 755(b)(1)(J) of the Public Health Service Act as amended, and the FY 2002 Appropriations Act, Public Law 107–116 which provides $2 million to support graduate psychology education programs to train health service psychologists in accredited psychology programs.

Purpose: Grants will be awarded to assist eligible entities in meeting the costs to plan, develop, operate, or maintain graduate psychology education programs to train health service psychologists to work with underserved populations including children, the elderly, victims of abuse, the chronically ill or disabled and in areas of emerging needs, which will foster an integrated approach to health care services and address access for underserved populations. The Graduate Psychology Education Program addresses interrelatedness of behavior and health and the critical need for integrated health care services. Funding is available to doctoral programs or doctoral internship programs as defined and accredited by the American Psychological Association (APA). Funding may not be used for post-doctoral residency programs.

Eligible Applicants: Eligible entities are accredited health profession schools, universities, and other public or private nonprofit entities. Each Graduate Psychology Education Program must be accredited by the American Psychological Association (APA). As provided in section 750, to be eligible to receive assistance, the eligible entity must use such assistance in collaboration with two or more disciplines.

Funding Preference: A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of applications. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

As provided in section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (1) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (2) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. ''High Rate'' refers to a minimum of 20 percent of graduates in academic year 1999–2000 or academic year 2000–2001, whichever is greater, who spend at least 50 percent of their worktime in clinical practice in the specified settings.

''Significant Increase in the Rate'' means that, between academic years 1999–2000 and 2000–2001, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent.

Estimated Amount of Available Funds: $1,900,000.

Estimated Number of Awards: 15–19.

Estimated Average Size of Each Award: $100,000–$130,000.

Estimated Funding Period: One year.

Application Requests, Availability, Date and Addresses: Application materials will be available for downloading via the Web on March 29, 2002. Applicants may also request a hardcopy of the application material by contacting the HRSA Grants Application Center, 901 Russell Avenue, Suite 450, Gaithersburg, Maryland, 20879, by calling at 1–877–477–2123, or by fax at 1–877–477–2345. In order to be considered for competition, applications must be received by mail or delivered to the HRSA Grants Application Center by no later than May 22, 2002. Applications received after the deadline date may be returned to the applicant and not processed.

Projected Award Date: August 30, 2002.

FOR FURTHER INFORMATION CONTACT: LCDR Young Song, Division of State, Community and Public Health, Bureau of Health Professions, HRSA, Room 8C–09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; or e-mail at *ysong@hrsa.gov.* Telephone number is (301) 443–3353.

Additional Information: A Technical Assistance Videoconference Workshop is being planned for sometime in April, 2002. Detailed information regarding this workshop will be in the application

materials, and on the HRSA and APA Web site.

Dated: March 26, 2002.

Elizabeth M. Duke,

Administrator.

[FR Doc. 02–7830 Filed 4–1–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at the following websites: *http://workplace.samhsa.gov; http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 716–429–2264

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866 / 800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Laboratory Partners, LLC, 129 East Cedar St., Newington, CT 06111, 860–696–8115 (Formerly: Hartford Hospital Toxicology Laboratory)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (Formerly: Cox Medical Centers)

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468

DrugProof, Divison of Dynacare, 543 South Hull St., Montgomery, AL 36103, 888–777–9497/334–241–0522 (Formerly: Alabama Reference Laboratories, Inc.)

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories *, 14940–123 Ave. Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, Oxford, MS 38655, 662–236–2609

Express Analytical Labs, 3405 7th Avenue, Suite 106, Marion, IA 52302, 319–377–0500

Gamma-Dynacare Medical Laboratories *, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 10788 Roselle Street, San Diego, CA 92121, 800–882–7272 (Formerly: Poisonlab, Inc.)

Laboratory Corporation of America Holdings, 1120 Stateline Road West,

Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)
Marshfield Laboratories, Forensic Toxicology Laboratory 1000 North Oak Ave. Marshfield, WI 54449, 715–389–3734/800–331–3734
MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)
Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213
MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515
Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.)
One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134
Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory
Pathology Associates Medical Laboratories, 110 West Cliff Drive, Spokane, WA 99204, 509–755–8991/800–541–7891x8991
PharmChem Laboratories, Inc., 4600 N. Beach, Haltom City, TX 76137, 817–605–5300, PharmChem Laboratories, Inc., Texas Division; Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372 / 800–821–3627
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405; 818–989–2520 / 800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300 / 800–999–5227
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507 / 800–279–0027
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
Universal Toxicology Laboratories (Florida), LLC, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–717–0300, 800–419–7187x419 (Formerly: Integrated Regional Laboratories, Cedars Medical Center, Department of Pathology)
Universal Toxicology Laboratories, LLC, 9930 W. Highway 80, Midland, TX 79706, 915–561–8851 / 888–953–8851
US Army Forensic Toxicology Drug Testing Laboratory, Fort Meade, Building 2490, Wilson Street, Fort George G. Meade, MD 20755–5235, 301–677–7085

The following laboratory is voluntarily withdrawing from the National Laboratory Certification Program on March 25, 2002: Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200 / 800–446–4728, (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 FR 29908–29931, June 9, 1994). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–7879 Filed 4–1–02; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4723–C–02]

Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grant Programs for Fiscal Year 2002; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Super Notice of Funding Availability (SuperNOFA) for HUD Discretionary Grant Programs; correction.

SUMMARY: On March 26, 2002, HUD published its Fiscal Year (FY) 2002 Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grant Programs. This document makes a

technical correction with respect to one of the forms that follow the General Section of the SuperNOFA.

DATES: All application due dates remain as published in the **Federal Register** on March 26, 2002.

FOR FURTHER INFORMATION CONTACT: Barbara Dorf, Office of Grants Management and Oversight, Office of Administration, Room 2182, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–0667 (this is not a toll-free number). Hearing or speech impaired persons may access this number by calling the Federal Information Relay Service at 1–800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: On March 26, 2002 (67 FR 13826), HUD published its Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grant Programs for Fiscal Year (FY) 2002. The FY 2002 SuperNOFA announced the availability of approximately $2.2 billion in HUD program funds covering 41 grant categories within programs operated and administered by HUD offices. This notice published in today's **Federal Register** makes a technical correction with respect to one of the forms that follows the General Section of the SuperNOFA. Specifically, this notice removes from Appendix B of the General Section the form entitled ''Grant Applicant's Status as a Religious Organization'' (HUD–424f). This form is not yet an approved information collection form and was inadvertently included. This document therefore provides notice of the removal.

Correction

General Section of SuperNOFA, Beginning at 67 FR 13826

On page 13892, HUD removes from Appendix B of the General Section of the SuperNOFA the form entitled ''Grant Applicant's Status as a Religious Organization'' (HUD–424f).

Dated: March 28, 2002.

Aaron Santa Anna,

Assistant General Counsel, Regulations Division.

[FR Doc. 02–7949 Filed 4–1–02; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

Solicitation of Public Comments on Proposed Information Quality Guidelines

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Solicitation of public comments.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is soliciting comments on information quality guidelines. OFHEO has drafted proposed information quality guidelines pursuant to Office of Management and Budget Final Guidelines issued on February 22, 2002 (67 FR 8452–8460). OFHEO's proposed guidelines ensure and maximize the quality, objectivity, utility, and integrity of information that is disseminated by the agency to the public. The proposed guidelines also provide an administrative process allowing affected individuals to seek and obtain correction of information maintained and disseminated by OFHEO that does not comply with OMB guidelines. The purpose of this notice is to solicit public comment on OFHEO's proposed information quality guidelines to help OFHEO in developing and finalizing the guidelines. The proposed guidelines are posted on OFHEO's Web site, *http://www.ofheo.gov.*

DATES: Written comments regarding OFHEO's Information Quality Guidelines due by May 2, 2002.

ADDRESSES: Send written comments to Andrew Varrieur, Chief Information Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. Alternatively, comments may also be sent by electronic mail to *infoquality@ofheo.gov.* OFHEO requests that written comments submitted in hard copy also be accompanied by an electronic version in MS Word(c) or in portable document format (PDF) on 3.5″ disk. All comments will be posted on the OFHEO Web site at: *http://www.ofheo.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Varrieur, Chief Information Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552, telephone (202) 414–8883 (not a toll free number). The telephone number for the Telecommunications Device for the Deaf is: (800) 877–8339.

Dated: March 28, 2002.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 02–8014 Filed 4–1–02; 8:45 am]

BILLING CODE 4220–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Establishment of Trinity River Adaptive Management Working Group

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of establishment.

SUMMARY: The Secretary of the Interior, after consultation with the General Services Administration, has established the Trinity River Adaptive Management Working Group (Working Group). The Working Group will provide recommendations on all aspects of the implementation of the Trinity River Restoration Program and affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River restoration efforts. The Working group replaces the Trinity River Basin Fish and Wildlife Task Force (Bureau of Reclamation) and will perform similar, although expanded, functions.

FOR FURTHER INFORMATION CONTACT: Mary Ellen Mueller, U.S. Fish and Wildlife Service, California/Nevada Operations Office, 2800 Cottage Way, Suite W2606, Sacramento, CA 95825, 916–414–6464.

SUPPLEMENTARY INFORMATION: We are publishing this notice in accordance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.) (FACA). The Secretary of the Interior certifies that she has determined that the formation of the Working Group is necessary and is in the public interest.

The Working Group will conduct its operations in accordance with the provisions of Federal Advisory Committee Act. It will report to the Secretary of the Interior through the Trinity River Management Council and will function solely as an advisory body. The Working Group will provide recommendations and advice to the Trinity Management Council on (1) the effectiveness of management actions in achieving restoration goals and alternative hypotheses for study, (2) the priority of restoration projects, (3) funding priorities, and (4) other program components.

The Secretary will appoint members who can effectively represent the varied interests associated with the Trinity River Restoration Program. Members

will represent stakeholders, Federal and State agencies, and tribes. Members will be senior representatives of their respective constituent groups with knowledge of the Trinity River Restoration Program including the Adaptive Environmental Assessment and Management Program. The Secretary will appoint Working Group members based on nominations submitted by interested parties, including but not limited to Trinity County residents, recreational and commercial fishermen, commercial and recreational boaters, power utilities, water users, forestry, grazing/ranchers, tribal interests, environmental interests, and the general public.

The Working Group will meet at least two times per year. The U.S. Fish and Wildlife Service will provide necessary support services to the Working Group. All Working Group meetings, as well as its subcommittee meetings, will be open to the public. A notice announcing each Working Group meeting will be published in the **Federal Register** at least 15 days before the date of the meeting. The public will have the opportunity to provide input at all meetings.

We expect the Working Group to continue for the duration of the Trinity River Restoration Program. Its continuation is, however, subject to biennial renewal.

Fifteen days after publication of this notice in the **Federal Register**, we will file a copy of the Working Group's charter with the Committee Management Secretariat, General Services, Administration; Committee on Environment and Public Works, United States Senate; Committee on Resources, United States House of Representatives; and the Library of Congress.

The Certification for establishment is published below.

Certification

I hereby certify that the Trinity River Adaptive Management Working Group is necessary and is in the public interest in connection with the performance of duties imposed on the Department of the Interior by Public Laws 84–386, 96–335 (Trinity River Stream Rectification Act), 98–541 and 104–143 (Trinity River Basin Fish and Wildlife Management Act of 1984, and 102–575 (The Central Valley Improvement Act). The Working Group will assist the Department of the Interior by providing advice and recommendations on all aspects of implementation of the Trinity River Restoration Program.

Dated: March 12, 2002.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 02–7957 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by May 2, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Saad E. Zara, Tucson, AZ, PRT–054471.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Henry Doorly Zoo, Omaha, NE, PRT–051012.

The applicant requests a permit to export biological samples taken from captive-born seladang (*Bos gaurus*) going to the University of Guelph, Ontario, Canada, for the purpose of scientific research. This notification covers activities conducted by the applicant over a five year period.

Applicant: Circus Tihany Spectacular, Sarasota, FL, PRT–768272.

The applicant requests the re-issuance of their permit to export, re-export and re-import captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Dr. Annalisa Berta, San Diego State University, San Diego, CA, PRT–025336.

Permit Type: Import.

Name and Number of Animals: 2 polar bear (*Ursis maritimus*) specimens.

Summary of Activity to be Authorized: The applicant requests a permit to import one male carcass and one female skull from Canada for the purpose of comparative scientific research on the cranial, dental and postcranial anatomy of polar bears.

Source of Marine Mammals: subsistence hunting.

Period of Activity: Up to one year.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Richard Wayne Fuller, Albuquerque, NM, PRT–054557.

The applicant requests a permit to import a polar bear (*Ursus maritimus*)

sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Applicant: Howard Neal Stoneback, West Bloomfield, MI, PRT–054556.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Western Hudson Bay polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: March 22, 2002.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–7968 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Jamul Indian Village 101 Acre Fee-to-Trust Transfer and Casino Project, San Diego County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), with the cooperation of the Jamul Indian Village and the National Indian Gaming Commission (NIGC), intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for the proposed 101 acre Fee-to-Trust Transfer and Casino Project in San Diego County, California. The purpose of the proposed action is to help meet the land base and economic needs of the Jamul Indian Village.

DATES: Comments on the scope and implementation of this proposal must arrive by April 22, 2002.

ADDRESSES: Mail or hand carry written comments to Ronald M. Jaeger, Regional Director, Pacific Region, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825–1846.

FOR FURTHER INFORMATION CONTACT: William Allan, (916) 978–6043.

SUPPLEMENTARY INFORMATION: The Jamul Indian Village is located in eastern San Diego County, approximately one mile south of the community of Jamul. The project area is bordered on the north by Melody Lane, on the west by vacant and residentially developed land, on the south by vacant land and on the east by State Route 94. State Route 94 provides direct access to downtown San Diego, approximately 20 miles to the west, where it intersects with Interstate 5.

The Jamul Indian Village proposes that 101 acres of land be taken into trust, that a casino be constructed on existing trust land, and that parking and other facilities supporting the casino be constructed on the 101 acre trust acquisition. The gaming facility will be managed by Lakes Kean Argovitz Resorts-California, LLC (LKAR–CA), on behalf of the tribal government, pursuant to the terms of the management agreement between the tribal government and LKAR–CA. The BIA will serve as the Lead Agency for National Environmental Policy Act compliance. The NIGC, which is responsible for approval of the gaming management contract, will be a Cooperating Agency.

The BIA released an Environmental Assessment (EA) on the proposed action for public comment on February 1, 2001. The EA was revised in response to public comment and released as a final EA, with a Finding of No Significant Impact (FONSI), on November 16, 2001. The FONSI was based on, among other factors, mitigation of potentially significant impacts to traffic on highway 94. After three parties appealed the FONSI, the BIA determined the mitigation proposed for traffic to be too provisional, hence an EIS would be required.

The BIA and NIGC propose to use the extensive public comments received during the public review of the EA as scoping comments for the EIS. Areas of environmental concern identified include, in addition to traffic, threatened and endangered species, wildlife habitat and conservation areas, wastewater disposal, air quality, and socio-economic impacts. The range of issues to be addressed may be further expanded based on comments received during the scoping process.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: March 14, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–7948 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–PB–24 1A]

OMB Approval Number 1004–0068; Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted a request to reinstate an existing approval to collect the information listed below to the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On July 31, 2001, the BLM published a notice in the **Federal Register** (66 FR 39525) requesting comments on this information collection. The comment period ended on October 1, 2001. The BLM received no comments from the public in response to that notice. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0068), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Cooperative Range Improvement Agreement (43 CFR 4120.3–2).

OMB Approval Number: 1004–0068.

Bureau Form Number: 4120–6.

Abstract: The Bureau of Land Management uses the information to document terms and conditions under which construction, use and maintenance of range improvements may occur.

Frequency: On occasion.

Description of Respondents: Holders of BLM-issued grazing leases and permits and cooperators.

Estimated Completion Time: 20 minutes.

Annual Responses: 600.

Application Fee Per Response: 0. There is no filing fee.

Annual Burden Hours: 200.

Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: February 11, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–7834 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW155133]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.A. 201 (b), and to the regulations adopted at 43 CFR 3410, all interested parties are hereby invited to participate with RAG Coal West, Inc. on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 50 N., R. 72 W., 6th P.M., Wyoming
Sec. 2: Lots 8, 9;
Sec. 3: Lots 5–12;
Sec. 4: Lots 5–7, 10–12;
Containing 531.78 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Recoverable Coal Resource Area. The purpose of the exploration program is to obtain data to determine quantity, quality, and extent of coal located between the southern boundary of the current coal leases in the Eagle Butte Mine and the re-located Wyoming State Highway 59.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW155133): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in *The News-Record* of Gillette, WY, once each week for two consecutive weeks beginning the week of March 18, 2002, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and RAG Coal West, Inc. no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: RAG Coal West, Inc., Eagle Butte Mine, Attn: James F. Goss, P.O. Box 3040, Gillette, WY 82717, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: February 15, 2002.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 02–7840 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW155334]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.A. 201 (b), and to the regulations adopted at 43 CFR part 3410, all interested parties are hereby invited to participate with Bridger Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Sweetwater County, WY:

T. 22 N., R. 101 W., 6th P.M., Wyoming
Sec. 26: Lots 1–16;
Sec. 34: Lots 1–13, NE¼NW¼, NE¼SE¼, SW¼SE¼.
Containing 1,279.10 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Rock Springs Known Recoverable Coal Resource Area. The purpose of the exploration program is to obtain information on the coal bearing seams and geologic formations in addition to obtaining the following characteristics: coal quality and quantity, Btu content, percent ash, percent moisture, percent sulfur and percent sodium data from the Fox Hills, Lance and/or Fort Union Formations.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW155334): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in the *Rocket-Miner* of Rock Springs, WY, once each week for two consecutive weeks beginning the week of March 18, 2002, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Bridger Coal Company no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Bridger Coal Company, Attn: Scott M. Child, One Utah Center, Suite 2100, 201 South Main Street, Salt Lake City, UT 84140–0021, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn:

Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: February 15, 2002.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 02–7841 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lower Snake River District Resource Advisory Council; Notice of Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Lower Snake River District Resource Advisory Council will meet in Boise. Agenda topics include subgroup reports on the OHV initiative, sage grouse and river recreation, as well as an update on the two new Resource Management Plans and other land management issues.

DATES: May 15, 2002. The meeting will begin at 9:00 AM. Public comment periods will be held after each topic. The meeting is expected to adjourn at 4:00 PM.

ADDRESSES: The meeting will be held at the Lower Snake River District Office, located at 3948 Development Avenue, Boise Idaho.

FOR FURTHER INFORMATION CONTACT: Mary Jones, Lower Snake River District Office (208–384–3305).

Dated: January 8, 2002.

Howard Hedrick,

Acting District Manager.

[FR Doc. 02–7837 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–02–1410–PG]

Alaska Resource Advisory Council; Notice of Meeting

AGENCY: Bureau of Land Management (BLM), Alaska State Office, Interior.

ACTION: Notice of meeting locations and times for the Alaska Resource Advisory Council.

SUMMARY: The Bureau of Land Management's Alaska Resource Advisory Council will meet April 25–26, 2002, and October 15–16, 2002.

The April 25–26 meeting will be held at the BLM Northern Field Office, located at 1150 University Avenue in Fairbanks. The October 15–16 meeting will be held at the Anchorage Federal Building, located at 222 W. 7th Avenue. Both meetings will start at 8:30 a.m. each morning and will run until 4 p.m. on day one and until noon on day two. All meetings are open to the public. Members of the public may present written and/or oral comments to the council at 1 p.m. on the first day of each meeting.

Primary agenda items for both meetings include land use planning starts in Alaska and results of scoping for the northwest National Petroleum Reserve—Alaska and Colville River multiple use activity plans.

SUPPLEMENTARY INFORMATION: The Alaska Resource Advisory Council meets in accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972.

Inquiries or comments should be sent to BLM External Affairs, 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271–3322 or E-mail *TeresA_McPherson@ak.blm.gov.*

Dated: February 26, 2002.

Linda S.C. Rundell,

Associate State Director.

[FR Doc. 02–7838 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–00–1020–24]

Mojave Southern Great Basin Resource Advisory Council; Notice of Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting, location and time for the Mojave Southern Great Basin Resource Advisory Council (Nevada).

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Mojave Southern Great Basin Resource Advisory Council (RAC), Nevada, will be held as indicated below. Topics for discussion will include manager's reports of field office activities; an update on the Southern Nevada Public Land Management Act of 1998; and other topics the council may raise.

All meetings are open to the public. The public may present written and/or oral comments to the council at 3 p.m. on Thursday, June 6, 2002. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations should contact Phillip Guerrero at (702) 515–5046 by May 1, 2002.

Date and Time: The RAC will meet on Thursday, June 6 and Friday June 7, 2002 at the Bureau of Land Management, Ely Field Office, 702 North Industrial Way, Ely NV. 89301–9408 from 8:30 a.m. to 4 p.m. The information phone number at the Ely Field Office is 775–289–1800.

FOR FURTHER INFORMATION CONTACT: Phillip L. Guerrero, Public Affairs Officer, BLM Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas NV 89130–2301, or by phone at (702) 515–5046.

Dated: March 11, 2002.

Phillip L. Guerrero,

Public Affairs Officer, Las Vegas Field Office.

[FR Doc. 02–7839 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–01–1020–PG]

New Mexico Resource Advisory council meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Council Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, the Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). New Mexico RAC meetings are planned in conjunction with the representative of the Governor of the State of New Mexico; the Office of the Lieutenant Governor.

DATES: The meeting will be held on April 25–26, 2002, with an optional Field Trip preceding on Wednesday, April 24. The meeting will begin at 8:00 a.m. and end by 5 p.m. both days.

ADDRESS: The meeting will take place at the Roswell Field Office, 2909 W. Second, Roswell, New Mexico.

Agenda

The draft agenda for the RAC meeting on Thursday, April 25, includes agreement on the meeting agenda, any RAC comments on the draft minutes of the last RAC meeting which was held on February 28 and March 1, 2002, in Albuquerque, New Mexico, and a check-in from the RAC members. Main topics of discussion will be BLM's overview and policy on oil and gas reclamation, industry issues and practices on oil and gas reclamation, and noxious weeds in disturbed areas. The three established RAC subcommittees may have late afternoon or evening meetings on Wednesday, April 24 or on Thursday, April 25. The exact time and location of possible subcommittee meetings will be established by the chairperson of each subcommittee and be available to the public at the front desk of the Roswell Field Office on those two days. The meeting is open to the public. Starting at 11:30 a.m. on Thursday, April 25, there will be an additional 15 minute Public Comment Period for members of the public who are not able to be present to address the RAC during the regular two hour Public Comment Period on Friday, April 26, from 10 a.m to 12 noon. The RAC may reduce or extend the end time of 12:00 noon depending on the number of people wishing to address the RAC. A RAC assessment of the current meeting and development of draft agenda items and selection of a location for the next RAC meeting will take place Friday afternoon. On Friday, April 26, the ending time of the meeting may be changed depending on the work remaining for the RAC.

FOR FURTHER INFORMATION CONTACT: Theresa Herrera, New Mexico State Office, Office of External Affairs, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7517.

SUPPLEMENTARY INFORMATION: The purpose of the RAC is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Carsten F. Goff,

Acting State Director.

[FR Doc. 02–7843 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1020–PG: GP2–0119]

Notice of Meeting of John Day/Snake Resource Advisory Council

AGENCY: Prineville District, Bureau of Land Management, Interior.

ACTION: Meeting of John Day/Snake Resource Advisory Council (RAC): Pendleton, Oregon May 21, 2002.

SUMMARY: On May 21, 2002 at 9:30 a.m. there will be a meeting of the John Day/Snake RAC at the Red Lion Hotel, 304 Southeast Nye Avenue, Pendleton, Oregon. The meeting is open to the public. Public comments will be received at 1 p.m. on May 21, 2002. The following topics may be discussed by the council during this meeting: Program of work review; Counties Payment Act (1608 Act) update; Hells Canyon Subgroup update; RAC membership update; Blue Mountain Subgroup update; ICBEMP Subgroup update; Noxious Weeds Subgroup update; National Fire Plan Update; National Fire Plan update; John Day River Management Plan Update; Sage Grouse Subgroup update; a 15 minute round table for general issues.

FOR FURTHER INFORMATION CONTACT: A. Barron Bail, Bureau of Land Management, Prineville District Office, 3050 NE Third Street, Prineville, Oregon 97754. Telephone (541) 416–6700.

A. Barron Bail,

District Manager.

[FR Doc. 02–7845 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–100–6334–AA; GP2–0095]

Roseburg District Resource Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting notices for the Roseburg District Bureau of Land Management (BLM) Resource Advisory Committee under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

SUMMARY: This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Roseburg District BLM Resource Advisory Committee pursuant to Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106–393 (the Act). Topics to be discussed by the Roseburg District BLM Resource Advisory Committee include operating procedures, evaluation criteria for projects, technical details for projects under Title II of the Act, facilitation needs, as well as future meeting dates.

DATES: The Roseburg Resource Advisory Committee will meet at the BLM Roseburg District Office, 777 N.W. Garden Valley Boulevard, Roseburg, Oregon 97470, 9:00 a.m. to 4:00 p.m., on April 15, 2002 and 9:00 a.m. to 4:00 p.m., on April 22, 2002.

SUPPLEMENTARY INFORMATION: Pursuant to the Act, five Resource Advisory Committees have been formed for western Oregon BLM districts that contain Oregon & California (O&C) Grant Lands and Coos Bay Wagon Road lands. The Act establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on federal lands, which have dropped dramatically over the past 10 years.

The Act creates a new mechanism for local community collaboration with federal land management activities in the selection of projects to be conducted on federal lands or that will benefit resources on federal lands using funds under Title II of the Act. The Roseburg District BLM Resource Advisory Committee consists of 15 local citizens (plus 6 alternates) representing a wide array of interests.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Roseburg District BLM Resource Advisory Committee may be obtained from E. Lynn Burkett, Public Affair Officer, Roseburg District Office, 777 Garden Valley Blvd., Roseburg, Oregon 97470, or *elynn_burkett@blm.gov,* or on the web at *www.or.blm.gov.*

Dated: January 31, 2002.

Cary Osterhaus,

Roseburg District Manager.

[FR Doc. 02–7842 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–1430–ES; WYW–146223]

Classification and Conveyance of Public Lands for Recreation and Public Purposes in Sweetwater County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following public lands in Green River, Wyoming have been examined and found suitable for classification for conveyance to the City of Green River under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Green River intends to use the land for expansion of a landfill.

Sixth Principal Meridian, Sweetwater County, Wyoming

T. 17 N., R. 107 W.,
Section 4, lot 9.

The land described above contains 20.04 acres.

FOR FURTHER INFORMATION CONTACT: Patricia Hamilton, Rock Springs Field Office, Bureau of Land Management, 280 Highway 191 North, Rock Springs, Wyoming 82901. (307–352–0334)

SUPPLEMENTARY INFORMATION: The lands are not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest. The conveyance, when completed, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of patent issuance, including Right-of-Way Grant WYW–039247, to U.S. West Communications, for a communications line.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. A right-of-way for ditches and canals constructed by the authority of the United States.

5. The above described land has been conveyed for utilization as a solid waste disposal site. The site may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (43 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5. Although there is no indication these materials pose any significant risk to human health or the environment, future land uses should be limited to those which do not penetrate the liner or final cover of the landfill unless excavation is conducted subject to applicable State and Federal requirements.

6. The patentee shall comply with all applicable Federal and State laws, including laws dealing with the disposal, placement, or release of hazardous substances.

7. The patentee shall indemnify and hold harmless the United States against any legal liability or future costs that may arise out of any violation of such laws.

8. As a result of an investigation of the lands covered by an application the United States has determined, as of the date of the patent, that no hazardous substances are present on the property and that such determination has been certified by the appropriate State agency.

9. The land conveyed under § 2743.2 of this part shall revert to the United States unless substantially all of the lands have been used in accordance with the plan and schedule of development on or before the date five years after the date of conveyance.

10. If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and the plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon.

11. No portion of the land covered by such patent shall under any circumstance revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance.

12. The patentee, its successors or assigns, assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in this clause as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees) or property growing out of, occurring, or attributable directly or indirectly, to the disposal of solid waste on, or the release of hazardous substances from lot 9, section 4, T. 17 N., R. 107 W., 6th Principal Meridian, Wyoming, regardless of whether such claims shall be attributable to: (1) the concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.

There will be a decrease of 20.04 Federal acres within the Rock Springs Grazing Allotment. The three AUMs associated with the 20.04 acre parcel will be canceled. Mr. Leonard Hay, on behalf of the Rock Springs Grazing Association, has signed a waiver allowing for cancellation of the three federal AUMs from this allotment.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a 45 day period from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed conveyance or classification of the lands to the Assistant Field Manager, Minerals & Lands, 280 Highway 191 North, Rock Springs, Wyoming 82901.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a landfill. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the Bureau of Land Management followed proper administrative procedures in reaching the decision; or any other factor not directly related to the suitability of the land for a landfill. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: February 1, 2002.

Ted Murphy,

Assistant Field Manager, Minerals & Lands.

[FR Doc. 02–7847 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–BJ–044B]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Chief, Branch of Geographic Services, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room W–1834, Sacramento, CA 95825, (916) 978–4310.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, California.

Mount Diablo Meridian, California

T. 33 N., R.7 W.,—Dependent resurvey, and metes-and-bounds survey and the subdivision of sections 2, 4, 14, 22 and 26 under (Group 974), accepted January 19, 2001 to meet certain administrative needs of the BLM, Redding Field Office.

T. 22 S., R. 36 E.,—Dependent resurvey and subdivision of section 28, under (Group 1334) accepted February 26, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 3 S., R. 16 E.,—Supplemental plat of section 11, accepted March 20, 2001, to meet certain administrative needs of the BLM, Folsom Field Office.

T 7. N., R. 26 E.,—Supplemental plat of sections 31 and 32, accepted April 9, 2001, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 7 N., R. 25 E.,—Supplemental plat of section 34 accepted April 9, 2001, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 26 S., R. 37 E.,—Supplemental plat of the Northwest quarter of section 6, accepted April 23, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 26 N., R. 8 E.,—Supplemental plat of the West half of section 9, accepted April 18, 2001, to meet certain administrative needs of BLM, Eagle Lake Field Office.

T. 5 S., R. 24 E.,—Supplemental plat of section 7, accepted April 30, 2001, to meet certain administrative needs of the BLM, Palm Springs-South Coast Field Office.

T. 45 N., R. 8 W.,—Supplemental plat of the SE quarter of section 23, SW quarter of section 24 and section 26, accepted May 3, 2001, to meet certain administrative needs of the BLM, Redding Field Office.

T 5 S., R. 26 E.,—Amended protraction diagram for unsurveyed area, accepted May 8, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 5 S., R. 27 E.,—Amended protraction diagram for unsurveyed area, accepted May 8, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 26 N., R. 17 E.,—Dependent resurvey and subdivision of sections, accepted May 31, 2001, to meet certain administrative needs of the BLM, Eagle Lake Field Office.

T. 4 S., R. 27 E.,—Amended protraction diagram of unsurveyed portion, accepted June 8, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 4 S., R. 26 E.,—Amended protraction diagram of unsurveyed area, accepted June 8, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 42 N., R 8 E.,—Dependent resurvey and subdivision of sections, accepted June 18, 2001, to meet certain administrative needs of BLM, Alturas Field Office. *T. 2 S., R 23 E.,*—Protraction Diagram , accepted June 21, 2001 to meet certain administrative needs of BLM, Folsom Field Office.

T. 4 S.,R 24 E.,—Amended protraction diagram, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield field office.

T. 2 S., R 25 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office.

T. 3 S., R 21 E.,—Protraction diagram, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office.

T. 3 S., R 24 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 3 S., R 24 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 3 S., R 22 E.,—Protraction diagram, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 3 S., R 25 E.,—Amended protraction diagram, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 26 N., R 8 E.,—Amended Supplemental plat of the West half of section 9, accepted June 21, 2001, to meet certain administrative needs of BLM, Eagle Lake Field Office.

T. 1 S., R 27 E.,—Amended protraction diagram, accepted June 21, 2001, to meet certain needs of BLM, Bishop Field Office.

T. 2 S., R 22 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office.

T. 2 S., R 21 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office.

T. 1 S., R 25 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office and Bishop Field Office.

T. 3 S., R 26 and 27 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative need of BLM, Bakersfield Field Office.

T. 4 S., R 25 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 1 N., R 25 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office and Bishop Field Office.

T. 1 S., R 28 E.,—Dependent Resurvey and subdivision of Section 1, accepted June 29, 2001, to meet certain administrative needs of BLM, Bishop Field Office.

T. 1 S., R 16 E.,—Supplemental plat of the North Half of the North East quarter of Section 30, accepted July 13, 2001, to meet certain needs of BLM, Folsom Field Office.

T. 17 S., R 29 E.,—Supplemental plat of the North Half of the South East quarter of Section 5, accepted July 26,

2001, to meet certain needs of BLM, Bakersfield Field Office.

T. 10 N., R 8 W.,—Dependent resurvey and survey, under (group 1366), accepted August 6, 2001, to meet certain administrative needs of the BLM, Ukiah Field Office.

T. 5 S., R 30 E.,—Amended Protraction Diagram, accepted August 24, 2001, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 6 N., R 30 E.,—Amended Protraction Diagram, accepted September 6, 2001, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 11 S., R 21 E.,—Dependent resurvey, metes and bounds, and subdivision of Section 6, under (Group 1322), accepted September 28, 2001, to meet certain administrative needs of the BLM, Folsom Field Office.

T. 14 N., R 9 W.,—Dependent Resurvey, Subdivision of Section 32, and informative traverse in sections 29 and 32, under (Group 1245), accepted November 30, 2001, to meet certain administrative needs of the BLM, Ukiah Field Office.

San Bernardino Meridian, California

T. 27 N., R. 1 E.,—Dependent Resurvey and metes and bounds survey of tract 37, under (group 1337), accepted January 17, 2001, to meet certain administrative needs of the NPS, Death Valley National Park.

T. 10 N., R 1 W.,—Supplemental plat of section 30, accepted March 13, 2001, to meet certain administrative needs of the BLM, Barstow Field Office.

T. 3 N., R 1 W.,—Supplemental plat of section 2, accepted July 25, 2001, to meet certain administrative needs of the BLM, Barstow Field Office.

T. 14 N., R 18 E.,—Supplemental plat of Section 30, accepted July 25, 2001, to meet certain needs of the BLM, Needle Field Office.

T. 4 N., R 1 W.,—Amended Supplemental plat of section 31, accepted October 31, 2001, to meet certain needs of the BLM, Barstow Field Office.

T. 2 N., R 4 E.,—Dependent Resurvey and Subdivision of Sections, under (group 1231) accepted November 30, 2001, to meet certain needs of the BLM, Barstow Field Office.

T. 6 N., R 15 W.,—Dependent Resurvey of a portion of the North boundary and Homestead Entry No.89, under (group 1201) accepted November 30, 2001, to meet certain needs of the BLM, Palm Springs-South Coast Field Office.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: February 21, 2002.

Lance J. Bishop,

Chief, Branch of Geographic Services.

[FR Doc. 02–7835 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–BJ] ES–50988, Group 198, Florida]

Notice of Filing of Plat of Survey; Florida

The plat of the metes-and-bounds survey of a division line in former lot 13, being the boundary between lots 19 and 20 of section 31, Township 40 South, Range 43 East, Tallahassee Meridian, Florida, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on April 15, 2002.

The survey was made at the request of the Jackson Field Office.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., April 15, 2002.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: February 13, 2002.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 02–7836 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–02–1420–BJ]

Notice of Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

New Mexico Principal Meridian, New Mexico

T. 21 N., R. 9 E., approved February 14, 2002, for Group 952 NM;
T. 23 N., R. 8 W., approved February 14, 2002, for Group 986 NM;
T. 24 N., R. 10 W., approved February 14, 2002, for Group 986 NM;
T. 9 N., R. 12 W., approved October 22, 2001, for Group 973 NM; for sections 21, 29, 30 and 31;
T. 8 N., R. 12 W., approved October 22, 2001, for Group 973 NM;
T. 9 N., R. 12 W., approved October 22, 2001, for Group 973 NM; for sections 24, 25 and 36;

Indian Meridian, Oklahoma

T. 7 N., R. 16 E., approved February 14, 2002, for Group 62 OK;
T. 7 N., R. 13 W., approved February 14, 2002, for Group 62 OK;

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: March 1, 2002.

Stephen W. Beyerlein,

Acting Chief Cadastral Surveyor for New Mexico.

[FR Doc. 02–7844 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–BJ: GP02–0087]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 40 S., R. 7 E., accepted October 16, 2001.
T. 41 S., R. 4 E., accepted October 16, 2001.
T. 32 S., R. 14 W., accepted January 3, 2002.
T. 31 S., R. 12 W., accepted January 3, 2002.

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 333 SW 1st Avenue, Portland, Oregon 97204, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey, and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (333 SW 1st Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: January 28, 2002.

Robert D. DeViney, Jr.,

Branch of Realty and Records Services.

[FR Doc. 02–7846 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–922 (Final)]

Automotive Replacement Glass Windshields From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports of automotive replacement glass windshields from China, provided for in subheading 7007.21.10 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that critical circumstances do not exist with regard to those imports of the subject merchandise from China that were subject to the affirmative critical circumstances determination by the Department of Commerce.

Background

The Commission instituted this investigation on March 20, 2001, following receipt of a petition filed with the Commission and the Department of Commerce by PPG Industries, Inc., Pittsburgh, PA; Safelite Glass Corp., Columbus, OH; and Apogee Enterprises, Inc., Minneapolis, MN. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of automotive replacement glass windshields from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 23, 2001 (66 FR 53630). The hearing was held in Washington, DC on February 5, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Deanna Tanner Okun and Commissioner Jennifer A. Hillman dissenting.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on March 28, 2002. The views of the Commission are contained in USITC Publication 3494 (March 2002), entitled *Automotive Replacement Glass Windshields from China: Investigation No. 731–TA–922 (Final).*

By order of the Commission.

Issued: March 26, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–7908 Filed 4–1–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Notice of Meetings and Agenda

The regular Spring meetings of the Business Research Advisory Council and its committees will be held on April 10 and 11, 2002. All of the meetings will be held in the Conference Center of the Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officials from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, April 10, 2002—Meeting Rooms 2 & 3

10:00—11:30 a.m.—Committee on Compensation and Working Conditions

1. The Employment Cost Index, how it is constructed, and current issues.
2. Ongoing research into the way benefits data are computed in the Employment Cost Index.
3. Discussion of agenda items for the Fall 2002 meeting.

1:00—2:30 p.m.—Committee on Employment and Unemployment Statistics

1. Current Employment Statistics (CES) seasonal adjustment topics:
   a. Research into using concurrent adjustment.
   b. Seasonality of the birth/death adjustment.
2. Job Openings and Labor Turnover Survey (JOLTS): progress report and discussion of data reporting issues related to hires and separations.
3. Discussion of agenda items for the Fall 2002 meeting.

3:00—4:30 p.m.—Committee on Employment Projections

1. The impact of NAICS on the 2002–2012 projection cycle.
2. Presentation of the results of the 2000–2010 projection cycle.
3. Discussion of agenda items for the Fall 2002 meeting.

Thursday—April 11, 2002—Meeting Rooms 2 & 3

8:30—10:00 a.m.—Committee on Price Indexes

1. The Committee on National Statistics report on conceptual and measurement issues in the Consumer Price Index.
2. The new Consumer Price Index based on a formula of the Superlative type.
3. Posted Web prices in a product area of the PPI.
4. Discussion of agenda items for the Fall 2002 meeting.

8:30—10:00 a.m.—Committee on Safety and Health Statistics (Concurrent Session, Meeting Room #7)

1. 2000 Survey of Occupational Injuries and Illnesses-Industry Incidence Rates and Numbers of Cases.
2. 2000 Survey of Occupational Injuries and Illnesses-Worker Demographics and Case Circumstances.
3. Survey of Respirator Use and Practices.
4. Status reports on 2001 Survey of Occupational Injuries and Illnesses and 2002 Survey of Occupational Injuries and Illnesses.
5. Injury and Illness Follow-back Surveys.
6. Injuries and Illnesses involving restricted activity only.
7. Budget status.
8. Discussion of agenda items for the Fall 2002 meeting.

10:30 a.m—12:00 p.m.—Council Meeting

1. Commissioner's remarks.
2. Chairperson's remarks.

1:30—3:00 p.m.—Committee on Productivity and Foreign Statistics

1. The impact of alternative measures of non-production and supervisory worker hours on productivity growth.
2. Productivity growth in manufacturing industries characterized by ''high tech'' workers.
3. Status report on likely new measures for service sector industries.
4. Results from updated comparative labor force series.
5. Discussion of agenda items for the Fall 2002 meeting.

The meetings are open to the public. Persons with disabilities wishing to attend these meetings as observers should contact Tracy A. Jack, Liaison, Business Research Advisory Council, at 202–691–5869, for appropriate accommodations.

Signed at Washington, DC, the 25th day of March 2002.

Deborah P. Klein,

Associate Commissioner for Publications and Special Studies.

[FR Doc. 02–7864 Filed 4–1–02; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on April 6, 2002. The meeting will begin at 9 a.m. and continue until conclusion of the Board's agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c) (10)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Board's meeting of January 19, 2002.
3. Approval of the minutes of the Executive Session of the Board's meeting of January 19, 2002.
4. Approval of the minutes of the Executive Session of the Annual Performance Review Committee meeting of January 18, 2002.
5. Chairman's Report.
6. Members' Reports.
7. Acting Inspector General's Report.
8. President's Report.
9. Consider and act on the report of the Board's Committee on Provision for the Delivery of Legal Services.
10. Consider and act on the report of the Board's Operations and Regulations Committee.
11. Consider and act on the report of the Board's Finance Committee.
12. Consider and act on changes to the Board's 2002 meeting schedule.
13. Report by the Vice President for Government Relations & Public Affairs on the launch of LSC's new Equal Justice Magazine.

Closed Session

14. Briefing [1] by the Vice President for Government Relations & Public Affairs.
15. Briefing [1] by the Acting Inspector General on the activities of the Office of Inspector General.
16. Consider and act on the Office of Legal Affairs' report on potential and pending litigation involving LSC.

Open Session

17. Consider and act on other business.
18. Public Comment.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: March 28, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–8031 Filed 3–29–02; 11:28 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Finance Committee

TIME AND DATE: The Finance Committee of the Legal Services Corporation Board of Directors will meet on April 5, 2002 The meeting will begin at 3:30 p.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR 1622.2 & 1622.3.

2. Approval of the minutes of the Committee's meeting of January 19, 2002.

3. Report on LSC's Consolidated Operating Budget, Expenses and Other Funds Available through February 28, 2002.

4. Consider and act on amendments to the 403(b) Thrift Plan for Employees of LSC.

5. Briefing on efforts to locate and secure new office space to house LSC.

6. Consider and act on whether to authorize the President of LSC to negotiate and enter into a lease for offices to permanently house LSC.

7. Consider and act on other business.

8. Public comment.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: March 28, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–8032 Filed 3–29–02; 11:28 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Operations & Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on April 5, 2002. The meeting will begin at 1:00 p.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.

2. Approval of the minutes of the Committee's meeting of January 18, 2002.

3. Consider and act on whether to authorize the President of LSC to extend the contracts of corporate officers for six months.

4. Staff report on the status of Current Negotiated Rulemakings: 45 CFR part 1626 (Restrictions on Legal Assistance to Aliens); and 45 CFR part 1611 (Eligibility).

5. Staff report on the development and publication of grant assurances.

6. Consider and act on draft Final Rule, 45 CFR part 1639 (Welfare Reform).

7. Consider and act on Property Acquisition and Management Manual issues relating to: incorporation into LSC regulations at title 45 of the CFR; application of PAMM standards to prior acquired property; and use of recouped funds.

8. Staff report on practices relating to Corporation access to grantee records.

9. Consider and act on a protocol for access to records by LSC's Office of Compliance and Enforcement.

10. Report on internal process for resolving disputes between grantees and LSC's Office of Compliance & Enforcement.

11. Consider and act on other business.

12. Public comment.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: March 28, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–8033 Filed 3–29–02; 11:28 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Committee on Provision for the Delivery of Legal Services

TIME AND DATE: The Committee on Provision for the Delivery of Legal Services of the Legal Services Corporation Board of Directors will meet on April 5, 2002. The meeting will begin at 9 a.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.

2. Approval of the minutes of the Committee's meeting of January 18, 2002.

3. Update by Patricia Hanrahan, Special Assistant to the Vice President for Programs, on LSC's Diversity Initiative/Creation of an Action Plan.

4. Update by Robert Gross Senior Program Counsel for State Planning, on State Planning.

5. Panel Discussion on Providing High Quality Legal Services—The Important and Continuing Role of Litigation and Extended Services. Moderator—Randi Youells, Vice President for Programs. Panel Participants: Hannah Lieberman, Legal Aid Bureau of Maryland; Wilson Yellowhair, DNA-Peoples Legal Services, Inc.; Christine Luzzie, Legal Services Corporation of Iowa; Luis Jaramillo, California Rural Legal Assistance; and Jessie Nicholson, Southern Minnesota Regional Legal Services.

6. Consider and act on other business.

7. Public comment.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary of the Corporation, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: March 28, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–8034 Filed 3–29–02; 11:29 am]

BILLING CODE 7050–01–P

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE (NCLIS)

Sunshine Act Meeting

AGENCY: National Commission on Libraries and Information Science.

ACTION: Notice of meeting.

SUMMARY: The U.S. National Commission on Libraries and Information Science is holding an open business meeting to discuss Commission programs and administrative matters with participation by most Commissioners primarily by conference call. Topics will include discussion about the NCLIS initiative regarding the role of libraries following the September 11th terrorist attack and updates of ongoing projects.

DATE AND TIME: NCLIS Business Meeting—April 12, 2002, 10:00 a.m. until 12:00 Noon.

ADDRESSES: Conference Room, NCLIS Office, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005.

STATUS: Open meeting.

FOR FURTHER INFORMATION CONTACT: Judith Russell, Deputy Director, U.S. National Commission on Libraries and Information Science, 1110 Vermont Avenue, NW, Suite 820, Washington, DC 20005, e-mail *jrussell@nclis.gov;fax 202–606–9203; or telephone 202–606–9200.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public, subject to space availability. To make special arrangements for physically challenged persons, contact Judith Russell, Deputy Director, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005, e-mail jrussell@nclis.gov; fax 202–606–9203; or telephone 202–606–9200.

Dated: March 28, 2002.

Robert S. Willard,

NCLIS Executive Director.

[FR Doc. 02–8030 Filed 3–29–02; 10:29 am]

BILLING CODE 7527–$$–P

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Meeting

TIME AND DATE: 9 a.m. to 12 p.m., Friday, April 12, 2002.

PLACE: The offices of the Morris K. Udall Scholarship and Excellence in National Environment Policy Foundation, 110 South Church Avenue, Suite 3350, Tucson, AZ 85701.

STATUS: This meeting will be open to the public, unless it is necessary for the Board to consider items in executive session.

MATTERS TO BE CONSIDERED: (1) A report on the U.S. Institute for Environmental Conflict Resolution; (2) a report from the Udall Center for Studies in Public Policy; (3) a report on the Native Nations Institute; (4) Program Reports; (5) a report on the Udall Archives; and (6) a report from the Management Committee.

PORTIONS OPEN TO THE PUBLIC: All sessions with the exception of the session listed below.

PORTIONS CLOSED TO THE PUBLIC: Executive session.

CONTACT PERSON FOR MORE INFORMATION: Christopher L. Helms, Executive Director, 110 South Church Avenue. Suite 3350, Tucson, AZ 85701, (520) 760–5529.

Dated: March 28, 2002.

Christopher L. Helms,

Executive Director, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and Federal Register Liaison Officer.

[FR Doc. 02–8107 Filed 3–39–02; 3:53 pm]

BILLING CODE 6820–FN–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974 Republication of Systems of Records Notices

AGENCY: National Archives and Records Administration (NARA).

ACTION: Republication of systems of records notices.

SUMMARY: The National Archives and Records Administration (NARA) has reviewed and revised all of its Privacy Act Systems of Records notices. NARA is republishing a total of 33 systems. Eleven of the systems include proposed revisions that require an advance period for public comment. The remaining 22 systems include minor corrective and administrative changes that do not meet the criteria established by the Office of Management and Budget (OMB) for either a new or altered system of records. These changes are in compliance with OMB Circular No. A–130, Appendix I. One system (NARA 10–Employee Drug Abuse/Alcoholism Files) is being deleted from the inventory of systems because NARA no longer maintains the information. NARA 10 will be reserved for future usage.

EFFECTIVE DATES: The establishment of new systems NARA 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 and the revisions to system NARA 14 will become effective without further notice on June 3, 2002, unless comments received on or before that date cause a contrary decision. If changes are made based on NARA's review of comments received, a new final notice will be published. All other revisions included in this republication are complete and accurate as of April 2, 2002.

ADDRESSES: Send comments to the Privacy Act Officer, Office of General Counsel (NGC), Room 3110, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD, 20740–6001. They may be faxed to 301–713–6040. You may also comment via the Internet to comments@NARA.GOV.

FOR FURTHER INFORMATION CONTACT: Ramona Branch Oliver, Privacy Act Officer, 301–713–6025, ext. 252 (voice) or 301–713–6040 (fax).

SUPPLEMENTARY INFORMATION: NARA last published a comprehensive set of Privacy Act notices in the **Federal Register** on May 28, 1992 (57 FR 22430). We also published changes to 3 system of records notices on March 10, 2000 (65 FR 13052). They are NARA 1 (Researcher Application Files), NARA 5 (Conference, Workshop, and Training Course Files, and NARA 6 (Mailing List Files). The notice for each the 33 system of records states the following:

- Name and the location of the record system;
- Authority for and manner of its operation;
- Categories of individuals it covers;
- Types of records that it contains;
- Sources of information in these records;
- Proposed ''routine uses'' of each system of records; and
- Business address of the NARA official who will inform interested persons of the procedures they must follow to gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act, as stated in section 2(b)(4) of the Act, is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information. NARA intends to follow these principles in transferring information to another agency or individual as a ''routine use'', including assurance that the information is relevant for the purposes for which it is transferred.

The table below identifies the system notices that were previously published and that are being republished with only minor editorial and administrative changes, and the new systems (have not been published previously).

Previously published systems	New systems (not previously published)
NARA 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 (minor editorial and administrative changes made) .	NARA 26, 27, 29, 30, 31, 32, 33 and 34.

Previously published systems	New systems (not previously published)
NARA 10 (RESERVED) (This system was previously published as the system covering drug abuse/alcoholism. It is now reserved.) .	NARA 25 (information was previously covered in the existing system, NARA 2).
NARA 14 (This system, entitled the Payroll Time and Attendance Reporting System, is changing from a paper based system to an electronic system.) .	NARA 28 (information was previously covered in the existing system, NARA 18).

Dated: March 22, 2002.

John W. Carlin,

Archivist of the United States.

Accordingly, we are republishing the systems of records notices in their entirety as follows:

NARA 1

SYSTEM NAME:

Researcher Application Files.

SYSTEM LOCATION:

Researcher application files are maintained in the following locations in the Washington, DC, area and other geographical regions. The addresses for these locations are listed in Appendix B following the NARA Notices:

(1) Customer Services Division (Washington, DC, area);

(2) Presidential libraries and projects; and

(3) Regional records services facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who apply to use original records for research in NARA facilities in the Washington, DC, area, the Presidential libraries, and the regional records services facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Researcher application files may include: researcher applications; related correspondence; and electronic records. These files may contain the following information about an individual: Name, address, telephone number, proposed research topic(s), occupation, name and address of employer/institutional affiliation, educational level and major field, expected result(s) of research, photo, researcher card number, type of records used, and other information furnished by the individual. Electronic systems may also contain additional information related to the application process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2111 note, and 2203(f)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains researcher application files on individuals to: Register persons who apply to use original records for research at a NARA facility; record initial research interests of researchers; determine which records researchers may want to use; contact researchers if additional information of research interest is found or if problems with the requested records are discovered; and prepare mailing lists for sending notices of events and programs of interest to researchers, including the fundraising and related activities of the National Archives Foundation (unless individuals elect that their application information not be used for this purpose). The electronic databases serve as finding aids to the applications. Information in the system is also used by NARA staff to compile statistical and other aggregate reports regarding researcher use of records. The routine use statements A, C, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in the records may be retrieved by the name of the individual or by researcher card number.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in areas accessible only to authorized personnel of NARA. Electronic records are accessible via passwords from terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Researcher application files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For researchers who apply to use records and Nixon Presidential materials in the Washington, DC, area, the system manager for researcher application files is the Assistant Archivist for Records Services—Washington, DC (NW). For researchers who apply to use accessioned records, Presidential records, and donated historical materials in the Presidential libraries and the regional records services facilities, the system managers of researcher application files are the directors of the individual libraries and regional records services facilities. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer, whose address is listed in Appendix B after the NARA Notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in researcher application files is obtained from researchers and from NARA employees who maintain the files.

NARA 2

SYSTEM NAME:

Reference Request Files.

SYSTEM LOCATION:

Reference request files are maintained in the following locations in the Washington, DC, area and other geographical regions. The addresses for these locations are listed in Appendix B following the NARA Notices:

(1) Office of Records Services—Washington, DC;

(2) National Historical Publications and Records Commission;

(3) Presidential libraries, projects, and staffs; and

(4) Regional records services facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who request information from or access to accessioned, inactive, congressional, Presidential records, Presidential materials, and/or donated historical materials in the custody of organizational units located in the Washington, DC, area; Presidential libraries, projects, and staffs; and regional records services facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reference request files may include: Reference service slips; reference service databases; correspondence control registers and databases; and correspondence, including administrative forms used for routine inquiries and replies, between NARA staff and researchers. These files may contain some or all of the following information about an individual: Name, address, telephone number, position title, name of employer/institutional affiliation, educational background, research topic(s), field(s) of interest, identification of requested records, credit card or purchase order information, and other information furnished by the researcher.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2111 note, 2203(f)(2), and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains reference request files on individuals to: Maintain control of records being used in a research room; establish researcher accountability for records; prepare replies to researchers' reference questions; record the status of researchers' requests and NARA replies to those requests; enable future contact with researchers, if necessary; and facilitate the preparation of statistical and other aggregate reports on researcher use of records. The routine use statements A, C, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in reference request files may be retrieved by: The name of the individual; the Record Group number; or the name, social security number, or military service number of the former civilian employee/veteran whose record was the subject of the request at the National Personnel Records Center.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Reference request files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For reference request files located in organizational units in the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for Records Services—Washington, DC. For reference request files located in the National Historical Publications and Records Commission (NHPRC), the system manager is the Executive Director, NHPRC. For reference request files located in the following locations, the system manager is the director of the individual Presidential libraries, projects, and staffs; and regional records services facilities. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in reference request files is obtained from researchers and from NARA employees who maintain the files.

NARA 3

SYSTEM NAME:

Donors of Historical Materials Files

SYSTEM LOCATION:

Donors of historical materials files are maintained in the following locations in the Washington, DC, area and other geographical regions. The addresses for these locations are listed in Appendix B following the NARA Notices:

(1) Office of Records Services—Washington, DC, organizational units;

(2) Office of Presidential Libraries;

(3) Presidential libraries, projects, and staffs; and

(4) Regional records services facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include donors and potential donors of historical materials and oral history interviews to the Office of Records Services—Washington, DC; Presidential libraries, projects, and staffs; and regional records services facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system may include correspondence, deeds of gift, deposit agreements, accession files, accession cards, accession logs, inventories of museum objects, and oral history use agreements, all of which are related to the solicitation and preservation of donations and oral history interviews. These files may contain the following information about an individual: Name, address, telephone number, occupation, and other biographical data as it relates to the solicitation and donation of historical materials and oral history interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2111 and 2112.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains donors of historical materials files on individuals to: Record deeds of gift and oral history use agreements; administer the solicitation of, accessioning of, and access to historical materials; maintain control over the accessions program; and facilitate future solicitations of gifts.

NARA may disclose these records to other Federal agencies and former

presidents and their agents as NARA administers the access provisions of a deed of gift. The routine use statements A, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in donors of historical materials files may be retrieved by the name of the individual or by the accession number assigned to the donation.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Donors of historical materials files are permanent records and are transferred to the National Archives of the United States in accordance with the disposition instructions in the NARA records schedule contained in Files 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For donors of historical materials files located in organizational units in the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for Records Services—Washington, DC (NW). For donors of historical materials files located in the Office of Presidential Libraries, the system manager is the Assistant Archivist for Presidential Libraries (NL). For donors of historical materials files located in Presidential libraries, projects, and staffs, and the regional records services facilities, the system manager is the director of the individual Presidential library, project, or staff, or regional records services facility. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given above.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in donors of historical materials files may be obtained from: Donors; potential donors; NARA employees who maintain the files and handle solicitations and donations of historical materials and oral history interviews; associates and family members of donors; associates of former presidents; and published sources.

NARA 4

SYSTEM NAME:

Committee and Foundation Member Files

SYSTEM LOCATION:

Committee member files may be maintained in NARA organizational units that provide administrative support to or oversight of internal and inter-agency committees and external standards-setting and professional organizations. Committee member files may also be located in organizational units that provide administrative support to NARA's Federal advisory committees. Foundation member files for the National Archives Foundation are maintained in the Development Office in the Washington, DC, area. Foundation member files for the private foundations that support the Presidential libraries may be located at individual Presidential libraries and projects. The addresses are listed in Appendix B following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees who serve on committees and current and prospective members of NARA's Federal advisory committees, the National Archives Foundation, and foundations associated with the Presidential libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Committee and foundation member files may include correspondence, resumes, biographical statements, mailing lists, and travel documents. These files may contain the following information about an individual: Name, address, telephone number, NARA correspondence symbol, educational background, employment history, list of professional accomplishments and awards, titles of publications, and other information furnished by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains committee member files to: Review professional qualifications of prospective committee members; document committee members' travel activities related to committee business; record the participation of committee members in committee activities; and contact members about future meetings and events. NARA maintains foundation member files in order to contact members about meetings, conferences, and special events.

The routine use statements A, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in committee and foundation member files may be retrieved by the name of the individual or by the name of the committee or foundation.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Committee and foundation member files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For committee member files the system manager is the Director of the Policy and Communications Staff. For working group member files, the system manager is the Assistant Archivist for Records Services—Washington, DC (NW). For the Foundation of the National Archives member files, the system manager is the Director of the Development Staff. For foundation member files located in the Presidential libraries and projects, the system manager is the director of the individual Presidential library or project. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer, whose address is listed in Appendix B following the NARA Notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in committee, working group, and foundation member files is obtained from NARA employees, current and prospective members of Federal advisory committees, working groups, foundations, and references furnished by such persons.

NARA 5

SYSTEM NAME:

Conference, Workshop, and Training Course Files

SYSTEM LOCATION:

Conference, workshop, and training course files may be maintained in the following locations in the Washington, DC, area and other geographical regions. The addresses for these locations are listed in Appendix B following the NARA Notices: (1) Office of Records Services—Washington, DC; (2) Office of Human Resources and Information Services; (3) Presidential libraries and projects; and (4) Regional records services facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include attendees and speakers at NARA-sponsored conferences, workshops, and training courses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Conference, workshop, and training course files maintained on attendees may include: Standard Forms 182, Request, Authorization, Agreement, and Certification of Training; application/registration forms; evaluations; other administrative forms; and copies of payment records. Files maintained on speakers may include correspondence, biographical statements, and resumes. These files may contain some or all of the following information about an individual: name, home address, business address, home telephone number, business telephone number, social security number, birthdate, position title, name of employer/organization, employment history, professional awards, areas of expertise, research interests, reason(s) for attendance, titles of publications, and other information furnished by the attendee or speaker.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104, 2109, and 2904.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains files on attendees and speakers to: Register attendees for conferences, workshops, training courses, and other events; contact attendees for follow-up discussions; plan, publicize, and document interest in current and future NARA-sponsored conferences, workshops, training courses, and special events; and prepare mailing lists in order to disseminate information on future events and publications of related interest. Information in the records is also used to prepare statistical and other reports on conferences, workshops, training courses, and other events sponsored by NARA.

NARA may disclose information on individuals in the files to outside organizations that co-sponsor conferences, workshops, training courses, and other events for purposes of administering the course or event. NARA may disclose information on an individual to the organization or agency that funded the individual's attendance. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in paper records may be retrieved by either the title or the date of the conference, workshop, training course, or event and thereunder by the name of the individual. Information in electronic records may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Conference, workshop, and training course files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For conference, workshop, and training course files located in the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for Records Services—Washington, DC (NW). For files located in the Office of Human Resources and Information Services, the system manager is the Assistant Archivist for Human Resources and Information Services (NH). For files in the following locations, the system manager is the director of the individual: Presidential library and project; Federal Records Centers; and regional archives. The addresses are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer, whose address is listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy

Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in the files may be obtained from speakers, attendees, and potential speakers and attendees at NARA-sponsored conferences, workshops, and training courses, and from references provided by those individuals.

NARA 6

SYSTEM NAME:

Mailing List Files.

SYSTEM LOCATION:

Mailing lists may be maintained in the following NARA locations. The addresses for these locations are listed in Appendix B following the NARA Notices:

(1) Congressional and Public Affairs Staff (NCON);

(2) National Historical Publications and Records Commission (NHPRC);

(3) Office of Records Services '' Washington, DC;

(4) Staff Development Services Branch;

(5) Acquisitions Services Division;

(6) Presidential libraries and projects;

(7) Regional records services facilities;

(8) NARA Development Staff (NDEV); and

(9) Policy and Communications Staff (NPOL).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system may include: Members of the media; members of Congress; members of the National Historical Publications and Records Commission; members of the Foundation for the National Archives; local, political, and other dignitaries; researchers and records managers; historians, archivists, librarians, documentary editors, and other professionals in related fields; educators; authors; subscribers to free and fee publications and newsletters; buyers of NARA products; vendors; and other persons with an interest in National Archives programs, exhibits, conferences, training courses, and other events.

CATEGORIES OF RECORDS IN THE SYSTEM:

In addition to names and addresses, mailing lists may include any of the following information about an individual: Home/business telephone number; position title; name of employer, organization, and/or institutional affiliation; and subscription expiration date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104, 2307 and 2904(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains mailing lists to generate address labels to: Disseminate mailings of NARA publications, newsletters, press releases, and announcements of meetings, conferences, workshops, training courses, public and educational programs, special events, and procurements; send invitations for exhibit openings, lectures, and other special events; and send customers updated information about NARA holdings and about methods of requesting copies of accessioned and non-current records.

The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records from which paper records may be printed.

RETRIEVABILITY:

Information about individuals maintained in mailing lists may be retrieved by: The name of the individual; the name of an employer or institutional/organizational affiliation; the category of individuals/organizations on mailing lists; the city or zip code.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Mailing lists are periodically updated and purged of outdated information. NARA organizational units retain mailing lists for as long as the lists are needed for the purposes previously cited.

SYSTEM MANAGER(S) AND ADDRESS:

For mailing lists maintained in the previously cited locations (1) through (9), the system managers are:

(1) Director, NCON;

(2) Executive Director, NHPRC;

(3) Assistant Archivist for Records Services—Washington, DC;

(4) Assistant Archivist for Human Resources and Information Services;

(5) Assistant Archivist for Administrative Services;

(6) Directors of the individual Presidential libraries;

(7) Directors of the individual regional records services facilities;

(8) Director, NDEV; and

(9) Director, NPOL.

The addresses are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify NARA Privacy Act Officer, whose address is listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in mailing lists is obtained from individuals whose names are recorded on mailing lists for the purposes previously cited or from NARA employees who maintain the lists.

NARA 7

SYSTEM NAME:

Freedom of Information Act (FOIA) Request Files and Mandatory Review of Classified Documents Request Files

SYSTEM LOCATION:

FOIA and mandatory review request files are maintained in the following locations. The addresses for these locations are listed in Appendix B following the NARA Notices.

(1) Office of the Federal Register;

(2) Office of the Inspector General;

(3) Office of General Counsel;

(4) Office of Records Services—Washington, DC;

(5) Regional records services facilities; and

(6) Presidential libraries, projects, and staffs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who cite FOIA to request access to records and persons who request the mandatory review of security-classified materials under Executive Order 12958 or predecessor orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files for requests made under FOIA and the mandatory review provisions of Executive Order 12958 (or predecessor orders) may include: Correspondence control registers, logs, and databases; requests for access or mandatory review, appeal letters from requestors, NARA replies to original requests and appeals, and supporting documents; Certificate of Citizenship; and other administrative forms used in the process. These files may also contain information or determinations furnished by and correspondence with other Federal agencies. FOIA and mandatory review request files may contain some or all of the following information about an individual: name, address, telephone number, position title, name of employer/institutional affiliation, marital status, birthplace, birthdate, citizenship, research interests, other information provided by the requestor, and copies of documents furnished to the requestor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12958, April 17, 1995, its predecessor orders governing access to classified information, and 5 U.S.C. 552, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains FOIA and mandatory review request files on individuals to record: Requests for records under FOIA, requests for access to security-classified materials under the mandatory review provisions of Executive Order 12958 and predecessor orders, and appeals of denials of access; actions taken on requests and appeals; and the status of requests and appeals in logs and databases. The records are also used to facilitate the preparation of statistical and other reports regarding use of FOIA and the mandatory review provisions of Executive Order 12958.

NARA may disclose information in request files to agencies that have an equity in the requested records in order for those agencies to review records for possible declassification and release. The routine use statements A, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in FOIA and mandatory review request files may be retrieved by one or more of the following data elements: The name of the individual; an alphanumeric case file number; a project number assigned to the request; the Record Group number; the type of request (FOIA or mandatory review); or the name, social security number, or military service number of the former civilian employee/veteran whose record was the subject of the request at the National Personnel Records Center.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Files for requests made under FOIA and the mandatory review provisions of Executive Order 12958 and predecessor orders are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For FOIA request files and mandatory review request files, the system managers are below.

(1) For FOIA requests related to the Office of Federal Register, the system manager is the Director of the Federal Register.

(2) For FOIA request files related to records held by the Office of the Inspector General, the system manager is the Inspector General, Office of the Inspector General.

(3) For FOIA requests for NARA's operational records, the system manager is the General Counsel, Office of General Counsel.

(4) For FOIA and mandatory review request files located in organization units within the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for the Office of Records Services—Washington, DC.

(5) For FOIA request files and mandatory review request files maintained in regional record services facilities, the system manager is the director for the individual regional facility.

(6) For FOIA request files for Nixon Presidential Materials the system manager is the Assistant Archivist for Presidential Libraries. For all other Presidential libraries, projects, and staffs, the director of the library, project, or staff is the system manager. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify NARA Privacy Act Officer, whose address is listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Information in FOIA and mandatory review request files is obtained from persons who cite FOIA to request access to records, researchers who request mandatory review of security-classified records, NARA employees who maintain the files and handle FOIA and mandatory review requests and appeals, and other agencies that have reviewed the requested records.

NARA 8

SYSTEM NAME:

Restricted and Classified Records Access Authorization Files.

SYSTEM LOCATION:

Restricted and classified records access authorization files are maintained in the following locations. The addresses are listed in Appendix B following the NARA Notices.

(1) Space and Security Management Division;

(2) Office of Records Services—Washington, DC;

(3) Regional records services facilities; and

(4) Presidential libraries, projects, and staffs.

CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

Individuals covered by the system include persons who request to use agency-restricted, donor-restricted, and security-classified records or materials in the custody of organizational units located in the Washington, DC, area; regional records services facilities; and Presidential libraries, projects, and staffs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Access authorization files include applications for access to restricted and classified records, letters of authorization from sponsoring agencies, other documentation related to security clearance levels, and information in an electronic database. These files may include some or all of the following information about an individual: Name, address, telephone number, birthdate, birthplace, citizenship, social security number, occupation, name of employer/institutional affiliation, security clearance level, basis of clearance, name of sponsoring agency, field(s) of interest, intention to publish, type of publication, subject(s) of restricted or classified records to be reviewed, the expiration date for authorization to review the records, and other information furnished by the requestor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108 and 2204.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains restricted and classified records access authorization files on individuals to: Maintain a record of requests for access to restricted and classified records; authorize and control access to restricted and classified records and materials; and facilitate preparation of statistical and other reports.

NARA may disclose information in these access authorization files to other agencies that have an equity in the restricted or classified records in order for agency officials to review access authorization requests. The routine use statements A, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in restricted and classified records access authorization files may be retrieved by some or all of the following: The name of the individual, the name of the sponsoring agency, Record Group number, or collection title.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Restricted and classified records access authorization files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For access authorization files maintained by Space and Security Management Division, the system manager is the Assistant Archivist for Administrative Services (NA). For access authorization files located in organizational units in the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for Records Services—Washington, DC. For access authorization files located in the Office of Presidential Libraries and the Nixon Presidential Materials Staff, the system manager is the Assistant Archivist for Presidential Libraries. For access authorization files located in the following locations, the system manager is the director of the individual regional records services facilities, and Presidential libraries and projects. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in these files is obtained from persons who request to use restricted and classified records, NARA employees who maintain the files, employers of requestors, and sponsoring agency officials.

NARA 9

SYSTEM NAME:

Authors Files.

SYSTEM LOCATION:

Authors files are maintained in the Policy and Communications Staff, in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include authors who have submitted manuscripts for publication in Prologue: Quarterly of the National Archives and Records Administration or in other NARA publications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files on authors may include correspondence, resumes, biographical statements, and manuscript copies of articles. These records may contain some or all of the following information about an individual: Name, address, telephone number, educational background, professional experience and awards, research interests, and titles of previous publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2307.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains files on individual authors in order to: Select authors' manuscripts for publishing in Prologue: Quarterly of the National Archives and Records Administration or in other NARA publications; maintain a record of authors' manuscripts; and contact authors concerning re-publication of manuscripts and other related issues. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in authors files may be retrieved by the issue date of the publication and thereunder by the name of the individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Authors files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Director of the Policy and Communications Staff . The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in authors files is obtained from authors or their agents.

NARA 10 (RESERVED)
NARA 11

SYSTEM NAME:

Credentials and Passes.

SYSTEM LOCATION:

Records related to credentials and passes are maintained at the following locations in the Washington, DC, area and other geographical regions. The addresses are listed in Appendix B following the NARA Notices.

(1) Space and Security Management Division;

(2) Facilities and Materiel Management Services Division;

(3) Office of the Federal Register (NF);

(4) Regional records services facilities;

(5) Presidential libraries and projects; and

(6) Washington National Records Center (NWMW).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system may include NARA employees, volunteers, contractors at all NARA facilities, and employees or contractors of other Federal agencies temporarily stationed at NARA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Credentials and passes may include: Copies of official passport records; copies of identification badges; and administrative forms and information in electronic databases used to generate NARA identification badges and access cards and to issue room and stack area keys and parking space permits. Credentials and passes may contain some or all of the following information about an individual:

(1) *Official passport records:* Copies of passport application records which include: Name; photograph; name of agency (NARA); address; telephone number; social security number; position title; grade; birthdate; height; weight; color of hair and eyes; passport number; passport issue and expiration dates;

(2) *Copies of identification badges and administrative forms and information in electronic databases used to generate NARA identification badges and access cards:* Name; photograph; NARA correspondence symbol; office telephone number; social security number; position title; grade; name of agency or firm (contractors only); birthdate; height; weight; color of hair and eyes; identification/access card number; card issue and expiration dates; building locations, time zones, and reasons for required access; signatures of the individual and authorized officials; and dates of signatures;

(3) *Administrative forms and information in electronic databases used to issue room and stack area keys:* Name; NARA correspondence symbol; office telephone number; building room number/stack area; type of key issued (single door or stack master); key tag number; signatures of the individual and authorized official; and dates of signatures; and

(4) *Administrative forms used to assign parking spaces:* Name; address; office telephone number; name of agency; make, year, and license number of vehicle; signatures of carpool members; and dates of signatures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains records on individuals in order to facilitate the issuance and control of Government passports, NARA identification badges, access cards, room and stack area keys, and parking space permits. At the National Archives at College Park, information in an electronic database is used to generate single badges that identify individuals and electronically allow individuals to enter and exit secured and non-secured areas of the building. Routine use statements A, B, C, D, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in credentials and passes may be retrieved by the name of the individual, identification card number, and/or social security number.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Credentials and passes are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers for the following types of credentials and passes are as follows:

(1) *Official passport records:* Assistant Archivist for Administrative Services (NA);

(2) *Records used for NARA identification badges and access cards for employees and volunteers in the Washington, DC, area,* for badges and access cards for contractors at the

National Archives Building and the National Archives at College Park, and for key issuance and parking control at the National Archives Building and the National Archives at College Park: Assistant Archivist for Administrative Services (NA).

(3) *Records used for NARA identification badges and access cards for contractors and for key issuance and parking control at the Washington National Records Center:* Director, NWMW.

(4) *Records used for key issuance and parking control at the Office of the Federal Register:* Director, NF.

(5) *Records used for NARA identification badges and access cards and for key issuance and parking control at the National Personnel Records Center, Presidential libraries and projects, and regional records services facilities:* Directors of the National Personnel Records Center, Presidential libraries and projects, and regional records services facilities.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in credentials and passes is obtained from individuals being issued credentials and passes from authorized issuing officials.

NARA 12

SYSTEM NAME:

Emergency Notification Files.

SYSTEM LOCATION:

Emergency notification lists are maintained in the Space and Security Management Services Division at the National Archives at College Park. Local emergency notification files are maintained in all NARA facilities nationwide. The addresses for these locations are listed in Appendix B following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees who have been designated as primary and alternate emergency contact personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Emergency notification files include lists of names of NARA officials, cover memoranda, and administrative forms. These files may contain some or all of the following information about an individual: name, correspondence symbol, home address, business and home telephone numbers, position title, and emergency assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains current directory information on designated NARA employees to contact outside of business hours in case of emergencies involving NARA facilities, including records storage areas, and to notify these employees of weather and energy emergencies that would result in the closing of Government offices. The routine use statement A, D, and F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in emergency notification files may be retrieved by the name of the individual or the facility.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel and contractors. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment. Authorized individuals may maintain copies in additional locations.

RETENTION AND DISPOSAL:

Emergency notification files are temporary records that are periodically updated and purged of outdated information. NARA organizational units retain emergency notification files for as long as the information is needed for the purposes previously cited.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for the NARA-wide and Washington, DC, area notification lists is: Assistant Archivist for Administrative Services. The system managers for local emergency notification files are the directors of the individual Federal Records Centers, Presidential libraries and projects, and regional archives. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in emergency notification files is obtained from the NARA employees whose names appear on emergency notification lists and forms.

NARA 13

SYSTEM NAME:

Defunct Agency Records.

SYSTEM LOCATION:

Defunct agency records may be located in the Washington National Records Center (WNRC) and in the regional records services facilities at the locations listed in Appendix B following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include employees of a defunct agency and those persons who may have had dealings with the agency prior to termination.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes those records of an agency whose existence has been terminated with no successor in function. This system contains those records that were maintained by a defunct agency in internal Privacy Act systems of records. Categories of personal information maintained on individuals in these records are described in the Privacy Act system notices previously published by the originating agency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2107, 2907, and 3104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

If records of a defunct agency are unscheduled, NARA may review the records during the appraisal process in order to determine the disposition of the records.

NARA may disclose the records, while providing reference service on the records, in accordance with the routine uses in the Privacy Act notices previously published by the defunct agency. The routine use statements A, F, and G, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, electronic, and microfilm records.

RETRIEVABILITY:

Information in records of a defunct agency may be retrieved by the name of the individual or by other identifier established by the defunct agency when the records were maintained by that agency.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records of a defunct agency that are appraised as temporary are destroyed in accordance with the records disposition instructions approved by the Archivist of the United States. Records of a defunct agency that are appraised as permanent are transferred to the National Archives of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers for records of defunct agencies are the directors of the regional records services facilities and the Assistant Archivist for Records Services—Washington, DC (NW). The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Upon termination of an agency with no successor in function, the agency transfers its records to the custody of NARA. Prior to termination, the agency has described record source categories in its Privacy Act system notices for agency records.

NARA 14

SYSTEM NAME:

Payroll and Time and Attendance Reporting System Records.

SYSTEM LOCATION:

Payroll and time and attendance reporting system records are located in NARA organizational units nationwide that employ timekeepers. The addresses for Washington, DC, area offices and staffs and regional facilities are listed in Appendix B following the NARA Notices. An electronic record-keeping system, the Electronic Time and Attendance Management System (ETAMS), is maintained for NARA by the General Services Administration (GSA) under a reimbursable agreement.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include former NARA employees and current full-time, part-time, and intermittent NARA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll and time and attendance files may include: Standard Forms (SF) 71, Application for Leave; GSA Forms 873, Annual Attendance Record; NA Forms 3004, Intermittent Employees Attendance Record; GSA Forms T–934, Time and Attendance Record; flextime sign-in sheets; and the electronic system, the Payroll Accounting and Reporting System (PAR). These paper and electronic records may contain some or all of the following information about an individual: Name; address; correspondence symbol; telephone number; social security number; birthdate; position title; grade; hours of duty; and salary, payroll and related information (*e.g.*, withholding status, voluntary deductions, financial institution), and attendance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., 2101 through 8901 is the authority for the overall system. Specific authority for use of social security numbers is contained in Executive Order 9397, 26 CFR 31.6011(b)2, and 26 CFR 31.6109–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA and GSA maintain payroll, time and attendance reporting system records on individual NARA employees to carry out pay administration functions and attendance-related personnel management actions.

To the extent necessary, NARA and GSA may disclose information in these records to outside entities for the monitoring and documenting of grievance proceedings, EEO complaints, and adverse actions, and for conducting counseling sessions. NARA, GSA, and other NARA agents may disclose information in the files to state offices of unemployment compensation in connection with claims filed by NARA employees for unemployment compensation. NARA and GSA may disclose information in this system of records to the Office of Management and Budget in connection with the review of private relief legislation. NARA and GSA may disclose information in these records to the Office of Personnel Management for its production of summary descriptive statistics or for related work studies; while published statistics and studies do not contain individual identifiers, the selection of elements of data included in studies may be structured in a way that makes individuals identifiable by inference. The routine use statements A, B, C, D, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfiche, and electronic records.

RETRIEVABILITY:

Information in payroll, time and attendance reporting system records may be retrieved by the name of the individual or by social security number.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via

passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Payroll and time and attendance paper records are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Electronic records in PAR are temporary records whose disposition is governed by the General Records Schedules. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for the electronic system and paper records sent to the National Payroll Center as input to that system is: Chief, National Payroll Center (6BCY–N), General Services Administration, Room 1118, 1500 East Bannister Rd., Kansas City, MO 64414.

System managers for paper records maintained in NARA offices such as SF's 71 and sign-in sheets are the office heads and staff directors of individuals offices and staffs in the Washington, DC, area and the directors of the individual Presidential libraries and projects, and regional records services facilities. The system manager for unemployment compensation records is the Assistant Archivist for Administrative Services. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in payroll and time and attendance reporting system records is obtained from: current and former NARA employees themselves, timekeepers, supervisors of employees, GSA payroll specialists, and other Federal agencies for which the individual worked.

NARA 15

SYSTEM NAME:

Freelance Editor/Indexer Files.

SYSTEM LOCATION:

Freelance editor/indexer files are located in the Product Development and Distribution Branch in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include freelance editors and indexers with whom NARA has contracted for editing and indexing services or who have expressed an interest in performing such services for NARA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Freelance editor/indexer files may include correspondence, resumes, biographical statements, evaluations, examples of previous work, invoices, and certifications for payment. These records may contain some or all of the following information about an individual: Name, address, telephone number, educational background, professional experience and awards, research interests, titles of publications, and other information furnished by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104, 2109, and 2307.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains freelance editor/indexer files on individuals to: review professional qualifications of editors and indexers; make assignments and indicate assignment completion dates; evaluate the quality of work performed during assignments; and document editing and indexing expenditures for budgetary purposes.

The routine use statements A, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information in freelance editor/indexer files may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Freelance editor/indexer files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is Assistant Archivist for Office of Records Services—Washington, DC (NW). The address is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in freelance editor/indexer files may be obtained from: Freelance editors and indexers with whom NARA has contracted to perform editing and indexing services; freelance editors and indexers who have expressed an interest in performing services for NARA; NARA employees who maintain the files; and references furnished by freelance editors and indexers.

NARA 16

SYSTEM NAME:

Library Circulation Files.

SYSTEM LOCATION:

Library circulation files are located at the National Archives Library in the Washington, DC, area and at Presidential libraries. The addresses are

listed in Appendix B following the NARA notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include all NARA employees and researchers who have borrowed books and other materials from the library collections of the National Archives Library and/or the Presidential libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Library circulation files contain the following information about an individual: Name, correspondence symbol or address, telephone number, titles and call numbers of items borrowed, and dates that the items were borrowed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains library circulation files on individuals in order to control the circulation of library books, periodicals, and other materials in NARA's library collections. The routine use statements A, F, and G, described in Appendix A following the NARA Notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in library circulation files may be retrieved by the name of an individual, by the title of the item charged out, or by the call number for the item.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Library circulation files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for library circulation files in the Washington, DC, area is the Assistant Archivist, Office of Records Services—Washington, DC (NW). The system managers for library circulation files in the Presidential libraries are the directors of the individual libraries. The addresses for the locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in library circulation files is obtained from NARA employees and researchers who borrow books and other materials from the library collections of the National Archives Library and/or the Presidential Libraries.

NARA 17

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Grievance records are maintained in Employee Relations and Benefits Branch locations at the National Archives at College Park, MD and in St. Louis, MO.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include current and former NARA employees who have submitted grievances to NARA in accordance with Office of Personnel Management (OPM) regulations (5 CFR part 771) or in accordance with internal negotiated grievance procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grievance records may include statements of witnesses, reports of interviews and hearings, findings and recommendations of examiners, copies of the original and final decisions, and related correspondence and exhibits. These files may contain some or all of the following information about an individual: Name, address, social security number, correspondence symbol, telephone number, occupation, grade, salary information, educational background, employment history, medical information, and names of supervisors and witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, and 7121; Executive Order 10577 (3 CFR 1954 through 1958); Executive Order 10987 (3 CFR 1959 through 1963).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains grievance records on individuals in order to process grievances submitted by or on behalf of NARA employees in accordance with OPM regulations or internal negotiated grievance procedures. NARA may disclose only enough information in grievance records to any source from which additional information is requested in the course of processing a grievance in order to: Identify the source to the extent necessary, inform the source of the purpose(s) of the request, and identify the type of information requested from the source. NARA may also disclose information in grievance files to officials of labor organizations recognized under the Civil Service Reform Act when the information is relevant to the officials' duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions. The routine use statements A, D, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in grievance records may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/ or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Grievance files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files

Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is Assistant Archivist for Office of Human Resources and Information Services (NH). The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records, which have been the subject of a judicial or quasi-judicial action, will be limited in scope. Review of amendment requests of these records will be restricted to determine if the record accurately documents the action of the NARA ruling on the case and will not include a review of the merits of the action, determination, or finding. NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in grievance records may be obtained from: Individuals on whom records are maintained, witnesses, NARA officials, and NARA and the General Services Administration payroll and personnel specialists.

NARA 18

SYSTEM NAME:

General Law Files.

SYSTEM LOCATION:

Records are located in the Office of the General Counsel in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include: Current and former NARA employees, other Federal agency employees, individual members of the public, witnesses in litigation, persons who have requested records under the Freedom of Information Act (FOIA) and/or the Privacy Act, persons about whom requests under FOIA and/or the Privacy Act have been made, and persons involved in litigation to which NARA is a party.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain some or all of the following information about an individual: Name, social security number, position description, grade, salary, work history, complaint, credit ratings, medical diagnoses and prognoses, and doctor's bills. The system may also contain other records such as: case history files, copies of applicable law(s), working papers of attorneys, testimony of witnesses, background investigation materials, correspondence, damage reports, contracts, accident reports, pleadings, affidavits, estimates of repair costs, invoices, litigation reports, financial data, and other data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C., Part II; 5 U.S.C., Chapter 33; 5 U.S.C. 5108, 5314–5316 and 42 U.S.C. 20003, et seq.; 5 U.S.C. 7151–7154; 5 U.S.C. 7301; 5 U.S.C. 7501, note (adverse actions); 5 U.S.C., Chapter 77; 5 U.S.C. App.; 28 U.S.C. 1291, 1346(b)(c), 1402(b), 1504, 2110; 31 U.S.C. 3701, 3711, 3713, 3717, 3718, 3721.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to: Give general legal advice, as requested, throughout NARA; prepare attorneys for hearings and trials; reference past actions; and maintain internal statistics.

Information may be disclosed to the Department of Justice in review, settlement, defense, and prosecution of claims, complaints, and lawsuits involving contracts, torts, debts, bankruptcy, personnel adverse action, equal employment opportunity, unit determination, unfair labor practices, and FOIA and Privacy Act requests. Information may be disclosed to the Office of Government Ethics (OGE) to obtain OGE advice on an ethics issue, to refer possible ethics violations to OGE, or during an OGE evaluation of NARA's Ethics Program. The routine use statements A, B, C, D, E, F, and G, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information may be obtained by the name of the individual or by a case number assigned by the court or agency hearing the complaint or appeal.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Most files are temporary records and are destroyed in accordance with disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Significant litigation files are permanent records that are eventually transferred to the National Archives of the United States. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the NARA General Counsel. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from one or more of the following sources: Federal employees and private parties involved in torts and employee claims, contracts, personnel actions, unfair labor practices, and debts concerning the Federal Government; witnesses; and doctors and other health professionals.

NARA 19

SYSTEM NAME:

Workers Compensation Case Files.

SYSTEM LOCATION:

Workers compensation case files are located in the Employee Relations and Benefits Branch at the National Archives at College Park, and in the administrative offices of field units. The addresses are listed in Appendix B following the NARA notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees and former employees who have reported on CA–1 or CA–2 work-related injuries or other occupational health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Workers compensation case files may include: accident reports, including CA–1 & 2, Federal Employees Notice of Injury or Occupational Disease; CA–4, Claims For Compensation for Injury or Occupation Disease; CA–8, Claims for Continuance of Compensation on Account of Disability; time and attendance reports, and medical reports from physicians and other health care professionals. These files may contain some or all of the following information about an individual: Name, address, correspondence symbol, telephone number, occupation, birthdate, names of supervisors and witnesses, and medical information related to work-related accidents or other occupational health problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902 and Chapter 81.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains workers compensation case files on individuals in order to identify and record information about those NARA employees who have sustained injuries or reported other occupational health problems, and to facilitate the preparation of statistical and other reports regarding work-related injuries or other occupational health problems. NARA may disclose information in the files to a Federal, State, or local public health service agency, concerning individuals who have contracted certain communicable diseases or conditions. NARA may disclose information in the files to the Department of Labor for purposes of administering the workers compensation program. NARA may disclose information in the files to the Occupational Safety and Health Administration for the purposes of monitoring workplace health and safety issues. The routine use statements A, B, C, D, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in workers compensation case files may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Workers compensation case files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Assistant Archivist for Human Resources and Information Services. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in workers compensation case files may be obtained from: individuals to whom the records pertain, NARA supervisors, NARA personnel specialists, physicians, others providing health care services, and the Department of Labor.

NARA 20

SYSTEM NAME:

Reviewer/Consultant Files.

SYSTEM LOCATION:

Reviewer/consultant files are located at the National Historical Publications and Records Commission (NHPRC) in Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include persons who have expressed an interest in or have served as reviewers or consultants for the NHPRC records or publications grant programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reviewer/consultant files may include resumes, biographical statements, correspondence, and lists containing some or all of the following information about an individual: Name, address, telephone number, educational background, professional experience and awards, and titles of publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2501 through 2506.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NHPRC maintains reviewer/consultant files on individuals in order to select reviewers who will evaluate proposals received for the records and publications grant programs, and to recommend archival consultants for those state and non-state organizations that have received grants for records and publications projects. NARA may disclose to grant recipients the lists of names of potential consultants, in order for the recipients to contact individuals who have expressed an interest in serving as consultants on grant projects. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in reviewer/consultant files may be retrieved by the name of the individual or the proposal evaluated by the reviewer.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords

from terminals located in attended offices. After hours, the building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Reviewer/consultant files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for reviewer/consultant files is the Executive Director, NHPRC. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in reviewer/consultant files may be obtained from reviewers and consultants and from references furnished by them.

NARA 21

SYSTEM NAME:

Fellowship and Editing Institute Application Files.

SYSTEM LOCATION:

Fellowship and Editing Institute application files are located in the National Historical Publications and Records Commission (NHPRC) in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include applicants for NHPRC fellowships in archival administration and advanced historical editing and for the annual Institute for the Editing of Historical Documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Fellowship and Editing Institute application files may include application forms, correspondence, resumes, college transcripts, and evaluations. These records may contain some or all of the following information about an individual: Name; address; telephone number; educational background; professional experience and awards; archival and historical records experience; titles of publications; and other information provided in letters of reference furnished by applicants and in evaluations completed by fellowship institutions and documentary editing projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2504 and 2506.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NHPRC maintains fellowship and Editing Institute application files on individuals in order to: Evaluate the preliminary eligibility of applicants for fellowships; jointly select, with the Director of the Editing Institute, applicants to attend the Institute for the Editing of Historical Documents; and oversee grant-making and grant administration programs. NHPRC discloses copies of individuals' fellowship application files to officials of fellowship institutions and documentary editing projects for the purposes of selecting fellows and administering fellowships in archival administration and advanced historical editing. NHPRC discloses copies of individuals' Editing Institute applications to the director of the Editing Institute to select applicants to attend the annual Institute and to determine the most useful areas of instruction for successful applicants. The routine use statements A and F, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in fellowship and Editing Institute application files may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Nearly all fellowship application files and all Editing Institute application files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. However, on occasion, files for accepted fellowship applications may be selected by the Executive Director for inclusion in grant case files which have met established criteria for permanent retention in the National Archives of the United States. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Executive Director, NHPRC, Washington, DC. The address for this location is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in fellowship and Editing Institute application files may be obtained from: Applicants for fellowships in archival administration or advanced historical editing under the NHPRC grant program; applicants for the Institute for the Editing of Historical Documents; references furnished by applicants; and officials of fellowship institutions, documentary editing projects, and the Institute for the Editing of Historical Documents.

NARA 22

SYSTEM NAME:

Employee Related Files.

SYSTEM LOCATION:

Employee related files may be maintained at supervisory or administrative offices at all NARA facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include former and current NARA employees and relatives of employees of the National Personnel Records Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee related files consist of a variety of employee related records maintained for the purpose of administering personnel matters. These files may contain some or all of the following information about an individual: Name; home and emergency addresses and telephone numbers; social security number; birthdate; professional qualifications, training, awards, and other recognition; employment history; and information about congressional employee relief bills, conduct, and work assignments. Employee related records may also include military service data on employees of the National Personnel Records Center and their relatives accumulated by operating officials in administering the records security program at the Center. Employee related files do not include official personnel files, which are covered by Office of Personnel Management systems of records OPM/GOVT–1 through 10.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. and 31 U.S.C.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains employee-related files on individuals in order to document travel and outside employment activities of NARA employees, and to carry out personnel management responsibilities in general. The routine use statements A, B, C, D, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in employee related files may be retrieved primarily by the name of the individual.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Employee related files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

System managers for employee files are the office heads and staff directors of individual offices and staffs in the Washington, DC, area and the directors of the individual Presidential libraries and projects, and regional records services facilities. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in employee related files may be obtained from NARA employees and supervisors, and other personnel and administrative records.

NARA 23

SYSTEM NAME:

Investigative Case Files.

SECURITY CLASSIFICATION:

Some of the material contained in this system of records has been classified in the interests of the national security pursuant to Executive Orders 12958 and 13142.

SYSTEM LOCATION:

Investigative case files are located in the Office of Inspector General at the National Archives at College Park.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Individuals covered by this system of records may include: persons who have been the source of a complaint or an allegation that a crime has occurred, witnesses having information or evidence concerning an investigation, and suspects in criminal, administrative, or civil actions. Current and former NARA employees, NARA contract employees, members of NARA's Federal advisory committees, and members of the public are covered under this system of records when they become subjects of or witnesses to authorized investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative case files may include: Statements of alleged administrative, ethical or criminal wrongdoing; reports; related correspondence; exhibits; copies of forms and decisions; summaries of hearings and meetings; notes; attachments; and other working papers. These records may contain some or all of the following information about an individual: name; address; correspondence symbol; telephone number; birthdate; birthplace; citizenship; educational background; employment history; medical history; identifying numbers such as social security and driver's license numbers; and insurance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. Section 3 et seq.; Executive Order 10450; Executive Order 11478; Executive Order 11246; and 44 U.S.C. 2104(h).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains investigative case files on individuals to: examine allegations and/or complaints of fraud, waste, abuse, and irregularities and violations of laws and regulations; make determinations resulting from these authorized investigations; and facilitate the preparation of statistical and other reports by the Office of Inspector General. The routine use statements A, B, C, and G, described in Appendix A following the NARA Notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information in investigative case files may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Nearly all investigative case files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. However, the retention and disposal of significant investigative case files, such as those that result in national media attention, congressional investigation, and/or substantive changes in agency policy or procedure, are determined on a case-by-case basis. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Inspector General, Office of Inspector General. The address is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in investigative case files may be obtained from current and former NARA employees, NARA contract employees, members of NARA's Federal advisory committees, researchers, law enforcement agencies, other Government agencies, informants, and educational institutions, and from individuals' employers, references, co-workers, and neighbors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), this system of records is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act of 1974. The system is exempt:

(1) To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be entitled by Federal law or otherwise eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the source would be held in confidence; and

(2) To the extent the system of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified material, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the source would be held in confidence.

NARA 24

SYSTEM NAME:

Personnel Security Files.

SECURITY CLASSIFICATION:

Some of the material contained in this system of records has been classified in the interests of national security under Executive Orders 12958 and 13142.

SYSTEM LOCATION:

Personnel security records are located in the Space and Security Management Division at the National Archives at College Park, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include: Current and former NARA employees; applicants for employment with NARA; contract employees performing services under NARA jurisdiction; and private and Federal agency researchers, experts, and consultants who request access to security-classified records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security files may include questionnaires, correspondence, summaries of reports, and electronic logs of individuals' security clearance status. These records may contain the following information about an individual: Name, current address, telephone number, birthdate, birthplace, social security number, educational background, employment and residential history, background investigative material, and security clearance data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450; Executive Order 12958; Executive Order 12968; Executive Order 13142; and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains personnel security records on individuals as a basis for determining suitability for Federal or contractual employment and for issuing and recertifying security clearances. Routine use statement C, described in Appendix A following the NARA Notices, applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfiche, and electronic records.

RETRIEVABILITY:

Information in the records may be retrieved by the name of the individual or by social security number.

SAFEGUARDS:

During business hours, paper and microfiche records are maintained in locked rooms and/or in three-way combination dial safes with access limited to authorized employees. Electronic records are accessible via passwords from terminals located in secured offices. Information is released only to officials on a need-to-know basis. After hours, buildings have security guards and/or doors are secured, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Personnel security files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in

FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Assistant Archivist for Administrative Services. The address for this location is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in personnel security files may be obtained from: NARA employees; applicants for employment; contractor employees; private and Federal agency researchers, experts, and consultants; law enforcement agencies; other government agencies; intelligence sources; informants; educational institutions; and individuals' employers, references, co-workers, and neighbors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the personnel security case files in this system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act of 1974, as amended. The system is exempt:

(1) To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence; and

(2) To the extent that the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified material, but only to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence. This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the responsibilities of the National Archives and Records Administration in the areas of Federal employment, Government contracts, and access to security-classified information.

NARA 25

SYSTEM NAME:

Order Fulfillment and Accounting System Records.

SYSTEM LOCATION:

Order Fulfillment and Accounting System (OFAS) records are maintained in organizational units in the following locations:

(1) Office of Records Services—Washington, DC;

(2) Office of Presidential Libraries;

(3) Office of the Federal Register;

(4) Office of Regional Records Services; and

(5) National Archives Trust Fund Division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include: Researchers who order reproductions at Washington, DC, area and regional records facilities; and customers who order NARA inventory items, such as microform and printed publications, mementos, and other specialty products from catalogues and other marketing publications.

CATEGORIES OF RECORDS IN THE SYSTEM:

OFAS records may include: Catalogue order forms; other ordering forms; correspondence; copies of checks, money orders, credit card citations, and other remittances; invoices; and order and accounting information in the electronic system. These records may contain some or all of the following information about an individual: name, address, telephone number, record(s) or item(s) ordered, and credit card or purchase order information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2116(c) and 2307.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains OFAS records on individuals to: Receive, maintain control of, and process orders for reproductions of archival records and other fee items; bill customers for orders; maintain payment records for orders; process refunds; and provide individuals information on other NARA products. Customer order information may be initially disclosed to a NARA agent, a bank that collects and deposits payments in a lockbox specifically used for crediting order payments to the National Archives Trust Fund. NARA may disclose certain order information to contractors, acting as NARA agents that make reproductions of archival records. NARA also may disclose information in OFAS records for the processing of customer refunds to the General Services Administration, which provides NARA's financial and accounting system under a cross-servicing agreement. The routine use statements A, E, F, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in OFAS records may be retrieved by the name of the individual and/or the OFAS transaction number. Information in electronic records may also be retrieved by the invoice number or zip code.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. Credit card information is compartmentalized so that it is available only to those NARA employees responsible for posting and billing credit card transactions. After hours, buildings have security guards and/or doors are secured and all

entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

OFAS records are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for OFAS records is the Assistant Archivist for Administrative Services. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in OFAS records is obtained from customers, NARA employees or agents who are involved in the order process, and GSA employees who process refunds.

NARA 26

SYSTEM NAME:

Volunteer Files.

SYSTEM LOCATION:

Volunteer files may be maintained at supervisory or administrative offices at all NARA facilities that use volunteer workers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who have applied to be NARA volunteers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteer files consist of a variety of records maintained by operating officials to administer personnel matters affecting volunteers. Records may include: Applications for volunteer service and for building passes, registration forms, other administrative forms, correspondence, resumes, letters of recommendation, college transcripts and forms, performance assessments, and copies of timesheets. Volunteer files may include some or all of the following information about an individual: Name; home and emergency addresses and telephone numbers; social security number; birthdate; professional qualifications, training, awards, and other recognition; employment history; and information about injuries, conduct, attendance, years of service, and work assignments. This system of records does not include official personnel files, which are covered by Office of Personnel Management systems of records OPM/GOVT–1 through 10.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2105(d) and generally 5 and 31 U.S.C.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains volunteer files on individuals to: Evaluate individuals who apply to serve as volunteers, docents, interns, and work study students at NARA facilities; assign work and monitor performance; and carry out personnel management responsibilities in general affecting those volunteers. NARA may disclose attendance and performance information on interns and work study students to colleges and universities that oversee those individuals in student internships and work-study programs. The routine use statements A, B, C, D, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in volunteer files may be retrieved primarily by the name of the individual.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Volunteer files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For volunteer files located in Staff Development Services Branch, the system manager is the Assistant Archivist for Human Resources and Information Services. For volunteer files located in organizational units in the Office of Records Services—Washington, DC the system manager is the Assistant Archivist for Records Services—Washington, DC. For volunteer files located in individual Presidential libraries, projects, and staffs, and regional records services facilities, the system manager is the director of the Presidential library, project, or staff or regional records services facilities. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in volunteer files is obtained from the volunteers themselves, NARA supervisors, persons listed as references in applications submitted by volunteers, and educational institutions.

NARA 27

SYSTEM NAME:

Contracting Officer and Contracting Officer's Technical Representative (COTR) Designation Files.

SYSTEM LOCATION:

Contracting officer and contracting officer's technical representative (COTR)

designation files are maintained in the Acquisitions Services Division and the Financial Services Division in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include current and former NARA employees who have been appointed as NARA contracting officers, Government credit cardholders, and COTRs in accordance with Federal Acquisition Regulations (FAR) and internal procurement procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contracting officer and COTR designation files may include: Standard Forms 1402, Certificate of Appointment; correspondence, copies of training course certificates; copies of training forms; and lists. These files may contain some or all of the following information about an individual: name, address, NARA correspondence symbol, telephone number, social security number, birthdate, position title, grade, procurement authorities, and information about procurement training and Government credit cards issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104 and 48 CFR 1.603 generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains contracting officer and COTR designation files in order to administer procurement certification and training programs for NARA contracting officers, credit cardholders, and COTRs in accordance with the FAR and internal procurement procedures.

The routine use statements A and F, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in contracting officer and COTR designation files may be retrieved by the name of the individual or by NARA correspondence symbol.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Contracting officer and COTR designation files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Electronic files are periodically updated and purged of outdated information. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for contracting officer and COTR designation files is the Assistant Archivist for Administrative Services. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in contracting officer and COTR designation files may be obtained from the individuals on whom records are maintained, NARA supervisors, and organizations that provide procurement training or issue Government credit cards.

NARA 28

SYSTEM NAME:

Tort and employee claim files.

SYSTEM LOCATION:

Records are located in the Office of General Counsel (NGC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include: Current and former NARA employees, other Federal agency employees, and individual members of the public who have filed a tort claim or an employee claim against NARA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain some or all of the following information about an individual: Name, social security number, position description, grade, salary, work history, complaint, credit ratings, medical diagnoses and prognoses, and doctor's bills. The system may also contain other records such as: Case history files, copies of applicable law(s), working papers of attorneys, testimony of witnesses, background investigation materials, correspondence, damage reports, contracts, accident reports, pleadings, affidavits, estimates of repair costs, invoices, financial data, and other data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C., Part II; 28 U.S.C. 1291, 1346(b)(c), 1402(b), 1504, 2110, 2401(b), 2402, 2411(b), 2412(c), 2671–2680.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to make determinations on tort and employee claims and for internal statistical reports. Information may be disclosed to: The General Services Administration to process payments for approved claims; and the Department of Justice in review, settlement, defense, and prosecution of claims, and law suits arising from those claims. The routine use statements A, B, C, E, F, and G, described in Appendix A following the NARA notices, also supply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Tort and employee claim files are temporary records and are destroyed in accordance with disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition

instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the General Counsel, Office of General Counsel. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA Notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from one or more of the following sources: Federal employees and private parties involved in torts and employee claims, witnesses, and doctors and other health professionals.

NARA 29

SYSTEM NAME:

State Historical Records Advisory Board Member Files.

SYSTEM LOCATION:

State historical records advisory board member files are located at the National Historical Publications and Records Commission (NHPRC) in Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include persons who have been appointed by states, territories, and the District of Columbia to serve as members of state historical records advisory boards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Board member files may include correspondence, resumes, biographical statements, and lists containing some or all of the following information about an individual: Name, address, telephone number, appointment expiration date, educational background, professional experience and awards, archival and historical records experience, and titles of publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2504.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The NHPRC maintains files on members of state historical records advisory boards to: Document membership on state boards that participate in NHPRC records grant programs; oversee NHPRC grant-making and grant administration responsibilities; and contact board members about future meetings and events. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in state historical records advisory board member files may be retrieved by the name of the individual or by state.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After hours, the building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

State historical records advisory board member files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for state historical records advisory board member files is the Executive Director, NHPRC. The address is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B after the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in the NARA notices.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in state historical records advisory board member files may be obtained from board members themselves, state officials, and references furnished by board members.

NARA 30

SYSTEM NAME:

Garnishment files.

SYSTEM LOCATION:

Records are located in the Office of General Counsel (NGC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include current and former NARA employees against whom a garnishment order has been filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain some or all of the following information about an individual: Name, social security number, address, position title and NARA unit, salary, debts, and creditors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Part II; 42 U.S.C. 659; 11 U.S.C. 1325; 5 U.S.C. 15512 to 5514, 5517, 5520.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to process garnishment orders. Information is disclosed to the General Services Administration, acting as NARA's payroll agent, to process withholdings for garnishments. The routine use statements E, and F, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Garnishment files are temporary records and are destroyed in accordance with disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the General Counsel, Office of the General Counsel. The address for this location is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from courts that have issued a garnishment order and NARA personnel records.

NARA 31

SYSTEM NAME:

Ride Share Locator Database.

SYSTEM LOCATION:

The ride share locator database is maintained at the Facilities and Materiel Management Services Division (NAF).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees whose duty station is or may become College Park, MD, and who have expressed an interest in the NARA Ride Share Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The ride share locator database contains the following information about an individual: name; city, county and state and zip code of residence; NARA unit; and NARA work phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains the ride share locator database to provide employees with the names of and residential information of other employees who have expressed an interest in sharing rides for daily commuting to the National Archives at College Park, MD. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system.

STORAGE:

Electronic records from which paper records may be printed.

RETRIEVABILITY:

Information in the ride share locator database may be retrieved by the name of the individual, city, state, and/or zip code.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records in the ride share locator database are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for the ride share locator database is the Assistant Archivist for Administrative Services. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in the ride share locator database is obtained from individuals who have furnished information to the NARA Ride Share Program.

NARA 32

SYSTEM NAME:

Alternate Dispute Resolution Files.

SYSTEM LOCATION:

The agency's Alternate Dispute Resolution (ADR) files are maintained by the Office of General Counsel (NGC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA staff and former staff, who participate in the ADR process, the agency's Dispute Resolution Specialist and Deputy Dispute Resolution Specialist, and contractor personnel used as mediators in the ADR process.

CATEGORIES OF RECORDS IN THE SYSTEM:

ADR files may include: Written and electronic communication between the employee or former employee, participant representative(s), Dispute Resolution Specialist and Deputy Dispute Resolution Specialist, and the contractor mediator; procurement data; invoices for services; and ADR case files. The system may contain the following information about an individual: Name, home and office addresses, telephone number, dollar value of services rendered by the contractor, previous employment disputes, and education and employment experience of the contractor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Laws 101–552 and 104–320, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains ADR files in order to facilitate the ADR program at the agency. These records may be used by members of the Dispute Resolution staff facilitating dispute resolution and payment of contractors, and by the contractor mediators performing services and invoicing for an ADR case. The Routine Use statements A and F, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in the records may be retrieved by: The name of the individual; the location of the work site; a numeric case file number; and/or the type of request.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in areas only accessible to authorized personnel of NARA. Electronic records are accessible via passwords from terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Agency ADR files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for ADR program files is the General Counsel, NGC. The address for this organization is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in the agency ADR program files is obtained from NARA staff and former staff, participant representative(s), the Dispute Resolution Staff, and the contractor mediators.

NARA 33

SYSTEM NAME:

Development and Donor Files.

SYSTEM LOCATION:

The agency's Development and Donor files are maintained by NARA's Development Staff in the Office of the Archivist (NDEV), the National Archives Trust Fund Division (NAT), and individual Presidential libraries.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who donate money or other gifts to NARA or directly to a Presidential library or to the Foundation for the National Archives; prospective donors; and other persons contacted by NDEV, the Archivist of the United States, and other NARA officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Development and Donor files may include biographical and demographic information for individuals and organizations; background information, interests, affiliations, and giving history for donors, including their relationship and participation with the organization and its stakeholders; prospect management data such as interests, affiliations, cultivation and solicitation of gifts, strategy reports, and talking points; information on gifts and pledges made and miscellaneous information about each gift; records of acknowledgment packages and solicitation letters, including membership cards, receipts, reminders, renewal notices, program announcements, invitations, and attendance records for special events.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2112(g)(1); 2305.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains Development and Donor files in order to facilitate the statutory gift solicitation and receipt authority of the Archivist of the United States. The information in these files may be used by NARA staff to solicit, receive, expend, or otherwise use the monetary donations and gifts on behalf of NARA. Development and Donor files relating to the Foundation for the National Archives may be used by NARA staff and the Board of Directors, staff and contractors of the Foundation for the National Archives—a non-governmental 501(c)(3) organization that supports the programs and activities of the National Archives—for these same purposes.

The Routine Use statements A, E, F, and G, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in the records may be retrieved by the name of the individual or the organization, interest, project, or gift level with which the individual is associated.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in areas accessible only to authorized personnel of NARA. Electronic records are accessible via passwords from terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Development and Donor files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For Development and Donor files relating to the activities of the Foundation for the National Archives, the system manager is the Director, NDEV. For Development and Donor files relating to the activities of NAT, the system manager is the Director, NAT. For Development and Donor files relating to the activities of the individual Presidential libraries, the system manager is the director of the

individual Presidential library. The addresses for these offices are listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in the Development and Donor files is obtained from the Foundation for the National Archives, communications with members, cultivation and solicitation of prospective donors, and publicly available sources.

NARA 34

SYSTEM NAME:

Agency Ethics Program Files

SYSTEM LOCATION:

The agency's ethics program files are maintained by the Office of General Counsel (NGC). The address for this organization is listed in Appendix B following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees and former employees who request ethics guidance from the agency's ethics staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Ethics program files may include employee memoranda and correspondence, notes taken by the ethics staff, memoranda summarizing advice given orally, and electronic records. These files may contain the following information about an individual: Name, address, and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 12674 and 12731, 5 CFR Parts 2638 and 7601.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains ethics program files on employees to document advice and opinions given in ethics matters and to maintain a historical record of ethics opinions that may be used in future ethics cases. Routine use statements A, E, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in credentials and passes may be retrieved by the name of the individual or date.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Agency ethics program files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for ethics program files is NGC. The address for this organization is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in ethics program files is obtained from NARA employees, former employees and the agency's ethics staff.

Appendix A: Routine Uses

The following routine use statements apply to National Archives and Records Administration Privacy Act Notices where indicated:

A. Routine Use-Law Enforcement

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records, may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

B. Routine Use-Disclosure When Requesting Information

A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

C. Routine Use-Disclosure of Requested Information

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, conducting a security or suitability investigation, classifying a job, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

D. Routine Use-Grievance, Complaint, Appeal

A record from this system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management (OPM), the Merit Systems Protection Board, Federal Labor Relations Authority, or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties. To the extent that official personnel records

in the custody of NARA are covered within the system of records published by OPM as Governmentwide records, those records will be considered as a part of that Governmentwide system. Other records covered by notices published by NARA and considered to be separate systems of records may be transferred to OPM in accordance with official personnel programs and activities as a routine use.

E. Routine Use-Congressional Inquiries

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

F. Routine Use-NARA Agents

A record from this system of records may be disclosed as a routine use to an expert, consultant, agent, or a contractor of NARA to the extent necessary for them to assist NARA in the performance of its duties. Agents include, but are not limited to, GSA or other entities supporting NARA's payroll, finance, and personnel responsibilities.

G. Routine Use-Department of Justice/Courts

A record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body before which NARA is authorized to appear, when: (a) NARA, or any component thereof; or, (b) any employee of NARA in his or her official capacity; or, (c) any employee of NARA in his or her individual capacity where the Department of Justice or NARA has agreed to represent the employee; or (d) the United States, where NARA 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 by NARA before a court or adjudicative body is deemed by NARA to be relevant and necessary to the litigation, provided, however, that in each case, NARA determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

Appendix B—Addresses of NARA Facilities

To inquire about your records or to gain access to your records, you should submit your request in writing to: NARA Privacy Act Officer, Office of General Counsel (NGC), National Archives and Records Administration, 8601 Adelphi Road, Room 3110, College Park, MD 20740–6001.

If the system manager is the Assistant Archivist for Record Services—Washington, DC (NW), the records are located at the following address: Office of Record Services—Washington, DC (NW), National Archives and Records Administration, 8601 Adelphi Road, Room 3400, College Park, MD 20740–6001.

If the system manager is the director of a Presidential Library, the records are located at the appropriate Presidential Library, Staff or Project:

George Bush Library, 1000 George Bush Drive West, College Station, TX 77845.

Jimmy Carter Library, 441 Freedom Parkway, Atlanta, GA 30307–1498.

William J. Clinton Presidential Materials Project, 1000 LaHarpe Boulevard, Little Rock, AR 72201.

Dwight D. Eisenhower Library, 200 SE 4th Street, Abilene, KS 67410–2900.

Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, MI 48109–2114.

Herbert Hoover Library, 210 Parkside Drive, P.O. Box 488, West Branch, IA 52358–0488.

Lyndon B. Johnson Library, 2313 Red River Street, Austin, TX 78705–5702.

John F. Kennedy Library, Columbia Point, Boston, MA 02125–3398.

Nixon Presidential Materials Staff, National Archives and Records Administration, 8601 Adelphi Road, Room 1320, College Park, MD 20740–6001.

Ronald Reagan Library, 40 Presidential Drive, Simi Valley, CA 93065–0600.

Franklin D. Roosevelt Library, 4079 Albany Post Road, Hyde Park, NY 12538–1999.

Harry S. Truman Library, 500 West U.S. Highway 24, Independence, MO 64050–1798.

Office of Presidential Libraries, National Archives and Records Administration, 8601 Adelphi Road, Room 2200, College Park, MD 20740–6001.

If the system manager is the director of a regional records center or regional archives facility, the records are located at the appropriate regional records center or regional archives facility:

NARA's Pacific Alaska Region (Anchorage), 654 West Third Avenue, Anchorage, Alaska 99501–2145.

NARA's Southeast Region (Atlanta), 1557 St. Joseph Avenue, East Point, Georgia 30344–2593.

NARA's Northeast Region (Boston), Frederick C. Murphy Federal Center, 380 Trapelo Road, Waltham, Massachusetts 02452–6399.

NARA's Great Lakes Region (Chicago), 7358 South Pulaski Road, Chicago, Illinois 60629–5898.

NARA's Great Lakes Region (Dayton), 3150 Springboro Road, Dayton, Ohio 45439–1883.

NARA's Rocky Mountain Region (Denver), *Physical location:* Bldg. 48, Denver Federal Center, West 6th Avenue and Kipling Street, Denver, Colorado 80225–0307. *Mailing address:* P.O. Box 25307, Denver, Colorado 80225–0307.

NARA's Southwest Region (Fort Worth) *Physical location:* 501 West Felix Street, Building 1, Fort Worth, Texas 76115–3405,
Mailing address: P.O. Box 6216, Fort Worth, Texas 76115–0216.

NARA's Central Plains Region (Kansas City), 2312 East Bannister Road, Kansas City, Missouri 64131–3011.

NARA's Pacific Region (Laguna Niguel, CA), 24000 Avila Road, 1st Floor, East Entrance, Laguna Niguel, California 92677–3497.

NARA's Central Plains Region (Lee's Summit, MO), 200 Slpace Center Drive, Lee's Summit, Missouri 64064–1182.

NARA's Northeast Region (New York City), 201 Varick Street, New York, New York 10014–4811.

NARA's Northeast Region (Center City Philadelphia), 900 Market Street, Philadelphia, Pennsylvania 19107–4292.

NARA's Mid Atlantic Region (Northeast Philadelphia), 14700 Townsend Road, Philadelphia, Pennsylvania 19154–1096.

NARA's Northeast Region (Pittsfield, MA), 10 Conte Drive, Pittsfield, Massachusetts 01201–8230.

NARA's Pacific Region (San Francisco), 1000 Commodore Drive, San Bruno, California 94066–2350.

NARA's Pacific Alaska Region (Seattle), 6125 Sand Point Way NE, Seattle, Washington 98115–7999.

National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, Missouri 63118–4199.

National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132–5100.

Washington National Records Center (WNRC), 4205 Suitland Road, Suitland, MD 20746–8001.

If the system manager is the Director of the National Historical Publications and Records Commission, the records are located at the following address: National Historical Publications and Records Commission (NHPRC), National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room 111, Washington, DC 20408–0001.

If the system manager is the Director of the Policy and Communications Staff, the records are located at the following address: Policy and Communications Staff (NPOL), National Archives and Records Administration, 8601 Adelphi Road, Room 4100, College Park, MD 20740–6001.

If the system manager is the Director of the Development Staff, the records are located at the following address: Development Staff (NDEV), National Archives and Records Administration, 8601 Adelphi Road, Room 4100, College Park, MD 20740–6001.

If the system manager is the Assistant Archivist for Human Resources and Information Services, the records are located at the following address: Office of Human Resources and Information Services (NH), National Archives and Records Administration, 8601 Adelphi Road, Room 4400, College Park, MD 20740.

If the system manager is the Assistant Archivist for Administrative Services, the records are located at the following address: Office of Administrative Services (NA), National Archives and Records Administration, 8601 Adelphi Road, Room 4200, College Park, MD 20740.

If the system manager is the Director of the Federal Register, the records are located at the following mailing address: Office of the Federal Register (NF), National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Washington, DC 20408–0001.

If the system manager is the Inspector General, the records are located at the following address: Office of the Inspector General (OIG), National Archives and Records Administration, 8601 Adelphi Road, Room 1300, College Park, MD 20740.

If the system manager is the General Counsel, the records are located at the

following address: Office of the General Counsel (NGC), National Archives and Records Administration, 8601 Adelphi Road, Room 3110, College Park, MD 20740.

[FR Doc. 02–7528 Filed 4–1–02; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285]

Omaha Public Power District; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Omaha Public Power District (the licensee) to partially withdraw its December 14, 2001, application for proposed amendment to Facility Operating License No. DPR–40 for the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska.

The purpose of the licensee's amendment request was to revise Technical Specifications (TS) 3.7.2(d) and 3.7(4) to allow the surveillance tests to be performed on a refueling frequency outside of a refueling outage, and (2) correct the docket concerning inconsistencies in the 1973 Fort Calhoun Station Safety Evaluation Report associated with the 13.8 kV transmission line capability. By letter dated March 21, 2002, the licensee withdrew its request related to the changes to TS 3.7(2)d.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 22, 2002 (67 FR 2927). However, by letter dated March 21, 2002, the licensee partially withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 14, 2001, and the licensee's letter dated March 21, 2001, which partially withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 26th day of March 2002.

For the Nuclear Regulatory Commission.

Alan Wang,

Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–7929 Filed 4–1–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–344 and 72–17; License Nos. NPF–1 and SNM–2509]

In the Matter of Portland General Electric Company, Trojan Nuclear Plant and Trojan Independent Spent Fuel Storage Installation; Order Approving Application Regarding Proposed Corporate Acquisition (Northwest Energy Corporation Purchase of Portland General Electric Company)

I.

Portland General Electric Company (PGE or the licensee) owns a 67.5 percent interest in the Trojan Nuclear Plant (TNP or Trojan) located on the west bank of the Columbia River in Columbia County, Oregon, and in connection with that interest, is a holder of Facility Operating License No. NPF–1 issued by the U.S. Nuclear Regulatory Commission (NRC), pursuant to part 50 of Title 10 of the Code of Federal Regulations (10 CFR part 50), on November 21, 1975. Under this license, PGE has the authority to possess and maintain but not operate TNP. PGE also owns a 67.5 percent interest in the Trojan Independent Spent Fuel Storage Installation (ISFSI) and accordingly, is a holder of Materials License No. SNM–2509 for the Trojan ISFSI. PGE is currently a wholly-owned subsidiary of Enron Corporation (Enron). PacifiCorp and the Eugene Water and Electric Board own the remaining 2.5 percent and 30 percent interests, respectively, in TNP and the Trojan ISFSI, but are not involved in the transaction described below affecting PGE, which is the subject of this Order.

II.

By an application dated December 6, 2001, as supplemented by a letter dated January 31, 2002 (collectively referred to as the application herein), PGE requested approval of an indirect transfer of the license for TNP and the license for the Trojan ISFSI, to the extent held by PGE. The requested transfers relate to a proposed purchase of all the issued and outstanding common stock of PGE owned by PGE's current parent, Enron, by Northwest Energy Corporation, also known as Northwest Natural Holdco (NW Natural Holdco). PGE is an Oregon corporation engaged principally in the generation, transmission, distribution, and sale of electric energy in Oregon.

On October 5, 2001, Enron and Northwest Natural Gas Company (NW Natural) entered into a Stock Purchase Agreement providing for the purchase by NW Natural Holdco from Enron of all of the issued and outstanding common stock of PGE, subject to certain conditions, including the approval of the NRC. NW Natural will be a wholly-owned subsidiary of NW Natural Holdco, a newly-formed Oregon corporation. The purchase will not affect PGE's status as a regulated public electric utility in the State of Oregon. No direct transfer of the TNP or Trojan ISFSI licenses will occur. Also, no changes to activities under the licenses or to the licenses themselves are being proposed in the application.

Approval of the indirect transfer was requested pursuant to 10 CFR 50.80 and 10 CFR 72.50. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on January 24, 2002 (67 FR 3515). No hearing requests or written comments were received.

Under 10 CFR 50.80 and 10 CFR 72.50, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that NW Natural Holdco's proposed acquisition of PGE under the Stock Purchase Agreement will not affect the qualifications of PGE as a holder of Facility Operating License No. NPF–1 and as a holder of Materials License No. SNM–2509, and that the indirect transfer of the licenses, to the extent effected by the proposed acquisition, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated March 26, 2002.

III.

Accordingly, pursuant to sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80 and 10 CFR 72.50, it is hereby ordered that the application regarding the indirect license transfers referenced above is approved, subject to the following conditions:

(1) Following the completion of the indirect license transfers approved by this Order, PGE shall provide the Director of the Office of Nuclear Reactor Regulation and the Director of the Office of Nuclear Material Safety and Safeguards a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from PGE to its parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of PGE's consolidated net utility plant, as recorded on its books of account.

(2) Should the proposed stock purchase not be completed by March 31, 2003, this Order shall become null and void, provided, however, upon application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

IV.

For further details with respect to this Order, see the initial application dated December 6, 2001, supplemental letter dated January 31, 2002, and the safety evaluation dated March 26, 2002, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov*.

Dated at Rockville, Maryland, this 26th day of March 2002.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–7928 Filed 4–1–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of April 1, 8, 15, 22, 29, May 6, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 1, 2002

There are no meetings scheduled for the Week of April 1, 2002.

Week of April 8, 2002—Tentative

Friday, April 12, 2002

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

Week of April 15, 2002—Tentative

There are no meetings scheduled for the Week of April 15, 2002.

Week of April 22, 2002—Tentative

There are no meetings scheduled for the Week of April 22, 2002.

Week of April 29, 2002—Tentative

Tuesday, April 30, 2002

9:30 a.m. Discussion of Intergovernmental Issues (Closed)

Wednesday, May 1, 2002

8:55 a.m. Affirmation Session (Public Meeting) (If needed)

9:00 a.m. Briefing on Results of Agency Action Review Meeting—Reactors (Public Meeting) (Contact: Robert Pascarelli, 301–415–1245)

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of May 6, 2002—Tentative

There are no meetings scheduled for the Week of May 6, 2002.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: March 28, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–8035 Filed 3–29–02; 11:30 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 8, 2002 through March 21, 2002. The last biweekly notice was published on March 19, 2002 (67 FR 12597).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a

margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 2, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be

granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/reading-rm.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 304–415–4737 or by e-mail to *pdr@nrc.gov*.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: November 16, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Section 3.6.2.2, ''Suppression Pool Water Level,'' and TS 3.6.2.4, ''Suppression Pool Makeup (SMPU) System'' to revise the allowable operating range for the Suppression Pool water level and the modes of applicability for the upper containment pools. The amendment would permit draining of the reactor cavity pool portion of the upper containment pool with unit in Mode 3, ''Hot Shutdown,'' and reactor pressure less than 235 pounds per square inch gauge (psig). Draining of the upper containment pool is required as part of the refueling preparations and is currently not permissible in Mode 1, ''Power Operations,'' Mode 2, ''Startup,'' or Mode 3 by TS Section 3.6.2.4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes revise the required water levels in the upper containment pools and suppression pool during Mode 3. The probability of an accident previously evaluated is unrelated to the water levels in the pools since they are mitigative systems. The operation or failure of a mitigative system does not contribute to the occurrence of an accident. No active or passive failure mechanisms that could lead to an accident are affected by these proposed changes.

The consequences of a previously evaluated accident are not significantly increased. The changes have no impact on the ability of any of the Emergency Core Cooling Systems (ECCS) to function adequately, since adequate net positive suction head (NPSH) is provided with reduced water volumes. The post-accident containment temperature is not significantly affected by the proposed reduction in total heat sink volume. The increase in suppression pool water level to compensate for the reduction in upper containment pool volume will provide reasonable assurance that the minimum post-accident vent coverage is adequate to assure the pressure suppression function of the suppression pool is accomplished. The suppression pool water will be raised only after the reactor pressure has been reduced sufficiently to assure that the hydrodynamic loads from a loss of coolant accident will not exceed the design values. The reduced reactor pressure will also ensure that the loads due to main steam safety relief valve actuation with an elevated pool level are within the design loads. The change in exposure rate expected due to draining the upper containment pool in Mode 3 is small (i.e., by approximately two orders of magnitude) compared to the measured exposure rates in the reactor cavity during refueling preparations. Therefore, these changes do not have an adverse impact on the ability to maintain refueling exposure rates as low as reasonably achievable.

Therefore, the proposed changes do not significantly increase the consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of an accident from any accident previously evaluated?

The proposed changes to the water level requirements for the upper containment pool and the suppression pool do not involve the use or installation of new equipment. Installed equipment is not operated in a new or different manner. No new or different system interactions are created, and no new processes are introduced. The increased suppression pool water level does not increase the probability of flooding in the drywell. No new failures have been created by the change in the water level requirements.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed changes to the upper containment pool and suppression pool water levels do not introduce any new setpoints at which protective or mitigative actions are initiated. No current setpoints are altered by this change. The design and functioning of the containment pressure suppression system is unchanged. The proposed total water volume is sufficient to provide high confidence that the pressure suppression and containment systems will be capable of mitigating large and small break accidents. All analyzed transient results remain well within the design values for the structures and equipment. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert Helfrich, Mid-West Regional Operating Group, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Section Chief: Anthony J. Mendiola.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendment requests: March 1, 2002.

Description of amendment requests: A change is proposed to Surveillance Requirement (SR) 3.0.3 to allow a longer period of time to perform a missed surveillance. The time is extended from the current limit of ''* * * up to 24 hours or up to the limit of the specified frequency, whichever is less'' to ''* * * up to 24 hours or up to the limit of the specified frequency, whichever is greater.'' In addition, the following requirement would be added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The Nuclear Regulatory Commission (NRC) staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714).

The licensee affirmed the applicability of the following NSHC determination in its request for amendments dated March 1, 2002.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Section Chief: Stephen Dembek.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: January 31, 2002.

Description of amendment request: Entergy Operations, Inc. is proposing that the Grand Gulf Nuclear Station, Unit 1, Operating License be amended to reflect a 1.7 percent increase in the licensed 100 percent reactor core thermal power level (an increase in reactor power level from 3,833 megawatts thermal to 3,898 megawatts thermal). These changes result from increased accuracy of the feedwater flow and temperature measurements to be achieved by utilizing high accuracy ultrasonic flow measurement instrumentation. The basis for this change is consistent with the revision, issued in June 2000, to appendix K to part 50 of title 10 of the *Code of Federal Regulations,* allowing operating reactor licensees to use an uncertainty factor of less than 2 percent of rated reactor thermal power in analyses of postulated design basis loss-of-coolant accidents.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The comprehensive analytical efforts performed to support the proposed change included a review of the Nuclear Steam Supply System (NSSS) systems and components that could be affected by this change. All systems and components will function as designed, and the applicable performance requirements have been evaluated and found to be acceptable.

The comprehensive analytical efforts performed to support the proposed uprate conditions included a review and evaluation of all components and systems that could be affected by this change. Evaluation of accident analyses confirmed the effects of the proposed uprate are bounded by the current dose analyses. All systems will function as designed, and all performance requirements for these systems have been evaluated and found acceptable. Because the integrity of the plant will not be affected by operation at the uprated condition, it is concluded that all structures, systems, and components required to mitigate a transient remain capable of fulfilling their intended functions. The reduced uncertainty in the flow input to the power calorimetric measurement allows the current safety analyses to be used, with small changes to the core operating limits, to support operation at a core power of 3,898 megawatts thermal (MWt). As such, all Final Safety Analysis Report (FSAR) Chapter 15 accident analyses continue to demonstrate compliance with the relevant event acceptance criteria. Those analyses performed to assess the effects of mass and energy releases remain valid. The source terms used to assess radiological consequences have been reviewed and determined to either bound operation at the 1.7 percent uprated condition, or new analyses were performed to verify all acceptance criteria continue to be met.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. All systems, structures, and components previously required for the mitigation of a transient remain capable of fulfilling their intended design functions. The proposed changes have no adverse effects on any safety-related system or component and do not challenge the performance or integrity of any safety related system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Operation at the uprated power condition does not involve a significant reduction in a margin of safety. Analyses of the primary fission product barriers have concluded that all relevant design criteria remain satisfied,

both from the standpoint of the integrity of the primary fission product barrier and from the standpoint of compliance with the required acceptance criteria.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: January 31, 2002.

Description of amendment request: Entergy Operations, Inc. requests an amendment for the Grand Gulf Nuclear Station, Unit 1, Technical Specifications to extend the allowed out-of-service time from 72 hours to 14 days for a Division 1 or Division 2 Emergency Diesel Generator (DG) during reactor operational modes 1, 2, or 3. The proposed changes are intended to provide flexibility in performance of corrective and preventive maintenance on the DGs during power operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed Technical Specification (TS) changes do not affect the design, operational characteristics, function, or reliability of the DGs. The DGs are not the initiators of previously evaluated accidents. The DGs are designed to mitigate the consequences of previously evaluated accidents including a loss of offsite power. Extending the allowed outage time (AOT) for a single DG would not significantly affect the previously evaluated accidents since the remaining DGs supporting the redundant ESF systems would continue to perform the accident mitigating functions as designed.

The duration of a TS AOT is determined considering that there is a minimal possibility that an accident will occur while a component is removed from service. A risk-informed assessment was performed which concluded that the increase in plant risk is small and consistent with the USNRC [U.S. Nuclear Regulatory Commission] ''Safety Goals for the Operations of Nuclear Power Plants; Policy Statement,'' **Federal Register**, Vol. 51, p. 30028 (51 FR 30028), August 4, 1986, as further described by NRC [Nuclear Regulatory Commission] Regulatory Guide 1.177.

The current TS requirements establish controls to ensure that redundant systems relying on the remaining DGs are Operable. In addition to these requirements, administrative controls will be established to provide assurance that the AOT extension is not applied during adverse weather conditions that could potentially affect offsite power availability. Administrative controls are also implemented to avoid or minimize risk-significant plant configurations during the time when a DG is removed from service.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TS changes do not involve a change in the design, configuration, or method of operation of the plant that could create the possibility of a new or different kind of accident. The proposed change extends the AOT currently allowed by the TS.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The Engineered Safety Feature (ESF) systems required to mitigate the consequences of postulated accidents consist of three independent divisions. The ESF systems of any two of the three divisions provide for the minimum safety functions necessary to shut down the unit and maintain it in a safe shutdown condition. Each of the three independent ESF divisions can be powered from one of the offsite power sources or its associated on-site DG. This design provides adequate defense-in-depth to ensure that the ESF equipment needed to mitigate the consequences of an accident will have diverse power sources available to accomplish the required safety functions. Thus, with one DG out of service, there are sufficient means to accomplish the safety functions and prevent the release of radioactive material in the event of an accident.

The proposed AOT change does not affect any of the assumptions or inputs to the safety analyses of the FSAR and does not erode the decrease in severe accident risk achieved with the issuance of the Station Blackout (SBO) Rule, 10 CFR 50.63 ''Loss of All Alternating Current Power.''

The proposed extended AOT deviates from the recommended 72 hour AOT of Regulatory Guide (RG) 1.93. However, an extension of the 72 hour AOT to 14 days has been demonstrated to be acceptable based on deterministic and risk-informed analyses. The proposed changes are not in conflict with any other approved codes or standards applicable to the onsite AC [Alternating Current] power sources.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

GPU Nuclear Inc., Docket No. 50–320, Three Mile Island Nuclear Generating Station, Unit 2, Dauphin County, Pennsylvania

Date of amendment request: February 8, 2002.

Description of amendment request: The proposed amendment would replace referenced control requirements for access to high radiation areas with the actual requirements of 10 CFR part 20. The referenced document in Technical Specifications Section 6.11 would no longer exist.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes replace referenced control requirements affecting access to high radiation areas with the actual requirements. This proposed change does not involve any changes to system or equipment configuration. The reliability of systems and components relied upon to prevent or mitigate the consequences of accidents previously evaluated is not affected by the proposed changes. Therefore, these changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature and do not involve a change to the plant design or operation. No new or different types of equipment will be installed as a result of this change. The proposed change is administrative in nature and replaces referenced control requirements for

access to high radiation areas with the actual requirements. No new accident modes or equipment failure modes are created by these changes. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change does not impact or have a direct effect on any safety analysis assumptions. The proposed change is administrative in nature and replaces referenced control requirements for access to high radiation areas with the actual requirements.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Robert A. Gramm.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: January 14, 2002.

Description of amendment requests: The proposed amendments would add an allowable plus or minus (±) 1 percent (%) as-left setpoint tolerance for the pressurizer code safety valves to Unit 1 and Unit 2 technical specification (TS) 3.4.2 and TS 3.4.3. In addition, the proposed amendments would revise Unit 2 TS 3.4.2 and TS 3.4.3 to increase the allowable as-found setpoint tolerance for the Unit 2 pressurizer code safety valves from ± 1 % to ± 3%.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

Probability of Occurrence of an Accident Previously Evaluated—

The proposed changes to pressurizer code safety valve as-found and as-left setpoint tolerance do not affect any accident initiators or precursors. There are no new failure modes for the pressurizer code safety valves created by this change in setpoint tolerance. No adverse interactions with the RCS are created by this change in setpoint tolerance. The lowest possible setpoint of any of the pressurizer code safety valves (including the ± 3% tolerance) is higher than the highest RCS pressures anticipated during shutdown, startup, normal operating, and anticipated operational occurrence conditions. The lowest possible pressurizer code safety valve setpoint is also higher than the setpoint of the PORVs. Therefore, there would not be an adverse interaction between the pressurizer code safety valves and the PORVs. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

The format changes for the Unit 2 TS 3.4.3 page do not impact any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

Consequences of an Accident Previously Evaluated—

The proposed change to add an allowable as-left setpoint tolerance for the Unit 1 and 2 pressurizer code safety valves does not adversely affect any of the accident and safety analyses. In addition, the proposed increase in the Unit 2 as-found pressurizer code safety valve setpoint tolerance does not adversely affect any of the accident and safety analyses. Both the as-left setpoint of ± 1% and the as-found setpoint of ± 3% of the nominal lift pressure of 2485 psig provides reasonable assurance that the pressurizer code safety valves are capable of performing their design function as assumed in the accident and safety analyses. Even at the highest allowable lift pressure, the pressurizer code safety valves, in conjunction with the RPS, remain capable of limiting the RCS pressure within the Safety Limit of 110% of design pressure (or 2735 psig). Thus, there will be no increase in offsite doses and the consequences of an accident previously analyzed are not increased.

The format changes for the Unit 2 TS 3.4.3 page do not impact the pressurizer code safety valve's function. Thus, there will be no increase in offsite doses, and the consequences of an accident previously analyzed are not increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to pressurizer code safety valve as-found and as-left setpoint tolerance do not create any new or different accident initiators or precursors. There are no new failure modes for the pressurizer code safety valves created by this change in setpoint tolerance. No adverse interactions with the RCS are created by this change in setpoint tolerance. The lowest possible setpoint of any of the pressurizer code safety valves (including the ± 3% tolerance) is higher than the highest RCS pressures anticipated during shutdown, startup, normal operating, and anticipated operational occurrence conditions. The lowest possible pressurizer code safety valve setpoint is also higher than the setpoint of the PORVs. Therefore, there would not be an adverse interaction between the pressurizer code safety valves and the PORVs. Thus, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The format changes for the Unit 2 TS 3.4.3 page do not create any new or different accident initiators or precursors. Thus, the possibility of a new or different kind of accident from any previously evaluated is not created.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not impact pressurizer code safety valve capability to perform the design function required by the accident and safety analyses, nor do the proposed changes impact the operational characteristics of the pressurizer code safety valves. The pressurizer code safety valves, in conjunction with the RPS, ensure that the RCS Safety Limit of 110% of design pressure (or 2735 psig) is not exceeded for any analyzed event. Therefore, the proposed changes do not involve a significant reduction in margin of safety.

The format changes for the Unit 2 TS 3.4.3 page do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: William D. Reckley, Acting Section Chief.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: January 21, 2002.

Description of amendment request: The proposed revised Technical Specification (TS) Requirement will modify TS Surveillance Requirement (SR) 3.7.3.1 to improve consistency with Cooper Nuclear Station (CNS) License Amendment No. 185, approved on March 13, 2001, and eliminate unnecessary restrictions regarding how the Reactor Equipment Cooling (REC) System surge tank level is monitored.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This change eliminates the specific details regarding performing the SR 3.7.3.1 verification of Reactor Equipment Cooling (REC) surge tank level. This change will not result in a significant increase in the probability of an accident previously

evaluated because the method of verifications of REC surge tank level has no effect on the initiators of any analyzed events.

The method of performing the surveillance on REC surge tank level does not affect the performance of the minimum equipment credited in the mitigation of any analyzed event. As a result, no analysis assumptions or mitigative functions are impacted. Therefore, this change will not result in a significant increase in the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. There is no change being made to the parameters within which the plant is operated. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No alteration in the procedures which ensure the plant remains within analyzed limits is being proposed, and no change is being made to the procedures relied upon to an off-normal event. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. Credited equipment remains available to actuate upon demand for the purpose of mitigating an analyzed event. The proposed change is acceptable because the operability of the REC System is unaffected, there is no detrimental impact on any equipment design parameter, and the plant will still be required to operate within assumed conditions. The normal procedural controls on methods of surveillance performance provide adequate assurance that the REC System will be capable of performing its intended safety function. Detailing the performance method within the TSs does not impact the margin of safety (which is more closely related to tank volume than the method of verifying volume). Therefore, the change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

Nuclear Management Company, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: February 8, 2002.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to change TS Section 5.0, Administrative Controls, to adopt TSTF–258 Revision 4. Revisions to the TS are proposed to Section 5.2.2, Unit Staff, to delete details of staffing requirements and delete requirements for the Shift Technical Advisor (STA) as a separate position while retaining the function. Section 5.5.4, Radioactive Effluent Controls Program, would be revised to be consistent with the intent of 10 CFR part 20. Section 5.6.4, Monthly Operating Reports, would be revised by deleting periodic reporting requirements for main steam safety/relief valve challenges to be consistent with Generic Letter 97–02. Section 5.7, High Radiation Area, would be revised in accordance with 10 CFR 20.1601(c).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

This request for amendment to Duane Arnold Energy Center's TS provides for adoption of the NRC-approved generic change TSTF item TSTF–258, Revision 4. The Amendment request includes revisions to TS Section 5.0, ''Administrative Controls,'' to delete details of staffing requirements, delete requirements for the STA as a separate position while retaining the function, revise the Radioactive Effluent Controls Program to be consistent with the intent of 10 CFR 20, delete periodic reporting requirements of challenges to main steam safety/relief valves, and revise radiological control requirements for radiation areas to be consistent with those specified in 10 CFR 20.1601(c).

The proposed TS changes are administrative in nature and do not impact the operation, physical configuration, or function of plant equipment or systems. The changes do not impact the initiators or assumptions of analyzed events, nor do they impact mitigation of accidents or transient events. Therefore, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes are administrative in nature and do not alter plant configuration, require that new equipment be installed, alter assumptions made about accidents previously evaluated or impact the operation or function of plant equipment or systems. The proposed changes do not introduce any new modes of plant operation or make any changes to system setpoints. The proposed changes do not create the possibility of a new or different kind of accident due to credible new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated has not been created.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The proposed TS changes are administrative in nature and do not involve physical changes to plant structures, systems, or components (SSCs), or the manner in which these SSCs are operated, maintained, modified, tested, or inspected. The proposed changes do not involve a change to any safety limits, limiting safety system settings, limiting conditions for operation, or design parameters for any SSC. The proposed changes do not impact any safety analysis assumptions and do not involve a change in initial conditions, system response times, or other parameters affecting any accident analysis. Regarding the deletion of the requirement for the STA as a separate position, the function will be retained, so there will be no reduction in the margin of safety. As a result, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Alvin Gutterman, Morgan Lewis, 1111 Pennsylvania Avenue NW., Washington, DC 20004.

NRC Section Chief: William D. Reckley, Acting Section Chief.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 12, 2002.

Description of amendment request: The proposed amendment would revise Surveillance Requirement (SR) 4.0.E to extend the delay period before entering a limiting condition for operation following a missed surveillance. The delay period would be extended from the current limit of ''* * * up to 24 hours or up to the limit of the time interval, whichever is less'' to ''* * *

up to 24 hours or up to the limit of the time interval, whichever is greater.'' In addition, the following requirement would be added to SR 4.0.E: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line-item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC determination in its application dated February 12, 2002.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: William D. Reckley, Acting.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: November 15, 2001, as supplemented by letter dated January 31, 2002.

Description of amendment request: The proposed amendment request modifies License Condition 2.C(10) associated with loading and contingency unloading of spent fuel casks in the fuel building due to changes in the dry storage system design.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The requested license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Accidents previously evaluated are those addressed in the Trojan Nuclear Plant (TNP) Defueled Safety Analysis Report (DSAR), the TNP Decommissioning Plan and License Termination Plan (''Decommissioning Plan''), and LCA [license change application] 237, Revision 3, and LCA 246, Revision 0. [Since their approval via Amendments 199 and 200 to the TNP License on April 23, 1999, Revision 3 of LCA 237 and Revision 0 of LCA 246, have undergone revision per 10 CFR 50.59, as allowed by TNP License Condition 2.C(10). The current revisions are LCA 237, Revision 4, and LCA 246, Revision 1.] The basis for the conclusion that the probability or consequences of an accident previously evaluated in the DSAR or Decommissioning Plan is not significantly increased is not materially changed from the significant hazards consideration determination provided in the current LCA 237, Revision 4, and LCA 246, Revision 1. Loading and contingency unloading of the MPC [multi-purpose canister] as described in the proposed Revision 5 of LCA 237 and Revision 2 of LCA 246 consist of activities that are functionally the same as those for loading and contingency unloading a PWR [pressurized water reactor] Basket under the previous Trojan Storage System design. With the original Transfer Cask, PWR Basket, and its shield and structural lids and associated welds replaced under the new design by the Holtec Transfer Cask, MPC, and its MPC redundant closures (i.e., lid, vent and drain port cover plates, closure ring, and associated welds), respectively, these and associated Trojan Storage System design changes do not significantly impact the activities that will be conducted during ISFSI [independent spent fuel storage installation] loading/unloading. Furthermore, the safety evaluations in the proposed Revision 5 of LCA 237 and Revision 2 of LCA 246 show that the Trojan ISFSI design changes do not significantly impact the potential for or consequences of off-normal events or accidents during ISFSI loading and contingency unloading. Thus, the probability or consequences of an accident previously evaluated in the DSAR or Decommissioning Plan is not significantly increased.

The postulated events previously evaluated in Revision 3 of LCA 237 and Revision 0 of LCA 246 include drops, tipovers, mishandling, operational errors, and support system malfunctions that could potentially

occur during loading and contingency unloading operations.

As discussed in proposed Revision 5 to LCA 237 and Revision 2 to LCA 246, the Trojan Storage System design changes do not significantly affect the conclusions with respect to the potential for or consequences of a Transfer Cask and/or MPC drop, tipover, or mishandling event. The design safety factors, load testing requirements, and administrative controls (i.e., procedures, training, maintenance, and inspections) for the fuel handling equipment are materially unaffected by the Trojan Storage System design changes, such that there is no significant increase in probability of a Transfer Cask and/or MPC drop, tipover, or mishandling event. As described in the safety evaluation in proposed Revision 5 to LCA 237 and Revision 2 to LCA 246, the calculated consequence of a Transfer Cask drop, tipover, or mishandling event prior to the MPC lid being welded to the MPC is approximately 0.003 rem whole body dose at the site boundary, which is the same as was calculated for these events in LCA 237, Revision 3. This calculated consequence, which is well below the EPA PAG [Environmental Protection Agency protective action guide] of 1 rem whole body dose for the early phase of an event, has accumulated additional conservatism since the submittal and NRC approval of LCA 237, Revision 3, applicable to loading the PWR Basket. The additional conservatism is the result of the calculation assumption that five years have elapsed for cooling of the fuel, combined with the fact that approximately five additional years have passed since this event was originally analyzed for LCA 237, Revision 3, during which additional cooling of the TNP spent nuclear fuel has occurred. Thus, there is no significant increase in consequences of a Transfer Cask drop, tipover, or mishandling event.

The Trojan Storage System design changes also do not significantly increase the probability or consequences of operational errors and/or support system malfunctions that could potentially occur during loading/unloading operations. As discussed in the safety evaluation in proposed Revision 5 to LCA 237 and Revision 2 to LCA 246, the changes to pressures associated with the ISFSI confinement boundary do not impact the conclusion that the postulated inadvertent over-pressurization of the MPC during draining and/or drying operations is not considered credible, since multiple equipment failures and a procedural error are still required in order for the event to occur. With the revised design decay heat load as summarized above, the longer time period required for boiling to occur in the MPC further reduces the potential for a postulated over-pressurization event.

As shown in proposed Revision 5 of LCA 237 and Revision 2 of LCA 246, the higher operating pressures during loading operations (*e.g.,* pressure testing and MPC blowdown and backfill pressures) and the redesign of several of the systems involved in MPC closure operations (*e.g.,* vacuum drying, blowdown system, and helium recirculation cooling), do not significantly impact the probability or consequences of equipment failures. The maximum normal design pressure ratings of the MPC, vacuum drying system, helium recirculation system, and helium backfill system, including their associated pressurized lines and system components, are such that the operating pressure increase does not significantly increase the probability of a passive failure of a pressurized line on the MPC. However, because of the increased operating and test pressures associated with the Holtec-designed MPC as compared to the PWR Basket, the consequence of a bounding scenario involving the passive failure of a pressurized line is increased. However, this increase is not considered to be significant since, as detailed in Section 5.2.5.2.2 of proposed Revision 5 to LCA 237 and Revision 2 to LCA 246, the dose consequence remains well below the EPA PAG of 1 rem whole body for the early phase of an event.

Based on the above, the impacts of the Trojan Storage System design changes on cask loading/unloading operations would not significantly increase the probability or consequences of any accident previously evaluated.

2. The requested license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The aforementioned design changes for the Trojan Storage System do not create the possibility of a new or different kind of accident from any accident previously evaluated, including those evaluated in Revision 3 of LCA 237 and Revision 0 of LCA 246 approved by the NRC on April 23, 1999. With the original Transfer Cask, PWR Basket, and its shield and structural lids and associated welds replaced under the new design by the Holtec Transfer Cask, MPC, and its MPC redundant closures (i.e., lid, vent and drain port cover plates, closure ring, and associated welds), respectively, these and associated Trojan Storage System design changes do not significantly impact the functional activities that will be conducted during ISFSI loading/unloading. Thus, the loading procedure and system design changes do not introduce any new types of accidents not previously analyzed in Revision 3 of LCA 237 and Revision 0 of LCA 246.

3. The requested license amendment does not involve a significant reduction in the margin of safety.

The basis for the conclusion that a significant reduction in the margin of safety is not involved is not materially changed from the significant hazards consideration determination provided in the current LCA 237, Revision 4, and LCA 246, Revision 1. Specifically, the TNP Permanently Defueled Technical Specifications (PDTS) contain four limiting conditions of operation that address: (1) Spent Fuel Pool water level, (2) Spent Fuel Pool boron concentration, (3) Spent Fuel Pool temperature, and (4) Spent Fuel Pool load restrictions. These Technical Specifications will remain in effect as long as spent fuel is stored in the Spent Fuel Pool, which is in accordance with their applicability statements. As discussed below, the Trojan Storage System design changes and their impact on ISFSI loading/unloading activities will not affect the PDTS or their bases.

Loading and contingency unloading of the MPC as described in the proposed Revision 5 of LCA 237 and Revision 2 of LCA 246 consist of activities that are functionally the same as those for loading and contingency unloading a PWR Basket under the previous Trojan Storage System design. The Cask Loading Pit, where spent fuel will be loaded into the MPC, is immediately adjacent to the Spent Fuel Pool. The gate between the Cask Loading Pit and Spent Fuel Pool will be opened to allow spent fuel assemblies to be moved from the spent fuel storage racks in the Spent Fuel Pool to the MPC in the Cask Loading Pit. Opening the gate will allow free exchange of the water between the Cask Loading Pit and the Spent Fuel Pool. The water in the Cask Loading Pit must be at essentially the same level, boron concentration, and temperature as the Spent Fuel Pool prior to the first opening of the gate to ensure that the limiting conditions of operation are continuously satisfied for the Spent Fuel Pool. Therefore, the Cask Loading Pit will be filled, to about the same level as the Spent Fuel Pool, with water that is about the same boron concentration and temperature as the Spent Fuel Pool. With these precautions, the limiting conditions of operation pertaining to Spent Fuel Pool level, boron concentration, and temperature will be continuously maintained for the Spent Fuel Pool and the margin of safety will be unaffected. Except for small changes to accommodate lid lift rigging, the level in the Cask Loading Pit will not be reduced until the MPC lid has been placed on the loaded MPC. This configuration is consistent with the objective of keeping the radiological exposure to personnel as low as reasonably achievable (ALARA). The contingency unloading sequence is essentially the reverse of the loading sequence. Thus, the loading and contingency unloading processes for the MPC with the Trojan Storage System design changes incorporated do not involve a significant reduction in the margin of safety.

As with the previous design, the Trojan Storage System design changes will be implemented such that when lifting and moving heavy loads, loads that will be carried over fuel in the Spent Fuel Pool racks and the heights at which they may be carried will be limited in such a way as to preclude impact energies, in the unlikely event of a drop, from exceeding 240,000 in-lbs in accordance with Limiting Condition for Operation (LCO) 3.1.4, ''Spent Fuel Pool Load Restrictions.'' With this precaution, the LCO pertaining to load restrictions over the Spent Fuel Pool will be satisfied for fuel stored in the Spent Fuel Pool racks and the margin of safety will be unaffected. The safe load path for heavy loads being lifted and moved outside the Spent Fuel Pool will be located sufficiently far from the Spent Fuel Pool as to not have an adverse effect on the Spent Fuel Pool in the unlikely event of a load drop. In addition, the Trojan Storage System design changes do not affect the implementation of mechanical stops and electrical interlocks on the Fuel Building overhead crane that provide additional assurance that heavy loads are not carried

over the fuel in the Spent Fuel Pool racks. Thus, the Trojan Storage System design changes and their impact on ISFSI loading and contingency unloading activities do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Douglas R. Nichols, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Section Chief: Robert A. Gramm.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: October 30, 2001, as supplemented by letter dated February 11, 2002.

Description of amendment request: The proposed amendments would revise Technical Specifications Table 3.3.1–1, ''Reactor Trip System Instrumentation'' and the associated Bases B 3.3.1. A limit or ''clamp'' on the Over Temperature Delta Temperature (OTDT) reactor trip function is proposed to address design issues related to fuel rod design under transient conditions. In addition, editorial revisions to Bases B 3.3.1 are included.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed clamp on the OTDT reactor trip function is not credited in the safety analyses. Implementation of the limit or ''clamp'' on the OTDT reactor trip function, along with the corresponding changes to the AFD [axial flux difference] modifier f_1 (AFD) and RAOC [relaxed axial offset control] band, will ensure the prevention of stress failure of the fuel rod cladding for Condition I and II reactor coolant system cooldown events. This demonstrates continued compliance with 10 CFR 50, Appendix A, Criterion 10, *i.e.*, that the specified acceptable fuel design limits are not exceeded.

There is no change in the radiological consequences of any accident since the fuel clad, the reactor coolant system pressure boundary, and the containment are not changed, nor will the integrity of these physical barriers be challenged. In addition, the proposed modification will not change, degrade, or prevent any reactor trip system actuations.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed clamp on the OTDT reactor trip function is not credited in the safety analyses. Implementation of the limit or ''clamp'' on the OTDT reactor trip function, along with the corresponding changes to the AFD modifier f_1 (AFD) and RAOC band, will ensure the prevention of stress failure of the fuel rod cladding for Condition I and II reactor coolant system cooldown events.

The design basis of the OTDT reactor trip setpoint is to ensure DNB [departure from nucleate boiling] protection and to preclude vessel exit boiling. The installation of the OTDT clamp would continue to ensure this same protection and that the OTDT design basis would remain unaffected. The introduction of the OTDT clamp would not create any new transients nor would it invalidate the OTDT design basis. In addition, there are no transients analyzed in the VEGP [Vogtle Electric Generating Plant] FSAR [final safety analysis report] that result in a reduction in the reactor coolant temperature which rely on OTDT as the primary reactor trip function, as cooldown events tend to be non-limiting with respect to the criterion of DNB.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

The proposed clamp on the OTDT reactor trip function is not credited in the safety analyses. Implementation of the limit or ''clamp'' on the OTDT reactor trip function, along with the corresponding changes to the AFD modifier f_1 (AFD) and RAOC band, will ensure the prevention of stress failure of the fuel rod cladding for Condition I and II RCS [reactor coolant system] cooldown events. This demonstrates continued compliance with 10 CFR 50, Appendix A, Criterion 10, i.e., that the specified acceptable fuel design limits are not exceeded.

The design basis of the OTDT reactor trip setpoint is to ensure DNB [departure from nucleate boiling] protection and to preclude vessel exit boiling. The installation of the OTDT clamp would continue to ensure this same protection and that the OTDT design basis would remain unaffected.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Section Chief: Richard J. Laufer, Acting.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 14, 2002.

Description of amendment request: The proposed amendment revises Technical Specifications (TS) 3.4.2.2, ''Reactor Coolant System.'' to relax the lift setting tolerance of the pressurizer safety valves from ±2 percent to ±3 percent. The current TS requirements that the as left lift setting be within ±1 percent will remain intact.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed TS change takes credit for the assumptions made in the reanalysis of the turbine trip and rod withdrawal from power events already evaluated in the UFSAR [Updated Final Safety Analysis Report]. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TS change takes credit for the assumptions made in the reanalysis of the turbine trip and rod withdrawal from power events already evaluated in the UFSAR. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel and fuel cladding, reactor coolant pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed TS change takes credit for the assumptions made in the reanalysis of the turbine trip and rod withdrawal from power events already evaluated in the UFSAR. Those analyses demonstrated that (1) the fuel design limits were maintained by the reactor protection system since the DNBR [departure from

nucleate boiling ratio] was maintained above the limit value, and (2) the plant design is such that a turbine trip presents no hazard to the integrity of the RCS [reactor coolant system] or the main steam system pressure boundary. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Morgan Lewis, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Section Chief: Robert A. Gramm.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 14, 2002.

Description of amendment request: The proposed amendment revises Technical Specifications to eliminate shutdown actions associated with radiation monitoring instrumentation. The proposed changes will enhance plant reliability by reducing exposure to unnecessary shutdowns and increase operational flexibility, and relax certain other restrictions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The radiation monitors affected by the proposed amendment are not potential accident initiators. Adequate measures are available to compensate for radiation monitors that are out of service. The proposed amendment does not affect how the affected radiation monitors function or their role in the response of an operator to an accident or transient. The core damage frequency in the STP [South Texas Project] PRA [probabilistic risk assessment] is not impacted by the proposed changes. Therefore, STPNOC [South Texas Project Nuclear Operating Company] concludes that there is no significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The radiation monitors affected by the proposed amendment are not credited for the prevention of any accident not evaluated in the safety analysis. The proposed amendment involves no changes in the way the plant is operated or controlled. It involves no change in the design configuration of the plant. No new operating environments are created. Therefore, STPNOC concludes the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change has no significant effect on functions that are supported by the affected radiation monitors. There will be no significant effect on the availability and reliability of the affected radiation monitors. Adequate measures are available to compensate for radiation monitors that are out of service. Therefore, STPNOC concludes the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Morgan Lewis, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Section Chief: Robert A. Gramm.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 14, 2002.

Description of amendment request: The proposed amendment revises Technical Specifications governing radiation monitoring instrumentation and reactor coolant system leakage detection to eliminate the associated shutdown action requirements and relax certain other restrictions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The radiation monitors and leakage detection instrumentation affected by the proposed amendment are not potential accident initiators. Adequate measures are available to compensate for instrumentation that is out of service. The proposed amendment does not affect how the affected instrumentation normally functions or its role in the response of an operator to an accident or transient. The core damage frequency in the STP [South Texas Project] PRA [probabilistic risk assessment] is not impacted by the proposed changes. Therefore, STPNOC [South Texas Project Nuclear Operating Company] concludes that there is no significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The instrumentation affected by the proposed amendment is not credited for the prevention of any accident not evaluated in the safety analysis. The proposed amendment involves no changes in the way the plant is operated or controlled. It involves no change in the design configuration of the plant. No new operating environments are created. Therefore, STPNOC concludes the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change has no significant effect on functions that are supported by the affected instrumentation. There will be no significant effect on the availability and reliability of the affected instrumentation. Adequate measures are available to compensate for instrumentation that is out of service. Therefore, STPNOC concludes the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Morgan Lewis, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Section Chief: Robert A. Gramm.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: January 14, 2002.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.4.16, applicable Bases ''Reactor Coolant System Specific Activity,'' and Surveillance Requirement (SR) 3.4.16.2, from 1.0 microcuries per gram (uCi/gm) iodine-131 to 0.265 uCi/gm iodine-131. TS 3.4.16, Figure 3.4.16–1, ''Reactor Coolant Dose Equivalent Iodine-131 Specific Activity Limit Versus Percent of Rated Thermal Power,'' is being deleted and the maximum value of 21 uCi/gm iodine-131 is being added to TS Required Action 3.14.16.A and 3.4.16.C. In addition, TS Section 3.3.7, ''CREVS [Control Room Emergency Ventilation System] Actuation Instrumentation,'' Table 3.3.7–1 changes the allowable

value to the Control Room Radiation and Control Room Air Intakes for SR 3.3.7.1, 3.3.7.2, and 3.3.7.4 from less than or equal to (≤) 5.77E–04 uCi/cubic centimeter (cc) (20,199 counts per minute (cpm)) to ≤9.45E–05 uCI/cc (3,307 cpm).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification[s] change[s] to reduce the steady state and 48[-]hour reactor coolant system (RCS) allowable iodine concentrations, and to revise the surveillance requirement value for the Main Control Room [MCR] air intake radiation monitors [do] not change any operator actions nor [do they] change plant systems or structures. Therefore, the proposed change[s] to WBN Unit 1 Technical Specification[s] [do] not result in a significant increase in the probability of an accident.

The calculated radiological consequences at the Exclusion Area Boundary (EAB) and Low Population Zone (LPZ) are larger than currently discussed in the Final Safety Analysis Report (FSAR) accidents for the main steam line break (MSLB) and steam generator tube rupture (SGTR) (with the exception of thyroid and beta doses being slightly lower for STGR) accidents. The radiological consequences for the SGTR and MSLB accidents increased due to utilizing more conservative methodologies and more conservative assumptions in the calculation. However, the calculated radiological consequences remain within the limits identified in 10 CFR 100, ''Reactor Site Criteria,'' and General Design Criteria (GDC)–19, ''Control Room,'' and are consistent with NUREG–0800, ''Standard Review Plan,'' acceptance criteria.

The surveillance requirement radiation limit for the Main Control Room air intake radiation monitors will be reduced to compensate for the change in source terms which resulted from the use of the methodology changes in the SGTR accident. This change ensures the monitors perform their safety function of control room isolation during accident conditions and does not increase the probability or consequences of an accident previously evaluated.

In summary, the control room dose, the LPZ dose, and the EAB dose for the SGTR and MSLB remain bounded by the acceptance criteria of NUREG–0800 and continue to satisfy an appropriate fraction of the 10 CFR 100 dose limits and the GDC–19 dose limits. The surveillance requirement changes for the Main Control Room radiation monitors ensure the monitors perform their intended design function. Therefore, the proposed change does not result in a significant increase in the [probability or] consequences of an accident previously analyzed.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS change does not alter the configuration of the plant. The changes do not directly affect plant operation. The change will not result in the installation of any new equipment or system or the modification of any existing equipment or systems. No new operation procedures, conditions or modes will be created by this proposed change. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The methods for calculating the radiological consequences are revised for the MSLB and SGTR analysis to utilize the thyroid dose conversion factors in International Commission on Radiation Protection Publication 30 (ICRP–30) to calculate the dose and ARCON96 methodology to calculate atmospheric dispersion coefficients.

The calculated radiological consequences at the EAB and LPZ are slightly larger than those noted in the FSAR accidents for the MSLB and SGTR (thyroid and beta doses slightly lower for SGTR) accidents. The radiological dose consequences for the SGTR and MSLB accidents increased due to utilizing more conservative methodologies and more conservative assumptions in the calculation. The calculated dose consequences of the evaluated accidents remain less than the dose limits identified in 10 CFR 100 and GDC–19, and are consistent with NUREG–0800 acceptance criteria. The surveillance requirement for the MCR radiation monitors is being reduced for consistency with lower source terms and to ensure the monitors perform their intended design function of isolating the Main Control Room subsequent to an accident. Therefore, it is concluded that the proposed change to lower the RCS Specific Activity and subsequent changes to the Main Control Room radiation monitors are required to ensure the Main Control Room dose and the offsite dose are below the acceptable limits. Therefore these changes do not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application 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, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/reading-rm.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: August 13, 2001.

Brief description of amendment: The amendment defers withdrawal of the first set of reactor vessel surveillance specimens until 10.4 effective full

power years, expected to be one additional operating cycle.

Date of issuance: March 8, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 143.

Facility Operating License No. NPF–62: The amendment changes the updated safety analysis report.

Date of initial notice in ***Federal Register:*** October 17, 2001 (66 FR 52796). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: June 21, 2001, as supplemented by letter dated January 18, 2002.

Brief description of amendment: The amendment modifies the technical specification requirement that the main steamline safety relief valves (SRVs) open when they are manually actuated by instead requiring that the SRV valve actuators stroke on a manual actuation.

Date of issuance: March 19, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 144.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 3, 2001 (66 FR 50465). The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: November 9, 2001.

Brief description of amendments: The amendments would revise Technical Specification 5.6.5b to add NRC-approved Topical Report CENPD–404–P–A, ''Implementation of ZIRLO ™ Cladding Material in CE Nuclear Power Fuel Assembly Designs,'' into the list of analytical methods used to determine core operating limits and thus, enable use of ZIRLO clad fuel in Palo Verde Nuclear Generating Station units.

Date of Issuance: March 12, 2002.

Effective date: March 12, 2002, and shall be implemented within 60 days of the date of issuance.

Amendment Nos.: Unit 1–140, Unit 2–140, Unit 3–140.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 22, 2002 (67 FR 2919). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 12, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of amendment request: November 26, 2001, as supplemented January 31, 2002, February 5, 2002, and February 11, 2002.

Description of amendment request: The amendment revises the Improved Technical Specification 5.5.12 to allow a one-time interval increase for the Type A Integrated Leakage Rate Test for no more than 3 years, 2 months.

Date of issuance: March 6, 2002.

Effective date: March 6, 2002.

Amendment Nos: 216.

Facility Operating License No. DPR–71: The amendment changes the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 8, 2002 (67 FR 926). The January 31, 2002, and February 5, 2002, supplements contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial **Federal Register** notice. The February 11, 2002, supplement revised the original request, but the initial no significant hazards consideration determination bounded the revised request.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 6, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: June 26, 2001, as supplemented January 14, and February 1, 2002.

Description of amendment request: The amendments revise the Technical Specifications to support installation of the General Electric Nuclear Measurement Analysis and Control Digital Power Range Neutron Monitoring System.

Date of issuance: March 8, 2002.

Effective date: March 8, 2002.

Amendment Nos: 217 and 243.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 25, 2001 (66 FR 38759). The January 14, and February 1, 2002, supplements contained clarifying information only and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: August 1, 2001, as supplemented February 4, 2002.

Description of amendment request: The amendment revises the Technical Specifications to incorporate NRC-approved Technical Specification Task Force Traveler Item 51, ''Revise containment requirements during handling irradiated fuel and core alterations,'' Revision 2.

Date of issuance: March 14, 2002.

Effective date: March 14, 2002.

Amendment Nos: 218 and 244.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 5, 2001 (66 FR 46477). The February 4, 2002, supplement contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 14, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: November 7, 2001.

Description of amendment request: The amendments revise Technical Specification (TS) 3.1.4, ''Control Rod Scram Times,'' to delineate more specific requirements for testing control rod scram times following refueling outages. TS 5.1 is revised to reference Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.59. The amendment incorporates the Nuclear Regulatory Commission-approved Technical Specification Task Force (TSTF) Item 222, Revision 1, ''Control Rod Scram Testing,'' and TSTF Item 364, Revision 0, ''Revision to TS Bases Control Program to Incorporate Changes to 10 CFR 50.59.''

Date of issuance: March 19, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos: 219/245.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 28, 2001 (66 FR 59502). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: August 6, 2001.

Brief description of amendments: The amendments revised Technical Specification (TS) 3.3.2 for Engineered Safety Feature Actuation System Instrumentation, and TS 3.3.6 for Containment Purge and Exhaust Isolation Instrumentation. The amendments excluded the Containment Purge Ventilation System and the Hydrogen Purge System containment isolation valves from the instrumentation testing requirements in TS 3.3.2 and TS 3.3.6. The amendments also made appropriate changes in the Bases for TS 3.3.6 and TS 3.6.3.

Date of issuance: March 20, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 196/189.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 12, 2001 (66 FR 64291). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: August 14, 2001.

Brief description of amendments: The proposed amendments would revise TS Surveillance Requirement 3.3.5.2 by changing the Engineered Safeguards Protective System Analog Instrument channel functional test frequency from 31 days to 92 days.

Date of Issuance: March 18, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 321/321/322.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 5, 2001 (66 FR 46478). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 18, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: December 21, 2001, as supplemented February 15, 2002.

Brief description of amendment: This amendment revises the minimum critical power ratio safety limits for operating cycle 10.

Date of issuance: March 12, 2002.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 156.

Facility Operating License No. NPF–39: This amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 22, 2002 (67 FR 2924). The February 15, 2002, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 12, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: May 23, 2001.

Brief description of amendments: These amendments deleted Technical Specification 3.4.2, Limiting Condition for Operation, Action Statement b, concerning operator actions with stuck open safety/relief valves.

Date of issuance: As of date of issuance and shall be implemented within 30 days.

Effective date: March 20, 2002.

Amendment Nos.: 157 and 119.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 22, 2001 (66 FR 44171). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: June 26, 2001, as supplemented by letter dated November 15, 2001.

Brief description of amendments: The amendments revised Technical Specification 3/4.3.3, Emergency Core Cooling System, Actions 36 and 37 of Table 3.3.3–1, and associated TS Bases. The change to Action 36 clarifies equipment affected by inoperable components. The change to Action 37 takes advantage of the inherent overlap of the degraded voltage relays' characteristics such that inoperable relays that define a channel can be taken out of service without placing its associated source breaker in the trip position.

Date of issuance: March 20, 2002.

Effective date: As of date of issuance and shall be implemented within 30 days.

Amendment Nos.: 158 and 120.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** August 22, 2001 (66 FR 44171). The November 15, 2001, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 2002.

No significant hazards consideration comments received: No.

National Aeronautics and Space Administration, Docket Nos. 50–30 and 50–185, the Plum Brook Test Reactor and the Plum Brook Mockup Reactor, Sandusky, Ohio

Date of application for amendments: December 20, 1999, as supplemented by letters dated March 26, November 19, and December 20, 2001, and January 24, 2002.

Brief description of amendments: The amendment allows decommissioning of the PBRF in accordance with NASA's application as supplemented. Pursuant to 10 CFR 50.82(b)(5), the approved decommissioning plan will be a supplement to the Safety Analysis Report or equivalent.

Date of issuance: March 20, 2002.

Effective date: March 20, 2002.

Amendment Nos.: Amendment No. 11 to Plum Brook Test Reactor and Amendment No. 7 to the Plum Brook Mockup Reactor.

Facility Operating License Nos. TR–3 and R–93: These amendments consist of changes to the Facility Licenses.

*Date of initial notice in **Federal Register:*** January 22, 2002 (67 FR 2924). The January 24, 2002, supplemental letter provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation enclosed with the amendments dated March 20, 2002.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: November 20, 2001, as supplemented January 28 and February 21, 2002.

Brief description of amendment: The amendment revised the Technical Specifications, Section 2.1.1.2, to reflect the results of cycle-specific calculations performed for the upcoming Operating Cycle 9, and Section 5.6.5.b, to delete two redundant references.

Date of issuance: March 13, 2002.

Effective date: As of the date of issuance, to be implemented prior to startup from Refueling Outage 8.

Amendment No.: 105.

Facility Operating License No. NPF–69: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** December 26, 2001 (66 FR 66468). The licensee's January 28 and February 21, 2002, supplemental letters provided clarifying information that was within the scope of the amendment request and did not change the initial proposed no significant hazards consideration determination.

The staff's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 2002.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: December 26, 2001.

Brief description of amendment: The amendment revises Table 3.6.1.3–1, ''Secondary Containment Bypass Leakage Paths Leakage Rate Limits,'' to reflect the NRC staff's approval of the licensee's proposed modification of two primary containment isolation valves on feedwater piping from air-operated to become simple check valves.

Date of issuance: March 8, 2002.

Effective date: As of the date of issuance to be implemented prior to startup from Refueling Outage 8.

Amendment No.: 104.

Facility Operating License No. NPF–69: Amendment revises the Technical Specifications.

*Date of initial notice in **Federal Register:*** February 5, 2002 (67 FR 5329).

The staff's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: February 28, 2001, as supplemented July 31, 2001, and December 21, 2001.

Description of amendment request: The amendment changes Seabrook Station Technical Specification 3/4.8.1.1 A.C. Sources—Operating. The changes are related to allowed outage time for restoration or verification of the operability of offsite power sources and to emergency diesel generator surveillance requirements.

Date of issuance: March 7, 2002.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 80.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** April 18, 2001 (66 FR 20007). The July 31, 2001, and December 21, 2001, letters were within the scope of and did not affect the staff's finding of no significant hazards considerations.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 2002.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: July 30, 2001, as supplemented September 7, October 16, and December 5, 2001, and January 18, 2002.

Brief description of amendments: The amendments revised Technical Specification 5.5.12, ''Primary Containment Leakage Rate Testing Program,'' to allow a one-time deferral of the Type A containment integrated leakage rate test (ILRT) at the Susquehanna Steam Electric Station (SSES), Units 1 and 2. The Unit 1 test may be deferred to no later than May 3, 2007, and the Unit 2 test may be deferred to no later than October 30, 2007, resulting in an extended interval of 15 years for performance of the next ILRT at each unit. Additionally, the amendments allow a one-time deferral of the drywell-to-suppression chamber bypass leakage test, Surveillance Requirement (SR) 3.6.1.1.2, so that it will continue to be conducted along with the ILRT.

Date of issuance: March 8, 2002.

Effective date: As of date of issuance and shall be implemented within 60 days.

Amendment Nos.: 202, 176.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** February 5, 2002 (67 FR 5330). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: August 7, 2001.

Brief description of amendment: This amendment adds a response time requirement to the Technical Specifications for the Source Range Neutron Flux Reactor Trip function.

Date of issuance: March 8, 2002.

Effective date: March 8, 2002.

Amendment No.: 157.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5332). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: June 19, 2001.

Brief description of amendment: This amendment approves inclusion of two upgraded 7300 Process Protection System instrument cards (NLP—Loop Power Supply and Isolator card, and NSA—Summing Amplifier card) into the response time testing elimination population. The associated Bases for Technical Specification 3/4.3.1 is being revised to reflect this change.

Date of issuance: March 12, 2002.

Effective date: March 12, 2002.

Amendment No.: 158.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 25, 2001 (66 FR 38766).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 12, 2002.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: January 9, 2002.

Brief description of amendments: The amendments revise the Technical Specification 5.4, ''Technical Specifications (TS) Bases Control'' to delete the term ''unreviewed safety question.''

Date of issuance: March 19, 2002.

Effective date: March 19, 2002, to be implemented within 60 days of issuance.

Amendment Nos.: Unit 2–184; Unit 3–175.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5333). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: December 14, 2001.

Brief description of amendments: The amendments revise Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period is extended from the current limit of * * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to ''* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement is added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

Date of issuance: March 8, 2002.

Effective date: As of the date of issuance and shall be implemented by August 1, 2002.

Amendment Nos.: 228/170.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revise the Technical Specifications and associated Bases.

Date of initial notice in Federal Register: February 5, 2002 (67 FR 5333). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: April 27, 2001.

Brief description of amendments: The amendments revised the Technical Specifications 3.3.6, ''Containment Ventilation Isolation Instrumentation,'' to extend the surveillance test interval for Potter and Brumfield type motor-driven slave relays in the containment ventilation isolation system from 92 days to 18 months. The associated Bases for SR 3.3.6.5 will be revised to reflect this change.

Date of issuance: February 21, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 124/102.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 21, 2001 (66 FR 31714). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 21, 2002.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 30, 2001.

Brief description of amendments: The proposed amendment permits relaxation of the allowed outage times and bypass test times for limiting conditions for operation outlined in Technical Specifications 3.3.1, ''Reactor Trip System Instrumentation,'' and 3.3.2, ''Engineered Safety Features Actuation System Instrumentation.''

Date of issuance: March 19, 2002.

Effective date: The amendments are effective as of the date of issuance, and shall be implemented within 30 days of the day of issuance.

Amendment Nos.: Unit 1–136; Unit 2–125.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 22, 2001 (66 FR 44177). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 2, 2001.

Brief description of amendments: The amendments consist of revision to Technical Specifications 3/4.6.1.6 regarding containment structural integrity.

Date of issuance: March 19, 2002.

Effective date: As of the date of issuance, and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–137; Unit 2–126.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 22, 2002 (67 FR 2929). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: March 12, 2001.

Brief description of amendments: The amendments delete Sequoyah Technical Specification (TS) Surveillance Requirement 4.7.7.a from TS 3/4.7.7, ''Control Room Emergency Ventilation Systems,'' and adds a new Section 3/4.7.13, ''Control Room Air-Conditioning System (CRACS),'' to the TS. This TS addition will also provide the necessary requirements, consistent with NUREG–1431, to address the condition when main control room chillers and air handling units are inoperable.

Date of issuance: February 27, 2002.

Effective date: February 27, 2002.

Amendment Nos.: 273 and 262.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** April 18, 2001 (66 FR 20011). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 27, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 15, 2002 (TS 01–13).

Brief description of amendments: The amendments revised Technical Specifications (TSs) Section 4.0.5.c to provide an exception to the recommendations of Regulatory Position c.4.b NRC Regulatory Guide 1.14, Revision 1, ''Reactor Coolant Pump Flywheel Integrity,'' dated August 1975. The exception allows either (a) a qualified in-place ultrasonic volumetric examination over the volume from the inner bore of the flywheel to the circle of one-half the outer radius or (b) a surface examination (magnetic particle testing and/or liquid penetrant testing) of exposed surfaces of the removed flywheel to be conducted at approximately 10-year intervals.

Date of issuance: March 8, 2002.

Effective date: Date of issuance, to be implemented within 45 days of issuance.

Amendment Nos.: 274/263.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5339). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket No. 50–339, North Anna Power Station, Unit 2, Louisa County, Virginia

Date of application for amendment: January 9, 2001.

Brief description of amendment: This amendment revises the Facility Operating License (FOL) to remove expired license conditions, make editorial changes in the FOL, relocate license conditions, and remove license conditions associated with completed modifications.

Date of issuance: March 19, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 211.

Facility Operating License No. NPF–7: Amendment changes the FOL.

Date of initial notice in ***Federal Register:*** February 21, 2001 (66 FR 11065). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: April 11, 2000, as supplemented August 28, and November 20, 2000, April 11, July 31, November 19, and December 20, 2001, and February 8, 2002.

Brief Description of amendments: These amendments revise the Technical Specifications requirements to be consistent with an alternative source term in accordance with the requirements of 10 CFR 50.67, ''Accident Source Term.''

Date of issuance: March 8, 2002.

Effective date: March 8, 2002.

Amendment Nos.: 230 and 230.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 27, 2001 (66 FR 34289). The supplements contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

Yankee Atomic Electric Co., Docket No. 50–29, Yankee Nuclear Power Station (YNPS) Franklin County, Massachusetts

Date of application for amendment: September 28, 2000, as supplemented by letters dated October 12, 2000, April 18, May 29 and June 28, 2001, and March 4, 2002.

Brief description of amendment: The amendment revises License Condition 2.C.(3) to reference the revisions of the Physical Security Plan, Guard Training and Qualification Plan, and Safeguards Contingency Plan which provide for movement of the spent nuclear fuel from the spent fuel pool to the Independent Spent Fuel Storage Installation.

Date of issuance: March 13, 2002.

Effective date: March 13, 2002.

Amendment No.: 156.

Facility Operating License No. DPR–3: The amendment revised the License.

Date of initial notice in ***Federal Register:*** March 26, 2001 (66 FR 16501). The April 18, May 29, and June 28, 2001, and March 4, 2002, supplemental letters provided additional clarifying information that did not expand the scope of the application as originally noticed and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 2002.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 25th day of March, 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–7799 Filed 4–1–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension

Rule 17a–11 SEC File No. 270–94; OMB Control No. 3235–0085

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–11 (17 CFR 240.17a–11) requires broker-dealers to give notice when certain specified events occur. Specifically, the rule requires a broker-dealer to give notice of a net capital deficiency on the same day that the net capital deficiency is discovered or a broker-dealer is informed by its designated examining authority or the Commission that it is, or has been, in violation of its minimum requirement under Rule 15c3–1 (17 CFR 240.15c3–1) of the Securities Exchange Act of 1934 (''Exchange Act''). Under Rule 17a–11 an over-the-counter (''OTC'') derivatives dealers must also provide notice to the Commission when a net capital deficiency is discovered but need not give notice to any SRO because OTC derivatives dealers are only required to register with the Commission.

Rule 17a–11 also requires a broker-dealer to send notice promptly (within 24 hours) after the broker-dealer's aggregate indebtedness is in excess of 1,200 percent of its net capital, its net capital is less than 5 percent of aggregate debit items, or its total net capital is less than 120 percent of its required minimum net capital. In addition, a broker-dealer must give notice if it fails to make and keep current books and records required by Rule 17a–3 (17 CFR 240.17a–3), if any material inadequacy is discovered as defined in Rule 17a–5(g) (17 CFR 240.17a–5(g)), and if back testing exceptions are identified pursuant to Appendix F of Rule 15c3–1 (17 CFR 240.15c3–1f) for a broker-dealer registered as an OTC derivatives dealer.

The notice required by the rule alerts the Commission, self-regulatory organizations (''SROs''), and the Commodity Futures Trading Commission (''CFTC'') if the broker-dealer is registered as a futures commission merchant, which have oversight responsibility over broker-dealers, to those firms having financial or operational problems.

Because broker-dealers are required to file pursuant to Rule 17a–11 only when certain specified events occur, it is difficult to develop a meaningful figure for the cost of compliance with Rule 17a–11. In 2001, the Commission received 692 notices under this rule from 627 broker-dealers. Each broker-dealer reporting pursuant to Rule 17a–11 will spend approximately one hour preparing and transmitting the notice as required by the rule. Accordingly, the total estimated annualized burden for 2001 was 692 hours. With respect to those broker-dealers that must give notice under Rule 17a–11, the Commission staff estimates that the approximate administrative cost, consisting mostly of accountant clerical work, to broker-dealers would be $24.53 per hour (based on the Securities Industry Association salary survey and including 35% in overhead costs). Therefore, based on approximately one hour per notice and a total of 692 notices filed, the total annual expense for the reporting broker-dealers in 2001 was approximately $16,975.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: March 26, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7866 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Chicago Stock Exchange, Inc. (BellSouth Corporation, Common Stock, $1.00 Par Value) File No. 1–8607

March 27, 2002.

BellSouth, a Georgia corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $1.00 par value (''Security''), from listing and registration on the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'').

The Issuer stated in its application that it has complied with the rules of the CHX that govern the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the CHX, the Issuer considered the direct and indirect cost associated with maintaining multiple listing. The Issuer stated in its application that the Security has been listed on the New York Stock Exchange, Inc. (''NYSE'') since the company began operations in 1983. The Issuer represented that it will maintain its listing on the NYSE.

The Issuer's application relates solely to the Security's withdrawal from listing on the CHX and shall not affect its listing on the NYSE or its registration under section 12(b) of the Act.[3]

Any interested person may, on or before April 19, 2002 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

rules of the CHX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–7901 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Electrochemical Industries, Ltd., Common Stock, Par Value NIS 1 Per Share) From the American Stock Exchange LLC File No. 1–10422

March 27, 2002.

Electrochemical Industries, Ltd., a corporation organized under the laws of Israel (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, par value NIS 1 per share (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in Israel, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Amex has, in turn, informed the Issuer that it does not object to the proposed withdrawal of the Issuer's Security from listing and registration on the Exchange. The Issuer states that it will continue listing its Security on the Tel Aviv Stock Exchange. The Issuer's application relates solely to the withdrawal of the Security from listing and registration under section 12(b) of the Act [3] and shall not effect its obligation to be registered under section 12(g) of the Act.[4]

The Board of Trustees (''Board'') of the Issuer unanimously approved a resolution on March 10, 2002 to withdraw the Issuer's Security from listing on the Amex. In making the decision to withdraw its Security from the Amex, the Board cites low trading volume and market capitalization of its Security. In addition, the Company has recently sustained losses and is uncertain when it will return to profitability. The Company's Security has fallen below certain Amex guidelines with respect to continued listing due to the present market conditions of the Company's production.

Any interested person may, on or before April 19, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–7900 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45654; File No. S7–17–00]

Order Granting Temporary Exemption for Broken-Dealers from the Trade-Through Disclosure Rule

March 27, 2002.

In July 2000, the Commission approved an intermarket linkage plan, in which all five options exchanges [1] are currently participants (''Linkage Plan'').[2] Also in July 2000, the Commission proposed, and in November 2000 adopted, Rule 11Ac1–7 (''Trade-Through Disclosure Rule'') under the Securities Exchange Act of 1934 (''Exchange Act'').[3]

The Trade-Through Disclosure Rule requires a broker-dealer to disclose to a customer when the customer's order for a listed option is executed at a price inferior to the best-published quote (''intermarket trade-through''), and to disclose the better published quote available at that time. However, a broker-dealer is not required to disclose to its customer an intermarket trade-through if the broker-dealer effects the transaction on an exchange that participates in an approved linkage plan that includes provisions reasonably designed to limit customers' orders from being executed at prices that trade through a better published price. In addition, broker-dealers are not required to provide the disclosure required by the rule if the customer's order is executed as part of a block trade. Once implemented, the Linkage Plan would reasonably limit intermarket trade-throughs on each of the options markets,[4] provided that the Options Exchanges remain participants in the Linkage Plan.[5] Under these circumstances, broker-dealers would be excepted from the disclosure requirements of the Trade-Through Disclosure Rule.

To date, the options exchanges have taken steps to implement the Linkage Plan. Specifically, the options exchanges have selected The Options Clearing Corporation (''OCC'') to be the linkage provider and have worked closely with OCC to develop the technical requirements related to the linkage's central core or ''hub'' to and from which all linkage orders would be routed. The Commission understands that the options exchanges are completing the process of evaluating their internal systems to determine the

[4] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] The exchanges currently trading options are the American Stock Exchange (''Amex''), the Chicago Board Options Exchange (''CBOE''), the International Securities Exchange (''ISE''), the Pacific Exchange (''PCX''), and the Philadelphia Stock Exchange (''Phlx'') (collectively, ''Options Exchanges'').

[2] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). The Linkage Plan approved by the Commission in July 2000 is the plan filed by the Amex, CBOE, and ISE. Subsequently, the PCX and Phlx joined the Linkage Plan. *See* Securities Exchange Act Release Nos. 43310 (September 20, 2000), 65 FR 58583 (September 29, 2000) (approving an amendment to the Linkage Plan adding the PCX as a participant); and 43311 (September 20, 2000), 65 FR 58584 (September 29, 2000) (approving an amendment to the Linkage Plan adding the Phlx as a participant).

[3] 17 CFR 240.11Ac1–7. *See also* Securities Exchange Act Release Nos. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000); and 43085 (July 28, 2000), 65 FR 47918 (August 4, 2000).

[4] The Commission approved an amendment to the previously-approved Linkage Plan that would permit broker-dealers executing orders on participating exchanges to satisfy the exception to the disclosure requirements of the Trade-Through Disclosure Rule. Securities Exchange Act Release No. 44482 (June 27, 2001), 66 FR 35470 (July 5, 2001).

[5] The Linkage Plan permits an exchange to withdraw from participation in the Linkage Plan with 30 days written notice.

extent of modification necessary to integrate their systems into the central hub and beginning to modify those systems.

The Commission has twice extended the compliance date of the Trade-Through Disclosure Rule for broker-dealers, most recently until April 1, 2002, because of its reluctance to impose on broker-dealers the costs of complying with the disclosure requirements of the rule while the Options Exchanges are working to implement the Linkage Plan, which would render such disclosures unnecessary.[6] Recently the Options Exchanges, in a letter dated March 15, 2002 to Chairman Pitt, committed to implement the linkage in two phases by specified dates.[7] The first phase would comprise those elements of the linkage that are necessary to send and receive orders required under the Linkage Plan to be automatically executed by the exchange receiving the order. The Options Exchanges committed to begin full intermarket testing of the first phase by December 1, 2002, and to implement this phase no later than February 1, 2003. The second phase would comprise the remaining elements of the linkage. The exchanges commit to begin testing of this second phase by March 1, 2003, and to implement this phase no later than April 30, 2003. The Options Exchanges also committed to file with the Commission an amendment to the Linkage Plan that would incorporate this testing and implementation timetable.[8]

In addition, the Options Exchanges agreed to file an amendment to the Linkage Plan that would permit an exchange to withdraw from participation in the Linkage Plan only if it can satisfy the Commission that it can accomplish, by alternative means, the same goals as the Linkage Plan of limiting intermarket trade-throughs of prices on other markets.[9] The Options Exchanges are currently working on amendments to the Linkage Plan that would be approved by each of their boards and filed with the Commission by April 15, 2002. If the Commission approves the amendments to the Linkage Plan,[10] the principal purpose of the Trade-Through Disclosure Rule ‘‘ to require customers’’ orders to be executed on exchanges that participate in a linkage that limits intermarket trade-throughs or, in the alternative, to provide customers with additional information about the execution of their orders ‘‘ would be accomplished.

Accordingly, the Commission believes that it is appropriate in the public interest and consistent with the protection of investors at this time to temporarily exempt broker-dealers from the requirements of the Trade-Through Disclosure Rule. Moreover, in light of the expressed intent of the Options Exchanges to file amendments to the Linkage Plan so that no exchange may withdraw from its obligations to limit trade-throughs of prices on other markets without an alternative means to achieve this same goal, the Commission has directed the staff to develop a proposal so that the Commission may consider repeal of the Trade-Through Disclosure Rule. At the time the Commission considers the proposal to repeal the Trade-Through Disclosure Rule it has directed staff to develop, it will consider a further extension of this temporary exemption.

Accordingly,

It is ordered, pursuant to section 36 of the Exchange Act,[11] that broker-dealers are exempt from compliance with the Trade-Through Disclosure Rule until July 1, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7902 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* Securities Exchange Act Release Nos. 44078 (March 15, 2001), 66 FR 15792 (March 21, 2001); and 44852 (September 26, 2001), 66 FR 50103 (October 2, 2001).

[7] *See* Letter from the Options Exchanges to Harvey L. Pitt, Chairman, Securities and Exchange Commission, dated March 15, 2002.

[8] *See* Exchange Act Rule 11Aa3–2(d), 17 CFR 11Aa3–2(d).

[9] *Id.*

[10] The Commission must publish any amendment to the Linkage Plan filed by the Options Exchanges and provide interested persons an opportunity to submit written comments. *See* Exchange Act Rule 11Aa3–2(c)(1), 17 CFR 11Aa3–2(c)(1). A proposed amendment may be put into effect summarily upon publication of notice, on a temporary basis not to exceed 120 days, if the Commission finds that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act. *See* Exchange Act Rule 11Aa3–2(c)(4), 17 CFR 11Aa3–2(c)(4). Within 120 days of publication of notice of filing of an amendment to the Linkage Plan, the Commission must approve the amendment, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act. *See* Exchange Act Rule 11Aa3–2(c)(2), 17 CFR 11Aa3–2(c)(2).

[11] 15 U.S.C. 78mm.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45650; File No. SR–Amex–2001–72]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment Nos. 1 and 2 by the American Stock Exchange LLC Relating to an Expansion of the Hedge Exemption From Position and Exercise Limits

March 26, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on September 6, 2001, the American Stock Exchange LLC (‘‘Amex’’ or ‘‘Exchange’’) filed with the Securities and Exchange Commission (‘‘SEC’’ or ‘‘Commission’’) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 26, 2001, the Exchange filed Amendment No. 1 [2] with the Commission, and on February 4, 2002, the Exchange filed Amendment No. 2 [3] with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment Nos. 1 and 2 from interested persons. The Commission is also granting accelerated approval to the proposed rule change, including Amendment Nos. 1 and 2.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Commentary .09 to Amex Rule 904 to eliminate position and exercise limits for certain qualified hedge strategies relating to stock and Exchange-Traded Fund (‘‘ETF’’) Share options and to establish a position and exercise limit of five times the standard limit for those strategies that include an OTC option

[1] 15 U.S.C 78s(b)(1).

[2] *See* Letter to Sharon Lawson, Senior Special Counsel, Division of Market Regulation (‘‘Division’’), Commission, from Jeffrey P. Burns, Senior Counsel, Amex, dated December 21, 2001 (‘‘Amendment No. 1’’). In Amendment No. 1, Amex amended the proposed rule change to state that for back-to-back options or where one of the option components of a qualified hedge consists of an over-the-counter (‘‘OTC’’) option, the hedge exemption is limited to five times the established position limit.

[3] *See* Letter to Sharon Lawson, Senior Special Counsel, Division, Commission, from Jeffrey P. Burns, Senior Counsel, Amex, dated February 1, 2002 (‘‘Amendment No. 2’’). Amendment No. 2 is a technical amendment whereby the Exchange moved language regarding the establishment of position and exercise limit of five times the standard limit for those strategies that include an OTC option contract to the beginning to Commentary .09 to Amex Rule 904.

contract. The current reporting procedures that serve to identify and document hedged positions will continue to apply.

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 Amex 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 Amex 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity option position and to establish a position and exercise limit of five times the standard limit for those strategies that include an OTC option contract. Position limits impose a ceiling on the aggregate number of options contracts (when long or short) of each class on the same side of the market that can be held or written by an investor or group of investors acting in concert. Exercise limits prohibit the exercise by an investor or group of investors acting in concert of more than a specified number of options contracts in a particular underlying security within five (5) consecutive business days. The Exchange believes that this proposal expands position and exercise limits to meet the needs of investors for market neutral strategies. This expansion of the Equity Hedge Exemption from position and exercise limits (the ''Equity Hedge Exemption'') is substantially identical to proposals recently filed by the Chicago Board Options Exchange, Inc. (''CBOE'') [4] and the Pacific Stock Exchange, Inc. (''PCX'').[5]

Current Commentary .07 to Amex Rule 904 provides position and exercise limits for stock and ETF Share options of 13,500, 22,500, 31,500, 60,000 and 75,000 options contracts on the same side of the market depending on the level of underlying trading volume over a six-month period.[6] The existing hedge exemption found in Commentary .09 to Amex Rule 904 provides an exemption to position and exercise limits of up to three (3) times the standard limit for certain qualified hedge strategies as follows: (i) Long call and short stock; (ii) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock.[7] Moreover, in 1993 the Amex expanded the definition of a qualified hedge position to allow for the use of convertible securities.[8]

Since the inception of the Equity Hedge Exemption in 1988,[9] the types of hedge strategies employed by market participants have become increasingly more diversified. Amex believes that, through its experience in administering and processing Equity Hedge Exemption information, it has learned that market participants no longer rely strictly on a stock-option hedge. Additionally, while traditional hedge strategies such as a covered call or reverse conversion strategy continue to be utilized, the Amex believes that listed options contracts are now employed to hedge a wider spectrum of securities.

In response to the Commission's liberalization in granting position limit relief for market neutral strategies, and to more fully accommodate the hedging needs of investors, the Exchange is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity options position. Accordingly, the Amex proposes to expand the definition of a ''qualified hedged position'' found in Commentary .09 to Amex Rule 904. The proposed qualified hedged strategies are as follows:

1. Where each option contract is ''hedged'' by the number of shares underlying the option contract or securities convertible into the underlying security or, in the case of an adjusted option, the same number of shares represented by the adjusted contract: (a) Long call and short stock; (b) short call and long stock; (c) long put and long stock; or (d) short put and short stock.

2. *Reverse Conversions*—A long call position accompanied by a short put position, where the long call expires with the short put and the strike price of the long call and short put is the same, and where each long call and short put contract is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such underlying security.[10]

3. *Conversions*—A short call position accompanied by a long put position, where the short call expires with the long put and the strike price of the short call and long put is the same, and where each short call and long put contract is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such underlying security.[11]

4. *Collars*—A short call position accompanied by a long put position, where the short call expires at the same time as the long put and the strike price of the short call equals or exceeds the strike price of the long put position and where each short call and long put position, is hedged with 100 shares of the underlying security (or other adjusted number of shares).[12] Neither side of the short call/long put position can be in-the-money at the time the position is established.

5. *Box Spreads*—A long call position accompanied by a short put position, where both the long call and short put have the same strike price, and a short call position accompanied by a long put position, where the short call and long put have the same strike price as each other, but a different strike price than the long call/short put position.

6. *Back-to-Back Options*—A listed option position hedged on a one-for-one basis with an over-the-counter (''OTC'') option position on the same underlying security. [13] The strike price of the listed

[4] *See* Securities Exchange Act Release No. 44681 (August 10, 2001), 66 FR 43274 (August 17, 2001) (SR–CBOE–00–12). The CBOE's proposed qualified hedge strategies contain certain examples of the strategies. *See* Amendment No. 1 to SR–CBOE–00–12. The Amex represents that the CBOE's examples apply equally to the Amex's proposed qualified hedge strategies.

[5] *See* Securities Exchange Act Release No. 44680 (August 10, 2001) 66 FR 43283 (August 17, 2001) (SR–PCX–00–45).

[6] *See* Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999).

[7] *See* Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201 (June 2, 1988).

[8] *See* Securities Exchange Act Release No. 36409 (October 23, 1995), 60 FR 55399 (October 31, 1995) and Securities Exchange Act Release No. 32902 (September 14, 1993), 58 FR 49066 (September 21, 1993).

[9] *See supra* note 8.

[10] For these strategies one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account. Hedge transactions and positions established pursuant to these strategies are subject to a position limit equal to five times the standards limit established under Commentary .07 to Amex Rule 904. For purposes of this rule filing, an OTC option contract is defined as an option that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

[11] *Id.*

[12] *Id.*

[13] Hedge transactions and positions established pursuant to this strategy are subject to a position limit equal to five times the standards limit established under Commentary .07 to Amex Rule 904.

option position and corresponding OTC option position must be within one strike price interval of each other and no more than one expiration month apart.

For reverse conversion, conversion and collar strategies, one of the option components can be an OTC option [14] guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

Within the list of proposed hedge strategies eligible for the Equity Hedge Exemption, the Exchange proposes that the option component of a reversal, a conversion or a collar position can be treated as one contract rather than as two (2) contracts. All three strategies serve to hedge a related stock portfolio. Because these strategies require the contemporaneous [15] purchase/sale of both a call and put component, against the appropriate number of shares underlying the option (generally 100 shares) the Exchange believes that the position should be treated as one contract for hedging purposes.

With the exception of covered stock positions, Amex believes that all other proposed qualified strategies are market neutral,[16]that none of the proposed strategies lend themselves to market manipulation and, they therefore, should qualify for the Equity Hedge Exemption. In addition, the Exchange believes that the current reporting requirements under Amex Rule 906 and internal surveillance procedures for hedged positions will enable the Exchange to closely monitor sizable option positions and corresponding hedges.

Under the proposed rule change, the standard position and exercise limits will remain in place for unhedged equity option positions. Once an account nears or reaches the standard limit, positions identified as a qualified hedge strategy will be exempted from position limit calculations. The exemption will be automatic (*i.e.* does not require pre-approval from the Exchange) to the extent that the member identifies that a pre-existing qualified hedge strategy is in place or is employed from the point that an account's position reaches the standard limit and provides the required supporting documentation to the Exchange.

The exemption will remain in effect to the extent that the exempt positions remains intact and the Exchange is provided with any required supporting documentation. Procedures to demonstrate that the option position remains qualified are similar to those currently in place. Exchange procedures currently require a qualified account to report to the Exchange's Department of Market Surveillance all hedged positions together with the underlying stock positions that qualify the options position for the exemption. This report is filed with the Exchange no later than the close of business on the next day following the day on which the transaction or transactions that require the filing of such report occurred. Hedge information for member firm and customer accounts having 200 or more contracts are electronically reported via the Large Options Positions Report. Specialist and registered options trader account information is also reported to the Amex by such member's clearing firm. The existing requirement imposed on a member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will continue to apply.

The Amex believes that, with the exception of covered stock positions, all of the proposed qualified hedge strategies are market neutral. Therefore, none of the proposed strategies lend themselves to market manipulation and should be exempt from position limits. In addition, the Exchange believes that the current reporting requirements under Amex Rule 906 and the surveillance procedures for hedged positions will enable the Exchange to closely monitor sizable option positions and corresponding hedges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [17] in general and furthers the objectives of Section 6(b)(5) [18] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Amex has neither solicited nor received written comments with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of Amex. All submissions should refer File No. SR–Amex–2001–72 and should be submitted by April 23, 2002.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal is consistent with the requirements of section 6(b)(5) of the Act [19] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities,

[14] For the purpose of this ruling, an OTC option contract is defined as an option that is not listed on a national securities exchange or cleared at the Options Clearing Corporation.

[15] At or about the same time.

[16] Where covered stock transactions are not market neutral (i.e. long stock/short call; short stock/short put); the market exposure on such activity resides with the stock position where no limit is imposed. As the short option premium serves no mitigate the stock exposure, no limit should be imposed on this strategy.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78f(b)(5). In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, considered with section 3 of the Act. *Id.* at 78c(f).

and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Position and exercise limits serve as a regulatory tool designed to address potential manipulative schemes and adverse market impact surrounding the use of options. In general, the Commission has taken a gradual, evolutionary approach toward expansion of position and exercise limits. The Commission has been careful to balance two competing concerns when considering the appropriate level at which to set position and exercise limits. The Commission has recognized that the limits must be sufficient to prevent investors from disrupting the market in the component securities comprising the indexes. At the same time, the Commission has determined that limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.[20]

The Commission has carefully considered the Amex's proposal to expand the hedge exemption from position and exercise limits. Given the market neutral characteristic of all the proposed qualified hedge strategies (except covered stock positions), the Commission believes it is permissible to expand the current equity hedge exemption without risk of disruption to the options or underlying cash markets. Specifically, the Commission believes that existing position and exercise limits, procedures for maintaining the exemption, and the reporting requirements imposed by the Exchange will help protect against potential manipulation. The Commission notes that the existing standard position and exercise limits will remain in place for unhedged equity option positions. To further ensure against market disruption, the Amex will establish a position and exercise limit equal to no greater than five times the standard limit for those hedge strategies that include an OTC option component.

Once an account nears or reaches the standard limit, positions identified as one or more of the proposed qualified hedge strategies will be exempted from limit calculations. Although the exemption will be automatic (*i.e.,* does not require pre-approval from the Exchange), the exemption will remain in effect only to the extent that the exempted position remains intact and that the Exchange is provided with any required supporting documentation.

In addition, as described above, a qualified account must report hedge information each time the option position changes. Hedge information for member firm and customer accounts having 200 or more contracts are reported to the Exchange electronically, via the Large Options Position Report. Specialist and registered options trader account information is also reported to the Exchange electronically by the member's clearing firm. For those option positions that do not change, a filing is generally required on a weekly basis. Finally, the existing requirement imposed on member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will remain in place.

The Commission believes these reporting requirements will help the Amex to monitor options positions and ensure that only qualified hedges are being exempt from position and exercise limits. To the extent that any position raises concerns, the Commission believes that the Amex, through its monitoring, will be promptly notified, and the Commission would expect the Amex to take any appropriate action, as permitted by its rules.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that the proposal, as amended, is substantially identical to a proposed rule change submitted by the CBOE, which the Commission has approved.[21] The Commission does not believe that the proposed rule changes raises novel regulatory issues that were not already addressed and should benefit Exchange members by permitting them greater flexibility in using hedge strategies advantageously, while providing an adequate level of protection against the opportunity for manipulation of these securities and disruption in the underlying market. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[22] to approve the proposal, as amended, on an accelerated basis.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule change (SR–Amex–2001–72), as amended, is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7870 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[20] *Id.*

[21] *See* Securities Exchange Act Release No. 44503 (March 20, 2002) (SR–CBOE–00–12).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45649; File No. SR–BSE–2002–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. To Extend Its Specialist Performance Evaluation Program

March 26, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934[1] notice is hereby given that on March 20, 2002, the Boston Stock Exchange (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend its Specialist Performance Evaluation Program until June 30, 2002. The proposed language is below. Added language is in italics. Deleted language is in brackets.

Chapter XV

Specialists

Specialist Performance Evaluation Program

Sec. 17 (a)—(e) no change.

(f) This program will expire on [March 31, 2002] *June 30, 2002,* unless further action is taken by the Exchange.

* * * * *

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

[1] 15 U.S.C. 78s(b)(1).

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange seeks to extend its Specialist Performance Evaluation Program (''SPEP'') pilot, until June 30, 2002. Under the SPEP pilot program, the Exchange regularly evaluates the performance of its specialists by using objective measures, such as turnaround time, price improvement, depth, and added depth. Generally, any specialist who receives a deficient score in one or more measures may be required to attend a meeting with the Performance Improvement Action Committee, or the Market Performance Committee.

While the Exchange believes that the SPEP program has been a very successful and effective tool for measuring specialist performance, it realizes that modifications are necessary because of recent changes in the industry, particularly decimalization. Accordingly, the Exchange is seeking to extend the pilot period of this program so that evaluation and modification of the SPEP program can be undertaken before permanent approval is requested.

2. Basis

The statutory basis for the proposed rule change is section 6(b)(5) [2] of the Act in that the proposed rule change is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

[2] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on 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 upon filing pursuant to section 19(b)(3)[3] of the Act and paragraph (f) of Rule 19b–4[4] thereunder because the proposal (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; and the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change,[5] or such shorter time as designated by the Commission.

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 Commission designates that the proposal become operative on March 31, 2002, because it is consistent with the protection of investors and the public interest to continue the pilot program uninterrupted and permit the Exchange to continue to evaluate the pilot program in light of changes in the marketplace.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–2002–03 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority[7].

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7873 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78s(b)(3).

[4] 17 CFR 240.19b–4(f).

[5] BSE submitted this proposed rule change on March 8, 2002. The Commission deems the initial filing to meet the notice of intent to file requirement.

[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).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45603A; File No. SR–CBOE–00–12]

Self Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change Relating to the Expansion of the Equity Hedge Exemption From Position and Exercise Limits

March 27, 2002.

Correction

In FR Document No. 02–07327, beginning on page 14751 for Wednesday March 27, 2002, paragraph (iv) in column 3 on page 14751, which describes the collar hedge strategy, was incorrectly stated by the Chicago Board Options Exchange (''CBOE'').[1] The paragraph should read as follows:

(iv) Collar (sell call/buy put, neither in-the-money when established with the same expiration where the strike price of the short call equals or exceeds the

[1] Telephone conversation between Patricia L. Cerny, Director, Department of Market Regulation, CBOE, and Susie Cho, Special Counsel, Division of Market Regulation, Commission, March 26, 2002.

strike price of the long put/buy stock).[2] A collar strategy provides downside protection by the use of put option contracts and finances the purchase of the puts through the sale of short call option contracts. The goal of this strategy is to bracket the price of the underlying security at the time the position is established. For example, assume that the price of an underlying equity, XYZ, is $53 and account ABC is long 5000 shares of XYZ at $53. Account ABC sells 50 XYZ April 55 calls and purchases 50 XYZ April 50 puts. Under the collar exemption, one collar (*i.e.,* one short call, and one long put) must be hedged with 100 shares of the underlying security to remain exempt.

Additionally, neither side of the short call, long put position can be in-the-money at the time the position is established.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7867 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[2] *Id.*

[3] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45633; File No. SR–CBOE–2002–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Allocation of Orders for Appointed Market-Makers in Index FLEX Options

March 22, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2002, the Chicago Board Options Exchange, Inc. (''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 Exchange. On March 18, 2002, the CBOE submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 24A.5 relating to allocation of orders for Appointed Market Makers in Index Flex Options (''AMMs'').

Below is the text of the proposed rule change. Deleted language is in brackets. Proposed new language is *italicized*.

* * * * *

Chicago Board Options Exchange, Inc.

Rules

CHAPTER XXIVA

Flexible Exchange Options

* * * * *

FLEX Trading Procedures and Principles

* * * * *

Rule 24A.5

* * * * *

(e) Priority of Bids and Offers. (no change)

(i) Bids. (no change)

(ii) Offers. (no change)

(iii) Notwithstanding the foregoing sub-paragraphs (i) and (ii) of this paragraph (e), whenever the Submitting Member has indicated an intention to cross or act as principal on the trade and has matched or improved the BBO during the BBO Improvement Interval, the following priority principles will apply:

(A) (no change)

(B) In the case of Index FLEX Options, where the Submitting Member has matched the BBO or in the event the Submitting Member has improved the BBO and any other FLEX participating member matched the improved BBO, the Submitting Member will have priority to execute the contra side of the trade that is the subject of the Request for Quotes, but only to the extent of the largest of [25%] *20%* of the trade, a proportional share of the trade, $1 million Underlying Equivalent Value, or the remaining Underlying Equivalent Value on a closing transaction valued at less than $1 million.

(iv) Notwithstanding subparagraphs (i), (ii) and (iii), subject to the review of the Board of Directors, the appropriate Floor Procedure Committee may establish from time to time a participation entitlement formula that is applicable to all FLEX Appointed Market-Makers.

* * * * *

The CBOE has also submitted as part of its proposed rule change the draft text of a proposed Regulatory Circular that would establish a participation entitlement formula pursuant to the above proposed CBOE Rule 24A.5(e)(iv) and would further describe its application, as discussed in Section II.A. below. The text of this proposed Regulatory Circular 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 aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is submitting the proposed change to amend CBOE Rule 24A.5 pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000, [4] which requires that respondent options exchanges adopt new, or amend existing, rules to make express any practice or procedure ''whereby market makers trading any particular option class determine by agreement * * * the allocation of orders in that option class.'' The proposed rule change addresses the allocation of orders for FLEX Index Options.

The proposed rule change would add CBOE Rule 24A.5(e)(iv), which would permit the appropriate Floor Procedure Committee to establish a participation entitlement formula that is applicable to all AMMs in FLEX Index Options. In addition, the proposed rule change would amend the participation entitlement of the Submitting Member [5] by deleting ''25%'' in CBOE Rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jaime Galvan, Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 15, 2002 (''Amendment No. 1''). The changes made by Amendment No. 1 have been incorporated into this notice.

[4] Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000).

[5] A ''Submitting Member'' is defined in CBOE Rule 24A.1(q) as an Exchange member that initiates FLEX bidding and offering by submitting a FLEX Request for Quotes.

24A.5(e)(iii)(B) and replacing it with ''20%.''[6]

CBOE is also submitting as part of the proposed rule change a draft Regulatory Circular in which the SPX Floor Procedure Committee[7] would exercise its authority under the proposed CBOE Rule 24A.5(e)(iv) to set the participation entitlement formula for AMMs.[8] Specifically, the Regulatory Circular would state that the Submitting Member is entitled to cross up to 20% of the contracts in an order that occurs as a result of the Submitting Member's Request for Quotes (''RFQ''). The Regulatory Circular would stipulate that to receive this participation entitlement, the Submitting Member must indicate an intention to cross or act as principal with respect to the FLEX trade. The Regulatory Circular would also state that the AMM(s) is (are) entitled to the contracts remaining in the order up to an aggregate of 40% of the order, but that a Submitting Member and the AMM(s) could not receive an entitlement that collectively equals more than 40% of the order. The remaining contracts in the order would then be allocated according to the relevant Exchange rules.[9]

2. Statutory Basis

The CBOE believes that the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers, pursuant to section 6(b)(5) of the Exchange Act.[10] The CBOE believes that, through the AMMs' obligation to respond to all RFQs, liquidity is provided to the FLEX Index Options market. In return for the obligations that are imposed on AMMs in FLEX Index Options, the CBOE believes it is just and equitable that the AMMs receive a participation entitlement, which may be up to 40% of an order.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change, as amended.

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, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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 CBOE. All submissions should refer to file number SR–CBOE–2002–09 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

[6] CBOE Rule 24A.5(e)(iii)(B) currently permits a Submitting Member who has matched or improved the BBO to have priority to execute the contra side of the trade that is the subject of the Request for Quotes (''RFQ''), but only to the extent of the largest of 25% of the trade, a proportional share of the trade, $1 million Underlying Equivalent Value, or the remaining Underlying Equivalent Value on a closing transaction valued at less than $1 million.

[7] The SPX Floor Procedure Committee would be the appropriate Floor Procedure Committee pursuant to proposed Rule CBOE Rule 24A.5(e)(iv) to establish the participation entitlement formula. Telephone conversation between Madge Hamilton and Jaime Galvan, Attorneys, the CBOE; and Nancy Sanow, Assistant Director, Ira Brandriss, Special Counsel, and Frank N. Genco, Attorney-Advisor, Division, Commission, on March 4, 2002.

[8] The Exchange states that changes to this Regulatory Circular, including changes to a participation entitlement formula, will be submitted to the Commission pursuant to section 19(b) of the Act.

[9] The AMM(s) would not be entitled to a share in these remaining contracts unless all other participants have been satisfied. Telephone conversation between Jaime Galvan, Attorney, CBOE, and Ira Brandriss, Special Counsel, and Frank N. Genco, Attorney-Advisor, Division, Commission, March 19, 2002.

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45640; File No. SR–CBOE–2002–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Allocation of Orders for Lead Market-Makers and Supplemental Market-Makers Logged On to the Exchange's Rapid Opening System

March 25, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2002 the Chicago Board Options Exchange, Inc. (''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 Exchange. On March 18, 2002, the CBOE submitted Amendment No. 1 to the proposed rule change.[3] On March 22, 2002, the CBOE submitted Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Interpretation and Policies .01 of CBOE

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jaime Galvan, Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 15, 2002. The changes made by Amendment No. 1 have been incorporated into this notice.

[4] *See* letter from Madge M. Hamilton, Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 22, 2002. The changes made by Amendment No. 2 have been incorporated into this notice.

Rule 6.2A (''Interpretation .01'') relating to allocation of orders for Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') logged on to the Exchange's Rapid Opening System (''ROS'').

Below is the text of the proposed rule change. Deleted language is in brackets. Proposed new language is *italicized.*

* * * * *

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Rapid Opening System

Rule 6.2A (a) Operation

* * * * *

* * * *Interpretation and Policies:*

.01 ROS may be used by LMMs and SMMs, *appointed pursuant to Rule 8.15*, to conduct rotations in [S&P 100] options *classes* [(''OEX'')]. *Notwithstanding paragraph (b) of this Rule, ROS contracts to trade will be assigned to the LMMs and SMMs logged onto the ROS system. In addition, subject to the review of the Board of Directors, the appropriate Committee may establish from time to time a participation entitlement formula that is applicable to the LMM who determines the formula for generating automatically updated market quotations during the trading day and provides the primary quote feed for an option class during an expiration cycle. The participation entitlement formula only applies to ROS contracts to trade and is subject to the following conditions: (i) the LMM will receive this participation right only during expiration cycles (and only with respect to time periods during those expiration cycles) when the LMM is providing the primary quote feed, and (ii) the LMM logs onto ROS the designated number of times as established by the appropriate Committee.*

* * * * *

The CBOE has also submitted as part of its proposed rule change the draft text of a proposed Regulatory Circular that would establish, and further describe the application of, a participation entitlement formula for qualifying LMMs pursuant to the above proposed amendment to Interpretation .01 of Rule 6.2A. The text of this proposed Regulatory Circular 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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is submitting the proposed change to Interpretation .01 pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000,[5] which requires that respondent options exchanges adopt new, or amend existing, rules to make express any practice or procedure ''whereby market makers trading any particular option class determine by agreement * * * the allocation of orders in that option class.'' The proposed rule change would clarify that ROS trades will be assigned to LMMs and SMMs logged onto ROS.[6] It would also permit the appropriate Floor Procedure Committee to establish an entitlement formula—*i.e.*, a participation right—that is applicable to the LMM who determines the formula for generating automatically updated market quotations during the trading day and provides the primary quote feed for an option class during the current expiration month.[7]

The proposed rule change provides that this LMM's participation right would apply only to ROS contracts to trade, and would be subject to the following conditions: (1) The LMM would only receive this participation right during the time it is actually providing the primary quote feed for an option class; and (2) the LMM must log onto ROS the minimum number of times established by the appropriate Floor Procedure Committee.

The CBOE states that the proposed rule change clarifies that ROS may be used by LMMs and SMMs appointed pursuant to CBOE Rule 8.15 to conduct rotations in options classes,[8] and would permit LMMs and SMMs to use ROS in any options class. Interpretation .01 currently limits the use of ROS to LMMs and SMMs in S&P 100 (''OEX'') Options. Thus, the proposed change would permit a wider use of ROS by LMMs and SMMs.

The proposed rule change to Interpretation .01 is also intended to clarify that despite CBOE Rule 6.2A(b)—which assigns ROS contracts to trade to participating market-makers—in crowds to which LMMs and SMMs are appointed, ROS contracts to trade will be assigned only to the LMMs and SMMs logged onto ROS.[9] The CBOE cites the notice in which the rule change to adopt Interpretation .01 was published,[10] which stated that openings in OEX options have been conducted for many years by the use of LMMs.[11] That notice also stated:

> CBOE * * * represent[ed] that the ROS system was not meant to supplant the LMM system which has added accountability to the openings in OEX. The CBOE believes that, at the option of the appropriate CBOE Floor Procedure Committee, ROS would be used as a tool by the LMM to facilitate openings. * * * To the extent that market-makers want to participate in the opening of a series in which they do not hold LMM or SMM appointments, they will continue to be able to transmit written non-cancelable proprietary and market-makers orders to the LMM in the appropriate zone ten minutes prior to the opening of trading, pursuant to the terms of Interpretation .02 to CBOE Rule 24.13.[12]

The CBOE states that it has introduced a vendor quote program in OEX to replace the Autoquote system. The vendor system accepts a quote stream from a firm's proprietary quote system and then sends this quote information to the Trading Support System to be disseminated as market

[5] Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000).

[6] ROS is the Exchange's automated system for opening classes of options at the beginning of the trading day or for re-opening classes of options during the trading day. *See* CBOE Rule 6.2A.

[7] The Exchange states that changes to this Regulatory Circular, including changes to a participation entitlement formula, will be submitted to the Commission pursuant to section 19(b) of the Exchange Act.

[8] *See* Securities Exchange Act Release No. 45574 (March 15, 2002) concerning a related amendment to CBOE Rule 8.15 that was recently approved by the Commission.

[9] Telephone conversation between Madge Hamilton and Jaime Galvan, Attorneys, CBOE, and Ira Brandriss, Special Counsel, Division, Commission, on March 21, 2002.

[10] Securities Exchange Act Release No. 43666 (December 4, 2000); 65 FR 77943 (December 13, 2000) (notice of filing and immediate effectiveness of proposed rule change that permitted the implementation of ROS in S&P 100 index options).

[11] *Id.* at 77944.

[12] Id.

quotes.[13] The CBOE believes that the LMM that provides the primary quote feed for an option class during the current expiration cycle provides a valuable service that ensures that the quotes are being updated in timely fashion to reflect the current state of the market. The LMM currently receives no participation entitlement for providing the primary quote feed for an option class, other than the entitlement it receives along with all other SMMs entitled to participate during the opening. The proposed rule change would permit the appropriate Floor Procedure Committee to establish a participation entitlement formula for the LMM providing the primary quote feed.

The CBOE is also submitting as part of the proposed rule change a draft Regulatory Circular for use by any appropriate Floor Procedure Committee to adopt the participation entitlement formula established in the circular. This Regulatory Circular establishes participation entitlements that range from 34 percent to 40 percent for the LMM providing the primary quote feed. These participation entitlements would be implemented by permitting the LMM providing the primary quote feed to log onto ROS an additional number of times as indicated in the table below:

If the total Number of appointed LMMs and SMMs is	The LMM providing the primary quote feed must log onto ROS the following Number of times	Participation right of the LMM providing the primary quote feed (percent)
3	1	34
4	2	40
5	2	34
6	3	38
7	4	40
8	4	36
9	5	38
10	6	40
11	6	38
12	7	39
13	8	40
14	8	38
15	9	39
16	10	40

The draft Regulatory Circular adds that in the event the total number of LMMs and SMMs appointed pursuant to CBOE Rule 8.15 is one, all ROS contracts to trade will be assigned to the appointed LMM or SMM. In the event the total number of LMMs and SMMs appointed pursuant to Rule 8.15 is two, the circular states that the LMMs and/or SMMs will each be assigned an equal portion of ROS contracts.

2. Statutory Basis

The CBOE believes that the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers, pursuant to section 6(b)(5) of the Act.[14] The CBOE believes that the proposed rule change protects investors and the public interest by providing incentives to the LMMs to provide the primary quote feed. The CBOE states that the LMM that provides the primary quote feed uses its own proprietary system to provide the quotes, and, in addition, must make sure that quotes are updated in a timely fashion to reflect the current quotes in the underlying Index Options.

The proposed rule change proposes to give the LMM a limited participation entitlement during the opening of an Index Option. The CBOE believes that given the service that the LMM is performing, it is within just and equitable principles of trade to grant the limited participation entitlement that is proposed. For the reasons stated, the CBOE believes that the proposed rule change is consistent with the Act and the regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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, as amended, or

(B) institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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 CBOE. All submissions should refer to file number SR–CBOE–2002–10 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

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[13] A minimum of three market-makers or market-maker groups are approved by CBOE's Index Market Performance Committee to act as LMMs and SMMs and provide a proprietary quote feed to CBOE's vendor quote system. One feed serves as the primary quote feed, and the other feeds serve as backup. In addition, Autoquote provided by RISC Systems serves as a backup.

[14] 15 U.S.C. 78f(b)(5).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45656; File No. SR–GSCC–2002–01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to Establishment of a Cross-Margining Program With BrokerTec Clearing Company, L.L.C.

March 27, 2002.

I. Introduction

On January 18, 2002, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'')

proposed rule change SR–GSCC–2002–01 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on February 21, 2002.[2] The Commission received two comment letters in response to the proposed rule change.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description [4]

On August 19, 1999, the Commission approved GSCC's rule filing to establish a cross-margining program with other clearing organizations and to begin its program with the New York Clearing Corporation (''NYCC'').[5] Subsequently, the Commission approved GSCC's rule filing to establish similar cross-margining programs with the Chicago Mercantile Exchange (''CME'') [6] and with the Board of Trade Clearing Corporation (''BOTCC'').[7] GSCC is now seeking to establish a similar cross-margining program with BCC.

BCC is the affiliated clearing organization for the BrokerTec Futures Exchange, L.L.C. (''BTEX''). On June 18, 2001, the Commodity Futures Trading Commission approved the application of BTEX for contract market designation and granted registration of BCC as a derivatives clearing organization. BCC clears the futures contracts on U.S. Treasury securities traded on BTEX.[8]

A. GSCC's Cross-Margining Program

GSCC believes that the most efficient and appropriate approach for establishing cross-margining links for fixed-income and other interest rate products is to do so on a multilateral basis with GSCC as the ''hub.'' Each clearing organization that participates in a cross-margining program with GSCC (''Participating CO'') enters into a separate cross-margining agreement between itself and GSCC, as in the case of NYCC, CME, BOTCC, and now BCC. Each of the agreements do and will continue to have similar terms, and no preference will be given by GSCC to one Participating CO over another. Under GSCC's arrangement, cross-margining occurs between GSCC and each Participating CO and not between Participating COs.

Cross-margining is available to any GSCC netting member (with the exception of inter-dealer broker netting members) that is or that has an affiliate that is a member of a Participating CO.[9] Any such member (or pair of affiliated members) may elect to have its margin requirements at both clearing organizations calculated based upon the net risk of its cash and repo positions at GSCC and its offsetting and correlated positions in certain futures contracts carried at the Participating CO. Cross-margining is intended to lower the cross-margining member's (or pair of affiliated members') overall margin requirement, as intermarket hedges are taken into consideration in the margining process. The GSCC member (and its affiliate, if applicable) sign an agreement under which it (or they) agree to be bound by the cross-margining agreement between GSCC and the Participating CO and which allows GSCC or the Participating CO to apply the member's (or its affiliate's) margin collateral to satisfy any obligation of GSCC to the Participating CO or the Participating CO to GSCC that results from a default of the member (or its affiliate).

Margining based on the combined net risk of correlated positions is based on an arrangement under which GSCC and each Participating CO agree to accept the offsetting correlated positions in lieu of supporting collateral. Under this arrangement, each clearing organization holds and manages its own positions and collateral and independently determines the amount of margin that it will collect from its member and that it will make available for cross-margining. This available margin is referred to as the ''residual margin amount.'' [10]

GSCC computes the amount by which the cross-margining member's margin requirement can be reduced at each clearing organization by comparing the member's positions and the related margin requirements at GSCC against those submitted to GSCC by each Participating CO. This reduction amount is referred to as the ''cross margin reduction.'' GSCC offsets each cross-margining member's residual margin amount (based on related positions) at GSCC against the offsetting residual margin amounts of the member (or its affiliate) at each Participating CO. If, within a given pair of offset classes, the margin that GSCC has available for a participant is greater than the combined margin submitted by the Participating COs, GSCC will allocate a portion of its margin equal to the combined margin at the Participating COs. If, within a given pair of offset classes, the combined margin submitted by the Participating COs is greater than the margin that GSCC has available for that member, GSCC will first allocate its margin to the Participating CO with the most highly correlated position. If, within a given pair of offset classes, the positions are equally correlated, GSCC will allocate pro rata based upon the residual margin amount submitted by each Participating CO. GSCC and each Participating CO may then reduce the amount of collateral that they collect to reflect the offsets between the cross-margining member's positions at GSCC and its (or its affiliate's) positions at the Participating CO(s).[11] In the event of the default and liquidation of a cross-margining participant, the loss sharing between GSCC and each of the Participating COs will be based upon the foregoing allocations and the cross-margin reduction.

GSCC will guarantee the cross-margining member's (or its affiliate's) performance to each Participating CO up to a specified maximum amount based on the loss sharing formula contained in the Cross-Margining Agreement. Each Participating CO will provide the same guaranty to GSCC. The amount of the guarantee is the lowest of:

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45438 (February 13, 2002), 67 FR 8048.

[3] Letters from Douglas E. Harris, General Counsel, BrokerTec Clearing Company, L.L.C. (''BCC'') (January 28, 2002) and Henry D. Mlynarski, President, BCC (March 4, 2002).

[4] The description of GSCC's cross-margining program is drawn largely from representations made by GSCC.

[5] Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR–GSCC–98–04]. The requisite rule changes necessary for GSCC to engage in cross-margining programs with other clearing organizations were made in the NYCC cross-margining rule filing.

[6] Securities Exchange Act Release No. 44301 (May 11, 2001), 66 FR 28207 (May 22, 2001) [File No. SR–GSCC–00–13]. In addition to approving GSCC's cross-margining program with the CME, the order granted approval to change GSCC Rule 22, Section 4, to clarify that before GSCC credits an insolvent member for any profit realized on the liquidation of the member's final net settlement positions, GSCC will fulfill its obligations with respect to that member under cross-margining agreements.

[7] Securities Exchange Act Release No. 45335 (January 25, 2002), 67 FR 4768 (January 31, 2001) [File No. SR–GSCC–2001–03].

[8] Currently, BTEX offers trading in futures contracts on the 5-year Note, 10-year Note, and 30-year Bond. It is expected that, in the future, BTEX will offer trading in other U.S. fixed-income futures contracts and options on futures contracts traded on BTEX. BCC will provide clearing services for these products.

[9] The GSCC–BCC cross-margining agreement requires ownership of 50 percent or more of the common stock of an entity to be deemed ''control'' of that entity for purposes of the definition of ''affiliate.''

[10] The residual margin amount is the long margin amount or the short margin amount in each offset class that is available for cross-margining after all internal offsets are conducted within and between offset classes at a particular clearing organization.

[11] GSCC and each Participating CO unilaterally have the right not to reduce a member's margin requirement by the cross-margin reduction or to reduce it by less than the cross-margin reduction. However, the clearing organizations may not reduce a participant's margin requirement by more than the cross-margin reduction.

(1) The cross-margin loss of the worse off party; (2) the higher of the cross-margin reduction or the cross-margin gain of the better off party; (3) the amount required to equalize the parties' cross-margin results; or (4) the amount by which the cross-margining reduction exceeds the better off party's cross-margin loss if both parties have cross-margin losses.

B. Information Specific to the Current Agreement Between GSCC and BCC

1. *Participation in the cross-margining program:* Any netting member of GSCC other than an inter-dealer broker will be eligible to participate.[12] Any clearing member of BCC will be eligible to participate.

2. *Products subject to cross-margining:* The products that will be eligible for the GSCC–BCC cross-margining program are the Treasury and non-mortgage-backed Agency securities of certain remaining maturities that fall into GSCC's Offset Classes C, E, F, and G and e and f as defined in the cross-margining agreement that are cleared by GSCC and the 5-year Note, 10-year Note, and the 30-year Bond futures contracts cleared by BCC.[13] In addition, it is anticipated that the GSCC products specified above will be cross-margined with the 5-year and 10-year Agency futures and options on futures when these products are traded on the BTEX and cleared by BCC.[14] All eligible positions maintained by a cross-margining member in its account at GSCC and in its (or its affiliate's) proprietary account at BCC will be eligible for cross-margining.[15] An appropriate disallowance factor[16] based on correlation studies and a minimum margin factor[17] will be applied.[18]

3. *Margin Rates:* Margin reductions in the GSCC–BCC cross-margining program will always be computed based on the lower of GSCC's and BCC's margin rates. This methodology results in potentially less benefits to the members but ensures a more conservative result (*i.e.*, more collateral held at the clearing organization) for both GSCC and the Participating COs.

4. *Daily Procedures:* On each business day, it is expected that BCC will inform GSCC of the residual margin amounts it is making available for cross-margining by approximately 10:30 p.m. New York time. GSCC will inform BCC by approximately 12:30 a.m. New York time of how much of these residual margin amounts it will use (*i.e.*, the cross-margining reduction). The actual reductions which may be no greater than the cross-margining reduction, will be reflected in the daily clearing fund calculation.

C. Benefits of Cross-Margining

GSCC believes that its cross-margining program enhances the safety and soundness of the settlement process for the Government securities marketplace by: (1) Providing clearing organizations with more data concerning members' intermarket positions (which is especially valuable during stressed market conditions) to enable them to make more accurate decisions regarding the true risk of such positions to the clearing organizations; (2) allowing for enhanced sharing of collateral resources; and (3) encouraging coordinated liquidation processes for a joint member, or a member and its affiliate, in the event of an insolvency. GSCC further believes that cross-margining benefits participating clearing members by providing members with the opportunity to more efficiently use their collateral. More important from a regulatory perspective, however, is that cross-margining programs have long been recognized as enhancing the safety and soundness of the clearing system itself. Studies of the October 1987 market break gave support to the concept of cross-margining. For example, The Report of the President's Task Force on Market Mechanisms (January 1988) noted that the absence of a cross-margining system for futures and securities options markets contributed to payment strains in October 1987. The Interim Report of the President's Working Group on Financial Markets (May 1988) also recommended that the SEC and CFTC facilitate cross-margining programs among clearing organizations. This resulted in the first cross-margining arrangement between clearing organizations which was approved in 1988.[19]

III. Comment Letters

The Commission received two comment letters in response to the proposed rule change.[20] Both letters from BCC were strongly in support of the proposed cross-margining program between GSCC and BCC. The January BCC comment letter stated that BCC has filed amendments to its rules and bylaws with the Commodity Futures Trading Commission to allow BCC to implement the cross-margining program with GSCC and that the program is similar in all major respects to GSCC's cross-margining programs with other U.S. futures clearing organizations that have been reviewed and approved by the Commission. Finally, the letter requested that the Commission act as quickly as possible on approval of the rule change.

The second BCC comment letter, which reiterated the comments in the January BCC letter, urged the Commission to approve promptly the proposed rule change because it will improve collateral and risk management. The second letter also stated that the amendments to BCC's rules and bylaws to allow it to implement the cross-margining program became effective on January 30, 2002.

IV. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. In section 17A(a)(2)(A)(ii) of the Act, Congress directs the Commission having due regard for, among other things, the

[12] Because inter-dealer brokers should not and generally do not have positions at GSCC at the end of the day, they should have no margin requirement to be reduced.

[13] GCF Repo products will not be included in the program.

[14] GSCC will notify the Commission when additional securities and futures are made eligible for the cross-margining program.

[15] The GSCC–BCC cross-margining program will be applicable, on the futures side, only to positions in a proprietary account of a cross-margining member (or its affiliate) at BCC. Positions in a customer account at BCC that would be subject to segregation requirements under the Commodity Exchange Act will not be included in the program. This is also the case with respect to the arrangements with NYCC, CME, and BOTCC.

[16] The disallowance factor is the haircut reflective of the correlation analysis done by GSCC for each offset class.

[17] The minimum margin factor is the contractually agreed upon cap on the amount of the margin reduction that the clearing organizations will allow. (In some of the documents submitted by GSCC, the minimum margin factor is referred to as the minimum disallowance factor.) Initially, the GSCC–BCC cross-margining program will employ a 25% minimum margin factor. Should GSCC decide to change the minimum margin factor, it will submit a proposed rule filing under Section 19(b) of the Act.

[18] GSCC will review the cross-margining parameters on a yearly basis unless market events dictate the need for more frequent reviews.

[19] Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567 (October 7, 1988) [File No. SR–OCC–86–17] (order approving cross-margining program between OCC and The Intermarket Clearing Corporation).

[20] Letters from Douglas E. Harris and Henry D. Mlynarski, *supra* note 3.

public interest, the protection of investors, the safeguarding of securities and funds, to use its authority under the Act to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options.[21] Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency for which it is responsible.[22] The Commission finds that the approval of GSCC's proposed rule change is consistent with these Sections.

First, the Commission's approval of GSCC's proposed rule change to establish a cross-margining arrangement with BCC and to extend its hub and spoke approach to cross-margining to include BCC along with BOTCC, CME, and NYCC is in line with the Congressional directive to the Commission to facilitate linked and coordinated facilities for the clearance and settlement of securities and futures.[23] Second, approval of GSCC's proposal should result in increased and better information sharing between GSCC and Participating COs regarding the portfolios and financial conditions of participating joint and affiliated members. As a result, GSCC and participating COs will be in a better position to monitor and assess the potential risks of participating joint or affiliated members and will be in a better position to handle the potential losses presented by the insolvency of any joint or affiliated member. Therefore, GSCC's proposal should help GSCC better safeguard the securities and funds in its possession or control or for which it is responsible.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–2002–01) be and hereby is approved.

[21] 15 U.S.C. 78q–1(a)(2)(A)(ii).

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] 15 U.S.C. 78q–1(a)(2)(A)(ii).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7903 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45634; File No. SR–PCX–2002–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Priority of Bids and Offers on the Options Floor and the Manner in Which Orders Must Be Allocated in Connection With Options Transactions

March 22, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On March 21, 2002, the PCX submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to adopt new rules and to amend existing rules on the priority of bids and offers on the Options Floor and the manner in which orders must be allocated in connection with options transactions on the Exchange.

Below is the text of the proposed rule change. Deleted language is in brackets. Proposed new language is italicized.

* * * * *

Obligations of Market Makers

Rule 6.37(a)–(c)—No change.

(d) —No Change.

(e) Prohibited Practices and Procedures.

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael D. Pierson, Vice President, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 21, 2002. The changes made by Amendment No. 1 have been incorporated into this notice.

(1) —No Change.

(2) Any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the allocation of orders that may be executed in that issue is prohibited.

Priority of Bids and Offers

Rule 6.75

No change.

(a)–(b)—No change.

Simultaneous Bids and Offers

(c) Except as otherwise provided, if the bids (or offers) of two or more members are made simultaneously, or if it is impossible to determine clearly the order of time in which they were made, such bids (or offers) will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis.

(d)–(e) [(c)–(d)]

Order Allocation Procedures

(f) Determination of Time Priority Sequence.

(1) Floor Brokers. A Floor Broker is responsible for determining the sequence in which bids or offers are vocalized on the Trading Floor in response to the Floor Broker's bid, offer or call for a market. Any disputes regarding a Floor Broker's determination of time priority sequence will be resolved by the Order Book Official, provided that such determinations of the Order Book Official are subject to further review by two Floor Officials, pursuant to Rule 6.77.

(2) When a Floor Broker's bid or offer has been accepted by more than one member, that Floor Broker must designate the members who were first, second, third and so forth. Except as provided below, the member with first priority is entitled to buy or sell as many contracts as the Floor Broker may have available to trade. If there are any contracts remaining, the member with second priority will be entitled to buy or sell as many contracts as there are remaining in the Floor Broker's order, and so on, until the Floor Broker's order has been filled entirely.

(3) Market Makers and Order Book Officials. A Market Maker is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to that Market Maker's bid, offer or call for a market. Likewise, an Order Book Official is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to the Order Book Official's bid, offer or call for a market. The order allocation procedures for Market Makers

and Order Book Officials, including the determination of time priority sequence, are the same as those for Floor Brokers as set forth in this Rule 6.75(f).

(4) LMM Guaranteed Participation.

(A) If the LMM establishes first priority during the vocalization process, the LMM will be entitled to buy or sell as many contracts as the Floor Broker may have available to trade. However, if the LMM does not establish first priority during the vocalization process, but does establish second, third or some other time priority sequence, the LMM will be entitled to buy or sell the number of contracts equal to the LMM's guaranteed participation level (pursuant to Rule 6.82(d)(2)) plus any contracts the Floor Broker has remaining after the bids or offers of other members with higher time priority have been satisfied.

(B) If one or more orders in the limit order book have priority over an LMM's bid or offer, then the LMM's guaranteed participation level will apply only to the number of contracts remaining after all contracts in the limit order book that are at, or better than, the LMM's bid or offer have first been satisfied.

(C) LMMs may waive some or all of their guaranteed participation on particular trades, but only to the extent that doing so is permissible under Rule 6.86 (''Firm Quotes''). In such circumstances, if the LMM has waived the right to trade a certain number of option contacts, those option contracts will then become available for execution by the member (or members) who are next in priority sequence. For example, assume that there are 100 contracts available to sell, the LMM has guaranteed participation on 25 contracts, and the time priority sequence is as follows: the LMM is first, Market Maker #1 is second and Market Maker #2 is third. If the LMM buys 20 contracts, the remaining 80 contracts will then be available for execution by Market Maker #1. If Market Maker #1 buys 40 of those contracts, then the remaining 40 contracts will be available for execution by Market Maker #2.

(D) LMMs may direct some or all of their guaranteed participation to competing public orders in the trading crowd pursuant to Rule 6.82(d).

(E) Bid and offering prices that are disseminated by an automatic quotation system are presumed to be the bid and offering prices of the LMM for purposes of Rule 6.86 (''Firm Quotes'') and Rule 6.82(d)(2) (''Guaranteed Participation''). Nevertheless, LMMs must vocalize all of their bids and offers in response to a call for a market and in acceptance of another member's bid or offer. If a Floor Broker enters the trading crowd and vocalizes acceptance of a bid or offer that is then being disseminated, the LMM will be entitled to guaranteed participation on that transaction.

(5) Parity Due to Simultaneous Bidding or Offering.

(A) If the bids or offers of more than one member are made simultaneously, such bids or offers will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis, pursuant to Rule 6.75(c). Accordingly, efforts will be made to assure that each member on parity receives an equal number of contracts, to the extent mathematically possible. One or more members on parity may waive their rights to some of their share (or shares) of contracts, but only to the extent that doing so is permissible under Rule 6.86 (''Firm Quotes''). In such circumstances the remaining number of contracts will be allocated, to the extent practicable, on an equal basis. However, an LMM who has received guaranteed participation on a transaction may not participate in the waived portion of the order unless there are contracts remaining to be allocated after all other members have been satisfied.

(B) If the bids and offers of more than one member, including the LMM, are on parity, then the LMM's guaranteed participation will first be applied to the entire order and the remainder of the order will be allocated, to the extent practicable, on an equal basis among the members other than the LMM who are on parity. The LMM may participate in such remainder of the order only if there are contracts remaining after all members other than the LMM have first been satisfied.

(C) If the LMM waives priority or guaranteed participation when the LMM and one or more other members are on parity, then the portion of the order that the LMM has waived will be made available to the other members who are on parity. For example, assume that there are 100 contracts available to trade, the LMM has guaranteed participation on 25 contracts, and two other members are on parity with the LMM. If the LMM waives guaranteed participation (but claims priority), the order will be divided into three shares (consisting of 34 contracts, 33 contracts and 33 contracts). If the LMM waives all rights to participate in the trade, the order will be divided among the two other members who are on parity, in equal shares, each comprising 50 contracts.

(6) Size Pro Rata Allocations

(A) If the members of the trading crowd provide a collective response to a member's request for a market in order to fill a large order, pursuant to Rule 6.37(f)(2), then:

(i) if the size of the trading crowd's market, in the aggregate, is less than or equal to the size of the order to be filled, the members of the trading crowd will each receive a share of the order that is equal to the size of their respective bids or offers; and

(ii) if the size of the trading crowd's market exceeds the size of the order to be filled, that order will be allocated on a size pro rata basis, with the members of the trading crowd each receiving, to the extent practicable, the percentage of the order that is the ratio of the size of their respective bids or offers to the total size of all bids or offers. Specifically, in such circumstances, the size of the order to be allocated is multiplied by the size of an individual market participant's quote divided by the aggregate size of all market participants' quotes. For example, assume there are 200 contracts to be allocated, Market Maker #1 is bidding for 100, Market Maker #2 is bidding for 200 and Market Maker #3 is bidding for 500. Under the ''size pro rata'' allocation formula, Market Maker #1 will be allocated 25 contracts (200 x 100 ÷ 800); Market Maker #2 will be allocated 50 contracts (200 x 200 ÷ 800); and Market Maker #3 will be allocated 125 contracts (200 x 500 ÷ 800).

Com. .01–.04—No change.

Rule 6.76(a)–(b)—No change.

(c) Two or more members entitled to priority. If the bids or offers of two or more members are both entitled to priority in accordance with paragraph (a) or paragraph (b), it shall be afforded to them, insofar as practicable, on an equal basis.

Com. .01—No change.

* * * * *

Lead Market Makers

Rule 6.82(a)–(c)—No change.

(d) Rights of Lead Market Makers

(1)—No change.

(2) Guaranteed Participation. Except as provided in subsections (A) and (B), below, LMMs shall be allocated 50% participation *(or such lesser percentage as the Options Allocation Committee may establish as a condition in allocating an issue to an LMM)* in transactions occurring at their disseminated bids and/or offers in their allocated issue(s). LMM participation may be greater than 50% as a result of successful competition by means of ''public outcry.'' LMMs at their own discretion may direct some or all of their participation to competing public orders in the crowd. Public orders placed in the book shall take priority pursuant to Exchange rules. Oversight and enforcement shall be the responsibility of the OBO.

(A)–(C)—No change.

(e)–(h)(1)—No change.

(2) LMM Performance of Market Maker Function

(a) LMMs must perform all obligations provided *in* Rules 6.35 through 6.40 and 6.82(c). In addition, in executing transactions for their own accounts as Market Makers, LMMs [shall] have a right to participate [pro rata] with the trading crowd in trades that take place at the LMM's principal bid or offer, *pursuant to the priority rules set forth in Rule 6.75*.

(3)—No change.

Commentary:

.01–.03—No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. Introduction

The Exchange is proposing to adopt new rules, and to amend existing rules, to include practices and procedures whereby option orders are allocated on the Options Trading Floor. This rule filing is being submitted to the Commission pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000.[4]

b. Obligations of Market Makers

The Exchange is proposing to adopt new PCX Rule 6.37(e)(2), which would provide that any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the allocation of orders that may be executed in that issue is prohibited.

c. Simultaneous Bids and Offers

The Exchange is proposing to adopt new PCX Rule 6.75(c), entitled ''Simultaneous Bids and Offers,'' which states that, except as otherwise provided, if the bids (or offers) of two or more members are made simultaneously, or if it is impossible to determine clearly the order of time in which they were made, such bids (or offers) will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis.

d. Order Allocation Procedures

1. In General

Proposed PCX Rule 6.75(f)(1) states that a Floor Broker is responsible for determining the sequence in which bids or offers are vocalized on the Trading Floor in response to the Floor Broker's bid, offer or call for a market. It further states that any disputes regarding a Floor Broker's determination of time priority sequence will be resolved by the Order Book Official, provided that such determinations of the Order Book Official are subject to further review by two Floor Officials, pursuant to PCX Rule 6.77.

Proposed PCX Rule 6.75(f)(2) provides that when a Floor Broker's bid or offer has been accepted by more than one member, that Floor Broker must designate the members who were first, second, third, and so forth. It further states that, except as otherwise provided, the member with first priority is entitled to buy or sell as many contracts as the Floor Broker may have available to trade. If there are any contracts remaining, the member with second priority will be entitled to buy or sell as many contracts as there are remaining in the Floor Broker's order, and so on, until the Floor Broker's order has been filled entirely.

Proposed PCX Rule 6.75(f)(3) (''Market Makers and Order Book Officials'') provides that a Market Maker is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to that Market Maker's bid, offer or call for a market. Likewise, an Order Book Official is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to the Order Book Official's bid, offer or call for a market. The proposed rule further provides that the order allocation procedures for Market Makers and Order Book Officials, including the determination of time priority sequence, are the same as those for Floor Brokers as set forth in this proposed PCX Rule 6.75(f). [5]

2. LMM Guaranteed Participation

Proposed PCX Rule 6.75(f)(4)(A) provides that if the LMM establishes first priority during the vocalization process, the LMM will be entitled to buy or sell as many contracts as the Floor Broker may have available to trade. However, if the LMM does not establish first priority during the vocalization process, but does establish second, third, or some other time priority sequence, the LMM will be entitled to buy or sell the number of contracts equal to the LMM's guaranteed participation level (pursuant to PCX Rule 6.82(d)(2)) plus any contracts the Floor Broker has remaining after the bids or offers of other members with higher time priority have been satisfied.

Proposed PCX Rule 6.75(f)(4)(B) provides that if one or more orders in the limit order book have priority over an LMM's bid or offer, then the LMM's guaranteed participation level will apply only to the number of contracts remaining *after* all contracts in the limit order book that are at, or better than, the LMM's bid or offer have first been satisfied.

Proposed PCX Rule 6.75(f)(4)(C) provides that LMMs may waive some or all of their guaranteed participation on particular trades, but only to the extent that doing so is permissible under PCX Rule 6.86 (''Firm Quotes''). In such circumstances, if the LMM has waived the right to trade a certain number of option contacts, those option contracts will then become available for execution by the member (or members) who are next in priority sequence. For example, assume that there are 100 contracts available to sell, the LMM has guaranteed participation on 25 contracts, and the time priority sequence is as follows: the LMM is first, Market Maker #1 is second, and Market Maker #2 is third. If the LMM buys 20 contracts, the remaining 80 contracts will then be available for execution by Market Maker #1. If Market Maker #1 buys 40 of those contracts, then the remaining 40 contracts will be available for execution by Market Maker #2.

Proposed PCX Rule 6.75(f)(4)(D) provides that LMMs may direct some or all of their guaranteed participation to competing public orders in the trading crowd pursuant to PCX Rule 6.82(d).

Proposed PCX Rule 6.75(f)(4)(E) provides that bid and offering prices that are disseminated by an automatic quotation system are presumed to be the bid and offering prices of the LMM for purposes of PCX Rule 6.86 (''Firm

[4] *See* Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000).

[5] The PCX is currently reviewing the means by which it would be able to determine the identity of an individual who allocated a trade on the Exchange. Telephone conversation between, Michael D. Pierson, Vice President, PCX, and Nancy J. Sanow, Assistant Director, Division, Commission, on March 22, 2002.

Quotes'') and PCX Rule 6.82(d)(2) (''Guaranteed Participation''). Nevertheless, LMMs must vocalize all of their bids and offers in response to a call for a market and in acceptance of another member's bid or offer. If a Floor Broker enters the trading crowd and vocalizes acceptance of a bid or offer that is then being disseminated, the LMM will be entitled to guaranteed participation on that transaction.

3. Parity Due to Simultaneous Bidding or Offering

Proposed PCX Rule 6.75(f)(5)(A) states that if the bids or offers of more than one member are made simultaneously, such bids or offers will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis, pursuant to PCX Rule 6.75(c). Accordingly, efforts will be made to assure that each member on parity receives an equal number of contracts, to the extent mathematically possible. One or more members on parity may waive their rights to some of their share (or shares) of contracts, but only to the extent that doing so is permissible under PCX Rule 6.86 (''Firm Quotes''). In such circumstances, the remaining number of contracts will be allocated, to the extent practicable, on an equal basis. However, an LMM who has received guaranteed participation on a transaction may not participate in the waived portion of the order unless there are contracts remaining to be allocated after all other members have been satisfied.

Proposed PCX Rule 6.75(f)(5)(B) provides that if the bids and offers of more than one member, including the LMM, are on parity, then the LMM's guaranteed participation will first be applied to the entire order and the remainder of the order will be allocated, to the extent practicable, on an equal basis among the members other than the LMM who are on parity. The LMM may participate in such remainder of the order only if there are contracts remaining after all members other than the LMM have first been satisfied.

Proposed PCX Rule 6.75(f)(5)(C) states that if the LMM waives priority or guaranteed participation when the LMM and one or more other members are on parity, then the portion of the order that the LMM has waived will be made available to the other members who are on parity. For example, assume that there are 100 contracts available to trade, the LMM has guaranteed participation on 25 contracts, and two other members are on parity with the LMM. If the LMM waives guaranteed participation (but claims priority), the order will be divided into three shares (consisting of 34 contracts, 33 contracts and 33 contracts). If the LMM waives all rights to participate in the trade, the order will be divided among the two other members who are on parity, in equal shares, each comprising 50 contracts.

Proposed Rule 6.75(f)(6) states that if the members of the trading crowd provide a collective response to a member's request for a market in order to fill a large order, pursuant to Rule 6.37(f)(2), then if the size of the trading crowd's market, in the aggregate, is less than or equal to the size of the order to be filled, the members of the trading crowd will each receive a share of the order that is equal to the size of their respective bids or offers. However, if the size of the trading crowd's market exceeds the size of the order to be filled, that order will be allocated on a size pro rata basis, with the members of the trading crowd each receiving, to the extent practicable, the percentage of the order that is the ratio of the size of their respective bids or offers to the total size of all bids or offers. Specifically, in such circumstances, the size of the order to be allocated is multiplied by the size of an individual market participant's quote divided by the aggregate size of all market participants' quotes. For example, assume there are 200 contracts to be allocated, Market Maker #1 is bidding for 100, Market Maker #2 is bidding for 200 and Market Maker #3 is bidding for 500. Under the ''size pro rata'' allocation formula, Market Maker #1 will be allocated 25 contracts (200x100 800); ÷ Market Maker #2 will be allocated 50 contracts (200x200 800); ÷ and Market Maker #3 will be allocated 125 contracts (200x500 ÷ 800).

e. Procedures of Lead Market Makers

PCX Rule 6.82(d)(2) also currently provides, in part, that LMMs at their own discretion may direct their guaranteed participation to competing public orders in the crowd. The Exchange is modifying this provision to provide that LMMs may direct ''some or all'' of their guaranteed participation to competing public orders (*i.e.*, competing orders for the accounts of non-broker-dealers) in the crowd.

PCX Rule 6.82(d)(2) currently provides, in part, that LMMs ''shall be allocated 50% participation in transactions occurring at their disseminated bids and/or offers in their allocated issue(s).'' The Exchange is proposing to amend this rule so that it provides that LMMs ''shall be allocated 50% participation (or such lesser percentage as the Options Allocation Committee may establish in allocating an issue to an LMM) in transactions occurring at their disseminated bids and/or offers in their allocated issues.''

Finally, PCX Rule 6.82(e)(2)(a) currently provides, in part, that LMMs ''shall have a right to participate pro rata with the trading crowd in trades that take place at the LMM's principal bid or offer.'' The Exchange is proposing to modify this provision to state that LMMs ''have a right to participate with the trading crowd in trades that take place at the LMM's principal bid or offer, pursuant to the priority rules set forth in PCX Rule 6.75.''

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b)[6] of the Act, in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

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 PCX. All submissions should refer to file number SR–PCX–2002–13 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7871 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45651; File No. SR–Phlx–2002–16]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Amend Phlx Rule 237, ''The eVWAP Morning Session''

March 26, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on March 7, 2002, 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 March 21, 2002, the Phlx amended the proposal.[3] The Phlx filed the proposal pursuant to section 19(b)(3)(A) of the Act[4] and Rule 19b-4(f)(5)[5] thereunder as effecting a change in an existing order entry or trading system of the Phlx, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 237, ''The eVWAP Morning Session,'' to expand the securities eligible for eVWAP trading to include additional component issues of the Standard and Poor's (''S&P'') 500 index, as well as the NASDAQ 100 Index. The text of the proposed rule change is below. Additions are in italics; deletions are in brackets.

(b) Eligible Securities. The following securities will be eligible for execution in the System:

(i) [Exchange listed] *Any* component issues of the Standard & Poor's 500 index and/*or NASDAQ 100 Index* and any [Exchange listed] issue that has been designated by the compiler of such index for inclusion in such index.

(ii) No change.

(iii) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 expand the number of highly capitalized and actively traded securities eligible to participate in eVWAP trading pursuant to Phlx Rule 237. The eVWAP is a pre-opening order matching session for the electronic execution of large-sized stock orders at a standardized volume weighted average price (''eVWAP Price'').

The proposed expansion of eligible securities would expand the eligible issues to include those traded on the NASDAQ National Market that are reported to the NASDAQ Trade Dissemination Service (''NTDS'') and are component issues of the S&P 500 index, and the NASDAQ 100 Index. This expansion would increase the number of securities available for eVWAP participation by 100 over the counter NASDAQ National Market Securities that are not presently eVWAP eligible. There are 78 securities that are component issues of the S&P 500 index, 43 that are only NASDAQ 100 Index component issues. A number of eVWAP participants have requested that the Phlx make these issues eligible for inclusion in the system pursuant to Phlx Rule 237 issue eligibility procedures.

The Exchange notes that the additional eligible securities may not be securities that the Exchange otherwise trades on its equity floor. It should be noted that Phlx has recently reinstated its over the counter unlisted trading privileges (''OTC/UTP'') pilot program for NASDAQ National Market Securities.[6] These securities may instead only be traded through the eVWAP System; thus, they would be traded on an unlisted trading privileges (''UTP'') basis, but without trading during regular trading hours pursuant to regular trading rules and thus without the concomitant quoting obligations. Nevertheless, these eVWAP trades will be reported pursuant to the applicable reporting channel, in the case of NASDAQ National Market Securities the NTDS through the Exchange's communication linkage system supplied by TradinGear.

The Exchange notes that the additional securities that it has requested to be eligible for eVWAP matching are all high capitalization issues, enjoying active trading volume. The S&P 500 index is a key benchmark of large capitalization securities followed actively by institutional money managers and investment fiduciaries who seek to trade component issues relative to their index weightings. Certain of these market participants, among others, have indicated that they see considerable utility in extending the benefits now afforded to a limited group of listed issues to a more expansive eVWAP eligibility list, including all

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* March 20, 2002 letter from Murray L. Ross, Vice President and Secretary, Phlx to Joseph P. Morra, Special Counsel, Division of Market Regulation, SEC and attachments (''Amendment No. 1''). In Amendment No. 1, the Phlx made minor, technical changes to the proposed rule language. The Commission considers the 60-day abrogation period to have begun on March 21, 2002, the date the Phlx filed Amendment No. 1.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(5).

[6] See Securities Exchange Act Release No. 45182 (December 20, 2001), 66 FR 67609 (December 31, 2001)(SR–Phlx–2000–20).

component issues of the S&P 500 index and the NASDAQ 100 Index. Additionally, the eligibility of these additional issues is critical to developing eVWAP order flow connected with certain index-linked stock basket transactions.

The Exchange notes that several major broker-dealers sponsor alternative trading systems, which currently provide crossing networks that offer the opportunity to trade any listed or Nasdaq reported securities. For example, ITG (POSIT) and Instinet operate crossing systems that offer trade matching in thousands of reported securities without regard to capitalization or dollar volume. As a competitive matter, the Phlx believes that eVWAP needs to offer, at a minimum, the component NASDAQ National Market Securities of the S&P 500 index, as well as those of the NASDAQ 100 Index. The NASDAQ National Market Securities are actively traded and among the largest capitalization securities available in that market.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act [7] in general, and in particular, with Section 6(b)(5),[8] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices and protect investors and the public interest by expanding the number of highly capitalized, actively traded securities eligible for eVWAP trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [9] and subparagraph (f)(5) of Rule 19b–4 thereunder,[10] because it effects a change in an existing order entry or trading system of the Phlx. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 Exhange 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–2002–16 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7869 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(5).

[11] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, NewExecutive Office Building, Room 10230, 72517th St., NW., Washington, DC 20503.

(SSA), Social Security Administration, DCFAM, Attn: SSA Reports Clearance Officer, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collection listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain a copy of the collection instrument by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to her at the address listed above.

1. Disability Hearing Officer's Decision—Title XVI Disabled Child Continuing Disability Review—0960–NEW. The information collected on form SSA–1209 will be used by State Disability Hearing Officers (DHO) to formalize disability decisions. The form will aid the DHO in addressing the crucial elements of the case in a sequential and logical fashion. The form is used as the official determination of the DHO's decision and the personalized portion of the notice to the claimant.

Number of Respondents: 35,000.

Frequency of Response: 1.

Average Burden Per Response: 1 1/4 hours.

Estimated Annual Burden: 43,750 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–0454, or by writing to her at the address listed above.

1. Statement Regarding the Inferred Death of an Individual By Reason of Continued and Unexplained Absence–0960–0002. The information collected on Form SSA–723–F4 is needed to determine if SSA may presume that a

missing wage earner is dead and, if so, to establish a date of presumed death. The respondents are people who have knowledge of the disappearance of the wage earner.

Number of Respondents: 3,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 1,500 hours.

2. Credit Card Payment Acknowledgement Form—0960–NEW. SSA will use the information collected on Form SSA–1414 to process payments from former employees and vendors who have outstanding debts owed to the agency. This form has been developed as a convenient method for respondents to satisfy such debts. The respondents are former employees and vendors who have debts owed to the agency.

Number of Respondents: 150.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 13 hours.

Please note: The SSA form number and the total number of respondents has been amended since the first FRN publication. This collection was previously published on December 31, 2001, as the SSA–324. The form number has been changed as a result of an internal SSA forms management review. The total number of respondents was adjusted after further evaluation of management information.

3. State Agency Ticket Assignment Form, SSA–1365, State Vocational Rehabilitation Ticket to Work Information Sheet, SSA–1366 and Individual Work Plans (IWP) Information Sheet, SSA–1367–0960–0641.

Background

Public Law (Pub. L.) 106–170, the Ticket to Work and Work Incentives Improvement Act of 1999, created a new Ticket to Work (TTW) program for providing work access services to Social Security disability beneficiaries. The new program requires SSA to monitor the services provided under the law. SSA has developed three data collection forms that request service provider and beneficiary information, which is essential to SSA's administration of this new program. Employment networks (ENs) providing TTW services under contracts with SSA are required to submit to SSA the information listed in form SSA–1367. State vocational rehabilitation agencies (VRAs) that provide services to our beneficiaries under either the traditional VR reimbursement mechanism or the new TTW program are required to submit to SSA the information listed in forms SSA–1365 and SSA–1366. SSA does not require that ENs or VRAs use forms SSA–1366 and SSA–1367 per se, but does require that any alternative forms submitted in place of these SSA forms include the SSA listed information at a minimum. VRAs are required to submit Form SSA–1365 in all cases as a means of assigning Tickets to VRAs.

a. State Agency Ticket Assignment Form—SSA–1365. The information collected on this form will be used by SSA's contracted Program Manager (PM) to perform the task of assigning beneficiaries' tickets and monitoring the use of tickets under the Ticket to Work and Self-Sufficiency Program. The State VRA answers the questions and the beneficiary reviews the data and if in agreement will sign the form acknowledging the Ticket assignment. The respondents are State VR agencies.

Number of Respondents: 21.

Frequency of Response: 4,048 annually per respondent.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 4,250 hours.

b. State Vocational Rehabilitation Ticket to Work Information Sheet-SSA–1366. The information collected on Form SSA–1366 will be used by SSA's contracted PM when a State VRA elects to participate in the Program as an EN. In this case, form SSA–1366, when combined with the SSA–1365, is intended to meet the minimum information requirements for IWPs and to monitor the appropriateness of the IWPs as required under the Pub. L. 106–107. The respondents are VRAs acting as ENs under the Ticket to Work Program.

Number of Respondents: 21.

Frequency of Response: 132 annually per respondent.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 92 hours.

Please Note: The Ticket to Work Program is being implemented in stages. The above represents the initial phase of the program with 13 participating states that include 21 State VR agencies. As the program continues to be phased in, each initial program year will result in a larger number of new tickets for the participating State VRs because existing clients will also be brought into the program.

c. Individual Work Plans (IWP) Information Sheet-SSA–1367. The information collected on Form SSA–1367 will be used to monitor the appropriateness of IWPs that have been assigned to ENs under the TTW program. The respondents are ENs under the TTW program.

Number of Respondents: 31,450.

Frequency of Response: 1 annually per respondent.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 1,573 hours.

Dated: March 26, 2002.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–7936 Filed 4–1–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3919]

Renewal of Cultural Property Advisory Committee Charter

AGENCY: Department of State.

ACTION: Renewal of Cultural Property Advisory Committee Charter.

The Charter of the Cultural Property Advisory Committee is being renewed for a two-year period. The membership of this advisory committee consists of private sector experts in archaeology/anthropology/ethnology; experts in the international sale of cultural property; and, representatives of museums and of the general public. The committee was established by 19 U.S.C. 2601 *et seq.,* the Convention on Cultural Property Implementation Act. It reviews requests from other countries seeking U.S. import restrictions on archaeological or ethnological material the pillage of which places a country's cultural heritage in jeopardy. The committee makes findings and recommendations to the Secretary of State, who, on behalf of the President, determines whether to impose the import restrictions.

FOR FURTHER INFORMATION CONTACT: Cultural Property Office, U.S. Department of State, Bureau of Educational and Cultural Affairs, Rm. 334, State Annex 44, 301 4th St., SW, Washington, DC 20547. Phone (202) 619–6612; Fax: (202) 260–4893.

Dated: March 25, 2002.

Maria P. Kouroupas,

Executive Director, Cultural Property Advisory Committee, Department of State.

[FR Doc. 02–7924 Filed 4–1–02; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending March 22, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–11867.
Date Filed: March 18, 2002.
Parties: Members of the International Air Transport Association.
Subject: PTC2 ME–AFR 0078 dated 26 February 2002, TC2 Middle East-Africa Expedited Resolution 002qq r1. PTC2 ME–AFR 0079 dated 8 March 2002, TC2 Middle East-Africa Resolutions r2–r17. Minutes—PTC2 ME–AFR 0080 dated 12 March 2002, Tables—PTC2 ME–AFR Fares 0050 dated 8 March 2002. Intended effective date: 30 April 2002, 1 May 2002.

Docket Number: OST–2002–11869.
Date Filed: March 18, 2002.
Parties: Members of the International Air Transport Association.
Subject: PTC2 EUR–ME 0131 dated 12 March 2002, Mail Vote 209—Resolution 010i, TC2 Europe-Middle East Special Passenger, Amending Resolutions r1–r3. PTC2 EUR–ME 0132 dated 15 March 2002. Technical Correction to PTC2 EUR–ME 0131. Intended effective date: 15 March 2002.

Cynthia L. Hatten,
Federal Register Liaison.
[FR Doc. 02–7911 Filed 4–1–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending March 22, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2002–11894.
Date Filed: March 20, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 10, 2002.
Description: Application of Continental Airlines, Inc., requesting amendment of its Route 561 certificate authority to incorporate New York/Newark-Acapulco/Puerto Vallarta/San Jose del Cabo and Houston-Mazatlan exemption authority currently held by Continental.

Docket Number: OST–2002–11905.
Date Filed: March 21, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 11, 2002.
Description: Application of JetConnection Businessflight AG, pursuant to 49 U.S.C. Section 41302, Subpart B and 14 CFR part 211, requesting a foreign air carrier permit to engage in charter foreign air transportation of persons, property, and cargo between: (1) Any point or points in Germany and any point or points in the United States; (2) between any point or points in the United States and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to Germany for the purpose of carrying local traffic between Germany and the United States; and, (3) on other charter flights between points in the United States and points in third countries in accordance with the provisions of 14 CFR part 212.

Docket Number: OST–1997–2764.
Date Filed: March 22, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 12, 2002.
Description: Application of Federal Express Corporation (Federal Express), pursuant to 49 U.S.C. Section 41102 and Subpart B, requesting renewal and amendment of its certificate of public convenience and necessity for Route 748, to engage in scheduled foreign air transportation of property and mail between points in the United States, on the one hand, and points in Colombia, on the other hand, via intermediate points, and beyond Colombia to points in the western hemisphere. Federal Express further requests authority to operate its services between the United States and Colombia in conjunction with other scheduled all-cargo services operated by Federal Express between the United States and points in Central and South America, Mexico, Canada, Europe, the Middle East and Africa, subject to existing bilateral provisions.

Cynthia L. Hatten,
Federal Register Liaison.
[FR Doc. 02–7910 Filed 4–1–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–11903]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DOT.
ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees on regulatory review I of recreational boating safety regulations, boats and associated equipment, aftermarket marine equipment, and prevention through people will meet to discuss various issues relating to recreational boating safety. All meetings will be open to the public.

DATES: NBSAC will meet on Monday, April 22, 2002, from 8:30 a.m. to 5 p.m. and Tuesday, April 23 from 8:30 a.m. to noon. The Recreational Boating Safety Regulatory Review I Subcommittee will meet on Saturday, April 20, 2002, from 1:30 p.m. to 4:30 p.m. The Boats and Associated Equipment Subcommittee will meet on Sunday, April 21, 2002, from 9 a.m. to 12 noon. The Aftermarket Marine Equipment Subcommittee will meet on Sunday, April 21, 2002, from 1 p.m. to 3 p.m. The Prevention Through People Subcommittee will meet on Sunday, April 21, 2002, from 3:30 p.m. to 5:30 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before April 10, 2002. Requests to have a copy of your material distributed to each member of the committee or subcommittees should reach the Coast Guard on or before April 10, 2002.

ADDRESSES: NBSAC will meet at the Sheraton Inner Harbor Hotel, 300 South Charles Street, Baltimore, Maryland, 21201. The subcommittee meetings will be held at the same address. Send written material and requests to make oral presentations to Mr. Bruce Schmidt, Commandant (G–OPB–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. You may obtain a copy of this notice by

calling the U. S. Coast Guard Infoline at 1–800–368–5647. This notice is available on the Internet at *http://dms.dot.gov* or at the Web Site for the Office of Boating Safety at URL address *www.uscgboating.org*.

FOR FURTHER INFORMATION CONTACT: Bruce Schmidt, Executive Director of NBSAC, telephone 202–267–0955, fax 202–267–4285.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Tentative Agendas of Meetings

National Boating Safety Advisory Council (NBSAC)

The agenda includes the following:
(1) Executive Director's report.
(2) Chairman's session.
(3) Recreational Boating Safety Regulatory Review I Subcommittee report
(4) Boats and Associated Equipment Subcommittee report
(5) Aftermarket Marine Equipment Subcommittee report
(6) Prevention Through People Subcommittee report
(7) Recreational Boating Safety Program report.
(8) Coast Guard Auxiliary report.
(9) Canadian Coast Guard report.
(10) National Association of State Boating Law Administrators Report.
(11) Update on recreational boat carbon monoxide issues.
(12) Update on personal flotation device issues.
(13) Discussion on Transportation Equity Act for the 21st Century reauthorization of Wallop-Breaux funding.
(14) Report on the results of survey of States regarding flare disposal.
(15) Discussion on canoe and kayak safety issues.
(16) Presentation on recreational boating statistics.
(17) Report on Recreational Boating Engagement Workshop.

Recreational Boating Safety Regulatory Review I Subcommittee

The agenda includes the following: (1) Review recreational boating safety regulations concerning administrative requirements for manufacturers and importers of recreational vessels (33 CFR part 179 and part 181, subparts B and C) and fire and explosion prevention requirements for manufacturers and importers of recreational vessels (33 CFR part 183, subparts I, J, and K).

(2) Present recommendations to the Council as to whether the current recreational boating safety regulations need to be changed or removed based on a review of need, technical accuracy, cost/benefit, problems and alternatives.

Boats and Associated Equipment Subcommittee

The agenda includes the following: (1) Discuss current regulatory projects, grants, contracts and new issues impacting boats and associated equipment.

Aftermarket Marine Equipment Subcommittee

The agenda includes the following: (1) Discuss current regulatory projects, grants, contracts and new issues impacting aftermarket marine equipment.

Prevention Through People Subcommittee

The agenda includes the following: (1) Discuss current regulatory projects, grants, contracts and new issues impacting prevention through people.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than April 10, 2002. Written material for distribution at a meeting should reach the Coast Guard no later than April 10, 2002. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than April 10, 2002.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals With disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: March 25, 2002.

Kenneth T. Venuto,

Rear Admiral, U.S. Coast Guard, Director of Operations Policy.

[FR Doc. 02–7829 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–25]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status.

FOR FURTHER INFORMATION CONTACT: Denise Emrick (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 27, 2002.

Gary A. Michel,

Acting Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–11716.
Petitioner: Falcon Aviation Consultants, Inc.
Section of 14 CFR Affected: 14 CFR 91.109(a) and (b) (3).
Description of Relief Sought/Disposition: To permit Falcon Aviation Consultants, Inc. flight instructors to conduct certain flight instruction to meet recent experience requirements in a Beechcraft Bonanza airplane equipped with a functioning throwover control wheel in place of functioning dual controls, subject to certain conditions and limitations.

Grant, 03/14/2002, Exemption No. 6803B (Previously Docket No. 29284)

Docket No.: FAA–2000–8009.
Petitioner: Alaska Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.433(c)(1)(iii), 121.440(a), 121.441(a)(1) and (b)(1), and appendix F to part 121.
Description of Relief Sought/Disposition: To permit Alaska Airlines to combine recurrent flight and ground

training and proficiency checks for Alaska Airline's flight crewmembers in a single, annual training and proficiency evaluation program.

Grant, 03/19/2002, Exemption No. 6043D

Docket No.: FAA–2002–10876.
Petitioner: Experimental Aircraft Association.
Section of 14 CFR Affected: 14 CFR 91.319(a)(2), 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit Experimental Aircraft Association to operate its Spirit of St. Louis airplane for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes.

Grant, 03/15/2002, Exemption No. 6541E

Docket No.: FAA–2000–8468.
Petitioner: Yankee Air Force, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit Yankee Air Force to operate its B–25, in addition to its already approved Boeing B–17, for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes.

Grant, 03/14/2002, Exemption No. 6631D

Docket No.: FAA–2001–11090.
Petitioner: Army Aviation Heritage Foundation.
Section of 14 CFR Affected: 14 CFR 91.319, 119.5(g), and 119.25(b).
Description of Relief Sought/ Disposition: To permit Army Aviation Heritage Foundation to operate its former military UH–1H helicopter that holds an experimental airworthiness certificate for the purpose of carrying passengers for compensation or hire on local educational flights.

Grant, 03/14/2002, Exemption No. 7736A

[FR Doc. 02–7859 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–26]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains the dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Vanessa Wilkins, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Tel. (202) 267–8029.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 28, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–11549.
Petitioner: Mitsubishi Heavy Industries, Ltd.
Section of 14 CFR Affected: 14 CFR 145.47(b).
Description of Relief Sought/ Disposition: To permit Mitsubishi to use the calibration standards of the National Metrology Institute of Japan in lieu of the calibration standards of the U.S. National Institute of Standards and Technology to test its inspection and test equipment.
Grant, 03/26/2002, Exemption No. 7153A.

Docket No.: FAA–2002–11773.
Petitioner: Air Jamaica Limited.
Section of 14 CFR Affected: 14 CFR 145.57(b).
Description of Relief Sought/ Disposition: To permit Air Jamaica to substitute the calibration standards of the Jamaica Bureau of Standards for the calibration standards of the U.S. National institute of Standards and Technology to test its inspection and test equipment.
Grant, 03/26/2002, Exemption No. 7152A.

Docket No.: FAA–2002–11844.
Petitioner: The Boeing Company.
Section of 14 CFR Affected: 14 CFR 25.561(b)(3)(ii).
Description of Relief Sought/ Disposition: To allow the modification, certification, and re-delivery of Boeing Model 747 series airplanes using a reduced center of gravity of the occupant for passenger seats that is used in the determination of interface loads for the § 25.516(b)(3)(ii) loading condition.
Partial Grant, 03/18/2002, Exemption No. 7742.

[FR Doc. 02–7966 Filed 4–1–02; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 200: Modular Avionics

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 200 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 200: Modular Avionics.

DATES: The meeting will be held on May 7–9, 2002 from 9:00 am to 5:00 pm.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036–5133.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for a Special Committee 200 meeting. *Modular avionics are shared, interoperable hardware and software resources that provide services to host applications performing aircraft-related functions. This committee has been established to develop recommended guidance for regulatory approval of the platform and supporting components. SC–200 will propose means to approve the modular avionics platform independent of the operational application and propose a method for transferring certification credit between stakeholders. The committee's document will include guidance for partitioning and resource management, fault management, safety and security, flight operations and maintenance, environmental qualification, configuration management, and assurance.*

The agenda will include:

- May 7–9:
- Opening Session (Welcome, Introductory and Administrative Remarks, Review Federal Advisory Committee Act and RTCA procedures, Review Agenda, Review Terms of Reference)

• Organize Working Groups as needed/establish milestones
• Working Group meetings as determined
• Working Group Reports
• Closing Session (Make Assignments, Date and Place of Next Meeting, Closing Remarks, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 27, 2002.

Jane P. Caldwell,

Program Director, System Engineering Resource Management.

[FR Doc. 02–7967 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Monterey Peninsula Airport, Monterey, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent To Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Monterey Peninsula Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 2, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Susan Press, Manager, Support Services, Monterey Peninsula Airport District, at the following address: 200 Fred Kane Drive, Suite 200, Monterey, CA 93940. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Monterey Peninsula Airport District under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Monterey Peninsula Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). On March 1, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Monterey Peninsula Airport District was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 1, 2002.

The following is a brief overview of the use application No. 02–08–C–00–MRY:

Level of proposed PFC: $4.50.

Charge effective date: August 1, 2002.

Proposed charge expiration date: February 1, 2003.

Total estimated PFC revenue: $364,245.

Brief description of the proposed projects: Environmental Impact Report and Airport Biological Assessment for Airport Roadway Circulation Projects including Terminal Road, North Access Road (Phases 2 and 3) and Runway 28L Service Road, Sky Park Storm Drain Detention Facility; Generator Power to Del Monte East Facility, Phase 1; Residential Soundproofing, Phase 8; and Airport Property Map.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Unscheduled Part 135 Air Taxi Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Monterey Peninsula Airport District.

Issued in Hawthorne, California, on March 5, 2002.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 02–7964 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Sacramento International Airport, Sacramento, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Sacramento International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 2, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 93010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. G. Hardy Acree, Director of Airports, Sacramento County Department of Airports, at the following address: 6900 Airport Boulevard, Sacramento, CA 95837. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Sacramento County under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 9410–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sacramento International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). On February 28, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Sacramento County Department of Airports was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 30, 2002.

The following is a brief overview of the impose and use application No. 02–07–C–00–SMF:

Level of proposed PFC: $4.50.

Proposed charge effective date: February 2, 2010.

Proposed charge expiration date: June 1, 2010.

Total estimated PFC revenue: $11,141,350.

Brief description of the proposed projects: International Arrivals. Facility, CCTV Camera and VCR Replacement, Card Access System Replacement, Taxiway A Rehabilitation, Aircraft Rescue and Firefighting Vehicle (568) Replacement, Runway 16R–34L and Exit Taxiway Rehabilitation, Terminal A Apron-Phase 2, Aircraft Rescue and Firefighting Building Remodel, and United Airlines Air Cargo Building Pavement Reconstruction.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Sacramento County Department of Airports.

Issued in Hawthorne, California, on February 28, 2002.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 02–7965 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2002ACE–01–CS]

Security Enhancement Issues for Smaller, Non-Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Request for comments.

SUMMARY: The purpose of this Request for comments is to obtain public input to the Aviation and Transportation Security Act (ATSA), Public Law 107–71. Paragraph 104(c), which addresses securing the flight deck of Commuter Aircraft. We recognize Commuter Aircraft as small non-transport category airplanes. This portion of the ATSA applies to all scheduled passenger aircraft operating in air transportation or intrastate air transportation. The Law does not single out *types* of airplanes, but rather how the airplanes are operated. Therefore, the FAA, considers all non-transport category airplanes in scheduled operations in accordance with 14 CFR Parts 119, 121, 135, and 129 affected by the ATSA. A preliminary study indicated that small airplanes approved to operate with ten to nineteen passengers that operate in scheduled operations should be further examined for potential ways to improve flight deck security. The same preliminary study of airplanes with nine or less passenger seats that operate in scheduled operations should also be examined for potential ways to improve general security.

DATES: Comments must be received on or before May 25, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002ACE–01–CS, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov*. Comments sent electronically must contain ''Docket No. 2002ACE–01–CS'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

FOR FURTHER INFORMATION CONTACT: Gunnar Berg, Project Support ACE–112, 901 Locust, Room 301, Kansas City, MO 64106, telephone (816) 329–4112.

SUPPLEMENTARY INFORMATION:

Comments Invited

For Those Airplanes Carrying 10 to 19 Passengers

One solution that the FAA is considering is requiring airplanes type certificated in accordance with 14 CFR part 23, Civil Air Regulations Part 3, Special Federal Aviation Regulations (SFAR) 23, or SFAR 41, and operated in accordance with parts 135, 119, 121, and 129 that carry ten to nineteen passengers in scheduled service to be modified by installation of a rigid fixed door with a lock between the flight deck area and the passenger area. We are requesting public input from manufacturers, owners, operators and other interested public entities before any official FAA action in this regard is taken. Specifically the FAA is interested in public comment on the following issues:

a. The feasibility and practicality of installing a rigid door and lock in these airplanes.

2. What advantages and disadvantages to having a door with a lock on airplanes that carry ten to nineteen passengers and what operating burdens would be felt.

3. Any other methods or means of securing the flight deck of these airplanes.

4. Any ideas regarding other means of improving the security of these airplanes in a general sense, not just isolation of the flight deck from the passengers.

For those small airplanes approved for nine or less passengers, that operate in scheduled operations

The initial review recently completed by the FAA indicates that those airplanes that operate in scheduled operations that were type certificated for nine or fewer passengers, should not be subjected to any measures to isolate the flight deck from the passenger areas. The FAA is, however, still interested in improving the security of these airplanes. We are requesting public input from manufactures, owners, operators, and other interested public entities before any official FAA action in this regard is taken. Specifically the FAA is interested in public comments on the following issues:

1. Justification for not installing a rigid door and lock in these airplanes based on feasibility and practicality.

2. Any other methods or means, of securing the flight deck of these airplanes.

3. Any means that could be employed that would improve the general security of these airplanes.

Issued in Kansas City, Missouri, on March 25, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7962 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2001–9706]

Outdoor Advertising Control

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of amended Federal/State agreement.

SUMMARY: The Federal Highway Administration agrees with the Oregon Department of Transportation (ODOT) that the Highway Beautification Federal/State Agreement, dated August 26, 1974, between the United States of America and the State of Oregon should be amended to allow tri-vision signs, adjacent to routes controlled under the Highway Beautification Act. This change will be consistent with State law. A copy of the amended agreement will be mailed to the State of Oregon for execution.

FOR FURTHER INFORMATION CONTACT: Mr. John Burney, Office of Real Estate Services, HRE–20, (202) 366–5853; or Mr. Robert Black, Office of Chief Counsel, HCC–31, (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may be downloaded, using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

The Highway Beautification Act of 1965, Public Law 89–285, 79 Stat. 1028, Oct. 22, 1965, as amended (HBA), partially codified at 23 U.S.C. 131, requires the States to provide effective control of outdoor advertising in the areas adjacent to the Interstate System, the Federal-aid primary system in existence on June 1, 1991, and the National Highway System.[1] States must provide effective control of outdoor advertising as a condition of receiving their full apportionment of Federal-aid highway funds.

Outdoor advertising may be allowed by a State in zoned or unzoned commercial or industrial areas. Signs in such areas must conform to the requirements of an agreement between the State and the Federal Government, through the FHWA, which establishes size, lighting and spacing criteria consistent with customary use. The agreement between Oregon and the FHWA was executed on August 26, 1974. The 1974 Agreement includes the provision that ''No sign shall contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights or moves or has any animated or moving parts.''[2]

On July 28, 1999, the 70th Oregon Legislative Assembly passed Senate Bill 855, which made an exception in Oregon's outdoor advertising control law to allow tri-vision signs (1999 Or. Rev. Stat. Vol. 9, amending title 31, ORS, chap. 377. See Or. Rev. Stat., title 31, sections 377.710 and 377.720(d)). Tri-vision signs are composed of a series of three-sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process, capable of displaying a total of three separate and distinct messages, one message at a time. Prior to this change, outdoor advertising signs subject to Oregon's law could not have moving parts. This change created an exception for the tri-vision sign.

In July 1996, the FHWA issued a policy memorandum[3] indicating that the FHWA will concur with a State that can reasonably interpret its State/Federal agreement to allow changeable message signs if such interpretation is consistent with State law. The interpretation is limited to conforming signs, which are signs permitted under 23 U.S.C. 131(d). Applying updated technology to nonconforming signs would be considered a substantial change and inconsistent with 23 CFR 750.707(d)(5). Many States allow tri-vision signs. The frequency of message change and limitation in spacing for these signs is determined by each State.

In April 1980 the FHWA adopted a procedure to be followed if a State requested a change in the Federal/State agreement. In accordance with this procedure, the State of Oregon first submitted its proposed change, along with the reasons for the change and the effects of the change, to the FHWA Division Office in Oregon. The Oregon Department of Transportation (ODOT) held a public hearing on November 8, 2000, regarding its proposal to amend the Federal/State agreement. The hearing generated fifteen comments.[4]

Discussion Of Comments

The proposed amended agreement was published in the **Federal Register** on August 17, 2001, at 66 FR 43291. We received one comment to the docket. The Oregon Roadside Council, a statewide organization dedicated to preserving Oregon's scenic beauty, objected to the change. It maintained that the tri-vision signs would divert a driver's attention and would detract from safety, especially in areas of increased traffic congestion.

The FHWA is certainly concerned with the safety of the motoring public, and one of the bases of the HBA is ''to promote the safety * * * of public travel.'' 23 U.S.C. 131(a). Tri-vision signs do not appear to compromise the safety of the motoring public. Under Oregon law, each of the three faces in the tri-vision sign will be displayed for at least eight seconds. The next face must rotate into position within four seconds. A majority of the States allow tri-vision signs, with the time periods for displaying and rotating the sign faces being similar to Oregon's statutory time periods. There have been no reports of increases in traffic accidents in those States, due to tri-vision signs being installed adjacent to highways.

The Oregon law requires each tri-vision sign to have three permits. Oregon has ''frozen'' the statewide number of permits for off-premise

[1] The National Highway System, described in 23 U.S.C. 103(b), consists of the Interstate Highway System and other urban and rural principal arterial routes.

[2] The agreement between the State of Oregon and the FHWA is available on-line through the Document Management System (DMS) at the following URL: *http://dms.dot.gov* under FHWA Docket No. FHWA–2001–9706.

[3] The 1996 FHWA policy memorandum is available on-line through the Document Management System (DMS) at the following URL: *http://dms.dot.gov* under the FHWA Docket No. FHWA–2001–9706.

[4] The fifteen written submissions are available on line through the Document Management System (DMS) at *http://dms.dot.gov/* under FHWA Docket No. FHWA–2001–9706.

billboards to approximately 1,700, with approximately 500 permits still unused. Tri-vision billboards should help ultimately to reduce the number of separate billboard sites.

Oregon and the FHWA have completed the above procedure up to the point of publishing the FHWA's decision in the **Federal Register**. The FHWA has decided the Federal/State agreement between the FHWA and the State of Oregon should be amended as proposed. A copy of the amended agreement will be mailed to the State of Oregon for execution and will then be returned to the FHWA for signature.

Amendment to the Federal/State Agreement

The Federal/State Agreement ''For Carrying Out the National Policy Relative to Control of Outdoor Advertising in Areas Adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System'' (the Agreement) made and entered into on August 26, 1974, between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator and the State of Oregon shall include a new definition of Tri-vision signs in Section I. *Definitions* to read as follows:

O. *Tri-Vision sign* means an outdoor advertising structure that contains display surfaces composed of a series of three sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process, capable of displaying a total of three separate and distinct messages, one message at a time.

III: *State Control*, Paragraph A, Lighting (1) should be amended to read as follows:

No sign shall contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights or moves or has any animated or moving parts; however, this paragraph does not apply to a traffic control sign or signs providing only public information such as time, date, temperature, weather or similar information and Tri-vision signs. Tri-vision signs, however, shall not contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights. The frequency of message change is determined by the State.

Authority: 23 U.S.C. 131; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: March 27, 2002.

Mary E. Peters,

Administrator, Federal Highway Administrator.

[FR Doc. 02–7912 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2002–11714]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice announces FMCSA's receipt of applications from 30 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before May 2, 2002.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments as well as see the submissions of other commenters at *http://dms.dot.gov.* Please include the docket numbers that appear in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Thirty individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemptions will achieve the required level of safety.

Qualifications of Applicants

1. Ronald M. Aure

Mr. Aure, age 57, has amblyopia of the left eye. His visual acuity is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his optometrist certified, ''After extensive testing, it is my medical opinion that Ronald Aure has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' In his application, Mr. Aure indicated he has driven straight trucks for 5 years, accumulating 50,000 miles, and tractor-trailer combinations for 37 years, accumulating 4.6 million miles. He holds a Class A commercial driver's license (CDL) from Iowa, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

2. Steven S. Bennett

Mr. Bennett, 46, has amblyopia of the right eye. His visual acuity is 20/200 in the right eye and 20/20 in the left. An optometrist examined him in 2001 and stated, ''Based on my findings, and not withstanding other factors, Mr. Bennett should have sufficient visual acuity and peripheral vision to operate a commercial motor vehicle.'' In his application, Mr. Bennett indicated he has driven straight trucks for 5 years, accumulating 250,000 miles, and tractor-trailer combinations for 13 years,

accumulating 650,000 miles. He holds a Class A CDL from California, and his driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

3. Joe W. Brewer

Mr. Brewer, 53, has a prosthetic right eye due to an injury in 1969. His corrected visual acuity is 20/20 in the left eye. An optometrist examined him in 2001 and stated, ''Joe Brewer in my opinion has sufficient vision to drive a commercial vehicle.'' According to Mr. Brewer's application, he has driven straight trucks for 23 years, accumulating 2.3 million miles. He holds a Class D driver's license from South Carolina, and in the last 3 years he has had no accidents or convictions for moving violations in a CMV, according to his driving record.

4. Trixie L. Brown

Ms. Brown, 47, has amblyopia in her left eye. Her best-corrected vision is 20/25 in the right eye and 20/50 in the left. Following an examination in 2001, her optometrist certified, ''It is true Mrs. Brown does not have normal acuity, but she is well adapted to this condition. With her proper prescription in place she functions quite well. I think that as long as her record is good she can continue in her current position as a commercial vehicle operator.'' Ms. Brown submitted that she has operated buses for 7 years, accumulating 105,000 miles. She holds a Class B CDL from Indiana, and she has had no accidents or convictions for traffic violations for the last 3 years, according to her driving record.

5. James D. Coates

Mr. Coates, 60, underwent cataract surgery on his right eye in 1994. His vision is 20/80 in the right eye and 20/20 in the left. His optometrist examined him in 2001 and certified, ''In my medical opinion, Mr. Coates has 20/20 overall visual acuity uncorrected, and has sufficient visual acuity to perform the driving tasks required to operate a commercial vehicle.'' In his application, Mr. Coates indicated he has driven straight trucks for 8 months, accumulating 24,000 miles, and tractor-trailer combinations for 31 years, accumulating 3.1 million miles. He holds a Class A CDL from Arizona, and his driving record for the past 3 years shows no accidents or convictions for traffic violations in a CMV.

6. Michael D. DeBerry

Mr. DeBerry, 45, has amblyopia in his left eye. His best-corrected vision is 20/25 in the right eye and 20/80 in the left. Following an examination in 2001, his optometrist certified, ''In my opinion, Mr. DeBerry has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. DeBerry reported that he has driven straight trucks for 6 years, accumulating 90,000 miles, and tractor-trailer combinations for 18 years, accumulating 2.1 million miles. He holds a Class A CDL from West Virginia, and his driving record shows no accidents or convictions for traffic violations in a CMV for the last 3 years.

7. James W. Ellis, IV

Mr. Ellis, 39, has been blind in the right eye since 1978 due to trauma. His visual acuity in the left eye is 20/20. Following an examination in 2001, his ophthalmologist affirmed, ''Yes, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ellis holds a Class A CDL from New Jersey, and reported that he has driven straight trucks for 2 years, accumulating 200,000 miles, and tractor-trailer combinations for 18 years, accumulating 1.8 million miles. His driving record shows no accidents or convictions for moving violations in a CMV for the past 3 years.

8. John E. Engstad

Mr. Engstad, 57, has amblyopia in his left eye. His best-corrected visual acuity is 20/15–2 in the right eye and 20/70+1 in the left. An ophthalmologist examined him in 2001 and certified, ''In my medical opinion, you have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Engstad stated he has driven straight trucks for 5 years, accumulating 400,000 miles, and tractor-trailer combinations for 10 years, accumulating 1.3 million miles. He holds a Wisconsin Class ABCD CDL, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

9. Jose D. Espino

Mr. Espino, 40, lost his left eye due to trauma in 1980. His uncorrected visual acuity is 20/20 in the right eye. His ophthalmologist examined him in 2001 and certified, ''I believe that Mr. Espino has adequate vision and peripheral visual field to operate commercial vehicles as he has in the past.'' In his application, Mr. Espino reported that he has driven tractor-trailer combinations for 20 years, accumulating 1.8 million miles. He holds a Florida Class A CDL. There are no accidents and one conviction for a moving violation—Speeding—in a CMV on his driving record for the last 3 years. He exceeded the speed limit by 9 mph.

10. Dan M. Francis

Mr. Francis, 43, has amblyopia in his right eye. His best-corrected visual acuity is 20/200 in the right eye and 20/20 in the left. An optometrist who examined him in 2001 certified, ''It is our judgment that Mr. Francis' vision is good enough to operate a commercial vehicle with no restrictions day or night.'' Mr. Francis submitted that he has operated tractor-trailer combinations for 23 years, accumulating 2.3 million miles. He holds a Class A CDL from California. His driving record shows he has had no accidents and two convictions for traffic violations in a CMV for the last 3 years. Both convictions were for Failure to Obey Traffic Sign.

11. David W. Grooms

Mr. Grooms, 46, has amblyopia in his right eye. His best-corrected visual acuity is 20/40–2 in the right eye and 20/20 in the left. Following an examination in 2001, his ophthalmologist certified, ''It is my medical opinion that Mr. Grooms has sufficient vision to perform commercial vehicle driving tasks.'' Mr. Grooms reported he has operated tractor-trailer combinations for 16 years, accumulating 960,000 miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—Speeding—in a CMV. He exceeded the speed limit by 11 mph.

12. Joe H. Hanniford

Mr. Hanniford, 57, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his optometrist commented, ''As stated before in my letter, I feel Mr. Hanniford's vision is stable and is sufficient to drive a commercial vehicle.'' Mr. Hanniford submitted that he has driven straight trucks for 24 years, accumulating 480,000 miles, and tractor-trailer combinations for 15 years, accumulating 124,000 miles. He holds a Class A CDL from South Carolina. His driving record shows he has had no accidents and one conviction for a moving violation—Speeding—in a CMV during the last 3 years. He exceeded the speed limit by 9 mph.

13. David A. Inman

Mr. Inman, 45, is blind in his left eye due to an injury 13 years ago. His visual acuity in the right eye is 20/20 without correction. An optometrist examined

him in 2001 and certified, ''It is my opinion that he has performed his driving skills now for many years without incident. He has sufficient vision to perform the driving tasks required to operate any commercial vehicle.'' Mr. Inman reported he has 8 years' and 320,000 miles' experience driving straight trucks. He holds a Class A CDL from Indiana, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

14. Harry L. Jones

Mr. Jones, 47, has nerve damage in his right eye due to a viral infection in childhood. His best-corrected visual acuities are 20/200 in the right eye and 20/25 in the left. His optometrist examined him in 2001 and certified, ''In my opinion Mr. Jones has sufficient visual function to perform the driving tasks required to operate a commercial vehicle.'' Mr. Jones submitted that he has driven straight trucks for 6 years, accumulating 288,000 miles, and tractor-trailer combinations for 25 years, accumulating 2.5 million miles. He holds a Class A CDL from Ohio. There are no CMV accidents and two convictions for moving violations—Speeding—on his record for the last 3 years. He exceeded the speed limit by 13 mph in one instance and 9 mph in the other.

15. Teddie W. King

Mr. King, 46, has amblyopia in his right eye. His corrected visual acuity is 20/60-in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist stated, ''In my opinion, he has sufficient vision to continue his operation of a commercial vehicle.'' Mr. King reported that he has driven tractor-trailer combinations for 20 years, accumulating 1.6 million miles. He holds a Class A CDL from North Carolina, and his driving record shows he has had no accidents or convictions for moving violations in a CMV over the last 3 years.

16. Richard B. Leonard

Mr. Leonard, 32, has amblyopia in his right eye. His vision is 20/200 in the right eye and 20/20 in the left. An optometrist examined him in 2002 and certified, ''In my opinion, this is a stable condition, and due to past performance Mr. Leonard has proven his ability to perform the driving tasks required to operate a commercial vehicle.'' Mr. Leonard reported that he has operated tractor-trailer combinations for 6 years, accumulating 450,000 miles. He holds a Class A CDL from the State of Washington. His driving record for the last 3 years shows he has had no accidents and one conviction for a moving violation—Speeding—in a CMV. He exceeded the speed limit by 16 mph.

17. Robert P. Martinez

Mr. Martinez, 54, has nerve damage to his right eye due to removal of a pituitary adenoma in 1991. His best-corrected vision is 20/60-in the right eye and 20/20 in the left. An ophthalmologist examined him in 2001 and stated, ''It is my opinion that Mr. Martinez has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Martinez, who holds a Class C driver's license from California, reported that he has been driving straight trucks for 35 years, accumulating 700,000 miles. His driving record shows he has had no accidents and one conviction for a traffic violation—Traveling in the Car Pool Lane—in a CMV during the last 3 years.

18. Michael L. McNeish

Mr. McNeish, 32, has amblyopia in his left eye. His visual acuity in the right eye is 20/20 and in the left 20/200. An optometrist examined him in 2001 and certified, ''With Michael's only deficiency being central vision loss in the left eye and a full field of view in that eye, I feel he should have no difficulty in performing the driving tasks required to operate a commercial vehicle.'' In his application, Mr. McNeish stated he has 6 years' and 90,000 miles' experience operating tractor-trailer combinations. He holds a Class A CDL from Pennsylvania, and there are no accidents or convictions for moving violations in a CMV on his record for the last 3 years.

19. David E. Miller

Mr. Miller, 45, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/400 in the left. An optometrist examined him in 2001 and certified, ''Mr. Miller clearly has sufficient vision to operate a commercial vehicle.'' Mr. Miller submitted that he has driven straight trucks for 1½ years, accumulating 30,000 miles, and tractor-trailer combinations for 1½ years, accumulating 210,000 miles. He holds a Class A CDL from Florida. His driving record shows he has had no accidents and one conviction—Failure to Obey Traffic Instruction Sign/Device—while operating a CMV during the last 3 years.

20. Bobby G. Minton

Mr. Minton, 60, has amblyopia of the left eye. His best-corrected vision is 20/20 in the right eye and 20/70–1 in the left. Following an examination in 2001, his optometrist stated, ''In my medical opinion, I feel that Mr. Minton has sufficient vision to perform driving tasks while operating a commercial vehicle.'' Mr. Minton reported that he has 10 years' experience operating straight trucks, accumulating 1.2 million miles. He holds a Class A CDL from North Carolina. There are no accidents and one conviction for a moving violation—Drive on Wrong Side of Undivided Street/Road—in a CMV on his driving record for the last 3 years.

21. Lawrence C. Moody

Mr. Moody, 58, has a prosthetic left eye due to trauma at age 24. The visual acuity of his right eye is 20/20. Following an examination in 2001, his optometrist certified, ''In my opinion, Mr. Moody has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' According to his application, Mr. Moody has operated straight trucks for 5 years, accumulating 250,000 miles, and tractor-trailer combinations for 23 years, accumulating 2.8 million miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows that he had one accident and two convictions for moving violations in a CMV, all on separate occasions. The accident occurred when his vehicle collided with another vehicle at an intersection controlled by a traffic light. The other driver, and not Mr. Moody, was charged in the accident. The traffic violations were Speeding and Fail to Obey Sign/Traffic Control Device. He exceeded the speed limit by 15 mph.

22. Stanley W. Nunn

Mr. Nunn, 37, has a congenital cataract in his right eye. He has hand-motion vision in the right eye and 20/20 vision in the left. Following an examination in 2002, his optometrist certified, ''In my opinion, Mr. Nunn has sufficient vision to perform any driving task required for a commercial vehicle.'' Mr. Nunn submitted that he has driven straight trucks for 7 years, accumulating 98,000 miles. He holds a Class B CDL from Tennessee. His driving record for the last 3 years shows no accidents or convictions for traffic violations in a CMV.

23. William R. Proffitt

Mr. Proffitt, 41, has amblyopia in his left eye. His visual acuity is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his ophthalmologist certified, ''Therefore, in my medical opinion, Bill has sufficient

vision to operate a commercial vehicle.'' Mr. Proffitt submitted that he has driven straight trucks for 4 years, accumulating 40,000 miles. He holds a Class B CDL from Arkansas, and his driving record shows he has had no accidents or convictions for moving violations in a CMV in the last 3 years.

24. Charles L. Schnell

Mr. Schnell, 53, has a prosthetic right eye following removal of the eye for an ocular tumor in 1955. His corrected visual acuity is 20/20 in the left eye. An ophthalmologist who examined him in 2001 certified, ''The patient has normal visual function in his left eye. He has normal peripheral vision and normal central vision and this should supply him with sufficient vision to perform driving tasks. However, this only qualifies his visual potential and not overall competency to perform the tasks of operating a commercial vehicle.'' Mr. Schnell reported that he has driven tractor-trailer combination vehicles for 10 years, accumulating 900,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows one accident and no convictions for moving violations in a CMV. Another vehicle crossed the centerline and struck his vehicle. He was not charged in the accident.

25. Charles L. Shirey

Mr. Shirey, 51, has amblyopia in his left eye. He has best-corrected visual acuity of 20/20+ in the right eye and 20/300 in the left. Following an examination in 2001, his optometrist stated, ''My impression is that Mr. Charles L. Shirey has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Shirey submitted that he has driven straight trucks for 6 years, accumulating 600,000 miles, and tractor-trailer combinations for 19 years, accumulating 2.0 million miles. He holds a Pennsylvania Class AM CDL, and his driving record shows that during the last 3 years he has had no accidents or convictions for moving violations in a CMV.

26. James R. Spencer, Sr.

Mr. Spencer, 61, has amblyopia in his left eye. The best-corrected visual acuity of his right eye is 20/20 and of his left eye 20/60. His optometrist examined him in 2001 and stated, ''This letter is to certify that in my professional opinion, found on the exam done in my office on December 19, 2001, Mr. Spencer has adequate vision to perform the driving tasks required of a commercial vehicle driver.'' Mr. Spencer reported that he has driven tractor-trailer combinations for 43 years, accumulating 4.3 million miles. He holds a Class A CDL from Florida, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

27. David E. Steinke

Mr. Steinke, 50, has congenital right anophthalmia. His best-corrected vision in the left eye is 20/15+. An optometrist examined him in 2001 and certified, ''I will again reaffirm that in my medical opinion, David has sufficient visual skills to operate a commercial vehicle.'' Mr. Steinke submitted that he has driven tractor-trailer combinations for 24 years, accumulating 2.6 million miles. He holds a Class ABCD CDL from Wisconsin, and has no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

28. Kevin R. Stoner

Mr. Stoner, 28, has amblyopia in his right eye. His best-corrected vision is 20/400 in the right eye and 20/15 in the left. An optometrist examined him in 2001 and stated, ''Once again, my clinical evaluation of this patient reveals no reason why this patient should not qualify for an interstate commercial driver's license under the waiver for monocular drivers without an optical correction.'' Mr. Stoner reported he has driven straight trucks for 2½ years, accumulating 150,000 miles, and tractor-trailer combinations for 6 years, accumulating 360,000 miles. He holds a Pennsylvania Class A CDL, and he has had no accidents or convictions for moving violations in a CMV for the past 3 years, according to his driving record.

29. Carl J. Suggs

Mr. Suggs, 64, has a macular scar in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/400 in the left. An ophthalmologist examined him in 2001 and certified, ''Mr. Suggs has been driving commercial vehicles for many years and has an exemplary record and it is my opinion that he has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Suggs reported that he has driven straight trucks for 32 years, accumulating 390,000 miles, and buses for 41 years, accumulating 2.2 million miles. He holds a Class B CDL from North Carolina, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

30. James A. Torgerson

Mr. Togerson, 51, has amblyopia in his left eye. His best-corrected visual acuities are 20/20 in the right eye and 20/200 in the left. An optometrist examined him in 2001 and certified, ''In my opinion, Mr. Torgerson is visually capable of operating a commercial motor vehicle.'' Mr. Torgerson submitted that he has driven straight trucks for 5 years, accumulating 250,000 miles, and tractor-trailer combinations for 5 years, accumulating 625,000 miles. He holds a Class A CDL from Minnesota, and his driving record for the past 3 years shows no accidents or convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address.

Issued on: March 27, 2002.

Julie Anna Cirillo,

Chief Safety Officer.

[FR Doc. 02–7913 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety regulations. The individual petition is 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.

National Railroad Passenger Corporation

[Docket Number FRA–2001–10596]

The National Railroad Passenger Corporation (Amtrak) seeks a permanent waiver of compliance from certain provisions of the Railroad Power Brake and Drawbars regulations, 49 CFR 229, regarding the required periodic tests of locomotive brake equipment. Specifically, Amtrak requests that the electronic brake equipment used on the new HHP8 electric locomotives be

subjected to the same provisions as outlined in a waiver (H–95–3) granted to New York Air Brake Company (NYAB) for their CCB brake equipment, which extended the time requirements for cleaning, repairing and testing of brake components listed in § 229.27(a)(2) and § 229.29(a), to a period not to exceed five years or 1,840 days.

Amtrak claims that the HHP8 electronic brake equipment is similar in arrangement and function to the NYAB CCB system. It also incorporates a number of the same components used in the CCB system. Amtrak believes that the five-year interval is justified on the basis of the duty cycle and FMECA performed for the Acela brake system, of which this system is a direct variant set up for double end control and includes the locomotive independent brake and quick release functions. This five-year maintenance interval is also currently outlined in the maintenance plan for the Acela Train Sets under 49 CFR Part 238, Tier II requirements. Further, the HHP8 locomotive is equipped with an air quality (dryers and filters) system that meets current industry standards. Amtrak would like to maintain the HHP8 locomotive brake equipment with the same conditions and time intervals as specified in waiver H–95–3, which has been re-numbered and re-issued as waiver number FRA–2000–7367.

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 Number FRA–2001–10596) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, D.C. 20590–0001. 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 (9:00 a.m.—5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at http://dms.dot.gov.

Issued in Washington, DC. on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7820 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket No. FRA–2002–11635]

Applicant: Norfolk Southern Corporation, Mr. Brian L. Sykes, Chief Engineer, C&S Engineering, 99 Spring Street, SW., Atlanta, Georgia 30303

The Norfolk Southern Corporation (NS) seeks approval of the proposed discontinuance and removal of the automatic block signal system on the two main track Stanley Secondary between milepost DK–1.8 and milepost DK–4.8, near Toledo, Ohio, on the Dearborn Division. The proposed changes include the removal of the existing four automatic block signals, and installation of back to back fixed approach signals near milepost DK–3.2.

The reason given for the proposed changes is to eliminate facilities no longer needed for present day operation. Both tracks are predominately used for storage, and there have been no through train movements on the Stanley Secondary since June 1, 1999.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, D.C. 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.—5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7824 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket No. FRA–2002–11633]

Applicant: Norfolk Southern Corporation, Mr. G. A. Thelen, Assistant Vice President—Mechanical, 185 Spring Street, SW., Atlanta, Georgia 30303–3703.

The Norfolk Southern Railway Company (NS) seeks relief from the requirements of the Rules, Standards and Instructions, Title 49 CFR, part 236, section 236.586, ''Daily or after trip test'' in its entirety for locomotives equipped with Ultra Cab equipment, including the associated record keeping requirements of the 236.586 test contained in Section 236.110.

Applicant's justification for relief: NS believes that a ''proper visual inspection'' is redundant to inspections already being performed, and a second

identical inspection should not be necessary solely for the purpose of complying with § 236.586 when UltraCab equipment is involved. Therefore, NS contends that the cab signal equipment (including the receiver bars) already receives a visual inspection each day, as well as an electronic inspection each time prior to entering cab signal territory.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7825 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements.

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–11501]

Applicant: Rail America, Incorporated, Saginaw Valley Railway and Huron & Eastern Railway, Mr. Larry Ross, General Manager, 101 Enterprise Drive, Vassar, Michigan 48768.

Rail America Incorporated seeks approval of the proposed discontinuance and removal of the automatic interlocking near Vassar, Michigan, were the single main track of the Saginaw Valley Railway's Brown City Line, at milepost 19.70, crosses at grade with the Huron and Eastern Railway's Millington Industrial Spur, at milepost 85.95. The proposed changes include the discontinuance and removal of all associated signals, and installation of a swing gate with two stop signs and locks governed by operating rules.

The reasons given for the proposed changes is the severe reduction in traffic and it is not feasible to justify the high maintenance costs required of the antiquated equipment used.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7821 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–11743]

Applicant: South Central Florida Express, Incorporated, Ms. Sally C. Conley, General Manager, 900 South W.C. Owen, Clewiston, Florida 33440.

The South Central Florida Express, Incorporated seeks approval of the proposed discontinuance of the Automatic Block Signal Rules which are currently in effect and supplement the Direct Traffic Control Rules between mileposts K39.28 and K40.95, near Port Mayaca, Florida. The proposed changes include conversion of the operative approach signals to inoperative type with ''APP Markers'', and the speed between the home signals has been reduced to 20 mph.

The reason given for the proposed changes is that present day operation does not warrant retention of the signal system, and the Drawbridge remains up for water traffic.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the

interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, D.C. 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.—5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on March 22, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7822 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements.

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–11668]

Applicant: Union Pacific Railroad Company, Mr. Phil M. Abaray, Chief Engineer—Signals 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed modification of the automatic block signal system, on the Milwaukee Subdivision, near Norma, Illinois, consisting of the discontinuance and removal of three electric switch locks at milepost 8.3, and one electric switch lock at milepost 10.

The reason given for the proposed changes is that the locks are in ABS territory with a 50 mph maximum authorized speed limit, and are no longer needed.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, D.C. 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.—5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. 02–7823 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–11779]

Applicant: Union Pacific Railroad Company, Mr. Phil M. Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed modification of the traffic control system, on the track and Boulder Industrial Lead, at milepost 5.0 on the Greeley Subdivision, near Denver, Colorado, consisting of the following:

1. Conversion of the power-operated crossover to hand operation;
2. Discontinuance and removal of the exiting southbound controlled signal on the main track, and two controlled and one approach signals on the Boulder Industrial Lead;
3. Discontinuance and removal of the SL–6 locked derail and switch lock on the Commerce City Yard Lead; and
4. Installation of two leaving signals from the Boulder Industrial and Commerce City Yard Leads, and installation of a new southbound controlled signal on the main track to protect the BNSF Interlocking at milepost 4.8.

The reason given for the proposed changes is that the Boulder Industrial Lead has been shortened and no longer carries sufficient traffic to justify the controlled crossover.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45

days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications 3 concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7826 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–7744; Notice 3]

General Motors Corporation; Notice of Appeal of Denial of Petition for Determination of Inconsequential Noncompliance

General Motors Corporation (GM), of Warren, Michigan, has appealed a decision by the National Highway Traffic Safety Administration (NHTSA) that denied its application for a decision that its noncompliances with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment,'' be deemed inconsequential to motor vehicle safety.

Notice of receipt of the petition was published in the **Federal Register** on August 14, 2000, (65 FR 49632). On July 23, 2001, NHTSA published a notice in the **Federal Register** denying GM's petition, stating that the petitioner had not met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's appeal is published in accordance with NHTSA regulations (49 CFR 556.7 and 556.8) and does not represent any agency decision or other exercise of judgment concerning the merits of the appeal.

GM manufactured 201,472 Buick Century and Buick Regal models between October 1998 and June 1999, some of whose headlamps do not meet the photometric requirements in FMVSS No. 108 for test points above the horizontal (intended for overhead sign illumination). To evaluate the noncompliance, GM randomly collected 10 pairs of lamps from production and photometrically tested them. Additionally, GM tested the same 10 pairs of lamps using accurately-rated bulbs. These are bulbs that have their filaments positioned within strict tolerances. In large-scale bulb production, the filament positions vary slightly and, therefore, can produce varying photometric output. The photometric output of a lamp using an accurately-rated bulb is intended to closely represent the output that was intended in its design, and not that which would occur in a mass-produced headlamp as sold on motor vehicles.

The test results indicated that five test points (production bulbs) and three test points (accurately-rated bulbs), respectively, failed to meet the minimum candela requirements. The test results also indicated that the amount of light below the minimum required was generally less than 10 percent at all noncomplying test points. However, seven failures at certain test points that were greater than 16 percent below the minimum, with the maximum variation being 24.4 percent (at 1.5 degrees up) with a production bulb. Transport Canada conducted tests on headlamps used on the same types of vehicles, and found that all the test points in question met the requirements. GM believes that these results show the noncomplying results were related to manufacturing variations and were present in only a portion of the lamps.

GM supported its application for inconsequential noncompliance with the following statements:

> The test points at issue are all above the horizon and are intended to measure illumination of overhead signs. They do not represent areas of the beam that illuminate the road surface, and the headlamps still fulfill applicable Federal Motor Vehicle Safety Standard 108 requirements regarding road illumination.
>
> For years the rule of thumb has been that a 25 percent difference in light intensity is not significant to most people for certain lighting conditions.
>
> GM has not received any complaints from owners of the subject vehicles about their ability to see overhead signs.
>
> GM is not aware of any accidents, injuries, owner complaints or field reports related to this condition for these vehicles.

GM also cited a number of inconsequentiality applications that the agency has granted in the past as support for granting its application. Those cited were submitted by GM [59 FR 65428; December 19, 1994], Subaru of America, [56 FR 59971; November 26, 1991], and Hella, Inc. [55 FR 37602; September 12, 1990]. GM also cited a University of Michigan Transportation Research Institute (UMTRI) report entitled ''Just Noticeable Differences for Low-Beam Headlamp Intensities'' (UMTRI–97–4, February 1997)

In the only public comment received, Advocates stated its ''strongest opposition to NHTSA granting a finding of inconsequential noncompliance for the GM headlamps which are the subject of this notice.'' Advocates first pointed out that it believes GM's purported lack of complaints about inadequate headlamp illumination has ''no merit whatever.'' It believes that it is unlikely that drivers would attribute their driving errors or crashes to a faulty beam. Further, it believes it unlikely that an investigating officer at a crash scene would consider the characteristics of the beam pattern as the causal factor. It goes on to say that crashes may have occurred as a result of the noncompliance of which GM is not aware.

Advocates also discussed the importance of overhead lighting. It stated that:

> It is especially crucial for adequate levels of lighting to fall on the surfaces of high-mounted retroreflectorized traffic control devices that advise of vehicle maneuvers, speed limit changes, warnings of hazardous conditions, and destination information to ensure driver confidence and safety in executing the moment-to-moment driving task.

Advocates referred to the amendment of FMVSS No. 108 on January 12, 1993 [58 FR 3856] that added minimum photometric requirements for headlamps for illumination of overhead signs. Advocates reiterated the agency's rationale for this rulemaking, namely that some manufacturers were introducing headlamps in the 1980s and 1990s that widely departed from the traditional U.S. beam pattern. These headlamps were providing inadequate light above the horizontal to illuminate overhead signs.

After review of its application the agency disagreed with GM that the noncompliances were inconsequential to motor vehicle safety. As Advocates correctly noted in its comment, the sole purpose of the 1993 final rule was to establish photometric minima above the horizon so that headlamps would sufficiently illuminate overhead signs. Without any test point minima specified, some manufacturers were

designing headlamps that provided very little light above the horizon. Because States were choosing retroreflectorized overhead signs rather than the more expensive self-illuminated ones, the agency determined that it should address the increasing need for illumination of overhead reflectorized signs.

In setting these minima, the agency expected the industry to design its headlamps to ensure that production variability would not result in noncompliances. GM's own compliance tests showed failures that were as much as 24.4 percent below the required minima. Each of the ten headlamps GM tested had noncomplying test points, with all but two having failures that were greater than 14.1 percent below the minimum requirement. This testing indicated that there may be a serious flaw in the design and/or production of these lamps.

Although GM stated that Transport Canada tested and found all lamps to be compliant, the company did not provide any substantiating data, or even the number of headlamps tested by Transport Canada. The agency contacted Transport Canada and obtained the test data on the subject vehicles. Initially, there were four failures at the relevant test points. The failures were resolved by reaiming the headlamps one-quarter degree, an adjustment allowed by the standard. After reaiming, Transport Canada found the lamps to be in compliance at the four test points where they had previously failed. Although these four lamps were found to be in compliance, the need to reaim certain points and the marginal compliance at others shows that the design of the lamps was marginal.

A January 1991 study conducted by UMTRI (UMTRI–91–3) recommended certain minimum intensity levels for test points above the horizontal that are intended to illuminate signs. UMTRI divided its recommendations for minima between three types of retroreflectorized signs: enclosed lens, encapsulated lens, and microprismatic, each respectively more reflective than the previous. The first two are most relevant, as microprismatic signs comprised only about three percent of the current signs at that time. UMTRI concluded that, for a test point 1.5 degrees up, the minimum intensities for the enclosed and encapsulated lens signs were 700 and 250 candela (cd), respectively. The standard currently requires a minimum of 200 cd. In setting this level, the agency expected manufacturers to factor in a certain level of design variability to assure compliance. GM's poorest performing lamp provided about 150 cd at this test point. The agency finds this unacceptable. As Advocates pointed out in its comments, there are many critical maneuvers that must be undertaken in low light situations, and to not provide sufficient light to illuminate signs is a detriment to motor vehicle safety.

GM cited a number of the agency's previous grants of inconsequentiality applications that were based upon our conclusion that a change in luminous intensity of approximately 25 percent must occur before the human eye can discern a difference. GM also cited an UMTRI report [UMTRI–97–4; February 1997] to support its position.

The agency determined that these actions and the 1997 UMTRI report did not support GM's conclusion. The previous actions and the UMTRI report all dealt with an observer's ability to see a headlamp or a signal light, not the ability to see the light reflected back from headlamp-illuminated signs or other reflectors. The inconsequential applications that GM cited all involved signal lighting with deficiencies in photometric requirements. In all cases, the agency was confident that the noncompliant signal lights would still be visible to nearby drivers. Because signal lighting is not intended to provide roadway illumination to the driver, a less than 25 percent reduction in light output at any particular test point is less critical.

Regarding the UMTRI study on just-noticeable differences for lower-beam headlamps, the research and findings are mostly analogous to those of the signal lighting research. UMTRI's study was designed to evaluate the just-noticeable differences for glare intensities of oncoming headlamps. Like the signal light research, it was performed from the point of view of a driver observing differences in headlamp intensities. The agency was not persuaded by GM's contentions about the meaning of this research. In its report, UMTRI states:

> The applications of (just noticeable differences) derived from judgments about the subjective brightnesses of lamps viewed directly seems less of a leap in the case of signal lamp functions, and of those aspects of headlamps that involve direct viewing (primarily discomfort glare), than in the case of headlamp functions that involve the illumination of objects. The primary reason for caution in extending the current results to illuminated objects is that the range of luminances of such objects (e.g., a pedestrian at 100 meters illuminated by headlamps at night) will be much lower than the luminances of the headlamps themselves. The [research] can therefore be used more confidently to justify applying the 25 percent limit for inconsequential noncompliance to a photometric test point that specifies a maximum for glare protection than to one that specifies a minimum for seeing light. Further work on the effects of changes in lamp intensity on the visibility of illuminated objects is desirable to clarify more completely the issue of inconsequential noncompliance for headlamps.

In its appeal, GM offers this new information to support its petition:

> GM recently obtained and tested twenty-one pairs of headlamps from used 1999 Regal and Century vehicles built between August 1998 and March 1999. The 42 headlamps all exceed the minimum photometric requirements of FMVSS 108. This was true for the sign illumination test points as well as all other test points. [GM stated that t]he weathering of the lenses over the past two to three years accounts for this change in performance.
>
> Because overhead sign illumination is affected by the output of both headlamps, GM asked two independent lighting research experts to analyze overhead sign illumination based on the test results of the ten pairs of headlamps. Their report shows that the combined sum of the illumination from any combination of two of those headlamps exceeds twice the minimum illumination from each headlamp required by FMVSS 108. The system light output, therefore, exceeds the implicit functional requirement of the standard.
>
> This evidence, which [GM describes] in greater detail below, indicates that customers driving these vehicles are and have been experiencing no less than the amount of overhead sign illumination that FMVSS 108 requires. On this basis, the noncompliance is inconsequential and [thus, GM requested] reconsideration of NHTSA's decision.

Photometric Test Data From Field Headlamps

GM collected 42 headlamps from twenty-one vehicles and all photometric test points were measured. Each bulb appeared to be the original bulb for the headlamp assembly and the bulbs were not disturbed before testing. Visual aim was used because of the condition with the operation of the VHAD that lead to a recall campaign (NHTSA No. 99V356000, GM No. 99093).

The vehicles were produced between August 18, 1998 and February 15, 1999. Three of the vehicles were owned by GM employees and eighteen were selected at random at auto auctions in Detroit and Flint, Michigan. All 42 headlamps exceeded the minimum photometric requirements for the sign illumination test points found in FMVSS 108 (as summarized below).

Test point	Requirement (Candela)	Average (Candela)	Range (Candela)
Left Headlamp:			
0.5U, 1R–3R	500	674	501–1214
4U–8L	64	114	88–148
4U–8R	64	91	64–125
2U–4L	135	159	136–198
Right Headlamp:			
0.5U, 1R–3R	500	895	577–2679
4U–8L	64	82	64–107
4U–8R	64	135	109–196
2U–4L	135	308	274–346

[GM's] hypothesis was that these results were caused by weathering of the lens coating, which increases light scatter. Weathering is caused by exposure to temperature changes, precipitation, and contact with dust, stones, and other environmental factors. This is a well-known phenomenon that occurs in lamps that meet fully the haze requirement in S5.1.2, as these lamps do. To test our hypothesis, the lenses of four of the tested lamps were removed and replaced with a new, unused lens. The photometric results with the original and new lenses were:

Test point	Requirement Average	Average with new lenses (Candela)	Average with original lenses (Candela)	Percent change
Left Headlamp:				
0.5U, 1R–3R	500	577	632	8.7
4U–8L	64	87	117	25.6
4U–8R	64	72	122	40.9
2U–4L	135	126	183	31.1
Right Headlamp:				
0.5U, 1R–3R	500	957	864	−10.7
4U–8L	64	74	90	17.7
4U–8R	64	128	154	16.9
2U–4L	135	263	289	9.0

Using the averages, the results for the original lenses exceeded those for the new lenses for all but one test point.

In the group of 42 lamps, [GM] also compared the performance of the lamps from the ten newest and eleven oldest vehicles. No significant difference was observed.

Because of weathering, the headlamps on these vehicles now meet the photometric requirements that some of the new headlamps did not meet. The noncompliance of the new, unused lamps is, therefore inconsequential.

Combined Light Output From Left and Right Low-beam Headlamps

The test point values for each headlamp were set by NHTSA to achieve a certain overall level of sign illumination. 58 FR 3856, 3858 (Jan. 12, 1993). At least two headlamps are required by the standard. To assess the impact of the noncompliance on the illumination of overhead signs, one should examine the light output of both headlamps. [GM] asked two well-known researchers in the field of vehicle lighting to do so.

Their analysis was based on the 1999 photometric data from an independent test laboratory for ten pairs of headlamps with production bulbs. The combined light output from a left and a right headlamp was calculated for three different scenarios:

Worst case: The worst performing left lamp was paired with the worst performing right lamp. For each test point, the worst case headlamps were selected separately.

Best case: As above, but using the best performing left and right headlamps.

Average case: The mean values were paired for the left and right headlamps.

The result, even in the worst case scenario, is illumination of overhead signs that is greater than twice the minimum photometric requirements for a single headlamp. When pairing the worst performing left and right headlamps, the combined light exceeded twice the requirement by 20% for 4U–8R, 6% for 4U–8L, 45% for 2U–4L, 26% for 1.5U–1R to 3R, and 11% for 0.5U–1R to 3R. The points at which left and right lamps failed were consistently different, so the margin by which each exceeded the points at which they passed offset the failures when the results are combined.

Consistent with FMVSS 108, these vehicles could have been equipped with left and right headlamps that each precisely met (but did not exceed) the overhead sign illumination test point requirements. While some of these vehicles were equipped with lamps that did not meet some of the individual test points (and exceed others), the overhead sign illumination from these vehicles is no less than what is lawful. Indeed, the requirements are exceeded by six to forty-five percent for the worst case.

In denying the petition, NTHSA noted that it expected manufacturers to account for design variability. GM's design and performance requirements do account for expected variability to assure compliance. In this instance, variability exceeded reasonable expectations and a noncompliance occurred. When the light that can reach overhead signs from both headlamps on these vehicles is considered, the performance not only meets the implied requirement, but meets it with a margin. This demonstrates that the noncompliance is inconsequential.

Interested persons are invited to submit written data, views, and arguments on the application appealing NHTSA's decision described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: May 2, 2002.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: March 28, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–7960 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–11882; Notice 1]

Michelin North America, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Michelin North America, Inc., (Michelin) has determined that approximately 385 275/80 R 22.5 Michelin PXZE TL LRG tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New pneumatic tires for vehicles other than passenger cars.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Michelin has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

During the period of the 42nd week of 2001 through the 44th week of 2001, the Kentville, Nova Scotia, Canada plant of Michelin North America (Canada) Inc., produced a number of tires where, on one side of the tire, the maximum load rating information was substituted for the tire inflation pressure information. This condition does not meet the requirements of FMVSS No. 119, S6.5(d).

The required marking reads:

Max Load Single 2800kg (6175 lbs) at 760 kPa (110 psi) cold

Max Load Dual 2575 kg (5675 lbs) at 760 kPa (110 psi) cold

The noncompliant tires were marked on one side as below:

Max Load Single 2800 kg (6175 lbs) 2800 kg (6175 lbs)

Max Load Dual 2575 kg (5675 lbs) 2575 kg (5675 lbs)

The opposite side of the tire was correctly marked.

Of the 385 noncompliant tires, approximately 283 tires may have been delivered to end-users. The remaining tires have been isolated in Michelin's warehouses and will be brought into full compliance with the marking requirement of FMVSS No. 119 or scrapped.

Michelin does not believe that this marking error will impact motor vehicle safety because the tires meet all Federal Motor Vehicle Safety performance standards. The routine source of tire inflation pressure is not the tire sidewall marking. Typically the proper inflation pressures are obtained from the vehicle owner's manual, manufacturer's or industry standards publications or from the vehicle placard, thus the source of the property inflation is readily available to the user.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: May 2, 2002.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: March 28, 2002.

Stephen R. Kratzke,

Associate Administrator, for Safety Performance Standards.

[FR Doc. 02–7961 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 67, No. 63
Tuesday, April 2, 2002

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

DEPARTMENT OF AGRICULTURE

Privacy Act of 1974: New System of Records

AGENCY: Department of Agriculture (USDA).

ACTION: Notice of a new system of records.

SUMMARY: USDA proposes to add a new system of records to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records systems maintained by the agency (5 U.S.C. 552a(e)(4)).

DATES: This notice will be adopted without further publication in the **Federal Register** on May 17, 2002, unless modified by a subsequent notice to incorporate comments received from the public. Although the Privacy Act requires only that the portion of the system that describes the ''routine uses'' of the system be published for comment, USDA invites comment on all portions of this notice. Comments must be received by the contact person listed below on or before May 2, 2002.

ADDRESSES: Send written comments to the Department of Agriculture, ATTN: Marge Adams, Office of Human Resources Management, 1400 Independence Ave, SW, Room 3027–S, Washington, DC 20250–9606.

FOR FURTHER INFORMATION CONTACT: Marge Adams, 202–720–3286.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is creating a new system of records to be maintained by either an external contractor such as the Federal Employee and Education Assistance Fund and/or mission areas/agencies/staff offices to support the USDA Child Care Tuition Assistance Program, a program to increase the affordability of licensed child care for lower income Federal employees, as provided for in Pub. L. 107–67, section 630. The information requested of these employees is necessary to establish and verify USDA employees' eligibility for child care tuition assistance and the amounts of the tuition assistance in order for USDA to provide monetary tuition assistance to its employees. It will also be used to collect information from the employee's child care provider(s) for verification purposes; *e.g.,* that the provider is licensed. Collection of data will be by tuition assistance application forms submitted by employees.

The purpose of the Child Care Tuition Assistance Program is to make child care more affordable for lower income Federal employees through the use of agency appropriated funds. This program will afford employees the opportunity to place their children in a licensed child day care programs regulated by State or local authorities or sponsored by the Federal government.

A ''Report on New System,'' required by 5 U.S.C. 552a(r), as implemented by OMB Circular A–130, was sent to the Chairman, Committee on Governmental Affairs, United States Senate, the Chairman, Committee on Government Reform and Oversight, House of Representatives, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on March 27, 2002.

Signed at Washington, DC on March 22, 2002.

Ann Veneman,

Secretary of Agriculture.

USDA/OHRM–5

SYSTEM NAME:

USDA Child Care Tuition Assistance Records System, USDA/OHRM–5.

SYSTEM LOCATION:

Paper and electronic records may be maintained by an external contractor such as the Federal Employee and Education Assistance Fund, Suite 200, 8441 West Bowles Avenue, Littleton, CO 80123–9501; and/or mission areas/agencies/staff offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Department of Agriculture who voluntarily apply for child care tuition assistance, their spouses, and their children who are enrolled in a licensed child day care program.

Child-care providers of these employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application forms (OPM–1046 will be used) for child day care assistance containing personal information, including the employee (parent) name, Social Security Number, pay grade, home and work numbers, addresses, and telephone numbers; total family income; spouse's name and Social Security Number; spouse's employment information; names of children on whose behalf the employee (parent) is applying for tuition assistance; each child's date of birth; information on child care providers used (including name, address, provider license number and State where issued, tuition cost, and provider tax identification number), amount of any other subsidies received; and copies of employees' and spouses' individual income tax returns for verification purposes. Other records may include the child's Social Security Number, weekly expenses, pay statements, records relating to direct deposits, and verification of qualification and administration for child care assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 107–67, section 630.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Relevant records relating to an individual may be disclosed to a congressional office in response to an inquiry from the Congressional office made at the request of that individual.

b. Relevant information may be disclosed to the Office of the President for responding to an individual.

c. Relevant records may be disclosed to representatives of the National Archives and Records Administration who are conducting records management inspections.

d. Records may be disclosed in response to a request for discovery or for the appearance of a witness, to the extent that what is disclosed is relevant to the subject matter involved in a pending judicial or administrative proceeding.

e. Relevant records may be disclosed to another Federal agency, to a court, or a party in litigation before a court or in

an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, relevant records may be disclosed if a subpoena has been signed by a judge of competent jurisdiction.

f. Records may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which USDA is authorized to appear, when:

(1) USDA, or any component thereof; or

(2) Any employee of USDA in his or her official capacity; or

(3) Any employee of USDA in his or her individual capacity where the Department of Justice or USDA has agreed to represent the employee; or

(4) The United States, when USDA determines that litigation is likely to affect USDA 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 USDA is deemed by USDA to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

g. In the event that material in this system indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or by regulation, rule, or order issued pursuant thereto, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order, issued pursuant thereto.

h. Relevant records may be disclosed to respond to a Federal agency's request made in connection with the hiring or retention of an employee, the letting of a contract or issuance of a grant, license or other benefit by the requesting agency, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter.

i. Relevant records may be disclosed to the Office of Personnel Management or the General Accounting Office when the information is required for evaluation of the subsidy program.

j. Records may be disclosed to a contractor, expert, consultant, grantee, or volunteer performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government requiring the use of these records.

k. Relevant records may be disclosed to child care providers to verify a covered child's dates of attendance at the provider's facility.

l. Records may be disclosed by USDA in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related workforce studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

m. Records may be disclosed to officials of the Merit Systems Protection Board of the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of USDA rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

n. Records may be disclosed to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures or other functions vested in the Commission and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

o. Records may be disclosed to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

p. Relevant records may be disclosed to the Internal Revenue Service in connection with tax audit and tax record administration, as well as suspected tax fraud.

PURPOSE(S):

To establish and verify USDA employees' eligibility for child care tuition assistance in order for USDA to provide monetary tuition assistance to its employees.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information may be collected on paper or electronically and may be stored as paper forms or on computers.

RETRIEVABILITY:

By name; may also be cross-referenced to Social Security Number.

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in lockable file cabinets or secured rooms. Electronic records are protected by the use of passwords.

RETENTION AND DISPOSAL:

Records disposition authority is being requested from the National Archives and Records Administration. Records will be retained until appropriate disposition authority is obtained, and records will then be disposed of in accordance with the authority granted. Records Administration (NARA) guidelines.

SYSTEM MANAGER(S) AND ADDRESS:

USDA's system manager will be the Director, Office of Human Resources Management, Department of Agriculture, 1400 Independence Ave, SW., Washington, DC 20250–9606, with Mission Areas/Agencies/Staff Offices maintaining their own records.

NOTIFICATION PROCEDURE:

Individuals may submit a request on whether a system contains records about them to the system manager indicated. Individuals must furnish the following for their records to be located and identified:

Full name.

Social Security Number.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager indicated. Individuals must provide the following information for their records to be located and identified:

Full name.

Social Security Number.

Individuals requesting access must also follow the USDA's Privacy Act regulations regarding verification of identity and access to records (7 CFR part 1, subpart G).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should contact the system manager indicated. Individuals must furnish the following information for their records to be located and identified:

Full name.

Social Security Number.

Individuals requesting amendment must also follow the USDA's Privacy Act regulations regarding verification of identity and amendment of records (7 CFR part 1, subpart G).

RECORD SOURCE CATEGORIES:

Information is provided by USDA employees who apply for child care tuition assistance. Furnishing of the information is voluntary.

[FR Doc. 02–7860 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–96–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 02–003N]

Puerto Rico Conference on Animal and Egg Production Food Safety

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of meeting.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), is co-sponsoring, along with the Food and Drug Administration (FDA) and the University of Puerto Rico (UPR), a Conference on Animal and Egg Production Food Safety. The conference is to be held in San Juan, Puerto Rico on July 9–11, 2002. The conference grows out of a Memorandum of Understanding (MOU) 225–00–8002 among FDA, FSIS, and UPR, which was signed on December 7, 2000. The MOU provides a framework for all parties to collaborate on mutually agreed upon scientific and regulatory activities that pertain to products that are within the jurisdiction of FDA and FSIS. These activities are intended to support and encourage understanding of science-based regulatory systems in the countries of the Americas and to lead to enhanced cooperation among regulatory authorities. This conference is a part of the Action Plan between FSIS and FDA in support of the MOU. It is intended to serve as a model for future conferences. This conference should help to establish Puerto Rico as a Food Safety Center of Excellence for the Caribbean, and possibly all of Latin America, in animal and egg production food safety.

DATES: The meeting will be held July 9–11, 2002. On July 9, the registration will begin at 1 p.m. until 5 p.m. On July 10–11, 2002, the meeting will be held 9 a.m. until 6 p.m.

ADDRESSES: The meeting will be held at the Caribe Hilton San Juan Hotel, San Geronimo Grounds, San Juan, Puerto Rico 00901, (787) 721–0303.

FOR FURTHER INFORMATION CONTACT: To register for the meeting, contact either Mary Harris, Food Safety and Inspection Service, in Washington, DC (202) 690–6497, fax No: (202) 690–6500, or e-mail: *mary.harris@fsis.usda.gov,* or Dr. Edna Negron, University of Puerto Rico, Mayaguez, Puerto Rico, (787) 265–5410, fax No. (787) 265–5410 or e-mail: *ed_negron@rumad.uprm.edu.*

If you require a sign language interpreter or other special accommodations, please notify Ms. Harris at the above phone number on or before June 27. For technical information about the conference, contact Harry Walker, Food Safety and Inspection Service, Animal Production Food Safety Staff, FSIS (202) 720–4768 or by e-mail *harry.walker@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Puerto Rico Conference will review the status of food safety at the food animal production level, provide an update on industry quality assurance activities, and touch on research in support of animal production food safety practices. The conference will provide an opportunity for discussion of (1) what additional educational efforts are needed to improve food safety at the animal production level and (2) the gaps in research to address food safety at the animal production level. In developing the agenda, the Federal cooperators have been joined by industry and academia. These groups will also play important roles in the conference.

Participation in the conference will be limited to available seating (approximately 250 people). The target audience for the conference includes representatives from food safety regulatory agencies, animal producers, animal producer organizations, veterinarians, animal scientists, agricultural educators, extension agents, researchers, consumers and others with interest in food safety.

Additional Public Notification

Pursuant to Departmental Regulation 4300–4, ''Civil Rights Impact Analysis,'' dated September 22, 1993, FSIS has considered the potential civil rights impact of this notice on minorities, women, and persons with disabilities. Therefore, to better ensure that these groups and others are made aware of this meeting, FSIS will announce it and provide copies of the **Federal Register** publication in the FSIS Constituent Update.

The Agency provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding Agency policies, procedures, regulations, **Federal Register** Notices, FSIS public meetings, recalls and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals and other individuals that have requested to be included. Through these various channels, the Agency is able to provide information with a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Office of Congressional and Public Affairs, at (202) 720–5704.

Done at Washington, DC on: March 28, 2002.

Margaret O'K Glavin,

Acting Administrator.

[FR Doc. 02–7916 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service, Alpine County, CA

Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Alpine County Resource Advisory Committee (RAC) will meet on April 10, 2002, in Markleeville, California. The purpose of the meeting is to discuss issues relating to implementing the *Secure Rural Schools and Community Self-Determination Act of 2000* (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, and Stanislaus National Forests in Alpine County.

DATES: The meeting will be held April 10, 2002 at 1 p.m.

ADDRESSES: The meeting will be held at the Turtle Rock County Park, Markleeville, CA.

FOR FURTHER INFORMATION CONTACT: Laura Williams, Committee Coordinator, USDA, Humboldt-Toiyabe National Forest, 1536 S Carson St., Carson City, NV 89701, (775) 884–8150, EMAIL: *ljwilliams@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Old business: Administrative functions and

changes to charter including answering questions from first meeting, and addressing any new questions or concerns from committee; (2) Determine procedural process/changes; (3) Develop criteria for choosing proposals; (4) Project review and initial screening by committee; (5) New business; (6) Public comment.

The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: March 27, 2002.

Gary Schiff,

Carson District Ranger.

[FR Doc. 02–7876 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Willamette Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Action of meeting.

SUMMARY: The Willamette Province Committee (PAC) will meet on Thursday, April 18, 2002. The meeting is scheduled to begin at 9:00 a.m., and will conclude at approximately 3 p.m. The meeting will be held at the Best Western New Kings Inn, 3658 Market Street NE, Salem, Oregon (503) 581–1559.

The tentative agenda include: (1) Presentation on watershed disturbance and stream succession, (2) An historical perspective of the Willamette River and restoration opportunities, (3) Restoration opportunities in the Willamette Province, (4) Update on the technical assistance program to watershed councils, (5) Subcommittee Reports, (6) Decision on PAC issue management proposal, (7) Public Forum. The Public Form is tentatively scheduled to begin at 1:00 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged and may be submitted prior to the April 18 meeting by sending them to Designated Federal Official Neal Forrester at the address given below.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official Neal Forrester; Willamette National Forest; 211 East Seventh Avenue; Eugene, Oregon 97401; (541) 465–6924.

Dated: March 27, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–7875 Filed 4–1–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Estimates of the Voting Age Population for 2001

AGENCY: Office of the Secretary, Commerce.

ACTION: General notice announcing population estimates.

SUMMARY: This notice announces the voting age population estimates, as of July 1, 2001, for each state and the District of Columbia. We are giving this notice in accordance with the 1976 amendment to the Federal Election Campaign Act, Title 2, United States Code, Section 441a(e).

FOR FURTHER INFORMATION CONTACT: John F. Long, Chief, Population Division, Bureau of the Census, Department of Commerce, Room 2011, Federal Building 3, Washington, DC 20233, telephone (301) 457–2071.

SUPPLEMENTARY INFORMATION: Under the requirements of the 1976 amendment to the Federal Election Campaign Act, Title 2, United States Code, Section 441a(e), I hereby give notice that the estimates of the voting age population for July 1, 2001, for each state and the District of Columbia are as shown in the following table:

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 2001

(In Thousands)

Area	Population 18 and over
United States	212,245
Alabama	3,327
Alaska	444
Arizona	3,825
Arkansas	1,998
California	24,800
Colorado	3,264
Connecticut	2,609
Delaware	598
District of Columbia	457
Florida	12,566
Georgia	6,119
Hawaii	920
Idaho	945
Illinois	9,349
Indiana	4,619
Iowa	2,196
Kansas	2,037

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE AND THE DISTRICT OF COLUMBIA: JULY 1, 2001—Continued

(In Thousands)

Area	Population 18 and over
Kentucky	3,065
Louisiana	3,229
Maine	1,013
Maryland	3,969
Massachusetts	4,958
Michigan	7,525
Minnesota	3,773
Mississippi	2,077
Missouri	4,202
Montana	681
Nebraska	1,273
Nevada	1,544
New Hampshire	965
New Jersey	6,548
New Mexico	1,326
New York	14,406
North Carolina	6,114
North Dakota	495
Ohio	8,648
Oklahoma	2,580
Oregon	2,611
Pennsylvania	9,476
Rhode Island	813
South Carolina	3,037
South Dakota	571
Tennessee	4,331
Texas	15,205
Utah	1,544
Vermont	480
Virginia	5,386
Washington	4,460
West Virginia	1,404
Wisconsin	4,092
Wyoming	371

I have certified these counts to the Federal Election Commission.

Dated: March 26, 2002.

Donald L. Evans,

Secretary, Department of Commerce.

[FR Doc. 02–7909 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Technical Advisory Committee; Notice of Closed Meeting

The Materials Technical Advisory Committee will meet on April 18, 2002, at 10:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street and Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions which affect the level of export controls applicable to materials and related technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 2002, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

For more information, call Lee Ann Carpenter at (202) 482–2583.

Dated: March 27, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–7937 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 18–2002]

Foreign-Trade Zone 46, Cincinnati, OH, Request for Manufacturing Authority (Automobile Transmissions)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign Trade Zone, Inc., grantee of FTZ 46, requesting, on behalf of ZF Batavia, LLC, authority to manufacture automobile transmissions under zone procedures within Site 3 (1981 Front Wheel Drive, Batavia, Ohio) of FTZ 46 (Cincinnati Customs port of entry). The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 20, 2002.

ZF Batavia currently operates 1.8 million square-feet of facilities at the above-described location (approximately 1200 employees) for the manufacture of automotive automatic transmissions, parts, components, and related products (imported under HTSUS headings 8708.40, 8413.60, 8481.20, 8708.93, and 8708.99, with duties ranging from duty-free to 2.5% ad valorem). The application indicates that foreign-sourced components comprise up to 60 percent of the finished product's value, and may include: transmission fluid; plastic and rubber articles; stainless steel wire; tubes, pipes or hollow profiles; tube or pipe fittings; screws, bolts, nuts, rivets, washers, and similar items; springs; retainers and clips; plugs and sealing rings; brackets and support plates; pumps; valves and similar articles; bearings; transmission shafts; gaskets; magnets; sensors; clutches and clutch parts; and various other motor vehicle parts (classifiable under HTS heading 8708.99). Duty rates on these categories of items range up to 9.9% ad valorem.

FTZ procedures would exempt ZF Batavia from Customs duty payments on the foreign components used in export activity. On its domestic sales, the company would be able to choose the duty rate that applies to finished automatic transmissions and assemblies (duty free to 2.5%) for foreign components, such as those noted above. The company would also be exempt from duty payments on foreign merchandise that becomes scrap/waste. The application indicates that the savings would help improve the facility's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is June 3, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 17, 2002. A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the Cincinnati U.S. Export Assistance Center, 36 East Seventh Street, Suite 2650, Cincinnati, Ohio 45202.

Dated: March 22, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–7850 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–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 (the Act), may request, in accordance with section 351.213 (2001) of the Department of Commerce (the Department) Regulations, 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 April 2002, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in April for the following periods:

	Period
Antidumping Duty Proceedings:	
France: Sorbitol, A–427–001	4/1/01–3/31/02
Norway: Fresh and Chilled Atlantic Salmon, A–403–801	4/1/01–3/31/02
The People's Republic of China: Brake Rotors, A–570–846	4/1/01–3/31/02
Turkey: Certain Steel Concrete Reinforcing Bars, A–489–807	4/1/01–3/31/02

	Period
Countervailing Duty Proceedings	
Norway: Fresh and Chilled Atlantic Salmon, C–403–802	1/1/01—12/31/01
Suspension Agreements: None .	

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 Antidumping/Countervailing Enforcement, Office 4, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(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 April 2002. If the Department does not receive, by the last day of April 2002, 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: March 25, 2002.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, Import Administration.

[FR Doc. 02–7852 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–837]

Amended Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final determination of sales at less than fair value.

EFFECTIVE DATE: April 2, 2002.

SUMMARY: On February 26, 2002, we published in the **Federal Register** our notice of final determination of sales at less than fair value. See *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada,* 67 FR 8781 (February 26, 2002). We are amending our final determination to correct ministerial errors discovered in relation to the antidumping duty margin calculations for BC Hot House Foods, Inc., J–D Marketing, Inc., Mastronardi Produce Ltd., and Red Zoo Marketing.

FOR FURTHER INFORMATION CONTACT: Mark Ross or Minoo Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4794 or (202) 482–1690, respectively.

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's) regulations refer to 19 CFR part 351 (April 2001).

Background

On February 26, 2002, we published in the **Federal Register** our final determination that greenhouse tomatoes from Canada are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Act. See *Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada,* 67 FR 8781 (February 26, 2002) (*Final Determination*). On March 4, 2002, the Department received timely filed allegations of ministerial errors in the final determination with respect to J–D Marketing, Inc., and Mastronardi Produce Ltd. On March 5, 2002, another respondent, BC Hot House Foods, Inc., timely filed an allegation that the Department had made certain ministerial errors in the final determination. On March 5, 2002, the petitioners, Carolina Hydroponic Growers Inc., Eurofresh, HydroAge, Sunblest Management LLC, Sunblest Farms LLC, and Village Farms (referred to hereafter as ''the petitioners'') also timely filed allegations that the Department made certain ministerial errors in its final determination. On March 6, 2002, however, the petitioners withdrew their allegations.

Scope of the Investigation

The merchandise subject to this investigation consists of all fresh or chilled tomatoes grown in greenhouses in Canada, *e.g.,* common round tomatoes, cherry tomatoes, plum or pear tomatoes, and cluster or ''on-the-vine'' tomatoes. Specifically excluded from the scope of this investigation are all field-grown tomatoes.

The merchandise subject to this investigation may enter under item numbers 0702.00.2000, 0702.00.2010, 0702.00.2030, 0702.00.2035, 0702.00.2060, 0702.00.2065, 0702.00.2090, 0702.00.2095, 0702.00.4000, 0702.00.4030, 0702.00.4060, 0702.00.4090, 0702.00.6000, 0702.00.6010, 0702.00.6030, 0702.00.6035, 0702.00.6060, 0702.00.6065, 0702.00.6090, and 0702.00.6095 of the Harmonized Tariff Schedule of the United States (HTSUS). These subheadings may also cover products that are outside the scope of this investigation, *i.e.,* field-grown tomatoes. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Ministerial-Error Allegations

BC Hot House Foods, Inc., alleges that the Department did not convert the freight expenses for shipments from the growers to the respondent from a per-kilogram basis to a per-pound basis and that the Department did not assign the appropriate cost of production to miniplum greenhouse tomatoes.

J–D Marketing, Inc., alleges that the Department used an outdated data file in its margin calculations and, in addition, did not recalculate U.S. credit expense properly.

Mastronardi Produce Ltd. alleges that the Department made the following errors: it did not include Amco Farms' cost-of-production data for beefsteak tomatoes in the calculation of a weighted-average cost for its beefsteak tomatoes; it omitted an offset adjustment for foreign-exchange gains in recalculating indirect selling expenses; it subtracted billing adjustments from the gross unit prices used to recalculate indirect selling expenses; it did not remove certain U.S. sales from the sales list that are of non-subject merchandise; and it treated certain indirect selling expenses and inventory carrying costs improperly for the calculation of the net constructed export price (CEP) and CEP profit.

On March 11, 2002, the petitioners commented on respondents' ministerial-error allegations. The petitioners assert that, because the Department can not know from information on the record that beefsteak tomatoes which Amco Farms supplied to Amco Produce were the ones that were in turn supplied to Mastronardi Produce Ltd., the Department's decision not to use the cost of production of Amco Farms' beefsteak tomatoes in calculating Mastronardi Produce Ltd.'s weighted-average costs was correct. The petitioners also made this comment with respect to Red Zoo Marketing, although the respondents did not raise the issue in their ministerial-error allegations.

No other party alleged that there were ministerial errors in the *Final Determination* or commented on ministerial-error allegations.

Ministerial Errors

The Department's regulations define a ministerial error as one involving ''addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' *See* 19 CFR 351.224(f). After reviewing the allegations we have determined, in accordance with 19 CFR 351.224, that the *Final Determination* includes ministerial errors.

We agree with BC Hot House Foods, Inc., that we did not convert the freight expenses for shipments from the growers to the respondent from a per-kilogram basis to a per-pound basis and that we did not assign the appropriate cost of production to miniplum greenhouse tomatoes. As discussed in the *Amended Final Determination Analysis Memorandum* from Mark Ross to the file, dated March 15, 2002, we have corrected these ministerial errors.

We agree with J-D Marketing, Inc., that we used an outdated data file in our margin calculations and, in addition, did not recalculate U.S. credit expense properly. As discussed in the *Amended Final Determination Analysis Memorandum* from Dmitry Vladimirov to the file, dated March 26, 2002, we have corrected these ministerial errors.

After re-evaluating the information on the record, we agree with Mastronardi Produce Ltd. that we should include Amco Farms' cost-of-production data for beefsteak tomatoes in the calculation of a weighted-average cost for its beefsteak tomatoes. Additionally, as a result of the petitioners' comments on the respondent's ministerial-error allegations, we also discovered that a similar ministerial error occurred in our calculations concerning Red Zoo Marketing. We should also have included Amco Farms' cost of production data for beefsteak tomatoes in the calculation of Red Zoo Marketing's weighted-average cost for beefsteak tomatoes.

We also agree with Mastronardi Produce Ltd. that the following corrections to our calculations are appropriate: (1) We should include the offset adjustment for foreign-exchange gains in recalculating indirect selling expenses; (2) we should not subtract billing adjustments from the gross unit prices used to recalculate indirect selling expenses; (3) we should remove certain U.S. sales from the sales list that are of non-subject merchandise.

We agree in part with Mastronardi Produce Ltd.'s allegation that we treated certain indirect selling expenses and inventory carrying costs improperly for the calculation of the net CEP and CEP profit. Specifically, in calculating the CEP profit we did not treat the inventory carrying costs properly because we did not include certain inventory carrying costs associated with U.S. economic activity in the calculation. We have corrected this error.

We disagree, however, with Mastronardi Produce Ltd. that we did not treat certain indirect selling expenses properly in the calculation of the net CEP and CEP profit. See the *Amended Final Determination Analysis Memorandum* from Dmitry Vladimirov to the file, dated March 26, 2002, which includes an explanation of how we have corrected the error in the calculation of CEP profit.

We disagree with the petitioners that, because we do not know with certainty that the beefsteak tomatoes produced by Amco Farms were the actual tomatoes sold to Mastronardi Produce Ltd. and Red Zoo Marketing, we cannot use Amco Farms' beefsteak tomato cost data. To the contrary, we selected the cost respondents which we found to be representative of all tomatoes sold by the exporters of greenhouse tomatoes from Canada. Therefore, it is not necessary to link the actual tomatoes produced by Amco Farms to Mastronardi Produce Ltd. or Red Zoo Marketing.

In accordance with 19 CFR 351.224(e), we are amending the final determination of the antidumping duty investigation of greenhouse tomatoes from Canada. As a result of the correction of ministerial errors for certain respondents, we determine that the following percentage weighted-average amended final margins exist for the period January 1, 2000, through December 31, 2000:

Exporter/Grower	Final determination	Amended final determination
BC Hot House Foods, Inc.	18.21	18.04
J–D Marketing, Inc.	1.53	0.83
Mastronardi Produce Ltd.	14.89	0.52
Red Zoo Marketing (a.k.a. Produce Distributors, Inc.)	1.86	1.85
All Others	16.22	16.53

Pursuant to section 735(c)(5)(A) of the Act, we have excluded from the calculation of the all-others rate margins which are zero, *de mimimis,* or determined entirely on facts available. Because we calculated *de minimis* margins for J–D Marketing, Inc., Mastronardi Produce Ltd., and Red Zoo Marketing (a.k.a. Produce Distributors, Inc.), we have calculated the all-others rate on the basis of the margins applicable to BC Hot House Foods, Inc., and Veg Gro Sales, Inc.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all imports of subject merchandise except for exports by J–D Marketing, Inc. (and J–D Marketing, Inc.''s affiliate, Special Edition Marketing), Mastronardi Produce Ltd., and Red Zoo Marketing (a.k.a. Produce Distributors, Inc.), that are entered, or withdrawn from warehouse, for consumption on or after October 5, 2001, the date of publication of the *Preliminary Determination* in the **Federal Register**. For BC Hot House Foods, Inc., and the companies subject to the all-others rate, we will instruct the Customs Service to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or CEP, as indicated in the chart above, effective the date of publication of this amended final determination. For Veg Gro Sales, Inc., for which we are not amending the *Final Determination,* we will instruct the Customs Service to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price or CEP, as indicated in the *Final Determination* dated February 26, 2002.

Because J–D Marketing, Inc. (and its affiliate, Special Edition Marketing), Mastronardi Produce Ltd., and Red Zoo Marketing are non-producing exporters, in accordance with 19 CFR 351.204(e)(3), we are limiting the exclusion from these suspension-of-liquidation instructions to entries only of subject merchandise exported by these companies that is produced or supplied by the companies that supplied these respondents (and the affiliate identified above) during the period of investigation (POI). Any entries of subject merchandise exported by these companies which is not produced or supplied by a company that supplied these companies during the POI will be subject to the all-others rate.

For Mastronardi Produce Ltd., because its estimated weighted-average amended final dumping margin is *de minimis,* we are directing Customs to terminate suspension of liquidation of entries of merchandise exported by Mastronardi Produce Ltd. that were produced or supplied by the companies that supplied this company during the POI and refund all bonds and cash deposits posted on such subject merchandise. Because we never required suspension of liquidation or the posting of cash deposits or bonds for entries of merchandise from J–D Marketing, Inc., no such step is necessary. For Red Zoo Marketing, as indicated in the *Final Determination,* 67 FR at 8785, because its estimated weighted-average final dumping margin was *de minimis,* we directed Customs to terminate suspension of liquidation of entries of merchandise from Red Zoo Marketing that were produced by the companies that supplied Red Zoo Marketing during the POI and refund all bonds and cash deposits posted on such subject merchandise exported by Red Zoo Marketing.

These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our amended final determination.

This determination is issued and published in accordance with section 735(d) and 777(i)(1) of the Act.

Dated: March 27, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–7956 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–507–502]

Certain In-Shell Raw Pistachios From Iran: Extension of Time Limit for Preliminary Results of Antidumping New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping new shipper review.

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Dena Aliadinov at (202) 482–3362, or Donna Kinsella at (202) 482–0194, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (''the Department'') to make a preliminary determination within 180 days after the date on which the new shipper review is initiated, and a final determination within 90 days after the date the preliminary determination is issued. However, if the case is extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 300 days and for the final determination to 150 days after the date the preliminary determination is issued.

Background

On October 2, 2001 the Department initiated a new shipper review of the antidumping duty order on in-shell pistachios from Iran. *See Certain In-Shell Pistachios From Iran: Initiation of New Shipper Review*, 66 FR 51638 (October 10, 2001). This order covers raw in-shell pistachios and specifically excludes roasted in-shell pistachios. *See Certain In-Shell Pistachios From Iran; Clarification of Scope in Antidumping Duty Investigation*, 51 FR 23254 (June 26, 1986). The period of review (POR) is July 1, 2000 through June 30, 2001. The preliminary results are currently due on April 1, 2002.

Extension of Time Limit for Preliminary Results of Review

The instant review involves several complex issues that necessitate a greater amount of time in order to preliminarily complete this review, including Iran's dual exchange rate system, the classification of U.S. sales (EP vs. CEP), and the appropriate basis for normal value. Therefore, the Department is extending the time limit for completion of the preliminary results to 300 days, which is July 29, 2002, pursuant to 751(a)(2)(B)(iv) of the Act. The final results will continue to be 90 days after the date the preliminary results are issued.

This extension of the time limit is in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

Dated: March 26, 2002.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 02–7851 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–823]

Silicomanganese from India: Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos for Nava Bharat Ferro Alloys Ltd. at (202) 482–2243 and Mark Hoadley or Brett Royce for Universal Ferro & Allied Chemicals, Ltd. at (202) 482–0666 or (202) 482–4106, respectively; Office of Antidumping and Countervailing Duty Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Final Determination

We determine that silicomanganese from India is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended. On November 9, 2001, the Department published its preliminary determination of sales at less than fair value of silicomanganese from India. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001). Based on the results of verification and our analysis of the comments received, we have made changes to the margin calculations. The final weighted–average dumping margins of sales at LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Applicable Statue

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 (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

This investigation covers two producers/exporters: Nava Bharat Ferro Alloys, Ltd.(Nava Bharat) and Universal Ferro and Allied Chemicals, Ltd. (Universal). We published in the Federal Register the preliminary determination of critical circumstances in this investigation on October 19, 2001. *See Notice of Preliminary Determination of Critical Circumstances: Silicomanganese from India*, 66 FR 53207 (October 19, 2001) (Preliminary Determination of Critical Circumstances). We subsequently published in the Federal Register the preliminary determination in this investigation on November 9, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Silicomanganese from India*, 66 FR 56644 (November 9, 2001) (*Preliminary Determination*).

On November 20, 2001, Universal requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the *Federal Register* and requested an extension of the provisional measures. On December 7, 2001, we extended the final determination until no later than 135 days after the publication of the preliminary determination in the *Federal Register*. *See Notice of Postponement of Final Antidumping Duty Determination: Silicomanganese from Kazakhstan and India*, 66 FR 63522 (December 7, 2001).

The Department verified sections A–D of Universal's questionnaire responses, from January 7, 2002 through January 16, 2002, at Universal's headquarters in Mumbai, India and at its production facility in Tumsar, India. *See Sales and Cost Verification Report for Universal Ferro & Allied Chemicals Ltd., in the Antidumping Duty Investigation of Silicomanganese from India*, from Abdelali Elouaradia and Brett Royce, Case Analysts, through Sally C. Gannon, Program Manager, to The File (February 14, 2002). The Department also verified sections A–D of the questionnaire responses of Nava Bharat in Hyderabad, India and at its production facility in Paloncha, India from January 11, 2002 through January 18, 2002. *See Verification of Sales in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Elfi Blum and Javier Barrientos, Case Analysts, through Sally Gannon, Program Manager, for The File (February 20, 2002); *see also Verification of Cost in the Antidumping Investigation of Silicomanganese from India: Nava Bharat Ferro Alloys, Ltd. (Nava Bharat)*, from Elfi Blum and Javier Barrientos, Case Analysts, through Sally Gannon, Program Manager, for The File (February 22, 2002). Public versions of these, and all other Department memoranda referred to herein, are on file in the Central Records Unit, Room B–099, of the main Commerce Building.

On December 11, 2001, the petitioners, Eramet Marietta Inc. (''Eramet''), and the Paper, Allied–Industrial, Chemical and Energy Workers International Union, Local 5–0639, requested a public hearing. On February 25, 2002, we received Nava Bharat's case brief. On February 26, 2002, pursuant to an extension requested by petitioners and granted by the Department, we received case briefs from petitioners and Universal. We received rebuttal briefs from petitioners and Universal on March 4, 2002 and, pursuant to an extension requested by Nava Bharat and granted by the Department, from Nava Bharat on March 6, 2002. We held a public hearing in this investigation on March 7, 2002.

Period of Investigation

The period of investigation (POI) is April 1, 2000 through March 31, 2001.

Critical Circumstances

In the Department's *Preliminary Determination of Critical Circumstances*, we determined that critical circumstances exist for imports of silicomanganese from India produced by Universal and by ''All Other'' producers, except for Nava Bharat. For Nava Bharat, we preliminarily found that critical circumstances do not exist. For this final determination, we have found that critical circumstances do not exist for imports of silicomanganese from India produced by Universal, Nava Bharat or any other producer because one of the required criteria for finding critical circumstances has not been met. For a discussion of interested party comments, and the Department's position, on this issue, *see* the *Decision Memorandum*.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum in the Final Affirmative Antidumping Duty Determination on Silicomanganese from India*, from Joseph A. Spetrini, Deputy

Assistant Secretary for AD/CVD Enforcement III, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 25, 2002 (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in Room B–099 and accessible directly on the World Wide Web at **www.ia.ita.doc.gov**. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low–carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferro alloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferro silicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.

The low–carbon silicomanganese excluded from this scope is a ferro alloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low–carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferro manganese–silicon. Low–carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Fair Value Comparisons

To determine whether sales of silicomanganese from India were made in the United States at less than fair value, we compared export price (EP) to normal value (NV), as described in the ''Export Price and ''Normal Value'' sections of the *Preliminary Determination*. In accordance with section 777(A)(d)(1)(A)(i) of the Tariff Act, we calculated weighted–average EPs for comparison to weighted–average NVs.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations for the final determination. *See Decision Memorandum*, *Final Determination in the Antidumping Duty Investigation on Silicomanganese from India: Analysis of Universal Ferro & Allied Chemicals Ltd.*, from Mark Hoadley and Brett Royce, through Sally Gannon, for The File (March 25, 2002) (*Universal Analysis Memorandum*), and *Final Determination in the Antidumping Duty Investigation on Silicomanganese from India: Analysis of Nava Bharat Ferro Alloys Ltd.*, from Javier Barrientos, through Sally Gannon, for The File (March 25, 2002) (*Nava Bharat Analysis Memorandum*). In addition to the Decision Memorandum, public versions of the *Universal Analysis Memorandum* and *Nava Bharat Analysis Memorandum* are on file in the Central Records Unit, Room B–099, of the main Commerce Building. Specifically, we made the following changes.

Regarding Universal:

1. We used revised sales databases provided by Universal reflecting minor changes in sales dates, invoice dates, credit expenses, gross unit prices, and movement expenses based on verification.
2. We added bank charges discovered at verification to U.S. credit expenses.
3. We changed indirect selling expenses in both the U.S. and home markets to reflect information discovered at verification.
4. We added an amount to total raw materials cost for the value of slag used in production.
5. We removed the quantity of recycled fines from the production quantity used in the per unit cost calculation.
6. We reduced electricity costs by an amount found to have been forgiven by the electricity authority.
7. We removed refunded taxes from the cost of raw materials.
8. We offset interest expense by revenue earned on bank accounts (short–term interest revenue).

Regarding Nava Bharat:

1. We changed shipment date to reflect factory shipment instead of port shipment.
2. We recalculated U.S. imputed credit and inventory carrying costs using gross unit price.
3. We recalculated credit expense for one home market sale.
4. We removed the quantity of generated fines from the production quantity used in the per unit cost calculation.
5. We also changed the cost of electricity by using: a) using a weighted–average of the market prices of other electricity suppliers as representative of the market price of the power supplied by Nava Bharat's affiliated electricity supplier and b) the cost of production of Nava Bharat's self–produced power.
6. We subtracted short–term interest income from interest expense to arrive at the interest expense ratio.
7. We added Nava Bharat's reported interest revenue to home market gross unit price for the final determination.

Use of Partial Facts Available

Nava Bharat

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis for Nava Bharat. We used partial facts available where, despite the Department's repeated requests, essential company–specific information needed to make certain calculations for the final determination was unavailable. For a discussion of our determination with respect to these matters. See Decision Memorandum.

Universal

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis for Universal. We used partial facts available where, despite the Department's repeated requests, essential company–specific information needed to make certain calculations for the final determination was unavailable. For a discussion of our determination with respect to these matters. *See Decision Memorandum*.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct the U.S. Customs Service (Customs) to continue to suspend liquidation of all entries of silicomanganese from India that are entered, or withdrawn from warehouse, for consumption on or after November 9, 2001 (the date of publication of the *Preliminary Determination* in the *Federal Register*). For Universal and ''all others,'' we will instruct Customs to terminate the retroactive suspension of liquidation, between August 11, 2001 (90 days prior to the date of publication of the *Preliminary Determination* in the Federal Register) and November 8, 2001, which was instituted upon publication of the *Preliminary Determination* in the *Federal Register* due to the preliminary affirmative critical circumstances finding. Customs shall also release any bond or other security, and refund any cash deposit required, under section 733(d)(1)(B) of the Act with respect to entries of the merchandise the liquidation of which was suspended retroactively under section 733(e)(2). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice. We determine that the following weighted–average percentage dumping margins exist for the period April 1, 2000 through March 31, 2001:

Average Margin Percentage

Exporter/manufacturer	
Nava Bharat Ferro Alloys, Ltd.	15.32%
Universal Ferro and Allied Chemicals, Ltd.	20.42%
All Others	17.69%

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether these imports are materially injuring, or threatening material injury to, an industry in the United States. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 25, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I —Issues in Decision Memorandum

Regarding Universal Ferro & Allied Chemicals Ltd. (Universal):

1. Critical Circumstances
2. Clerical Errors in the Verification Report
3. Use of Revised Home Market Sales
4. Use of Revised Indirect Selling Expenses Found at Verification
5. Cost of Slag
6. Cost of Recycled Silicomanganese Fines
7. Inclusion of Losses on Inventory in Raw Materials Costs
8. Slag Handling Expenses
9. Disputed Electricity Charges
10. Refundable Tax Payments
11. Excise Duties on Closing Stock
12. Depreciation on Closed Furnaces and Furnaces Not Used to Produce Subject Merchandise
13. Use of Revalued Depreciation Costs
14. Calculation of General and Administrative Expenses
15. Offsetting Interest Expense by Interest Revenue
16. Severance Payments to Former Employees

Regarding Nava Bharat Ferro Alloys Ltd. (Nava Bharat):

17. Duty Drawback
18. Imputed Credit Expense (Home Market)
19. Imputed Credit Expense (U.S. Sales)
20. Tolling Raw Materials
21. Cost of Recycled Silicomanganese Fines
22. Cost of Power
23. Fixed Plant Overhead
24. Calculation of General & Administrative Expenses
25. Calculation of Net Interest Expense
26. Interest Revenue

[FR Doc. 02–7952 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-307-820]

Notice of Final Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: FOR FURTHER INFORMATION CONTACT: Deborah Scott at (202) 482-2657 or Robert James at (202) 482-0649; AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Final Determination

The Department of Commerce is conducting an antidumping duty investigation of silicomanganese from Venezuela. We determine that silicomanganese from Venezuela is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended. On November 9, 2001, the Department published its preliminary determination of sales at less than fair value of silicomanganese from Venezuela. See Notice of Preliminary Determination of Sales at Less Than Fair Value; Silicomanganese from Venezuela, 66 FR

56635 (November 9, 2001). Based on the results of verification and our analysis of the comments received, we have made changes to the margin calculations. The final weighted-average dumping margins of sales at LTFV are shown in the ''Continuation of Suspension of Liquidation'' section of this notice.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Rounds Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (2001).

Case History

Since the publication of the preliminary determination in this investigation, the following events have occurred:

From November 28 through December 9, 2001, we conducted a verification of the sales and cost questionnaire responses and supplemental questionnaire responses submitted by Hornos Eléctricos de Venezuela, S.A. (Hevensa). We issued the cost verification report for Hevensa on January 29, 2002, and the sales verification report on January 31, 2002.

Although the deadline for this determination was originally January 23, 2002, on December 28, 2001 we published in the **Federal Register** our notice of the extension of time limits (see 66 FR 67185). This extension established the deadline for this final determination as March 25, 2002.

On February 14, 2002, we received case briefs from respondent and Eramet Marietta, Inc. and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639 (collectively, the petitioners). On February 19, 2002, we received rebuttal briefs from respondent and petitioners. On March 12, 2002, we held a public hearing in response to a request from the petitioners.

Period of Investigation

The period of investigation (POI) is April 1, 2000 through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., April 2001), in accordance with section 19 CFR 351.204(b)(1) of our regulations.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Facts Available

For the preliminary determination, we used partial facts available in accordance with section 776(a)(1) of the Tariff Act because we determined certain information was not available on the record. Specifically, in its original and supplemental questionnaire responses, Hevensa reported that it was owned by three holding companies who performed certain activities on its behalf during the POI, such as collection of payments from customers and payments to suppliers of inputs. Thus, we determined it was necessary to include a portion of the parents' financial and general and adminstrative (G&A) expenses in calculating HEVENSA's COP. However, despite repeated requests, Hevensa did not provide any financial statements or other relevant documents allowing us to quantify the G&A and financial expenses incurred by the three holding companies in conducting these activities on HEVENSA's behalf. Since we did not have the information necessary to include a portion of the parents' financial and G&A expenses in HEVENSA's COP in making our preliminary determination, we found, pursuant to section 776(a) of the Tariff Act, it was appropriate to use the facts otherwise available in calculating COP. Section 776(a) of the Tariff Act provides that the Department will, subject to section 782(d), use the facts otherwise available in reaching a determination if ''necessary information is not available on the record.'' As facts available for the preliminary determination, we used the G&A and financial expense ratios contained in the petition for Siderurgica Venezolana SIVENSA, S.A. (SIVENSA), a Venezuelan steel producer, to calculate HEVENSA's COP.

At verification, we determined none of the three holding companies engaged in any business activities on Hevensa's behalf during the POI. For information regarding the nature of the three holding companies, see ''Verification of the Sales Information Submitted by Hornos Electricos de Venezuela (Hevensa) in the Investigation of Silicomanganese from Venezuela (A-307-820),'' dated January 31, 2002, at 3 through 5 and ''Silicomanganese from Venezuela-COP/CV Verification of Hornos Electricos de Venezuela,'' dated January 29, 2002, at 5 (Cost Verification Report). Both documents are on file in the Central Records Unit, room B-099, of the main Department building. Additionally, we found Hevensa's financial statements fully captured the financial and G&A expenses incurred by Hevensa. Therefore, we have not found it necessary to use partial facts available for financial and G&A expenses for the final determination. However, we have not used Hevensa's financial and G&A expense ratios as reported, but rather have revised these ratios as discussed in the ''Issues and Decision Memorandum'' from Joseph A. Spetrini, Deputy Assistant Secretary, Group III, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 25, 2002 (Decision Memorandum), and the Department's Final Determination Analysis Memorandum, dated March 25, 2002.

Currency Conversion

We made currency conversions in accordance with section 773A of the

Tariff Act in the same manner as in the Preliminary Determination.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Decision Memorandum, dated March 25, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099, of the main Department building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes in the margin calculations:

• We have revised the G&A expense ratio to include three expenses that were excluded from Hevensa's original calculation of G&A. Id. at Comment 2.

• We have revised the date of payment for certain of Hevensa's U.S. sales, and thus have recalculated imputed credit expenses for those sales. Id. at Comment 5.

• We have applied the corrections reported at the opening day of the Hevensa sales verification, and amended the indirect selling expense ratio (INDIRSH) and financial expense ratio (INTEX) pursuant to our findings at verification.

These changes are discussed in the relevant sections of the Decision Memorandum, accessible in room B-099 and on the Web at http://ia.ita.doc.gov.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the Customs Service to continue to suspend all entries of silicomanganese from Venezuela that are entered, or withdrawn from warehouse, for consumption on or after November 9, 2001, the date of publication of the preliminary determination in the Federal Register. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins for this LTFV proceeding are as follows:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Hornos Eléctricos de Venezuela, S.A.	24.62
All Others	24.62

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Tariff Act.

Dated: March 25, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix Issues in Decision Memorandum

Cost of Production

Comment 1. Inflation

Comment 2: G&A Expenses

Comment 3: Interest Expenses on Shareholder Loans

Comment 4: Transformer Failures

Adjustments to United States Price

Comment 5: Date of Payment Used to Calculate Credit Expenses

Comment 6: Duty Drawback

Adjustments to Normal Value

Comment 7: Home Market Credit Expenses Miscellaneous Issues

Comment 8: Level of Trade

Comment 9: Date of Sale

[FR Doc. 02–7953 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–807]

Notice of Final Determination of Sales at Less Than Fair Value: Silicomanganese From Kazakhstan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination in the less than fair value investigation of silicomanganese from Kazakhstan.

SUMMARY: We determine that silicomanganese from Kazakhstan is being, or is likely to be, sold in the United States at less than fair value. On November 9, 2001, the Department of Commerce published a notice of preliminary determination of sales at less than fair value in the investigation of silicomanganese from Kazakhstan. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Silicomanganese from Kazakhstan*, 66 FR 56639, November 9, 2001) (''*Preliminary Determination*''). This investigation covers one manufacturer and one exporter of the subject merchandise. The period of investigation (''POI'') is October 1, 2000 through March 31, 2001.

Based upon our verification of the data and analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination of this investigation differs from the preliminary determination. The final weighted-average dumping margin is listed below in the section titled ''Continuation of Suspension of Liquidation.''

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Jean Kemp, Brandon Farlander and Cheryl Werner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4037, (202) 482–0182, and (202) 482–2667 respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2000).

Background

This investigation was initiated on April 26, 2001. *See Notice of Initiation of Antidumping Duty Investigations: Silicomanganese From Kazakhstan, India and Venezuela*, 66 FR 22209 (May 3, 2001) (''*Notice of Initiation*'').

On May 17, 2001, Eramet Marietta Inc. and The Paper, Allied Industry, Chemical and Energy Workers International Union, Local 5–0639, (''petitioners'') proposed an amendment to the scope. On July 13, 2001, we excluded low-carbon silicomanganese from the scope of these investigations. *See Decision Memorandum* from Barbara Tillman, Richard Weible, and Edward Yang to Joseph Spetrini, dated July 13, 2001.

On October 23, 2001, the Department requested further financial information and documentation regarding certain sales from Alloy 2000 through Considar to customers in the U.S. market in a supplemental questionnaire to Kazchrome, Alloy 2000, and Considar. On October 29, 2001, the Department modified its request for financial information and documentation regarding certain sales from Alloy 2000 through Considar to customers in the U.S. market in another supplemental questionnaire to Kazchrome, Alloy 2000, and Considar.

On November 9, 2001, the Department published a notice of preliminary determination of sales at less than fair value (''LTFV'') in the investigation of silicomanganese from Kazakhstan. *See Preliminary Determination.*

On November 16, 2001, Kazchrome, Alloy 2000, and Considar submitted a response to the Department's modified October 29, 2001, request of the October 23, 2001, supplemental questionnaire. On November 19, 2001, the Government of the Republic of Kazakhstan (''GOK'') submitted a timely request for negotiation of a suspension agreement. On December 6, 2001, the Department requested a revised Section C database which reports all sales of subject merchandise during the POI based on the sale invoice date as the date of sale rather than the sale contract date and further information concerning Kazchrome, Alloy 2000, and Considar's November 16, 2001, response on reconciliation of Considar's expenses with Alloy 2000.

On December 7, 2001, the Department published a notice of postponement of the final determination in the investigation, as well as an extension of provisional measures from a four month period to a period not to exceed six months. *See Postponement of Final Determination for Antidumping Duty Investigation: Silicomanganese from Kazakhstan and India*, 66 FR 63522 (December 7, 2001).

We invited the public to comment on the GOK's request that Kazakhstan be treated as a market economy country. On December 10, 2001, the Department received comments on Kazakhstan's market economy request.

On December 11, 2001, petitioners submitted a request for a hearing and a request for an extension of the time period for requesting the hearing. On December 19, 2001, petitioners submitted additional surrogate country factor values pursuant to 19 CFR 351.301 (c)(3)(i). On December 20, 2001, Kazchrome, Alloy 2000, and Considar submitted an unsolicited Section B questionnaire response. On December 21, 2001, petitioners requested the Department return Kazchrome's, Alloy 2000's and Considar's December 20, 2001 unsolicited Section B questionnaire response. On December 21, 2001, Kazchrome, Alloy 2000, and Considar submitted a revised Section C database in response to the Department's December 6, 2001 supplemental questionnaire. On December 26, 2001, Kazchrome, Alloy 2000, and Considar submitted a response to the Department's December 6, 2001 supplemental questionnaire. On January 9, 2002, petitioners requested an extension of the deadline for alleging sales below cost if the Department determines to accept Kazchrome's, Alloy 2000's, and Considar's December 20, 2001 unsolicited Section B questionnaire response.

On January 9, 2002, through January 11, 2002, the Department conducted a sales and factors of production verification of Kazchrome. *See Verification of Sales and Factors of Production for Transnational Co. Kazchrome and Aksu Ferroalloy Plant* (February 22, 2002) (''Kazchrome Verification Report''). On January 14, 2002, through January 15, 2002, the Department conducted a sales verification of Alloy 2000. *See Verification of Sales and Factors of Production for Alloy 2000 S.A.* (February 22, 2002) (''Alloy Verification Report'').

On January 24, 2002, the Department received rebuttal comments concerning Kazakhstan's market economy request.

On February 13, 2002, through February 15, 2002, the Department conducted a sales verification of Considar. *See Verification of U.S. Sales for Considar Inc.* (February 22, 2002) (''Considar Verification Report'').

On March 7, 2002, the Department requested that the petitioners support surrogate values they had submitted on December 19, 2001, for factory overhead, selling, general and administrative and financial ratios they had submitted for Sinai Manganese, an Egyptian ferroalloys producer. On March 11, petitioners submitted a copy of an original financial statement for updated surrogate value information, with some English translation. On March 12, respondents submitted comments rebutting this surrogate value information.

We invited parties to comment on our *Preliminary Determination.* On March 4, 2002, petitioners and Kazchrome, Alloy 2000, and Considar submitted case briefs with respect to the sales and factors of production verification and the Department's *Preliminary Determination.* Petitioners and Kazchrome, Alloy 2000, and Considar submitted their rebuttal briefs on March 11, 2002 with respect to the sales and factors of production verification and the Department's *Preliminary Determination.* On March 13, 2002, the Department held a public hearing in accordance with 19 CFR 351.310(d)(1). Representatives for petitioners and Kazchrome, Alloy 2000, and Considar were present. All parties present were allowed an opportunity to make affirmative presentations only on arguments included in that party's case briefs and were also allowed to make rebuttal presentations only on

arguments included in that party's rebuttal brief.

The Department has conducted and completed the investigation in accordance with section 735 of the Act.

Scope of Investigation

For purposes of this investigation, the products covered are all forms, sizes and compositions of silicomanganese, except low-carbon silicomanganese, including silicomanganese briquettes, fines and slag. Silicomanganese is a ferroalloy composed principally of manganese, silicon and iron, and normally contains much smaller proportions of minor elements, such as carbon, phosphorous and sulfur. Silicomanganese is sometimes referred to as ferrosilicon manganese. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. Silicomanganese generally contains by weight not less than 4 percent iron, more than 30 percent manganese, more than 8 percent silicon and not more than 3 percent phosphorous. Silicomanganese is properly classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Some silicomanganese may also be classified under HTSUS subheading 7202.99.5040. This scope covers all silicomanganese, regardless of its tariff classification. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, our written description of the scope remains dispositive.

The low-carbon silicomanganese excluded from this scope is a ferroalloy with the following chemical specifications: minimum 55 percent manganese, minimum 27 percent silicon, minimum 4 percent iron, maximum 0.10 percent phosphorus, maximum 0.10 percent carbon and maximum 0.05 percent sulfur. Low-carbon silicomanganese is used in the manufacture of stainless steel and special carbon steel grades, such as motor lamination grade steel, requiring a very low carbon content. It is sometimes referred to as ferromanganese-silicon. Low-carbon silicomanganese is classifiable under HTSUS subheading 7202.99.5040.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs to this investigation are addressed in the *Issues and Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary* (March 25, 2002) (''*Decision Memo*''), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, and other issues addressed, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the *Decision Memo*, a public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the *Decision Memo* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margin in this proceeding. *See Analysis Memorandum for Kazchrome, Alloy 2000, and Considar* (March 25, 2002) (''*Analysis Memo*'').

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Kazchrome, Alloy 2000, and Considar for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the Kazchrome, Alloy 2000, and Considar. For changes from the *Preliminary Determination* as a result of verification, see *Analysis Memo*.

Use of Partial Facts Available

In accordance with section 776 of the Act, we have determined that the use of partial facts available is appropriate for certain portions of our analysis of Kazchrome, Alloy 2000, and Considar. For a discussion of our determination with respect to this matter, see *Analysis Memo*.

Nonmarket Economy Country

As of the date of initiation of this investigation, Kazakhstan was considered a non-market economy (NME) country. On June 28, 2001, the Department received a request from respondent requesting that the Department revoke Kazakhstan's NME status under section 771(18)(A) of the Act. On July 5, 2001, the Department received a letter from the GOK also requesting that the Department revoke Kazakhstan's NME status. Consistent with the factors described in section 771(18)(B), the Department considers the extent to which resources are allocated by market or government, taking into account currency and labor markets, pricing, and production and investment decisions.

After a thorough examination of all relevant information available to the Department, we have revoked Kazakhstan's NME status under section 771(18)(A) of the Act, effective October 1, 2001. See Memorandum from George Smolik to Faryar Shirzad: Antidumping Duty Investigation of Silicomanganese from Kazakhstan—Request for Market Economy Status (March 25, 2002).

Kazakhstan today has a fully convertible currency for current account purposes, and exchange rates are market based. Legislation on wage reforms is well advanced in Kazakhstan, with workers able to unionize and engage in collective bargaining, negotiating wages and benefits; further, the mobile workforce is free to pursue new employment opportunities. Kazakhstan is open to foreign investment, and investors have responded, particularly into the oil, gas, and metals sectors. The allocation of resource decisions in Kazakhstan now rests with the private sector, with the GOK largely limiting price regulation to natural monopolies; the state's involvement in Kazakhstan's banking system is now limited to NBK supervision of commercial banks; further, recent increases in bank assets and deposits, and bank consolidation all indicate that Kazakhstan's banks are behaving as financial intermediaries. In addition, price liberalization is practically completed in Kazakhstan.

Kazakhstan has successfully privatized most of its economy, however, it has not advanced as far as other recently graduated market economies, and it appears to have stalled on additional privatization reforms. Nevertheless, Kazakhstan's lack of progress under this factor is only one of several price indicators in the economy, and does not reflect the country's other reforms.

Nevertheless, the totality of Kazakhstan's reforms in liberalizing its economy demonstrate that it has completed the transition to a market economy. Overall, deregulation and a new regulatory framework for the normal operation of a market economy has progressively replaced the old system of regulation. Based on economic reforms reached in Kazakhstan, as analyzed under section 771(18)(B) of the Act, the Department finds that Kazakhstan has operated as a market-economy country as of October 1, 2001, and that this finding be effective for all current and future administrative proceedings.

Therefore, because the POI for this investigation precedes the effective date of market economy status, this final determination is based on information contained in the non-market economy questionnaire responses submitted by respondents.

Market Oriented Industry

On July 12, 2001, Kazchrome requested that the Department make a determination that the silicomanganese industry in Kazakhstan operates as a market-oriented industry (''MOI''). For our preliminary determination, the Department found that we were not able to make a preliminary determination on the MOI claim because respondents had not yet responded to our supplemental questionnaire. On December 7, 2001, Kazchrome submitted a response to the Department's November 1, 2001, supplemental questionnaire.

For the final determination, we found Kazakhstan to be a market economy country effective October 1, 2001. Because Kazakhstan will now be treated as a market economy country for future proceedings, it is not necessary to address the issue of whether the silicomanganese industry operated as a MOI in this proceeding.

Separate Rates

For this final determination, the Department is continuing to regard Kazchrome as not eligible to receive a separate rate, as explained in the *Preliminary Determination,* because Kazchrome states that it has no knowledge of the destination of its merchandise prior to its sale to Alloy 2000 and we did not find information to show otherwise during the course of verification. *See* ''Separate Rates'' section of our *Preliminary Determination*.

Kazakhstan-Wide Rate

As discussed in our *Preliminary Determination*, the Kazakhstan-wide rate will be the calculated margin for Alloy 2000, the sole exporter. *See* ''Kazakhstan-Wide Rate'' section of our *Preliminary Determination.* There has been no other evidence submitted since the *Preliminary Determination* to change this determination. Accordingly, we have calculated a Kazakhstan-wide rate for this investigation based on the weighted-average margin determined for Alloy 2000. This Kazakhstan-wide rate applies to all entries of subject merchandise.

Suspension Agreement

On November 19, 2001, the GOK submitted a proposal for a suspension agreement in accordance with the Department's regulations at 19 CFR 351.208. On February 22, 2001, the Department met with representatives of the GOK to discuss the GOK's proposed suspension agreement. No agreement was concluded.

Fair Value Comparisons

To determine whether sales of silicomanganese from Kazakhstan were made in the United States at LTFV, we compared constructed export price (''CEP'') to NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of the *Preliminary Determination.* In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average CEPs.

Surrogate Country

For purposes of the final determination, we continue to find that Egypt remains the appropriate primary surrogate country for Kazakhstan. For further discussion and analysis regarding the surrogate country selection for Kazakhstan, see the ''Surrogate Country'' section of our *Preliminary Determination*.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service (''Customs'') to continue to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the Preliminary Determination in the **Federal Register**. We will instruct Customs to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
Alloy 2000, S.A.	247.88
Kazakhstan-Wide	247.88

Disclosure

The Department will disclose calculations performed, within five days of the date of publication of this notice, to the parties in this investigation, in accordance with section 351.224(b) of the Department's regulations.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our affirmative determination of sales at LTFV. As our final determination is affirmative, the ITC will determine within 45 days after our final determination whether imports of silicomanganese from Kazakhstan are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 25, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

APPENDIX I

A. Market Economy
- Comment 1: Market Economy
- Comment 2: Normal Value

B. General Issues:
- Comment 3: Financials Surrogate Values
- Comment 4: Manganese Ore Surrogate Value
- Comment 5: Rail Freight Surrogate Value for Russian Portion
- Comment 6: Indirect Selling Expenses

C. Verification Issues:
- Comment 7: Raw Material Losses in Usage Rates
- Comment 8: Electricity Usage Rate
- Comment 9: Raw Materials Transport Distances
- Comment 10: Inland Freight Distance
- Comment 11: Ocean Freight Charges
- Comment 12: Inventory Carrying Costs
- Comment 13: U.S. Insurance Charges
- Comment 14: U.S. Sales Database errors

[FR Doc. 02–7954 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–838]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Constance Handley, at (202) 482–0650 or (202) 482–0631, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

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 (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (2001).

Final Determination

We determine that certain softwood lumber products from Canada are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

The preliminary determination in this investigation was issued on October 31, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Softwood Lumber Products From Canada*, 66 FR 56062 (November 6, 2001). Since the publication of the preliminary determination, the following events have occurred:

In December 2001 and January – February 2002, the Department verified the responses submitted by the six respondents in the investigation: Abitibi–Consolidated Inc. (Abitibi); Canfor Corporation (Canfor); Slocan Forest Products Ltd. (Slocan); Tembec Inc. (Tembec); West Fraser Timber Co. Ltd. (West Fraser); and Weyerhaeuser Company (Weyerhaeuser). Verification reports were issued in January and February 2002.

On February 12, 2002, we received case briefs from the petitioners[1], the six respondents, and the Ontario Lumber Manufacturers Association (OLMA), Ontario Forest Industries Association (OFIA), Association of Consumers for Affordable Homes (ACAH), Bowater International, the Canadian Maritimes Provinces, the British Columbia Lumber Trade Council (BCLTC), Louisiana Pacific Corporation and Idaho Timber Corporation. On February 19, 2002, we received rebuttal briefs from the petitioners, respondents, OLMA, OFIA, BCLTC, the Government of Canada and the Government of Quebec. We held a public hearing on February 25, 2002.

A separate briefing schedule dealing with class or kind of merchandise and other scope issues was established. On March 15, 2002, we received case briefs from the petitioners, respondents Abitibi, Tembec and Weyerhaeuser, as well as from the Government of Canada, the Government of Quebec, OFIA and OLMA, the Quebec Lumber Manufacturers Association, the International Sleep Products Association, Sinclar Enterprises Inc., the U.S. Red Cedar Manufacturers Association, Lindal Cedar Homes, Fred Tebb & Sons, and the Natural Resources Defense Council pertaining to these issues.[2] Rebuttal briefs on these topics were submitted by the petitioners, Tembec, OFIA and OLMA and the QLMA on March 18, 2002. A public hearing limited to issues of scope and class or kind of merchandise was held on March 19, 2002.

Scope of Investigation

The products covered by this investigation are softwood lumber, flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized

Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger–jointed, of a thickness exceeding six millimeters;

(2) coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V–jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger–jointed;

(3) other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V–jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger–jointed; and

(4) coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V–jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger–jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

A complete description of the scope of this investigation, including an itemized list of all product exclusions, is contained in the Issues and Decision Memorandum accompanying this notice.

Period of Investigation

The period of investigation is April 1, 2000, through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (i.e., April 2001).

Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by the six respondents. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation, as well as certain other findings by the Department which are summarized in this notice, are addressed in the ''Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Softwood Lumber Products from Canada''

[1] The petitioners are the coalition for Fair Lumber Imports Executive Committee; the United Brotherhood of Carpenters and Joiners; and the Paper, Allied–Industrial, Chemical and Energy Workers International Union.

[2] On March 6, 2002, Anderson Wholesale Inc. and North Pacific Trading filed a joint case brief on scope issues.

(Decision Memorandum), from Bernard Carreau, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated March 21, 2002, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building and on the Web at: http://ia.ita.doc.gov/. The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

From the outset of this investigation, a central issue has been the determination of the appropriate method by which to allocate joint production costs for the various lumber products produced. All of the respondents submitted data sets that allocated production costs on a per–unit volume (*i.e.*, per thousand board feet (MBF)) basis, which is consistent with their normal books and records. Four of the six respondents submitted an additional data set which allocated production costs using a value–based methodology. The petitioners have argued throughout the investigation that the joint lumber production costs should be allocated using a volume–based methodology. For the preliminary determination, the Department calculated cost of production (COP) and constructed value (CV) based on the volume–based cost allocation data sets submitted by each of the respondents.

The cost allocation issues raised in the context of this case are among the most complex that the Department has ever considered. Based on our analysis of comments received, we have reconsidered the appropriateness of the preliminary determination whereby we allocated costs on the basis of volume. After careful consideration, we believe it is appropriate to allocate wood and sawmill costs to particular grades of lumber using a value–based measure, because a volume–based allocation does not recognize the fact that there are separately identifiable grades of wood within a given log and that the producer factors their presence into the cost it is willing to incur to obtain those various grades.

In reaching this conclusion, we considered several factors, among them, that grade differences pre–exist in the raw material, that these grade differences do not result from the production process, and that they can be so significant that they often alter a product's intended end use. We concluded that it is reasonable to assume that a lumber producer considers these factors when deciding on how much cost to incur to acquire the raw material (*i.e.*, logs).

We recognize that a value–based cost allocation method can be problematic in an antidumping context, and that it is appropriate in only very limited instances. After a great deal of deliberation in consideration of the comments made with regard to our preliminary determination, we believe that the facts of this case support the use of a value–based allocation method for wood and sawmill costs. This issue is discussed further in the Decision Memorandum.

Based on our analysis of comments received, we have made other changes in the margin calculations, as well. Furthermore, prior to the start of their respective verifications, all six respondents presented corrections to their questionnaire responses which resulted from their preparation for verification. In addition, based on the Department's verification findings, various other corrections have been made to the margin calculations of all six respondents. These changes are discussed in the relevant sections of the Decision Memorandum or in each company's analysis memorandum.

Critical Circumstances

Section 735(a)(3) of the Act provides that the Department will determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, and (B) there have been massive imports of the subject merchandise over a relatively short period.

In the preliminary determination, the Department found for all mandatory respondents and the companies within the ''all others''category that critical circumstances did not exist because the second prong of the statute regarding critical circumstances, *i.e.*, massive imports, had not been met. Since the preliminary critical circumstances determination, we have received and verified the shipment data for the subject merchandise for all mandatory respondents.

In determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine (i) the volume and value of the imports, (ii) seasonal trends, and (iii) the share of domestic consumption accounted for by the imports. Section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent or more during a ''relatively short period'' may be considered ''massive.'' In addition, section 351.206(i) of the Department's regulations defines ''relatively short period'' as generally the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later. As a consequence, the Department compares import levels during at least the three–month period immediately after initiation with at least the three–month period immediately preceding initiation to determine whether there has been at least a 15–percent increase in imports of subject merchandise. Where information is available for longer periods, the Department will compare such data. *See, e.g., Preliminary Determinations of Critical Circumstances: Steel Concrete Reinforcing Bars From Ukraine and Moldova*, 65 FR 70696, 70697 (November 27, 2000).

In this case, because data were available for additional months, for purposes of the final determination, the Department compared import and shipment data during the six–month period immediately after initiation with the six–month period immediately preceding initiation to determine whether there has been at least a 15–percent increase in imports of subject merchandise. Based on this comparison, the Department found that there were no massive imports with respect to the mandatory respondents nor the companies in the ''All Others'' category. For further details, *see* the Department's *Final Determination of Critical Circumstances memorandum* from Gary Taverman to Bernard T. Carreau, (March 21, 2002). As discussed in the above–referenced memorandum, the Department's finding that massive imports did not exist for these companies is based on seasonal adjustments of the relevant shipment and import data. Because this prong of the statute regarding critical circumstances has not been met for any company, the Department determined that critical circumstances do not exist for any company.

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing Customs to continue to suspend liquidation of all entries of certain softwood lumber products from Canada that are entered, or withdrawn from warehouse, for consumption on or after November 6, 2001, the date of publication of the Preliminary Determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted–average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

Manufacturer/Exporter	H=≥1≥≤Weighted–Average Margin
Abitibi (and its affiliates Produits Forestiers Petit Paris Inc., Produits Forestiers La Tuque Inc., Scieries Saguenay Ltee., Societe En Commandite Scierie Opticwan)	14.60
Canfor (and its affiliates Lakeland Mills Ltd., The Pas Lumber Company Ltd., Howe Sound Pulp and Paper Limited Partnership)	5.96
Slocan	7.55
Tembec (and its affiliates Marks Lumber Ltd., Excel Forest Products)	12.04
West Fraser (and its affiliates West Fraser Forest Products Inc., Seehta Forest Products Ltd.)	2.26
Weyerhaeuser (and its affiliates Monterra Lumber Mills Ltd., Weyerhaeuser Saskatchewan Ltd.)	15.83
All Others	9.67

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or are a threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 21, 2002

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

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[FR Doc. 02–7848 Filed 4–1–02; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–822]

Notice of Amended Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amended final results of antidumping duty administrative review of stainless steel sheet and strip from Mexico.

EFFECTIVE DATE: April 2, 2002.

SUMMARY: On February 12, 2002, the Department of Commerce (the Department) published in the Federal Register its notice of final results of the antidumping duty administrative review of stainless steel sheet and strip in coils from Mexico for the period January 4, 1999 through June 30, 2000. *See Stainless Steel Sheet and Strip in Coils from Mexico; Final Results of Antidumping Duty Administrative Review*, 67 FR 6490 (February 12, 2002). We are amending our final determination to correct ministerial errors alleged by respondent and petitioners.

FOR FURTHER INFORMATION CONTACT: Deborah Scott or Robert James, AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone : (202) 482–2657 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Rounds Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2001).

Scope of the Review

For purposes of this administrative 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 order is classified in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.13.00.31, 7219.13.00.51, 7219.13.00.71, 7219.13.00.81, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS 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 order 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).

In response to comments by interested parties the Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below.

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 for compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of 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 order. 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 between 0.002 and 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 order. 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.''[1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. 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.''[2]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this order. 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.≥[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[4] This steel is similar to ASTM grade 440F, 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 square micron. 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.''[5]

Amendment to Final Results

Ministerial Errors Allegation by Respondent

On February 11, 2002, respondent Mexinox, S.A. de C.V. (Mexinox) timely filed, pursuant to 19 CFR 351.224(c)(2), an allegation that the Department made two ministerial errors in its final results. First, Mexinox alleges that in performing the major inputs analysis the Department erroneously selected transfer price as the highest of transfer price, cost of production, and market price for purchases of grade 430 material from KTN for the months of March and April 2000, when it should have selected market price for those two months. Second, Mexinox alleges the Department erred by omitting the indicator which segregates prime and non–prime merchandise (represented by the variable PRIMEH/PRIMEU) from its model match program when creating the final concordance file. Petitioners submitted no rebuttal comments to Mexinox's ministerial errors allegation.

Department's Position:

We agree with Mexinox in both instances and, therefore, have amended our final results for these errors. For a detailed discussion of our implementation of these corrections, see the Department's Amended Final Results Analysis Memorandum, dated **March XX, 2002**.

Ministerial Errors Allegation by Petitioners

On February 12, 2002, Allegheny Ludlum Corporation, Armco Inc., J&L Specialty Steel, Inc., Washington Steel Division of Bethelehem Steel Corporation, United Steelworkers of America, AFL–CIO/CLC, Butler Armco Independent Union, Zanesville Armco Independent Organization, Inc. (collectively, petitioners) timely filed a ministerial errors allegation. First, petitioners allege, the Department incorrectly included quantity adjustments (AQTYH/AQTYU) in testing for negative data since the

[1] ''Arnokrome III''' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36''' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

quantity field (QTYH/QTYU) already reflects these adjustments. Second, petitioners contend the Department ''double converted'' home market sales denominated in U.S. dollars. Although the Department agreed these were U.S. dollar sales, petitioners state, the Department utilized Mexinox's reported peso price and converted this price to U.S. dollars. Instead, petitioners claim, the Department should weight average the U.S. dollar prices reported in the home market sales listing and then combine them with converted peso prices at the ''FUPDOL'' stage of the margin calculation program. Petitioners suggest the Department could make this change by setting to zero the peso price on sales denominated in U.S. dollars, weight average U.S. dollar prices and net peso prices, and then sum these two variables at the ''FUPDOL'' stage of the margin calculation program. Third, petitioners assert the Department overstated deductions to normal value (NV) by allowing the sum of the commission offset and CEP offset to exceed total home market indirect selling expenses (ISEs).

On February 19, 2002, Mexinox timely submitted comments rebutting petitioners' ministerial error allegations. Mexinox argues petitioners' comments relate to computer programming language that existed at the time of the preliminary results; therefore, in accordance with 19 CFR 351.224(c)(1), petitioners should have addressed these matters in their case brief. Even if the Department considers these untimely allegations, Mexinox asserts, they should be dismissed because they are not ministerial in nature. Mexinox cites section 19 CFR 351.224(f), which defines ''ministerial error'' as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.''

Specifically, with respect to adding adjusted quantity (AQTYH/U) to quantity (QTYH/U) in testing for negative data, Mexinox states that while this argument may be ministerial in nature, it is untimely because the relevant programming language existed at the time of the preliminary results. Therefore, Mexinox contends, petitioners should have raised this issue in their case brief.

Referring to the ''double conversion'' of home market sales invoiced in U.S. dollars, Mexinox claims petitioners have simply offered a different methodology to reach the same result (*i.e.*, converting home market prices to U.S. dollars). Mexinox argues that alternative methodologies for obtaining the same arithmetic result are methological in nature and therefore should be rejected. Although the Department's regulations preclude it from considering this alternative methdology, Mexinox contends, petitioners' alternative is unnecessary and would be burdensome to implement from a programming standpoint, and could inadvertently lead to errors. Mexinox also asserts petitioners have not demonstrated their alternative methodology would lead to greater accuracy.

Lastly, regarding the argument that the sum of the commission and CEP offsets cannot exceed total home market ISEs, Mexinox maintains this argument is methodological in nature. Mexinox argues that petitioners do not point to any methodological errors or any errors meeting the definition in 19 CFR 351.224(f). Mexinox contends that petitioners simply assert these adjustments are limited to the total of home market ISEs, but do not cite to any legal authority or Department precedent in making this assertion. Further, Mexinox avers, since this methodological issue existed in the preliminary results, petitioners could have addressed it in their case brief but chose not to do so. Mexinox argues that petitioners cannot raise a methological argument at this time under the guise of a ministerial error.

Department's Position:

We disagree with Mexinox that petitioners have raised these points in an untimely manner. Section 351.224(c)(1) of the Department's regulations states ''[c]omments concerning ministerial errors made in the preliminary results of a review should be included in a party's case brief.'' While this provision expresses our preference that ministerial errors made in the preliminary results should be included in a party's case brief, it does not state that they must be included at that time in order for them to be considered. After reviewing petitioners' ministerial errors allegation, we determine that correcting ministerial errors made in the final results would yield a more accurate calculation of the dumping margin. Therefore, we have not rejected these comments on the grounds that they were not filed in a timely manner.

Based on the first and third points raised by petitioners, we have amended our final results. Petitioners are correct in stating we should not add quantity adjustments to quantity in testing for negative data because the quantity fields already account for quantity adjustments. See Mexinox's November 20, 2000 questionnaire response at B–18, C–20, KMC–17, and CBC–21. The addition of quantity adjustments to quantity constituted an unintentional error in arithmetic on our part, not a methodological error. Petitioners are also correct in asserting that the sum of the commission offset and CEP offset cannot be greater than total home market ISEs. Contrary to Mexinox's assertion, our inadvertent failure to cap the sum of the commission offset and CEP offset at the amount of total home market ISEs does not constitute a methodological error but rather a ministerial error which runs contrary to our well–established practice. Our regulations permit the Department to deduct ISEs from NV in two instances. The first instance (''the commission offset,'' which is governed by 19 CFR 351.410(e) of our regulations) stipulates that if a commission is paid in one of the markets under consideration, and no commission is paid in the other market, the Department will make an offset to the commission limited to the ISEs incurred in ''the one market or the commission allowed in the other market, whichever is less.'' The ''CEP offset'' is the second provision under which the Department is permitted to make a deduction from NV for ISEs. 19 CFR 351.412 limits the CEP offset ''to the amount of ISEs incurred in the United States.'' Because both the commission offset and CEP offset are limited by the total amount of home market ISEs, when there is both a commission offset and a CEP offset, the total amount of the two offsets is limited to the total amount of ISEs incurred in the home market. Since there is both a commission offset and CEP offset in the instant review, we have adjusted our calculations accordingly.

However, we disagree with petitioners' argument that for home market sales invoiced in U.S. dollars, we should use Mexinox's reported U.S. dollar prices to calculate NV. As noted by Mexinox, the proposal offered by petitioners simply constitutes a different methodology to reach the same result, i.e., the conversion of peso prices to U.S. dollars. Further, petitioners have not provided any evidence establishing that their alternative methodology would lead to greater accuracy in the margin calculation. Therefore, we have not made any changes to the manner in which home market sales invoiced in U.S. dollars are converted from Mexican pesos to U.S. dollars.

For a detailed discussion of our implementation of these corrections, see the Department's Amended Final

Results Analysis Memorandum, dated March 15, 2002.

Amended Final Results of Review

In accordance with 19 CFR 351.224(e), we are amending the final results of the 1999–2000 antidumping duty administrative review of stainless steel sheet and strip in coils from Mexico, as noted above. The revised weighted–average percentage margin for Mexinox is 2.28 percent.

This administrative review and notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: March 15, 2002

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 02–7955 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Notice of Court Decision: Tapered Roller Bearings and Parts Thereof from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 20, 2002, the United States Court of International Trade issued a final judgment with respect to the litigation in The Timken Company v. United States, Ct. No. 97–12–02156, Slip Op. 02–30. This case arises from the Department of Commerce's Final Results of Antidumping Administrative Review of Tapered Roller Bearings and Parts Thereof, from the People's Republic of China, 62 FR 61276 (November 17, 1997). The administrative review period was June 1, 1995, through May 31, 1996. The final judgment by the court in this case was not in harmony with the Department of Commerce's November, 1997 final results of review.

EFFECTIVE DATE: The effective date of this notice is April 1, 2002, which is 10 days from the date on which the court issued its judgment.

FOR FURTHER INFORMATION CONTACT: George Callen at (202) 482–0180 or Richard Rimlinger at (202) 482–4477, Import Administration, International Trade Administration, U.S. Department. of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: The decision of the Court of International Trade (''CIT'') in Slip Op. 02–30 is that Court's final decision concerning the calculation of various elements of constructed value. More specifically, the CIT ordered the Department of Commerce to make the following changes to its original calculations: 1) determine direct labor costs without relying on labor hours; 2) exclude the ''purchases of traded goods'' from its calculation of the cost of manufacturing; and 3) adjust United States price by recalculating marine insurance pursuant to a value–based methodology.

In its decision in Timken Co. v. United States, 893 F.2d 337, 341 (Fed.Cir.1990) (''Timken''), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 USC 1516a(e), the Department must publish a notice of a court decision which is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's decision in Slip Op.02–30 on March 20, 2002, constitutes a final decision of that court which is ''not in harmony'' with the Department's final results of administrative review. We are publishing this notice in fulfillment of the publication requirements of Timken.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, upon a ''conclusive'' court decision.

Dated: March 26, 2002

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–7951 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–839]

Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty determination and final negative critical circumstances determination.

SUMMARY: On August 17, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of softwood lumber products (subject merchandise) from Canada for the period April 1, 2000, through March 31, 2001 (66 FR 43186).

The net subsidy rate in the final determination differs from that of the preliminary determination. The revised final net subsidy rate is listed below in the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds at (202) 482–6071 or Stephanie Moore (202) 482–3692, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Background

On August 17, 2001, the Department published the preliminary determination of its investigation of softwood lumber products from Canada. *See Notice of Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Softwood Lumber Products from Canada,* 66 FR 43186 (August 17, 2001) (*Preliminary Determination*). This investigation covers the period April 1, 2000, through March 31, 2001.

We invited interested parties to comment on the *Preliminary Determination.* We received both case briefs and rebuttal briefs from interested parties. Public hearings were held on March 6 and March 19, 2002. All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (*Decision Memorandum*) dated March 21, 2002, which is hereby adopted by this notice.

Scope of Investigation

The products covered by this investigation are softwood lumber,

flooring and siding (softwood lumber products). Softwood lumber products include all products classified under headings 4407.1000, 4409.1010, 4409.1090, and 4409.1020, respectively, of the Harmonized Tariff Schedule of the United States (HTSUS), and any softwood lumber, flooring and siding described below. These softwood lumber products include:

(1) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding six millimeters;

(2) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed;

(3) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces (other than wood mouldings and wood dowel rods) whether or not planed, sanded or finger-jointed; and

(4) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed.

Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive. Preliminary scope exclusions and clarifications were published in three separate **Federal Register** notices.

Final Scope Exclusions

On February 11, 2002, we published an amendment to the preliminary antidumping (AD) determination which modified the list of products excluded from the scope of the AD and CVD softwood lumber investigations. See Notice of Amendment to Preliminary Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products from Canada; Amendment to Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination, and Alignment of Final Countervailing Duty Determination with Final Antidumping Determination: Certain Softwood Lumber Products from Canada, 67 FR 6230, 6231 (February 11, 2002) (Amended Preliminary). In our review of the comments received throughout the course of these proceedings, we found that the definitions for some of the excluded products required further clarification and/or elaboration. Based on our analysis of the comments received, we have modified the list of excluded products as follows: [1]

Softwood lumber products excluded from the scope only if they meet certain requirements:

1. *Stringers* (pallet components used for runners): if they have at least two notches on the side, positioned at equal distance from the center, to properly accommodate forklift blades, properly classified under HTSUS 4421.90.98.40.

2. *Box-spring frame kits:* if they contain the following wooden pieces—two side rails, two end (or top) rails and varying numbers of slats. The side rails and the end rails should be radius-cut at both ends. The kits should be individually packaged, they should contain the exact number of wooden components needed to make a particular box spring frame, with no further processing required. None of the components exceeds 1″ in actual thickness or 83″ in length.

3. *Radius-cut box-spring-frame components,* not exceeding 1″ in actual thickness or 83″ in length, ready for assembly without further processing. The radius cuts must be present on both ends of the boards and must be substantial cuts so as to completely round one corner.

4. *Fence pickets* requiring no further processing and properly classified under HTSUS 4421.90.70, 1″ or less in actual thickness, up to 8″ wide, 6′ or less in length, and have finials or decorative cuttings that clearly identify them as fence pickets. In the case of dog-eared fence pickets, the corners of the boards should be cut off so as to remove pieces of wood in the shape of isosceles right angle triangles with sides measuring ¾ inch or more.

5. *U.S. origin lumber* shipped to Canada for minor processing and imported into the United States, is excluded from the scope of the investigations if the following conditions are met: (a) the processing occurring in Canada is limited to kiln-drying, planing to create smooth-to-size board, and sanding, and (b) if the importer establishes to Customs' satisfaction that the lumber is of U. S. origin.

6. *Softwood lumber products contained in single family home packages or kits,* regardless of tariff classification, are excluded from the scope of the orders if the following criteria are met:

A. The imported home package or kit constitutes a full package of the number of wooden pieces specified in the plan, design or blueprint necessary to produce a home of at least 700 square feet produced to a specified plan, design or blueprint;

B. The package or kit must contain all necessary internal and external doors and windows, nails, screws, glue, subfloor, sheathing, beams, posts, connectors and if included in purchase contract decking, trim, drywall and roof shingles specified in the plan, design or blueprint;

C. Prior to importation, the package or kit must be sold to a retailer of complete home packages or kits pursuant to a valid purchase contract referencing the particular home design plan or blueprint, and signed by a customer not affiliated with the importer;

D. The whole package must be imported under a single consolidated entry when permitted by the U.S. Customs Service, whether or not on a single or multiple trucks, rail cars or other vehicles, which shall be on the same day except when the home is over 2,000 square feet;

E. the following documentation must be included with the entry documents:

1. A copy of the appropriate home design, plan, or blueprint matching the entry;

2. A purchase contract from a retailer of home kits or packages signed by a customer not affiliated with the importer;

3. A listing of inventory of all parts of the package or kit being entered that conforms to the home design package being entered;

4. In the case of multiple shipments on the same contract, all items listed in E(3) which are included in the present shipment shall be identified as well.

We have determined that the excluded products listed above are outside the scope of these investigations provided the specified conditions are

[1] A group of products that were excluded from the scope as classified was listed in the preliminary determinations as Group A. This list remains applicable as we determined, through our review of the petition and factual information submitted, and consultations with the parties, that the products were outside the scope of the investigations.

Group A. Softwood lumber products excluded from the scope:

1. Trusses and truss kits, properly classified under HTSUS 4418.90.

2. I-Joist beams.

3. Assembled box spring frames.

4. Pallets and pallet kits, properly classified under HTSUS 4415.20.

5. Garage doors.

6. Edge-glued wood, properly classified under HTSUS item 4421.90.98.40.

7. Properly classified complete door frames.

8. Properly classified complete window frames.

9. Properly classified furniture.

met. *See* Section C (Scope Issues) and Section D (Scope Exclusion Analysis) of the March 21, 2002, Issues and Decision Memorandum for the Antidumping Duty Investigation of Certain Softwood Lumber Products From Canada for further discussion. Lumber products that Customs may classify as stringers, radius cut box-spring-frame components, and fence pickets, not conforming to the above requirements, as well as truss components, pallet components, and door and window frame parts, are covered under the scope of this investigation and may be classified under HTSUS subheadings 4418.90.40.90, 4421.90.70.40, and 4421.90.98.40. On January 24, 2002, Customs informed the Department of certain changes in the 2002 HTSUS affecting these products. Specifically, subheading 4418.90.40.90 and 4421.90.98.40 were changed to 4418.90.45.90 and 4421.90.97.40, respectively. Therefore, we are adding these subheadings as well.

Exclusion of Maritime Products

On July 27, 2001, we amended our Initiation Notice, to exempt certain softwood lumber products from the Provinces of New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland (the Maritime Provinces) from this investigation. This exemption does not apply to softwood lumber products produced in the Maritime Provinces from Crown timber harvested in any other Province. See Amendment to the Notice of Initiation of Countervailing Duty Investigation: Certain Softwood Lumber Products from Canada, 66 FR 40228 (August 2, 2001).

Company Exclusions

Based upon our review of exclusion requests received prior to the Preliminary Determination, the Department preliminarily excluded Frontier Lumber from the investigation. Since the Preliminary Determination, the deadline was extended and we received exclusion requests directly from companies and through the Government of Canada (GOC). By memorandum of February 20, 2002, the Department announced that we found it practicable to consider only 30 of the more than 300 company-specific requests for exclusion. We sent supplemental questionnaires to the selected companies and conducted verification of each of the company responses received.

Based upon the verified information on the record, the following companies have been granted company exclusions: Armand Duhamel et fils Inc., Bardeaux et Cedres, Beaubois Coaticook Inc., Busque & Laflamme Inc., Carrier & Begin Inc., Clermond Hamel, J.D. Irving, Ltd., Les Produits. Forestiers. D.G., Ltee, Marcel Lauzon Inc., Mobilier Rustique, Paul Vallee Inc., Rene Bernard, Inc., Roland Boulanger & Cite., Ltee, Scierie Alexandre Lemay, Scierie La Patrie, Inc., Scierie Tech, Inc., Wilfrid Paquet et fils, Ltee, B. Luken Logging Ltd., Frontier Lumber, and Sault Forest Products Ltd.

For further discussion of this issue, *see* the *Decision Memorandum*.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is April 1, 2000, through March 31, 2001, which is the most recently completed fiscal year of the GOC.

Negative Critical Circumstances

In the *Preliminary Determination*, the Department determined that critical circumstances exist with respect to imports of softwood lumber from Canada, pursuant to section 703(e) of the Act and section 351.206 of the regulations. Based on further investigation, the Department is not finding critical circumstances in this final determination. For further discussion on this issue, *see* the *Decision Memorandum*.

Verification

As provided in section 782(i) of the Act, we conducted verification of the government responses from January 13, 2002 through February 5, 2002. We also conducted verification of the responses of companies seeking exclusion from February 27 through March 6, 2002. We used standard verification procedures, including meeting with government and company officials and examining relevant accounting records and original source documents provided by the respondents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce (Room B–099).

Analysis of Comments Received

A list of issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at http://ia.ita.doc.gov, under the heading ''**Federal Register** Notices.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

In accordance with sections 705(c)(1)(B)(i)(II) and 777A(e)(2)(B) of the Act, we have calculated a single country-wide subsidy rate to be applied to all producers and exporters of the subject merchandise from Canada. This rate is summarized below:

Producer/exporter	Net subsidy rate
All Producers/Exporters .	19.34 *Ad Valorem*.

In accordance with the preliminary affirmative determination of critical circumstances, we instructed the U.S. Customs Service to suspend liquidation of all entries of the subject merchandise from Canada, which were entered or withdrawn from warehouse, on or after May 19, 2001, which is 90 days prior to August 17, 2001, the date of publication of the Preliminary Determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered, or withdrawn from warehouse, for consumption on or after December 15, 2001. Because we do not find critical circumstances in this final determination, we will instruct U.S. Customs to terminate suspension of liquidation, and release any cash deposits or bonds, on imports during the 90 day period prior to the date of publication of the *Preliminary Determination*.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the International Trade Commission (ITC) issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

As indicated above, the Department exempted certain softwood lumber products from the Maritime Provinces from this investigation. This exemption, however, does not apply to softwood lumber products produced in the Maritime Provinces from Crown timber harvested in any other province. Additionally, as explained above in the

''Exclusions'' section of the notice, we are excluding the following companies: Armand Duhamel et fils Inc., Bardeaux et Cedres, Beaubois Coaticook Inc., Busque & Laflamme Inc., Carrier & Begin Inc., Clermond Hamel, J.D. Irving, Ltd., Les Produits. Forestiers. D.G., Ltee, Marcel Lauzon Inc., Mobilier Rustique, Paul Vallee Inc., Rene Bernard, Inc., Roland Boulanger & Cite., Ltee, Scierie Alexandre Lemay, Scierie La Patrie, Inc., Scierie Tech, Inc., Wilfrid Paquet et fils, Ltee, B. Luken Logging Ltd., Frontier Lumber, and Sault Forest Products Ltd. Therefore, we are directing the U.S. Customs Service to exempt from the suspension of liquidation only entries of softwood lumber products from Canada which are accompanied by an original Certificate of Origin issued by the Maritime Lumber Bureau (MLB), and those of the excluded companies listed above. The MLB certificate will specifically state that the corresponding entries cover softwood lumber products produced in the Maritime Provinces from logs originating in Nova Scotia, New Brunswick, Prince Edward Island, Newfoundland and the state of Maine.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: March 21, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

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[FR Doc. 02–7849 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 000929279–1219–02]

RIN 0693–ZA41

Announcing Approval of Federal Information Processing Standard (FIPS) 198, The Keyed-Hash Message Authentication Code (HMAC)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The Secretary of Commerce approves FIPS 198, The Keyed-Hash Message Authentication Code (HMAC), and makes it compulsory and binding on Federal agencies for the protection of sensitive, unclassified information. FIPS 198 is an essential component of a comprehensive group of cryptographic techniques that government agencies need to protect data, communications, and operations. The Key-Hashed Message Authentication Code specifies a cryptographic process for protecting

the integrity of information and verifying the sender of the information. This FIPS will benefit federal agencies by providing a robust cryptographic algorithm that can be used to protect sensitive electronic data for many years.

EFFECTIVE DATE: This standard is effective August 6, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Barker, (301) 975–2911, National Institute of Standards and Technology, 100 Bureau Drive, STOP 8930, Gaithersburg, MD 20899–8930.

A copy of FIPS 198 is available electronically from the NIST website at: http://csrc.nist.gov/publications/drafts/dfips-HMAC.pdf.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** (Volume 66, Number 4, pp.1088–9) on January 5, 2001, announcing the proposed FIPS for Keyed-Hash Message Authentication Code (HMAC) for public review and comment. The **Federal Register** notice solicited comments from the public, academic and research communities, manufacturers, voluntary standards organizations, and Federal, state, and local government organizations. In addition to being published in the **Federal Register**, the notice was posted on the NIST Web pages; information was provided about the submission of electronic comments. Comments and responses were received from four individuals and private sector organizations, and from one Canadian government organization. None of the comments opposed the adoption of the Keyed-Hash Message Authentication Code (HMAC) as a Federal Information Processing Standard. Some comments offered editorial suggestions that were reviewed. Changes were made to the standard where appropriate.

Following is an analysis of the technical and related comments received.

Comment: A comment expressed concern about the security of the recommended FIPS. It specifies a 32-bit MAC, as compared to a requirement of a voluntary industry standard of the retail banking community for an 80-bit MAC (using the Triple Data Encryption Algorithm). Also a clarification was requested concerning the requirement in the recommended FIPS for ''periodic key changes.''

Response: HMAC for the banking community is specified in a draft voluntary industry standard (ANSI X9.71), and mandates a 80-bit MAC. This recommended FIPS is based on that draft standard, but was written to allow the 32-bit MAC, which is used by the banking community and in other applications where there is little risk in the use of a relatively short MAC. NIST believes that the strengths of the 32-bit HMAC and the Triple DES MAC against collision type attacks mentioned in the comment are equivalent; collision type attacks use trial and error tactics to try to guess the MAC. NIST believes that the recommended FIPS provides adequate security, and that it will encourage a broad application of message authentication techniques.

NIST believes that changing keys periodically is a good practice. This issue is not addressed in ANSI X9.71. Key changes are recommended even when very strong algorithms with large keys are used, since keys can be compromised in ways that do not depend on the strength of the algorithm. The recommended FIPS does not specify how often keys should be changed. This will be addressed in a guidance document on key management that is currently under development. Information about this guidance document is posted on NIST's web pages *(http://www.nist.gov/kms).*

Comment: A comment suggested that a table of equivalent key sizes for different algorithms was needed, and that the values allowed for the key size and MAC length should be more restrictive.

Response: Advice about key sizes and the equivalent sizes between different cryptographic algorithms is more properly addressed in FIPS 180–1, Secure Hash Standard (currently under revision as FIPS 180–2) and the planned guidance document on key management. With regard to restrictions on the key size and MAC length, NIST believes that the marketplace will determine the predominating sizes.

Comment: A comment recommended that references to and examples of new hash algorithms (SHA–256, SHA–384 and SHA–512) be included.

Response: The new hash algorithms mentioned have not yet been approved for use. NIST believes that it is inappropriate to provide references to and examples of algorithms that are not yet approved standards. When the new hash algorithms have been approved, examples using these algorithms will be available on NIST's web pages. *http://www.nist.gov/cryptotoolkit.*

Comment: A comment recommended that OIDs (Object Identifiers) should be included for HMAC using the new hash algorithms mentioned above.

Response: The need for different object identifiers keeps changing. In addition, the new hash algorithms have not been approved as standards. Therefore, NIST believes that OIDs should not be included in this recommended standard. A reference to a NIST web site has been provided in the standard to help users obtain HMAC OIDs.

Comment: An observation was made regarding the different restrictions for the key size and MAC size (truncated output) for the recommended FIPS, for RFC 2104 and for ANSI X9.71. The comment mentioned incompatibilities when products are validated against these standards.

Authority: Under Section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987, the Secretary of Commerce is authorized to approve standards and guidelines for the cost effective security and privacy of sensitive information processed by federal computer systems.

E.O. 12866: This notice has been determined to be significant for the purposes of E.O. 12866.

Dated: March 25, 2002.

Karen H. Brown,

Deputy Director.

[FR Doc. 02–7880 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–CN–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032602F]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council (Council) will convene public meetings to discuss the content of a Programmatic Environmental Impact Statement (PEIS) for the Council's Generic Amendment for Essential Fish Habitat (EFH) in the Gulf of Mexico and potential alternatives.

DATES: The meetings will be held on Tuesday April 16, 2002 in Silver Spring, MD, and Wednesday, April 17, 2002 in Kenner, LA, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting on April 16, 2002 will be held at the Holiday Inn, 8777 Georgia Avenue (Route 97), Silver Spring, MD; telephone: 301-589-0800. The meeting on April 17, 2002 will be held at the New Orleans Airport Hilton, 901 Airline Drive, Kenner, LA; telephone: 504-469-5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S.

Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Heidi Lovett, MRAG Americas (Contractor), 110 South Hoover Blvd, Suite 212, Tampa, FL 33609; telephone: 813-639-9519; email: heidilovett@compuserve.com.

SUPPLEMENTARY INFORMATION: The meetings will begin with a focus group workshop of interested participants that will be held from 9 a.m. to 12 noon, to discuss the PEIS for the Council's Generic Amendment for EFH in the Gulf of Mexico and to discuss structural components and potential alternatives. The goal is to get input from various stakeholders early in this process. A public comment session will be scheduled from 1 p.m. to 3 p.m. These meetings are being coordinated by the Council's Consultant (MRAG Americas) that is developing the PEIS. These will not be the only workshops scheduled; other opportunities for public and stakeholders involvement exist through the PEIS development process and will be noticed accordingly. Interested participants/attendees should contact Heidi Lovett.

A copy of the agenda and related materials can be obtained by calling the Council office at 813-228-2815.

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 identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by April 9, 2002.

Dated: March 27, 2002.

Theophilus R. Brainerd,

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

[FR Doc. 02–7932 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032602E]

Pacific 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 Pacific Fishery Management Council's (Council) Highly Migratory Species Plan Development Team (HMSPDT) will hold a work session, which is open to the public.

DATES: The HMSPDT will meet on Wednesday, April 17, 2002; Thursday, April 18, 2002; and Friday, April 19, 2002. The HMSPDT will meet each day from 8 a.m. until 5 p.m., except for Friday, when the HMSPDT will meet from 8 a.m. until business for the day is completed.

ADDRESSES: The work session will be held in the large conference room at the NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, Room D-203, La Jolla, CA 92037; telephone: (858) 546–7000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Pacific Fishery Management Council; (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the work session is to scope and review revisions to the draft fishery management plan for West Coast highly migratory species fisheries per Council guidance from the March 2002 Council meeting.

Although nonemergency issues not contained in the HMSPDT meeting agenda may come before the HMSPDT for discussion, those issues may not be the subject of formal HMSPDT action during this meeting. HMSPDT action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the HMSPDT's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: March 27, 2002.

Theophilus R. Brainerd,

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

[FR Doc. 02–7933 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Macau

March 26, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 2, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also

see 66 FR 63028, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 26, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on April 2, 2002, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit
Levels in Group I	
339	2,218,464 dozen.
345	89,443 dozen.
347/348	1,245,753 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 02–7832 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

March 26, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 5, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63030, published on December 4, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 26, 2002.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on April 5, 2002, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit
Other specific limits	
331pt./631pt. [2]	628,689 dozen pairs.
345	225,129 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–7833 Filed 4–1–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, April 5, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR MORE INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–7980 Filed 3–28–02; 4:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, April 12, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERD: Surveillance Matters.

FOR MORE INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–7981 Filed 3–28–02; 4:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, April 19, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR MORE INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–7982 Filed 3–28–02; 4:21 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, April 26, 2002.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

FOR MORE INFORMATION CONTACT: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02–7983 Filed 3–28–02; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Reestablishment of the Defense Advisory Committee on Women in the Services

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Defense Advisory Committee on Women in the Services (DACOWITS) is reestablished, in consonance with the public interest, and in accordance with the provisions of the ''Federal Advisory Committee Act.'' On March 5, 2002, the Deputy Secretary of Defense approved a revised charter for the DACOWITS.

The Committee shall provide the Secretary of Defense, through the Assistant Secretary of Defense (Force Management Policy), advice and recommendations on matters and policies relating to the recruitment and retention, treatment, employment, integration, and well-being of highly qualified professional women in the Armed Forces. In addition, the Committee shall provide advice and recommendations on family issues related to the recruitment and retention of a highly qualified professional military.

The Defense Advisory Committee on Women in the Services (DACOWITS) will be well balanced in terms of the interest groups represented and functions to be performed. The Committee shall be composed of not more than 35 civilian members, representing an equitable distribution of demography, professional career fields, community service, and geography, and selected on the basis of their experience in the military, as a member of a military family, or with women's or family-related workforce issues.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Spaeth, DoD Committee Management Officer, 703–695–4281.

Dated: March 26, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–7861 Filed 4–1–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children With Disabilities

AGENCY: Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS).

ACTION: Notice.

SUMMARY: Pursuant ot Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Domestic Advisory Panel (DAP) on Early Intervention and Education for Infants, Toddlers, Preschool Children, and Children with Disabilities is scheduled to be held from 8:30 a.m. to 3:30 p.m. on May 6–7, 2002. The meeting is open to the public and will be held in the DDESS Director's offices at 700 Westpark Drive, third floor, Peachtree City, GA 30269–1498. The purpose of the meeting is to: review the response to the panel's recommendations from its November 2001 meeting; review and comment on data and information provided by DDESS; and establish subcommittees as necessary. Persons desiring to attend the meeting or desiring to make oral presentations or submit written statements for consideration by the panel must contact Dr. Cynthia Chen at (770) 486–2990.

Dated: March 25, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–7899 Filed 4–1–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 2, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren_Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision,

extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: March 27, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Child Care Access Means Parents in School (CCAMPIS) Program—A Guide for Preparation of Applications.

Frequency: Annually.

Affected Public: Not-for-profit institutions; Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 300.

Burden Hours: 18,000.

Abstract: Collection of information is necessary in order for the Secretary of Education to make new grants under the Child Care Access Means Parents in School Program. This collection will also be used to obtain the programmatic and budgetary information needed to evaluate applications and make funding decisions based on the authorizing statute of Section 419N of subpart 7, Title IV of the Higher Education Act of 1965, as amended.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO—IMG—Issues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–8900 or via his internet address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–7885 Filed 4–1–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.357]

Reading First—Applications for State Grants

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

SUMMARY: The Department of Education invites State educational agencies to apply for Reading First grants. Reading First is the largest—and yet most focused—early reading initiative this country has ever undertaken. Reading First focuses on what works, and will support scientifically based, proven methods of early reading instruction for students in kindergarten through third grade.

Purpose of Program: Reading First provides assistance to State and local educational agencies to establish scientifically based reading programs in kindergarten through third grade classrooms, to ensure that all children learn to read well by the end of third grade.

Eligible Applicants: State educational agencies from the 50 states, the District of Columbia, Puerto Rico, the Bureau of Indian Affairs, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

Applications Available: April 2, 2002.

Deadline for Transmittal of Applications: May 29, 2002 in order to receive funds on July 1, 2002 (pending approval). Final deadline: July 1, 2003.

Deadline for Intergovernmental Review: September 1, 2003.

Estimated Available Funds: $872,500,000.

Estimated Number of Awards: 57.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 72 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 76, 77, 79, 80, 82, 85, 97, 98, and 99.

For Applications Contact: Sandi Jacobs, Reading First Program Office, U.S. Department of Education, 400 Maryland Avenue, SW., room 2W108, Washington, DC 20202–6201. Telephone: (202) 401–4877 or via Internet: *http://www.ed.gov/offices/OESE/readingfirst.*

FOR FURTHER INFORMATION CONTACT: Chris Doherty, Reading First Program Office, U.S. Department of Education, 400 Maryland Avenue, SW., room 2w108, Washington, DC 20202–6201. Telephone: (202) 401–4877 or via email: *ReadingFirst@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

You may also view this document at the following site: *http://www.ed.gov/offices/OESE/readingfirst/index.html*

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 1201–1208.

Dated: March 29, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 02–8036 Filed 4–1–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Office of Los Alamos Site Operations Notice of Floodplain Involvement for the Connector Road Between Technical Areas 22 and 8 at Los Alamos National Laboratory, Los Alamos, New Mexico

AGENCY: National Nuclear Security Administration, Office of Los Alamos Site Operations, DOE.

ACTION: Notice of floodplain involvement.

SUMMARY: The National Nuclear Security Administration (NNSA) of the Los Alamos Area Office at the Department of Energy (DOE) plans to construct a connector road about one mile in length between Technical Areas (TAs) 22 and 8 at Los Alamos National Laboratory (LANL). A short segment, less than 200 feet in length, of the road will cross a floodplain area within Pajarito Canyon, located within the western portion of LANL. In accordance with 10 CFR Part 1022, DOE has prepared a floodplain/wetland assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain.

DATES: Comments are due to the address below no later than April 17, 2002.

ADDRESSES: Written comments should be addressed to: Elizabeth Withers, Department of Energy, National Nuclear Security Administration, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544, or submit them to the Mail Room at the above address between the hours of 8:00 am and 4:30 p.m., Monday through Friday. Written comments may also be sent electronically to: ewithers@doeal.gov or by facsimile to (505) 667–9998.

FOR FURTHER INFORMATION CONTACT: Tom Rush, Department of Energy, National Nuclear Security Administration, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544. Telephone (505) 667–5280, facsimile (505) 667–9998.

For Further Information on General DOE Floodplain Environmental Review Requirements, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, Department of Energy, 100 Independence Avenue, SW., Washington DC 20585–0119. Telephone (202) 586–4600 or (800) 472–2756, facsimile (202) 586–7031.

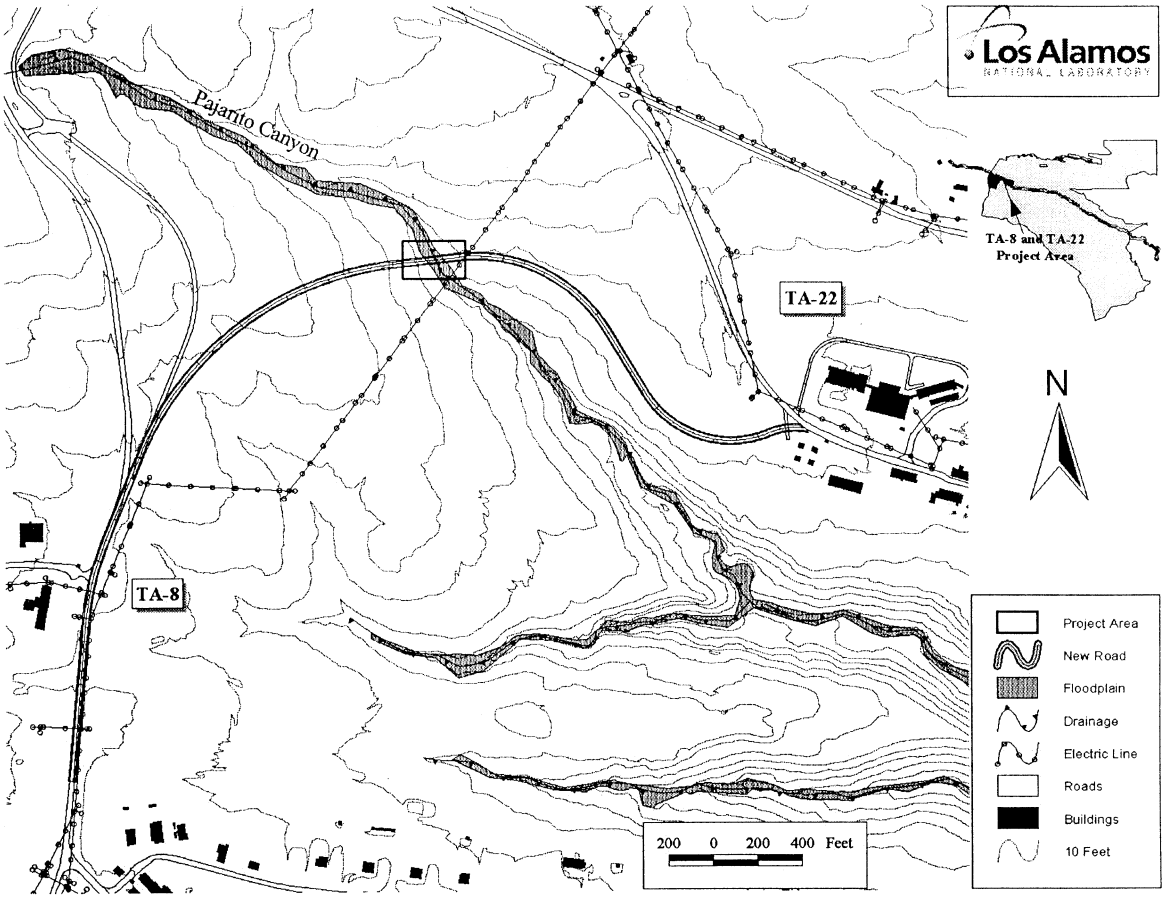
SUPPLEMENTARY INFORMATION: In March 2002, NNSA considered a proposal for constructing about a mile-long, two lane paved road that would link TA–22 with an existing road, Anchor Ranch Road, within TA–8. This new road will provide a second means for access to facilities located at TA–22; the existing TA–22 access road will be restricted to emergency use. The new road will correct traffic safety hazards associated with use of the existing TA–22 access road. The area surrounding TA–22 and TA–8 is forested and having a secondary access road to the TA–22 facilities is an important fire safety measure. Construction of the road will commence in fiscal year 2003 and be completed in less than 12 months.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), NNSA has prepared a floodplain/wetland assessment for this action, which is available by contacting Elizabeth Withers at the previously identified addresses, phone and facsimile numbers. The floodplain/wetland assessment is available for review at the DOE Reading Room at the Los Alamos Outreach Center, 1619 Central Avenue, Los Alamos, NM 878544; and the DOE Reading Room at the Zimmerman Library, University of New Mexico, Albuquerque, NM 87131. The NNSA will publish a floodplain statement of findings for this project in the **Federal Register** no sooner than April 17, 2002.

Issued in Los Alamos, NM on March 25, 2002.

Corey A. Cruz,

Acting Director, U. S. Department of Energy, National Nuclear Security Administration, Office of Los Alamos Site Operations.



[FR Doc. 02–7920 Filed 4–1–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Floodplain Statement of Finding for the Disposition of the Omega West Facility at Los Alamos National Laboratory, Los Alamos, NM

AGENCY: Office of Los Alamos Site Operations, National Nuclear Security Administration, Department of Energy.

ACTION: Floodplain statement of finding.

SUMMARY: This Floodplain Statement of Findings is for the disposition of the Omega West Facility from the Los Alamos Canyon floodplain at Los Alamos National Laboratory (LANL), Los Alamos, New Mexico. This Statement of Findings is prepared in accordance with 10 CFR part 1022. The Department of Energy's (DOE) National Nuclear Security Administration (NNSA), Office of Los Alamos Site Operations plans to decontaminate and demolish the Omega West Facility from the Los Alamos Canyon bottom to reduce the potential for radioactive contaminant spread and debris dissemination in the event of a major flood. The Omega West Facility (the Facility) housed an old research reactor known as the Omega West Reactor (OWR). The OWR was shut down in 1992 and the fuel rods were removed from the Facility in 1994. The Facility, originally constructed in 1944, and its associated structures are of advanced age and not in a condition suitable for renovation or reapplication. Further, they are located within a potential flood pathway. There is no foreseeable future use for the Facility, which is eligible for inclusion in the National Register of Historic Places. NNSA prepared a floodplain assessment describing the effects, and measures designed to avoid or minimize potential harm to or within the affected floodplains.

FOR FURTHER INFORMATION CONTACT: Elizabeth Withers, U. S. Department of Energy, National Nuclear Security Administration, Los Alamos Site Operations Office, 528 35th Street, Los Alamos NM 87544. Telephone (505) 667–8690, or facsimile (505) 667–9998; or electronic address: *ewithers@doeal.gov*. For Further Information on General DOE Floodplain Environmental Review Requirements, Contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119, Telephone (202) 586–4600 or (800) 472–2756; facsimile (202) 586–7031.

SUPPLEMENTARY INFORMATION:

Background

A Notice of Floodplain Involvement was published in the **Federal Register** on February 20, 2002 (67 FR 7674). This Notice announced that the Floodplain Assessment would be issued together as part of the draft Environmental Assessment (EA). The draft EA was distributed to the State, Tribes, and interested parties, and was also placed in the DOE's public Reading Rooms in Los Alamos and Albuquerque, New Mexico on March 4, 2002 for a 21-day comment period. No comments were received from the **Federal Register** notice on the proposed floodplain action.

In May 2000, the Cerro Grande Fire burned across the upper and mid-elevation zones of several watersheds, including the Los Alamos Canyon watershed. Several of the Omega Facility's small support buildings and structures were demolished and

disposed of during the first 6 months post Cerro Grande Fire. The remaining buildings, including Building 2–1 that houses the OWR vessel, and the associated structures and utilities and infrastructure, continue to be vulnerable to damage from flooding and mudflows as a result of the fire and the changed environmental conditions upstream from the Facility. While all buildings are vulnerable, the support buildings and structures are especially at risk due to their construction characteristics.

Project Description

NNSA proposes to decontaminate and demolish (D&D) the OWR vessel and the remaining Omega West Facility structures located within Los Alamos Canyon at Los Alamos National Laboratory, Los Alamos, New Mexico. The activities would consist of characterization and removal of radiological and other potential contamination in all the structures and subsequent demolition of the structures; dismantlement of the reactor vessel; segregation, size reduction, packaging, transportation, and disposal of wastes; and removal of several feet of potentially contaminated soil from beneath the reactor vessel; and recontouring and reseeding of the site. Decontamination of the Omega West Facility would include the removal of nonradiological and radiological contamination from building and structure surfaces throughout the Omega West Facility. The extent of decontamination performed would be limited to those activities required to minimize radiological and hazardous material exposure to workers, the public, and the environment. Once the Omega West Facility has been decontaminated, the buildings, structures, foundations, and other facility components would be demolished. All building and structural materials would be removed from the canyon and sent to appropriate disposal sites.

Alternatives

The draft EA considers one alternative, the Phased Removal Alternative, in addition to the Proposed Action and the No Action alternatives. Under Phased Removal Alternative, part of the Omega West Facility would be demolished in the near-term and part would be left undemolished until some point in the next 20 to 30 years. The Proposed Alternative would remove the entire Omega West Facility from the floodplain, out of the canyon, disposition the waste from the demolition, and would restore the site to a near natural condition.

Floodplain Impacts

The proposed action would benefit the floodplain. Removal of the Omega West Facility would restore floodplain values by removing obstructions to the natural flow and function of the floodplain. It would also remove a source of potential radioactive and non-radiological contamination to the downstream floodplain. Should a rain event occur during this activity, there may be some sediment movement down canyon because of the loosened condition of the soil from all the demolition and disposition.

Floodplain Mitigation

Best management practices for minimizing soil disturbance would be in place to reduce the potential for erosion. No debris would be left in the canyon bottom. There would be no vehicle maintenance or fueling within 100 feet of the stream channel. Any sediment movement from the site would be short term and temporary.

Issued in Los Alamos, New Mexico on March 19, 2002.

Corey A. Cruz,

Acting Director, U.S. Department of Energy, National Nuclear Security Administration, Office of Los Alamos Site Operations.

[FR Doc. 02–7923 Filed 4–1–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel; Meeting

AGENCY: Department of Energy.

ACTION: Amendment to notice of open meeting.

On March 5, 2002, the Department of Energy published a notice of open meeting announcing a meeting of the High Energy Physics Advisory Panel 67 FR 9962. This notice announces information on how to gain access to the upcoming High Energy Physics Advisory Panel meeting that will be held April 26–27, 2002 at Fermi National Accelerator Laboratory.

Due to security requirements at Fermi National Accelerator Laboratory (FNAL), you must enter the Laboratory via the Pine Street entrance. Please visit their website at: http://www.fnal.gov—go to the visiting Fermi web link which will give directions along with maps of the area. If you wish to be added to the visitor list ahead of time, you must contact Mary Cullen of FNAL at 630–840–3211 no later than April 19, 2002. When arriving at the Laboratory via the Pine Street entrance, the guard will direct you to the Lederman Science Center to pickup your badge. If your name is not on the list, the guard will direct you go to the Lederman Science Center to sign in the appropriate forms and then they will set up a badge for you to attend the meeting.

Also, this meeting will be webcast for those who cannot attend. The address to logon to this meeting is: *http://www-visualmedia.fnal.gov/real/HEPAP.htm.*

Issued in Washington, DC March 28, 2002.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 02–7922 Filed 4–1–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy; Coal Policy Committee of the National Coal Council Advisory Committee; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Coal Policy Committee of the National Coal Council Advisory Committee. Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) requires notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 25, 2002, at 11:00 am.

ADDRESSES: Chicago Hilton & Towers, 720 South Michigan Avenue, Chicago, IL.

FOR FURTHER INFORMATION CONTACT: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy, Washington, DC 20585. Phone: 202/586–3867.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The purpose of the Coal Policy Committee of the National Coal Council is to provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues. The purpose of this meeting is to review the Council's draft report on electricity supply and emissions control.

Tentative Agenda

- Call to order by Mr. Malcolm Thomas, Chairman, Coal Policy Committee.
- Review and discuss the Council's draft report on electricity supply and emissions control.
- Discussion of other business properly brought before the Coal Policy Committee.
- Public comment—10 minute rule.
- Adjournment.

Public Participation

The meeting is open to the public. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Margie D. Biggerstaff at the address or telephone number listed above. You must make your request for an oral statement at least five business days prior to the meeting, and reasonable provisions will be made to include the presentation on the agenda. Public comment will follow the 10 minute rule.

Transcripts

The transcript will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on March 28, 2002.

Rachel M. Samuel,

Deputy Committee Management Officer.

[FR Doc. 02–7921 Filed 4–1–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–169–003]

Alliance Pipeline L. P.; Notice of Application

March 27, 2002.

Take notice that on March 18, 2002, Alliance Pipeline L.P. (Alliance), pursuant to section 3 of the Natural Gas Act (NGA), and Subparts B and C of Part 153 of the Federal Energy Regulatory Commission's (Commission) regulations under the NGA filed an application to amend its Presidential Permit (Permit) to reflect the actual peak day capacity of the authorized border-crossing facilities between the United States and Canada. The current Permit, issued on September 17, 1998, 84 FERC 61,239 (1998), indicates a capacity of 1.632 Billion cubic feet per day (Bcfd) or 1.593 Bcfd plus fuel. The proposed amendment would have the Permit reflect actual operating experience and results of recent engineering analyses not currently reflected in the Permit, all as more fully set forth in the application, which is on file with the Commission, and open for public inspection. This filing may 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).

Alliance requests that the Commission amend the Presidential Permit to reflect the actual peak day capacity, a flow which could occur in very limited circumstances, of 1.8 Bcfd, inclusive of fuel, for the authorized border-crossing facilities. No new rates or rate schedules are proposed. The facilities will continue to provide improved access to supplies of natural gas and improve the dependability of international energy trade. No changes are proposed to the currently authorized facilities.

Questions regarding this filing should be directed to Dennis Prince, Vice President-Regulatory Strategy and Stakeholder Relations, Alliance Pipeline L.P., Old Shady Oak Road, Eden Prairie, Minnesota 55344–3252 or call (952) 983–1000.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 17, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7888 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP94–2–011]

Columbia Gas Transmission Corporation; Notice of Refund Report

March 27, 2002.

Take notice that on March 22, 2002, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Commission its Refund Report made to comply with the April 17, 1995 Settlement (Settlement) in Docket No. GP94–02, *et al.* as approved by the Commission on June 15, 1995 (Columbia Gas Transmission Corp., 71 FERC ¶ 61,337 (1995)).

On February 20, 2002 Columbia states that it made refunds, as billing credits and with checks, in the amount of $308,553.40. The refunds represent deferred tax refunds received from Trailblazer Pipeline Company and Overthrust Pipeline Company. These refunds were made pursuant to Article VIII, Section E of the Settlement using the allocation percentages shown on Appendix G, Schedule 5 of the Settlement. The refunds include interest at the FERC rate, in accordance with the Code of Federal Regulations, Subpart F, Section 154.501(d).

Columbia states that copies of its filing have been mailed to all affected customers and state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be

filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7891 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–26–000]

Hennepin Energy Resource Co., Limited Partnership; Notice of Application

March 27, 2002.

Take notice that on March 20, 2002, Hennepin Energy Resource Co., Limited Partnership (Hennepin) submitted an application pursuant to section 204(a) of the Federal Power Act seeking authorization for a blanket authorization to issue securities and assume liabilities.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before April 15, 2002. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7890 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–165–001]

Horizon Pipeline Company, L.L.C.; Notice of Withdrawal of Proposed Tariff Sheet

March 27, 2002.

Take notice that on March 18, 2002, Horizon Pipeline Company, L.L.C. (Horizon) filed with the Federal Energy Regulatory Commission (Commission) to withdraw its First Revised Sheet No. 209 from its pending February 27, 2002 filing in Docket No. RP02–165–000 (February 27th Filing).

Horizon states that one of the proposed changes in its February 27th Filing was to place responsibility for damages on the party tendering non-conforming gas. That change was reflected on First Revised Sheet No. 209 in the February 27th Filing. Subsequently, as a result of discussions between Horizon and Nicor Gas, which will be a major shipper on Horizon, Horizon agreed to withdraw First Revised Sheet No. 209 from its February 27th filing.

Horizon states that copies of the filing are being mailed to interested state commissions and all parties set out on the Commission's official service lists in Docket Nos. RP02–165 and CP00–129, *et al*.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7894 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–205–000]

K N Wattenberg Transmission Limited Liability Company; Notice of Request for Waiver

March 27, 2002.

Take notice that on March 18, 2002, K N Wattenberg Transmission Limited Liability Company (KNW) tendered for filing a petition to the Commission to waive its filing requirement contained in 18 CFR 206, *et seq*. to the extent such rules require KNW to file a FERC Form No. 2 for the calendar year 2001.

KNW states that by year end 2001, KNW neither owned nor operated facilities subject to the Commission's jurisdiction and it was no longer a natural gas company as defined in the Natural Gas Act. KNW does not believe that the intent of the Form No. 2 filing requirement would be served if the requirement is imposed on KNW for the reporting year 2001.

KNW requests that the Commission issue an order to KNW waiving the applicability of the FERC Form No. 2 filing requirement contained in 18 CFR 260 for the year 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7897 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–207–000]

K N Wattenberg Transmission Limited Liability Company; Notice of Request for Waiver

March 27, 2002.

Take notice that on March 18, 2002, K N Wattenberg Transmission Limited Liability Company (KNW) tendered for filing a petition to the Commission to waive its filing requirement contained in 18 CFR 206, *et seq.* to the extent such rules require KNW to file a FERC Form No. 567 for the calendar year 2001.

KNW states that by year end 2001, KNW neither owned nor operated facilities subject to the Commission's jurisdiction and it was no longer a natural gas company as defined in the Natural Gas Act. KNW does not believe that the intent of the Form No. 567 filing requirement would be served if the requirement is imposed on KNW for the reporting year 2001.

KNW requests that the Commission issue an order to KNW waiving the applicability of the FERC Form No. 567 filing requirement contained in 18 CFR 260.8 for the year 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7898 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–292–006]

Mississippi River Transmission Corporation; Notice of Report of Refunds

March 27, 2002.

Take notice that on March 22, 2002, Mississippi River Transmission Corporation (MRT) tendered for filing a report of refunds pursuant to § 154.501 of the Commission's Regulations, 18 CFR 154.501.

MRT states that the purpose of this filing is to report the refunds that resulted from the Period One Settlement Rates for Firm Storage Service (FSS) customers for the period October 1, 2001, the effective date of the settlement rates, through December 31, 2001.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7895 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1392–000]

New England Power Pool; Notice of Filing

March 28, 2002.

Take notice that on March 26, 2002, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials to effectuate the allocation to NEPOOL Participants of costs associated with the Load Response Program Southwest Connecticut Emergency Capability Supplement.

The Participants Committee requests an effective date of June 1, 2002 for commencement of the allocation of such costs. The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). 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.

Comment Date: April 8, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7999 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–208–000]

Southern LNG Inc.; Notice of Proposed Changes in FERC Tariff

March 28, 2002.

Take notice that on March 26, 2002, Southern LNG Inc. (Southern LNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective April 15, 2002:

First Revised Sheet No. 106

Southern LNG states that the purpose of this filing is to revise the Tariff with respect to the generic types of rate discounts that may be granted by Southern LNG without having to file an individual Service Agreement.

Southern LNG states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8003 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–209–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Tariff

March 28, 2002.

Take notice that on March 26, 2002, Southern Natural Gas Company (Southern), tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised tariff sheets pertaining to its tariff provisions containing the ''net present value'' (NPV) methodology for awarding available capacity, with an effective date of May 1, 2002:

2nd Revised Sheet No. 101A
1st Revised Sheet No. 101B
2nd Revised Sheet No. 102
1st Revised Sheet No. 102A

Southern is requesting authority: (1) To allow shippers with prearranged deals a one-time right to match any bid made in an open season with a higher NPV, and (2) to award contracts for capacity for terms of 90 days or less without holding an open season.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8004 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11959–002]

Symbiotics, LLC.; Notice of Surrender of Preliminary Permit

March 28, 2002.

Take notice that Symbiotics, LLC., permittee for the proposed Savage Rapids Dam Project, has requested the Commission to accept the voluntary surrender of its preliminary permit. The permit was issued on September 27, 2001, and would have expired on August 31, 2004. The project would have been located on the Rogue River, in Josephine and Jackson Counties, Oregon.

The permittee filed the request on March 20, 2002, and the preliminary permit for Project No. 11959 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8002 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–116–000 and CP02–117–000]

Tennessee Gas Pipeline Company; Notice of Applications

March 27, 2002.

Take notice that on March 18, 2002, Tennessee Gas Pipeline Company (Tennessee), Nine E. Greenway Plaza, Houston, Texas 77046, filed in Docket Nos. CP02–116–000 and CP02–117–000 applications pursuant to section 7(c) and section 3 of the Natural Gas Act (NGA) and Parts 157 and 153 of the Commission's regulations for: a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities, referred to as the South Texas Expansion Project, and Section 3 authorization pursuant NGA and a Presidential Permit pursuant to

Executive Order No. 10485, as amended by Executive Order No. 12038, to site, construct, operate, connect, and maintain facilities at the International Boundary between the United States and Mexico for the import and export of up to 320,000 Dth/d of natural gas between Hidalgo, County, Texas and the State of Tamaulipas, Mexico, all as more fully set forth in the application. Copies of this filing are on file with the Commission and are available for public inspection. 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).

Specifically, Tennessee proposes to construct, in Hidalgo County, Texas, a 9.28-mile, 30-inch diameter lateral (Rio Bravo Lateral) from Tennessee's Pipeline No. 409A–100 (Donna Line) to the border crossing. A measurement facility will be constructed at the intersection of the Rio Bravo Lateral and the border crossing facilities. In addition, Tennessee proposes to construct, all in Hidalgo County, 7.58 miles of 24-inch pipeline loop adjacent to the existing Donna Line, and a new compressor station consisting of 9,470 horsepower near the town of Edinburg. The project also includes modifications of Tennessee's existing Compressor Station 1, in Nueces County, Texas, and Station 9 in Victoria County, Texas to accommodate bi-directional flow through the stations. The proposed border crossing facilities consist of 1000 feet of 30-inch pipeline extending from the Rio Bravo Lateral to the midpoint of the Rio Grande River for interconnection with Gasoducto del Rio's facilities. The total estimated cost of the proposed project is estimated to be $39.8 million. Tennessee requests authorization no later than December 23, 2002.

Tennessee states that natural gas is required to fuel four electric power generation plants located in the Northern Mexico Municipalities of Rio Bravo and Valle Hermoso, Tamaulipas. Two of the plants are currently receiving service from Pemex Gas y Petroquimica Basica, but, Tennessee states that its project will be the only source of gas supply for the other two plants, one scheduled to be ready for commercial operation on April 1, 2004, and the last on April 1, 2005.

Tennessee states that it has executed binding, 15-year precedent agreements with MGI Supply, Ltd. For 130,000 Dth/d beginning June 1, 2003, El Paso Merchant Energy, LP for 95,000 Dth/d beginning April 1, 2004, and EDF International for 95,000 Dth/d beginning April 1, 2005. The shippers elected to pay negotiated rates consisting of a reservation charge of $0.0975 per Dth/d, fixed for the primary term of the agreement, and a commodity rate ranging from $0.005 to $0.050 per Dth, depending on the receipt and delivery points and the year in the life of the contract. The negotiated rates include all applicable surcharges and fuel and loss percentages. The recourse rate is the maximum applicable rate under Tennessee's Rate Schedule FT–A. Tennessee states that it is not seeking a predetermination in favor of rolled-in rate treatment, but believes that rolled-in rate treatment is appropriate because revenues will exceed the incremental cost of service in all but the first year of service.

Tennessee notes several differences between the project's transportation agreements and Tennessee's pro forma FT–A transportation agreement having to do with contemplating the construction of necessary facilities, the commencement date for service, the need for necessary authorizations, and the superceding and cancellation of the precedent agreements. In addition, Article XV of the MGI Supply Ltd. transportation agreement contains differing provisions concerning choice of law requiring that any dispute which cannot be resolved informally and which is not subject to the Commission's exclusive jurisdiction must be submitted to and resolved by binding arbitration. Tennessee submits that these differences do not constitute material deviations and that the project transportation agreements are not non-conforming agreements. If, however, the Commission finds otherwise, Tennessee requests that the Commission pre-approve the project transportation agreements.

Any questions concerning this application may be directed to Marguerite Woung-Chapman, General Counsel., Tennessee Pipeline Company, Nine E. Greenway Plaza, Suite 740, Houston, Texas 77046, call (832) 676–7329, fax (832) 676–1733.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before April 17, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a

final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7889 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–203–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

March 27, 2002.

Take notice that on March 12, 2002, Transcontinental Gas Pipe Line Corporation (Transco) filed a report reflecting the flow through of refunds received from Dominion Transmission, Inc.

On March 13, 2002, in accordance with Section 4 of its Rate Schedule LSS and Section 3 of its Rate Schedule GSS, Transco states that it refunded to its LSS and GSS customers $621,962.47 resulting from the refund of Dominion Transmission, Inc. Docket No. RP00–632–000. The refund covers the period from April 2001 to October 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 3, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7896 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–339–001, et al.]

Deseret Generation & Transmission Co-operative, Inc., et al. Electric Rate and Corporate Regulation Filings

March 27, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER02–339–001]

Take notice that on March 22, 2002, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refund report as directed by the Commission's January 23, 2002 letter order in the above-captioned proceeding.

Comment Date: April 12, 2002.

2. Delta Energy Center, LLC

[Docket No. ER02–600–001]

Take notice that on March 25, 2002, Delta Energy Center, LLC resubmitted for filing with the Federal Energy Regulatory Commission (Commission) all of its tariff sheets to reflect the correct effective date in compliance with the Commission order issued in this docket on February 13, 2002.

Comment Date: April 15, 2002.

3. Michigan Electric Transmission Company

[Docket No. ER02–924–001]

Take notice that on March 22, 2002, Michigan Electric Transmission Company, (METC) filed two executed Service Agreements for Network Integration Transmission and Network Operating Agreements (Agreements) with the Cities of Bay City and Hart (Customers) as Substitute Service Agreement Nos. 138 and 141 to replace the unexecuted agreements originally filed in this docket. Except for the fact that they have been fully executed, there are no changes between the Substitute Service Agreements being filed and those originally filed in this proceeding.

Michigan Transco is requesting an effective date of January 1, 2002 for the Agreements. Copies of the filed Agreements were served upon the Michigan Public Service Commission, ITC, the Customers and those on the service list in this proceeding.

Comment Date: April 12, 2002.

3. Sierra Pacific Power Company

[Docket No. ER02–1371–000]

Take notice that on March 25, 2002, Sierra Pacific Power Company (Sierra) tendered for filing pursuant to Section 205 of the Federal Power Act, an executed Amended and Restated Transmission Service Agreement (TSA), and an executed Amended and Restated Operating Agreement No. 2 (OA). Both agreements are between Sierra and Mt. Wheeler Power, Inc. The TSA will terminate and replace the Transmission Service Agreement, and the OA will terminate and replace the Amendment No. 1 to Operating Agreement No. 2, which were accepted for filing effective June 27, 1994. The TSA and OA are being filed at the request of Sierra and Mt. Wheeler Power, Inc.

Sierra has requested that the Commission accept the TSA and OA and permit service in accordance therewith effective May 1, 2002.

Comment Date: April 15, 2002.

4. American Electric Power Service Corporation

[Docket No. ER02–1372–000]

Take notice that on March 25, 2002, the American Electric Power Service Corporation (AEPSC) tendered for filing seven (7) Service Agreements which include Service Agreements for new customers and replacement Service Agreements for existing customers under the AEP Companies' Power Sales Tariffs. The Power Sales Tariffs were accepted for filing effective October 10, 1997 and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5 (Wholesale Tariff of the AEP Operating Companies) and FERC Electric Tariff Original Volume No. 8, Effective January 8, 1998 in Docket ER 98–542–000 (Market-Based Rate Power Sales Tariff of the CSW Operating Companies). AEPSC respectfully requests waiver of notice to permit the attached Service Agreements to be made effective on or prior to January1, 2002.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: April 15, 2002.

5. Shady Hills Power Company, L.L.C.

[Docket No. ER02–1373–000]

Take notice that on March 25, 2002, Shady Hills Power Company, L.L.C. (Shady Hills) tendered for filing with the Federal Energy Regulatory

Commission (Commission) Purchase Power Agreement (PPA) between Shady Hills and Reliant Energy Services, Inc. This filing is made pursuant to Shady Hills' authority to sell power at market-based rates under FERC Electric Tariff, Original Volume No. 1, approved by the Commission January 30, 2002, in Docket No. ER02–537–000.

Comment Date: April 15, 2002.

6. Xcel Energy Services, Inc.

[Docket No. ER02–1374–000]

Take notice that on March 25, 2002, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company (Minnesota) (hereinafter NSP), submitted for filing a Third Revision to the Service Schedule A to the Municipal Interconnection and Interchange Agreement between NSP and they City of Buffalo. XES requests that this agreement become effective on January 1, 2002.

Comment Date: April 15, 2002.

7. Xcel Energy Services, Inc.

[Docket No. ER02–1375–000]

Take notice that on March 25, 2002, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company (Minnesota) (hereinafter NSP), submitted for filing a Third Revision to the Service Schedule A to the Municipal Interconnection and Interchange Agreement between NSP and they City of Kasota. XES requests that this agreement become effective on January 1, 2002.

Comment Date: April 15, 2002.

8. Xcel Energy Services, Inc].

[Docket No. ER02–1376–000]

Take notice that on March 25, 2002, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company (Minnesota) (hereinafter NSP), submitted for filing a Third Revision to the Service Schedule A to the Municipal Interconnection and Interchange Agreement between NSP and they City of Kasson. XES requests that this agreement become effective on January 1, 2002.

Comment Date: April 15, 2002.

9. Kansas Gas & Electric Company

[Docket No. ER02–1377–000]

Take notice that on March 25, 2002, Kansas Gas & Electric Company (KGE) (d.b.a. Westar Energy) tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc. (WR) under Service Schedule M to FPC Rate Schedule No. 93 for the period from June 1, 2002 through May 31, 2003. KGE requests an effective date of June 1, 2002.

Notice of the filing has been served upon the Kansas Corporation Commission.

Comment Date: April 15, 2002.

10. ISO New England Inc].

[Docket No. ER02–1378–000]

Take notice that on March 25, 2002, ISO New England Inc. filed revisions to its Tariff for Transmission Dispatch and Power Administration Services.Copies of said filing have been served upon the New England Power Pool participants and non-participant transmission customers, as well as upon the state regulatory agencies and governors of the New England states.

Comment Date: April 15, 2002.

11. Delta Energy Center LLC

[Docket No. ER02–1379–000]

Take notice that on March 25, 2002, Delta Energy Center LLC (DEC) filed an executed power marketing agreement under which DEC will make wholesale sales of electric energy to Calpine Energy Services, L.P. at market-based rates. DEC requests privileged treatment of this agreement pursuant to 18 CFR 388.112.

Comment Date: April 15, 2002.

12. Consumers Energy Company

[Docket No. ER02–1380–000]

Take notice that on March 25, 2002 Consumers Energy Company (Consumers) tendered for filing a Service Agreement with Ameren Energy, Inc., as agent for and on behalf of Union Electric Company d/b/a Ameren UE and Ameren Energy Generating Company (Customer) under Consumers' FERC Electric Tariff No. 9 for Market Based Sales. Consumers requested that the Agreement be allowed to become effective as of March 18, 2002. Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment Date: April 15, 2002.

13. Aquila Merchant Services, Inc].

[Docket No. ER02–1381–000]

Take notice that on March 25, 2002, Aquila Merchant Services, Inc. submitted a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations, 18 CFR 35.16 (2001). Aquila Merchant Services, Inc. is succeeding to the FERC Electric Rate Schedule No. 1 of Aquila Inc., (successor by merger to Aquila Energy Marketing Corporation) effective March 1, 2002.

Comment Date: April 15, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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). 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 02–7887 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 400–033—Colorado]

Public Service Company of Colorado; Notice of Availability of Environmental Assessment

March 27, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed a proposed recreation and land management plan for the Tacoma Development of the Tacoma-Ames Project and has prepared an Environmental Assessment (EA). The Tacoma Development primarily consists of Electra Lake and the surrounding lands and is located on the Animas River, near the town of Durango, in La Plata and San Juan Counties, Colorado. Lands within the San Juan and Uncompahgre National Forests and

under the jurisdiction of the Bureau of Land Management are located with the project boundary. No Indian Tribal lands are located within the project boundary.

The proposed plan establishes the Public Service Company of Colorado's (project licensee) future management practices and guidelines for public recreation and private development at Electra Lake and the adjoining project lands. The proposed plan is intended to ensure that recreation use and private development at Electra Lake is consistent with hydroelectric operations, the terms and conditions of the project license, including the project's existing recreation plan; an existing lease agreement between the licensee and the Electra Sporting Club, a private recreation club; and all other applicable Federal, state, and local laws and regulations. The proposed plan contains provisions addressing existing and future private development, public recreation use and opportunities, and the preservation of natural resources, including scenic and environmental values, at Electra Lake and the adjoining project lands. The EA contains Commission staff's analysis of the potential environmental impacts of implementation of the proposed plan and concludes that the proposed action would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is on file with the Commission and is available for public inspection. The EA may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link—select ''P–400'' and follow the instructions (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7893 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2077–016—New Hampshire, Vermont]

USGen New England, Inc.; Notice of Availability of Final Environmental Assessment

March 28, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the Fifteen Mile Falls Hydroelectric Project, located on the Connecticut River, in Grafton County, New Hampshire and Caledonia County, Vermont, and has prepared a final Environmental Assessment (EA) for the project. The project does not occupy any Federal lands.

On November 16, 2001, the Commission staff issued an EA for the Fifteen Mile Falls Project and requested that any comments be filed within 30 days. Comments were filed by various entities and are addressed in the final EA.

The final EA contains the staff's analysis of the potential environmental effects of the Fifteen Mile Falls Project and various alternatives, including no-action, and concludes that licensing the project, with appropriate environmental measures, would not constitute a major Federal action that would significantly affect the quality of the human environment.

A copy of the final EA is available for public review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426. The final EA may also be viewed on the web at *http://www.ferc.fed.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions. Please call (202) 208–2222 for assistance.

For further information, contact William Guey-Lee at (202) 219–2808.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8001 Filed 3–29–02; 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

March 27, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Change Project Boundary.

b. *Project No:* 67–102.

c. *Date Filed:* February 4, 2002.

d. *Applicant:* Southern California Edison.

e. *Name of Project:* Big Creek 2A, 8, and Eastwood.

f. *Location:* San Joaquin River, Eastern Fresno County, California. The project occupies in part, lands of the Sierra National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a) 825(r) and secs. 799 and 801.

h. *Applicant Contact:* Mr. Lawrence D. Hamlin, Vice Presindent, Southern California Edison Company, 300 N. Lone Hill Ave., San Dimas, CA 91773, (559)893–3646.

i. *FERC Contact:* Any questions on this notice should be addressed to:Anumzziatta Purchiaroni at (202) 219–3297, or e-mail address: *anumzziatta.purchiaroni@ferc.fed.us*.

j. *Deadline for filing comments and or motions:* April 27, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–67–102) on any comments or motions filed.

k. *Description of Request:* Southern California Edison is requesting the Commission's approval to install a 1,296-foot-long overhead, 33-kV distribution line extending from the existing Kokanee 33 kV-line to the Pitman Creek Diversion Dam. The line is needed to operate refurbished slide gates, power instrumentation, heating elements and other power operated devices at the facility. The proposed modification would increase the land for right-of-way across National Forest lands by 1.1 acres. The work is scheduled to begin in August 2002, pending Commission's approval.

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 be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202)208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item (h) above.

m. *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, 385.211, 385.214. 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.

q. 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 at *http://www.ferc.fed.us/efi/doorbell.htm*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–7892 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Draft License Application and Preliminary Draft Environmental Assessment (PDEA) and Request for Preliminary Terms and Conditions

March 28, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Draft—New License.

b. *Project No.:* 201–013.

c. *Applicant:* Petersburg Municipal Power and Light (Petersburg).

d. *Name of Project:* Blind Slough Hydroelectic Project.

e. *Location:* On Crystal Creek, Mitkof Island, near the City of Petersburg, Alaska.

f. *Applicant Contacts:* Dennis C. Lewis, Superintendent, Petersburg Municipal Power and Light, P.O. Box 329, 11 South Nordic, Petersburg, Alaska 99833, 907–772–4203, email: *pmpl@alaska.net*; and Nan A. Nalder, Relicensing Manager, Acres International, 150 Nickerson St., Suite 310, Seattle, WA 98109, 206–352–5730 email: *acresnan@serv.net*.

g. *FERC Contact:* Vince Yearick, FERC, 888 First Street, NE, Room 61–11, Washington, DC 20426, (202) 219–3073, email: *vince.yearick@ferc.gov*.

h. Petersburg distributed, to interested parties and Commission staff, the PDEA and draft application on March 18, 2002.

i. With this notice we are soliciting preliminary terms, conditions, and recommendations on the PDEA and draft license application. All comments on the PDEA and draft license application should be sent to the applicant contact address above in item (f) with an optional copy sent to Commission staff at the address above in item (g). For those wishing to file comments with the Commission, an original and eight copies must be filed at the following address: Secretary, Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426. All comments should include the project name and number, and bear the heading ''Preliminary Comments,'' Preliminary Recommendations,'' ''Preliminary Terms and Conditions,'' or ''Preliminary Prescriptions.'' Comments and preliminary recommendations, terms and conditions, and prescriptions 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 *(http://www.ferc.gov)* under the ''e-Filing'' link.

j. *Comment deadline:* Any party interested in commenting must do so before May 28, 2002.

k. *Locations of the application:* A copy of the draft application and PDEA are on file with the Commission and are available for public inspection. 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). Copies are also available for inspection and reproduction at the Petersburg, Alaska address in item f above.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–8000 Filed 3–29–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7166–9]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB): Human Exposure to Particulates of High-risk Subpopulations; EPA ICR #: 1887.01; OMB Control # 2080–0058 Expiration Date: 7/31/2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 3, 2002.

ADDRESSES: National Exposure Research Laboratory; US EPA; Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Barbara Blackwell, Phone: 919–541–2886, Fax: 919–541–1111, E-mail: *blackwell.barbara@epa.gov*. For Technical Information Contact Lance Wallace., Phone: 703–648–4287, Fax: 703–648–4290, E-mail: *wallace.lance@epa.gov*.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those individuals that may be requested to take part in a study of human exposure to airborne particles.

Title: Human Exposure to Particulates in High-Risk Subpopulations, EPA ICR #: 1887.01, OMB Control Number: 2080–0058, Expires July 31, 2002.

Abstract: This information collection has been fully described in an earlier **Federal Register** notice of March 5, 1999 (63 FR 69073). Briefly, because of epidemiological studies relating daily mortality to fluctuations in outdoor particle concentrations, it has been deemed desirable by EPA and the National Academy of Sciences to determine the relationship between exposure of high-risk subpopulations and ambient concentrations of particles. Three cooperative agreements were awarded to University consortia to pursue studies of persons with respiratory and cardiovascular problems. Under the terms of the agreements, personal, indoor and

outdoor measurements of particle concentrations were to have been performed on a voluntary sample of residents of six cities. To help determine activities and conditions leading to increased exposure, each resident was to answer a questionnaire and fill out a time-activity daily diary, both of which have been approved by OMB. Two of the Universities have completed their field work, but the third will still be completing its planned field work past the expiration date of the OMB-approved questionnaire. This action is simply to extend the approval to use this questionnaire beyond the July 31, 2002 expiration date. No new burden beyond what has been already approved is planned. All responses to the questionnaire are voluntary. The information will be used to support the Agency's regulatory responsibilities under the Clean Air Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The EPA would like to solicit comments to:

(i) 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;

(ii) 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;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) 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.

Burden Statement: The cost and hour burden on respondents has been fully described in the previous **Federal Register** notice. Since this request is only for an extension without any new information collection, the cost and burden detailed previously is unchanged. Briefly, the burden on the average respondent is estimated to be about 36 minutes per day filling out the questionnaire and time-activity diary. The cost to the respondent includes electricity to operate the monitors. This cost is repaid by the government, and the respondent also receives a small monetary award to repay him or her for other costs. A total of no more than 50 respondents will be enrolled in the months following the original expiration date of July 31, 2002.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: March 21, 2002.

Jewel F. Morris,

Acting Deputy Director or the National Exposure Research Laboratory.

[FR Doc. 02–7943 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

Office of Research and Development

[FRL–7166–8]

Ambient Air Monitoring Reference and Equivalent Methods: Designation of One New Reference Method for PM_{10}, Four New Equivalent Methods for $PM_{2.5}$, and One New Reference Method for NO_2

AGENCY: Environmental Protection Agency.

ACTION: Notice of designation of reference and equivalent methods.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated one new reference method for measuring concentrations of PM_{10} in ambient air, four new equivalent methods for measuring concentrations of $PM_{2.5}$ in ambient air, and one new reference method for measuring concentrations of NO_2 in ambient air.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hunike, Human Exposure and Atmospheric Sciences Division (MD–46), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Phone: (919) 541–3737, email: *Hunike.Elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR part 53, the EPA examines various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs), as set forth in 40 CFR part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR part 58 by States and other agencies for determining attainment of the NAAQSs. The EPA hereby announces the designation of one new reference method for measuring concentrations of particulate matter as PM_{10} in ambient air, four new equivalent methods for measuring concentrations of particulate matter as $PM_{2.5}$ in ambient air, and one new reference method for measuring concentrations of NO_2 in ambient air. These designations are made under the provisions of 40 CFR part 53, as amended on July 18, 1997 (62 FR 38764).

The new reference method for PM_{10} is a manual method that is based on a particular, commercially available high volume PM_{10} sampler, as specified in appendixes J and M of 40 CFR part 50. The newly designated reference method is identified as follows:

RFPS–0202–141, ''Tisch Environmental Model TE–6070 PM_{10} High-Volume Air Sampler,'' consisting of a TE–6001 PM_{10} size-selective inlet, 8″ x 10″ filter holder, aluminum outdoor shelter, mass flow controller or volumetric flow controller with brush or brushless motor, 7 day mechanical off/on-elapsed timer or 11 day digital off/on-elapsed timer, and any of the high volume sampler variants identified as TE–6070, TE–6070–BL, TE–6070D, TE–6070D–BL, TE–6070V, TE–6070V–BL, TE–6070–DV, or TE–6070DV–BL, with or without the optional stainless steel filter media holder/filter cartridge or continuous flow/pressure recorder.

An application for a reference method determination for the method based on this Tisch sampler was received by the EPA on September 24, 1998. The sampler is available commercially from the applicant, Tisch Environmental, Inc., 145 South Miami Avenue, Village of Cleves, Ohio 45002.

The four new equivalent methods for $PM_{2.5}$ are manual monitoring methods that are based on particular, commercially available $PM_{2.5}$ samplers. The methods are identified as Class II equivalent methods, which means that they are based on an integrated, filtered air sample with gravimetric analysis,

but deviate significantly from the specifications for reference methods set forth in appendix L of 40 CFR part 50. In this case, each of the four new equivalent method samplers is nearly identical to a corresponding sampler that has been previously designated by EPA as a reference method sampler for $PM_{2.5}$. (Three of the samplers, with modest reconfiguration, have also been designated as reference methods for PM_{10}.) The significant difference is that these newly designated $PM_{2.5}$ equivalent method samplers are configured to use a specific, very sharp cut cyclone device as the principle particle size separator (fractionator) for the sampler rather than the WINS impactor used in the corresponding $PM_{2.5}$ reference method sampler. The newly designated Class II equivalent methods are identified as follows:

EQPM–0202–142, ''BGI Incorporated Models PQ200–VSCC or PQ200A–VSCC $PM_{2.5}$ Ambient Fine Particle Sampler,'' configured with a BGI VSCC™ Very Sharp Cut Cyclone particle size separator (in lieu of a WINS impactor) and operated with firmware version 3.88, 3.91, 3.89R, or 3.91R, for 24-hour continuous sample periods, in accordance with the Model PQ200/PQ200A Instruction Manual and VSCC supplemental manual and with the requirements and sample collection filters specified in 40 CFR part 50, appendix L, and with or without the optional Solar Power Supply or the optional dual-filter cassette (P/N F–21/6) and associated lower impactor housing (P/N B2027), where the upper filter is used for $PM_{2.5}$. The Model PQ200A VSCC is described as a portable audit sampler and includes a set of three carrying cases.

EQPM–0202–143, ''Rupprecht & Patashnick Co., Inc. Partisol®-FRM Model 2000 PM–2.5 FEM Air Sampler,'' configured with a BGI VSCC™ Very Sharp Cut Cyclone particle size separator (in lieu of a WINS impactor) and operated with software versions 1.102–1.202, with either R&P-specified machined or molded filter cassettes, for 24-hour continuous sample periods, in accordance with the Model 2000 Instruction Manual and VSCC supplemental manual, with the requirements and sample collection filters specified in 40 CFR part 50, appendix L, and with or without the optional insulating jacket for cold weather operation.

EQPM–0202–144, ''Rupprecht & Patashnick Co., Inc. Partisol® Model 2000 PM–2.5 FEM Audit Sampler,'' configured with a BGI VSCC™ Very Sharp Cut Cyclone particle size separator (in lieu of a WINS impactor), and operated with software (firmware) version 1.2–1.202, for 24-hour continuous sample periods at a flow rate of 16.67 liters/minute, in accordance with the Partisol® Model 2000 Operating Manual and VSCC supplemental manual and with the requirements and sample collection filters specified in 40 CFR part 50, appendix L.

EQPM–0202–145, ''Rupprecht & Patashnick Co., Inc. Partisol®-Plus Model 2025 PM–2.5 FEM Sequential Air Sampler,'' configured with a BGI VSCC'' Very Sharp Cut Cyclone particle size separator (in lieu of a WINS impactor), and operated with any software version 1.003 through 1.413, with either R&P-specified machined or molded filter cassettes, for 24-hour continuous sample periods, in accordance with the Model 2025 Instruction Manual and VSCC supplemental manual and with the requirements and sample collection filters specified in 40 CFR part 50, appendix L.

Related applications for equivalent method determinations for methods based on these BGI and Rupprecht & Patashnick samplers were received by the EPA on June 21, 2001, and November 6, 2001, (respectively) from BGI, Incorported and Rupprecht and Patashnick, Co., Inc. (R&P). The samplers are available commercially from the respective applicants, BGI Incorporated, 58 Guinan Street, Waltham, Massachusetts 02154, and Rupprecht & Patashnick Co., Inc., 25 Corporate Circle, Albany, New York 12203.

The new reference method for NO_2 is an automated method (analyzer) which utilizes the measurement principle (gas phase chemiluminescence) and calibration procedure specified in appendix F of 40 CFR part 50. The newly designated reference method is identified as follows:

RFNA–0202–146, ''Environnement S. A. Model AC32M Chemiluminescent Nitrogen Oxides Analyzer,'' operated with a full scale range of 0—500 ppb, at any temperature in the range of 10° C to 35° C, with a 5-micron PTFE sample particulate filter, with response time setting 11 (automatic response time), and with or without the following option: Internal permeation oven.

An application for a reference method determination for this method was received by the EPA on September 24, 2001. The method is available commercially from the applicant, Environnement S. A., 111, Boulevard Robespierre, 78304 Poissy, France.

Test samplers or a test analyzer representative of each of these methods have been tested by the corresponding applicants in accordance with the applicable test procedures specified in 40 CFR part 53 (as amended on July 18, 1997). After reviewing the results of those tests and other information submitted by the applicants, EPA has determined, in accordance with part 53, that each of these methods should be designated as a reference or equivalent method, as indicated. The information submitted by the applicants will be kept on file, either at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 or in an approved archive storage facility, and will be available for inspection (with advance notice) to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated reference or equivalent method, each of these methods is acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (e.g., configuration, sample period, or temperature range) specified in the applicable designation method description (see the identification of the methods above). Use of the method should also be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, EPA/600/R–94/0386'' and with the Quality Assurance Guidance Document 2.12 (available at *www.epa.gov/ttn/amtic/pmqainf.html*). Vendor modifications of a designated reference or equivalent method used for purposes of part 58 are permitted only with prior approval of the EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under section 2.8 of appendix C to 40 CFR part 58 (Modifications of Methods by Users).

In general, a method designation applies to any sampler or analyzer which is identical to the sampler or analyzer described in the application for designation. In some cases, similar samplers or analyzers manufactured prior to the designation may be upgraded or converted (*e.g.*, by minor modification or by substitution of the approved operation or instruction manual) so as to be identical to the designated method and thus achieve designated status. The manufacturer should be consulted to determine the feasibility of such upgrading or conversion.

In the particular case of the four new $PM_{2.5}$ Class II equivalent methods, a corresponding $PM_{2.5}$ (or PM_{10}) reference method sampler may be converted to the equivalent method configuration by replacement of the WINS impactor (or the PM_{10} extension tube for the PM_{10} version) with the BGI Very Sharp Cut Cyclone (VSCC™) device specified in the equivalent method description. Such a conversion may be made by the sampler owner or operator. The VSCC™ device should be purchased from the sampler manufacturer, who will also furnish installation, conversion,

operation, and maintenance instructions for the VSCC™ as well as a new equivalent method identification label to be installed on the sampler. If the conversion is to be permanent, the original designated reference method label should be removed from the sampler and replaced with the new designated equivalent method label. In a case where a converted sampler may need to be restored later to its original reference method configuration (such as for an application specifically requiring a reference method) by re-installation of the WINS impactor (or PM_{10} extension tube), the new equivalent method label may be installed on the sampler without removing the original reference method label, such that the sampler bears both labels. (Alternatively, the new label may describe multiple configurations.) In this situation, the sampler shall be clearly and conspicuously marked by the operator to indicate its current configuration (*i.e.* WINS/$PM_{2.5}$ reference method, VSCC™/$PM_{2.5}$ equivalent method, or PM_{10} reference method) so that the monitoring method is correctly identified and the correct method code is used when reporting monitoring data obtained with the sampler.

Part 53 requires that sellers of designated reference or equivalent method analyzers or samplers comply with certain conditions. These conditions are specified in 40 CFR 53.9 and are summarized below:

(a) A copy of the approved operation or instruction manual must accompany the sampler or analyzer when it is delivered to the ultimate purchaser.

(b) The sampler or analyzer must not generate any unreasonable hazard to operators or to the environment.

(c) The sampler or analyzer must function within the limits of the applicable performance specifications given in 40 CFR parts 50 and 53 for at least one year after delivery when maintained and operated in accordance with the operation or instruction manual.

(d) Any sampler or analyzer offered for sale as part of a reference or equivalent method must bear a label or sticker indicating that it has been designated as part of a reference or equivalent method in accordance with part 53 and showing its designated method identification number.

(e) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(f) An applicant who offers samplers or analyzers for sale as part of a reference or equivalent method is required to maintain a list of ultimate purchasers of such samplers or analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the method has been canceled or if adjustment of the sampler or analyzer is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(g) An applicant who modifies a sampler or analyzer previously designated as part of a reference or equivalent method is not permitted to sell the sampler or analyzer (as modified) as part of a reference or equivalent method (although it may be sold without such representation), nor to attach a designation label or sticker to the sampler or analyzer (as modified) under the provisions described above, until the applicant has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified, or until the applicant has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the sampler or analyzer as modified.

(h) An applicant who offers $PM_{2.5}$ samplers for sale as part of a reference or equivalent method is required to maintain the manufacturing facility in which the sampler is manufactured as an ISO 9001-certified facility.

(i) An applicant who offers $PM_{2.5}$ samplers for sale as part of a reference or equivalent method is required to submit annually a properly completed Product Manufacturing Checklist, as specified in part 53.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–77), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these reference and equivalent methods is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR part 58.

Questions concerning the commercial availability or technical aspects of any of these methods should be directed to the appropriate applicant.

Dated: March 21, 2002.

Jewel F. Morris,

Acting Deputy Director, National Exposure Research Laboratory.

[FR Doc. 02–7944 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7167–1]

Environmental Laboratory Advisory Board (ELAB) Meeting Dates, and Agenda

AGENCY: Environmental Protection Agency.

ACTION: Notice of Teleconference Meeting.

SUMMARY: The Environmental Protection Agency's Environmental Laboratory Advisory Board (ELAB) will have a teleconference meeting on April 17, 2002, at 11 A.M. EST to discuss the ideas and views presented at the previous ELAB meetings, as well as new business. Items to be discussed include (1) Review of NELAC mission, (2) update on recommendations to restructure the National Environmental Laboratory Accreditation Conference (NELAC) to allow it to better serve the future needs of EPA, the States, and the private sector, (3) approaches to facilitate NELAP accreditation of smaller environmental laboratories, and (4) Discussion of ELAB recommendations to EPA, ELAB is soliciting input from the public on these and other issues related to the National Environmental Laboratory Accreditation Program (NELAP) and the NELAC standards. Written comments on NELAP laboratory accreditation and the NELAC standards are encouraged and should be sent to Mr. Edward Kantor, DFO, PO Box 93478, Las Vegas NV 89193, faxed to (702) 798–2261, or emailed to *kantor.edward@epa.gov.* Members of the public are invited to listen to the teleconference calls and, time permitting, will be allowed to comment on issues discussed during this and previous ELAB meetings. Those persons interested in attending should call Edward Kantor at 702–798–2690 to obtain teleconference information. The number of lines are limited and will be distributed on a first come, first serve basis. Preference will be given to a group wishing to attend over a request from an individual.

John G. Lyon

Director, Environmental Sciences Division, National Environmental Research Laboratory.

[FR Doc. 02–7941 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34232A; FRL–6821–6]

Molinate; Availability of Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of documents that were developed as part of EPA's process for making pesticide reregistration eligibility decisions and tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the human health, environmental fate and ecological effects risk assessments and related documents for molinate. This notice also starts a 60–day public comment period for the risk assessment. Comments are to be limited to issues directly associated with molinate and raised by the risk assessment or other documents placed in the docket. By allowing access and opportunity for comment on the risk assessment, EPA is seeking to strengthen stakeholder involvement and help ensure that EPA's decisions under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply. The Agency cautions that the risk assessment for molinate is preliminary and that further refinements may be appropriate. Risk assessments reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

DATES: Comments, identified by the docket control number OPP–34232A for molinate, must be received on or before June 3, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34232A for molinate in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Wilhelmena Livingston, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8025; e-mail address: Livingston.Wilhelmena@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk assessment and other related documents for molinate, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34232A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34232A for molinate in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34232A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of

the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

EPA is making available risk assessments that have been developed as part of the Agency's public participation process for making reregistration eligibility and tolerance reassessment decisions for the organophosphate and other pesticides consistent with FFDCA, as amended by FQPA. The Agency's human health, environmental fate and ecological effects risk assessment and other related documents for molinate are available in the individual pesticide docket. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for molinate.

The Agency cautions that the molinate risk assessment is preliminary and that further refinements may be appropriate. Risk assessment documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

EPA is providing an opportunity, through this notice, for interested parties to provide written comments and input to the Agency on the risk assessment for the pesticide specified in this notice. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to this specific chemical. Comments should be limited to issues raised within the risk assessment and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the pesticide tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments should be submitted by June 3, 2002 using the methods in Unit I. of the **SUPPLEMENTARY INFORMATION.** Comments will become part of the Agency record for molinate.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: March 18, 2002.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–7946 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7166–4]

Murray Ohio Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The United States Environmental Protection Agency is proposing to enter into a settlement with Murray Inc., pursuant to 122(h) of the comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, regarding the Murray Ohio Superfund Site located in Lawrenceburg, Tennessee. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms Paula V. Batchelor, U.S. EPA region 4 (WMD–CPSB), Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta Georgia 30303, (404) 562–8887.

Written Comments may be submitted to Ms. Batchelor within thirty (30) calendar days of the date of this publication.

Dated: March 12, 2002.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 02–7942 Filed 4–1–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final fiscal year 2002 program guidelines/application solicitation for labor-management committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the final Fiscal Year 2002 Program Guidelines/Application Solicitation for the Labor-Management Cooperation program to inform the public. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations. This Solicitation contains changes in the length of time for the grant budget period. No public comments were received.

FOR FURTHER INFORMATION CONTACT: Jane A. Lorber, 2026068181.

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY2002

A. Introduction

The following is the final solicitation for the Fiscal Year (FY) 2002 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978, which was initially implemented in FY81. The Act

authorizes FMCS to provide assistance in the establishment and operation of company/plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that company/plant, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a company/plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the company/plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the fore mentioned general criteria. The term ''labor'' refers to employees represented by a labor organization and covered by a formal collection bargaining agreement. These committees may be found at either the plant (company), area, industry, or public sector levels.

A plant or company committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within the focusing upon a particular city, county, contiguous multicounty, or statewide jurisdiction. An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a labor, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and managers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 2002, competition will be open to company/plant, area, private industry, and public sector committees. Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, medication of contract disputes, etc.

Required Program Elements

1. *Problem Statement*—The application should have numbered pages and discuss in detail what specific problem(s) face the company/plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the company/plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses WHY the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee will accomplish during the life of the grant. Applications that promise to provide objectives *after* a grant is awarded will receive little or not credit in this area. While a goal of ''improving communication between employers and employees'' may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in *specific* and *measurable terms.* Applicants should focus on the outcome, impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the grantee, as well as the FMCS grants program.

3. *Approach*—This section of the application specifies *HOW* the goals and objective will be accomplished. At a minimum, the following elements will be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or company/plant workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet (we require meetings at least every other month) as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees, a discussion of past efforts

and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1, 2002, as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives. An evaluation plan must be developed which briefly discusses what basic questions for issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend schedule committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under Section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws (if any), a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and *measurable* goals and objectives have been developed to address the problems/needs of the applicant.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligiblity

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third-party private non-profit entities on behalf of one of more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party, non-profit entities that can document that a major purpose or function of their organization is the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third-parties failing to meet the above criteria.

Applicants who received funding under this program in the past for committee operations are not eligible to re-apply. The only exception will be made for grantees that seek funds on behalf of an entirely different committee whose efforts are totally outside of the scope of the original grant.

D. Allocations

The FY2002 appropriation for this program anticipated to be $1.5 million, of which at least $1,000,000 available competitively for new applicants. Specific funding levels will not be established for each type of committee. The review process will be conducted in such a manner that at least two awards will be made in each category (company/plant, industry, public sector, and area), provided that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining application swill be considered according to merit without regard to category.

In addition to the competitive process identified in the preceding paragraph, FMCS will set aside a sum not to exceed thirty percent of its non-reserved appropriation to be awarded on a non-competitive basis. These funds will be used only to support applications that have been solicited by the Director of the Service and are not subject to the dollar range noted in Section E. All funds returned to FMCS from a competitive grant award may be awarded on a non-competitive basis in accordance with budgetary requirements.

FMCS reserves the right to retain up to five percent of the FY2002 appropriation to contract for program

support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants

Awards to expand existing or establish new labor-management committees will be for a period of up to 18 months. If successful progress is made during this initial budget period and all grant funds are not obligated within the specified period, these grants may be extended for up to six months. No continuation awards will be made.

The dollar range of awards is as follows:

—Up to $65,000 over a period of up to 18 months for company/plant committees or single department public sector applicants;

—Up to $125,000 per 18-month period for area, industry, and multidepartment public sector committee applicants.

Applicants are reminded that these figures *represent maximum Federal funds only.* If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources. Applicants are also strongly encouraged to consult with their local or regional FMCS field office to determine what kinds of training may be available at no cost before budgeting for such training in their applications. A list of our field leadership team and their phone numbers is included in the application kit.

F. Cash Match Requirements and Cost Allowability

All applicants must provide at least 10 percent of the total allowable project costs in cash. Matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered ''project income,'' and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as ''in-kind'' match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for committee purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in committee training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* full-time staff as an expense or match contribution. For a more complete discussion of cost allowability, applicants are encouraged to consult the FY2002 FMCS Financial and Administrative Grants Manual, which will be included in the application kit.

G. Application Submission and Review Process

The Application for Federal Assistance (SF–424) form must be signed by *both* a labor and management representative. In lieu of signing the SF–424 form representatives may type their name, title, and organization on plain bond paper with a signature line signed and dated, in accordance with block 18 of the SF–424 form. Applications must be postmarked or electronically transmitted no later than June 28, 2002. No applications or supplementary materials will be accepted after the deadline. It is the responsibility of the applicant to ensure that the U.S. Postal Service or other carrier correctly postmarks the application. An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored preliminarily by one or more Grant Review Boards. The Board(s) will recommend selected applications for rejection or further funding consideration. The Director, Labor-Management Grants Program, will finalize the scoring and selection process. The individual listed as contact person in Item 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process. Please be sure that person is available between June and September of 2002.

All FY2002 grant applicants will be notified of results and all grant awards will be made before October 1, 2002. Applications submitted after the June 28 deadline date or fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Grants Program.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. Please consult the FMCS Web site (*www.fmcs.gov*) to download forms and information.

These kits and additional information or clarification can be obtained free of charge by contacting the Federal Mediation and Conciliation Service, Labor-Management Grants Program, 2100 K Street, NW., Washington, DC 20427; or by calling 202–606–8181.

George W. Buckingham,

Deputy Director, Federal Mediation and Conciliation Service.

[FR Doc. 02–7926 Filed 4–1–02; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 16, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Nancy C. Day, Menahga, Minnesota; to acquire voting shares of Menahga Bancshares, Inc., Menahga, Minnesota, and thereby indirectly acquire voting shares of First National Bank of Menahga, Menahga, Minnesota.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. David Moorhouse, Friday Harbor, Washington; to acquire additional voting shares of San Juan Bank Holding Company, Friday Harbor, Washington, and thereby indirectly acquire voting

shares of Islanders Bank, Friday Harbor, Washington.

Board of Governors of the Federal Reserve System, March 27, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–7863 Filed 4–1–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Secretary's Advisory Committee on Regulatory Reform

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a public hearing by the Department of Health and Human Services (HHS) Secretary's Advisory Committee on Regulatory Reform. As governed by the Federal Advisory Committee Act in accordance with Section 10(a)(2), the Secretary Advisory Committee on Regulatory Reform is seeking guidance for the Department's efforts to streamline regulatory requirements. The Advisory Committee will advise and make recommendations for changes that would be beneficial in four broad areas: health care delivery, health systems operations, biomedical and health research, and the development of pharmaceuticals and other products. The Committee will review changes identified through regional public hearings, written comments from the public, and consultation with HHS staff.

All meetings and hearings of the Committee are open to the general public. During each meeting, invited witnesses will address how regulations affect health-related issues. Meeting agendas will also allow some time for public comment. Additional information on each meeting's agenda and list of participating witnesses will be posted on the Committee's Web site prior to the meetings (*http://www.regreform.hhs.gov*).

DATES: The third public hearing of the Secretary's Advisory Committee on Regulatory Reform will be held on Wednesday, April 17, 2002, from 9:00 a.m. to 5:00 p.m. and on Thursday, April 18, 2002, from 8:00 a.m. to 1:00 p.m.

ADDRESSES: The Secretary's Advisory Committee on Regulatory Reform will meet on Wednesday, April 17, 2002, in the Philadelphia Room, Ramada Plaza Suites and Conference Center, One Bigelow Square, Pittsburgh, Pennsylvania, 15219. On Thursday, April 18, 2002, the Committee will meet in the Pittsburgh Room, Ramada Plaza Suites and Conference Center, One Bigelow Square, Pittsburgh, Pennsylvania, 15219.

FOR FURTHER INFORMATION CONTACT: Christy Schmidt, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 344G, Washington, DC, 20201, (202) 401–5182.

SUPPLEMENTARY INFORMATION: The Ramada Plaza Suites and Conference Center is in compliance with the Americans with Disabilities Act. Anyone planning to attend the meeting who requires special disability-related arrangements such as sign-language interpretation should provide notice of their need by Friday, April 12, 2002. Please make any request to Michael Starkweather by phone: 301–628–3141; fax: 301–628–3101; e-mail: *mstarkweather@s-3.com*. On June 8, 2001, HHS Secretary Thompson announced a Department-wide initiative to reduce regulatory burdens in health care, to improve patient care, and to respond to the concerns of health care providers and industry, State and local Governments, and individual Americans who are affected by HHS rules. Common sense approaches and careful balancing of needs can help improve patient care. As part of this initiative, the Department is establishing the Secretary's Advisory Committee on Regulatory Reform to provide findings and recommendations regarding potential regulatory changes. These changes would enable HHS programs to reduce burdens and costs associated with departmental regulations and paperwork, while at the same time maintaining or enhancing the effectiveness, efficiency, impact, and access of HHS programs.

Dated: March 26, 2002.

William Raub,

Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 02–7831 Filed 4–1–02; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–180]

Availability of the Draft Document, Public Health Assessment Guidance Manual (Update), Public Comment Draft

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice of availability and request for public comment of the draft document, Public Health Assessment Guidance Manual (Update). The draft is a revision and update of the 1992 Public Health Assessment Guidance Manual.

SUMMARY: ATSDR is mandated to conduct public health assessments under Section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) [42 U.S.C. 9604(i)] and the Resource Conservation and Recovery Act (RCRA) [42 U.S.C. 6939a(c)].

The general procedures for the conduct of public health assessments are included in the ATSDR Final Rule on Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities (55 FR 5136, February 13, 1990, codified at 42 CFR part 90). The revision of the 1992 Guidance Manual sets forth in detail the public health assessment process as developed and modified by ATSDR since 1992 and presents the methodologies and guidelines that will be used by ATSDR staff and agents of ATSDR in conducting public health assessments. Areas emphasized in this updated guidance include community involvement, exposure assessment, and weight-of-evidence (WOE) approaches to decision making about hazards associated with sites.

Availability

The draft Public Health Assessment Guidance Manual (Update) will be available to the public on or about March 25, 2002. A 60-day public comment period will be provided for the draft manual, which will begin on the date of this publication. The close of the comment period will be indicated on the front of the draft manual. Comments received after close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for the draft manual should be sent to: Chief, Program Evaluation, Records, and Information Services Branch, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., MS E–56, Atlanta, GA 30333. Upon receipt of the request, one copy of the report will be forwarded free of charge. ATSDR reserves the right to provide only one copy of this draft document free of charge. The document may also be accessed at the ATSDR home page News section at *www.atsdr.cdc.gov*.

One copy of all comments and supporting documents should be sent to the above address by the end of the comment period noted above. All written comments and data submitted in response to this notice and the draft manual should bear the docket control number ATSDR–180.

FOR FURTHER INFORMATION CONTACT: Further information may be obtained by contacting Dr. Allan S. Susten, ATSDR (Mailstop E–32), 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 498–0007 or (toll free) 1–888–42–ATSDR, 1–888–422–8737, or Email: *asusten@cdc.gov*.

SUPPLEMENTARY INFORMATION: ATSDR is required by CERCLA to conduct public health assessments at all sites on, or proposed for inclusion on, the National Priorities List [42 U.S.C. 9604(i)(6)(A)] and may also conduct public health assessments in response to a request from the public [42 U.S.C. 9604(i)(6)(B)]. In addition, the U.S. Environmental Protection Agency (EPA) may request the conduct of a public health assessment under RCRA [42 U.S.C. 6939a(b)].

The ATSDR public health assessment is the evaluation of data and information on the release of hazardous substances into the environment in order to assess any past, current or future impact on public health and develop or recommend appropriate public health actions which could include health studies or actions needed to evaluate and mitigate or prevent human health effects.

The ATSDR public health assessment includes an analysis and statement of the public health implications posed by the site under consideration. This analysis generally involves an evaluation of relevant environmental data, the potential for exposures to substances related to the site, available toxicologic, epidemiologic and health outcome data, and community concerns associated with a site where hazardous substances have been released. The public health assessment also identifies populations living or working on or near hazardous waste sites for which more extensive public health actions or studies are indicated.

This notice announces the projected availability of the draft Public Health Assessment Guidance Manual (Update). The manual has undergone extensive internal review and will be subjected to scientific and technical review by the ATSDR Board of Scientific Counselors. ATSDR encourages the public's participation and comment on the further development of this manual.

Dated: March 27, 2002.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 02–7878 Filed 4–1–02; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Mining Occupational Safety and Health Research Grants, Program Announcement OH–02–005

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Mining Occupational Safety and Health Research Grants, PA# OH–02–005.

Times and Dates: 8:30 a.m.–9 a.m., April 9, 2002 (Open); 9:10 a.m.–5:30 p.m., April 9, 2002 (Closed); 8:30 a.m.–5:30 p.m., April 10, 2002 (Closed); 8:30 a.m.–5:30 p.m., April 11, 2002 (Closed).

Place: Parc St. Charles, 500 St. Charles Avenue & Poydras Street, New Orleans, Louisiana.

Status: Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office CDC, pursuant to Public Law 92–463.

Matters to Be Discussed: The meeting will include the review, discussion, and evaluation of applications received in response to PA# OH–02–005.

Note: Due to programmatic issues that had to be resolved, this **Federal Register** Notice is being published less than fifteen days prior to the date of the meeting.

For Further Information Contact: Gwendolyn H. Cattledge, Ph.D., Health Science Administrator, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE., M/S E74, telephone (404) 498–2508.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 27, 2002.

Alvin Hall,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 02–7874 Filed 3–28–02; 12:04 pm]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Implementation of Promoting Safe and Stable Families by Indian Tribes.

OMB No.: New Collection.

Description: The purpose of this study is to examine the ways in which Indian Tribes used funds they received under title IV–B, subpart 2 to provide services that strengthen families' abilities to care for their children. Additionally, a broad range of related child welfare issues with respect to Indian Tribes will be explored. Consistent with this approach, the research framework for this study documents and analyzes a full range of implementation issues for Promoting Safe and Stable Families (PSSF)—planning; accomplishments and changes; organization and infrastructure; related services and practices; and resource uses and allocation—over time and across the various stakeholders involved. This study also provides a historical perspective on Tribal implementation of the PSSF legislation including recent emphasis on strengthening parental relationships and promoting healthy marriages.

Respondents: Tribal Leaders, Program Managers for title IV B subpart 1 and 2 and Front Line Workers for title IV B subpart 1 and 2, Child Welfare/Human Service Collaborators, Funding Officials, and Court Officials.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Tribal Leaders	40	1	1	40
Program Managers and Front Line Workers	120	1	1	120
Funding Officials	20	1	1	20
Child Welfare/Human Service Collaborators	60	1	1	60
Court Officials	20	1	1	20

Estimated Total Annual Burden Hours: 260.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 26, 2002.

Bob Sargis,

Reports Clearance, Officer.

[FR Doc. 02–7907 Filed 4–1–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Planning, Research, and Evaluation, Grant to the University of Georgia

AGENCY: Office of Planning, Research and Evaluation, ACF, DHHS.

ACTION: Award announcement.

SUMMARY: Notice is hereby given that a noncompetitive grant award is being made to the University of Georgia to conduct a study to identify rural counties in the Southern Black Belt experience persistent poverty and to examine their social, demographic, and economic conditions.

As a Congressional setaside, this one-year project is being funded noncompetitively. The university has several facilities and resources on campus for undertaking the feasibility study. The university also will rely upon several outside sources with specialized expertise to conduct various activities related to the project. The cost of this one-year project is $250,000.

FOR FURTHER INFORMATION CONTACT: Hossein Faris, Administration for Children and Families, Office of Planning, Research And Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Phone: 202–205–4922.

Dated: March 22, 2002.

Howard Rolston,

Director, Office of Planning, Research, and Evaluation.

[FR Doc. 02–7906 Filed 4–1–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0095]

Draft Guidance for Industry on Exposure-Response Relationships: Study Design, Data Analysis, and Regulatory Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Exposure-Response Relationships: Study Design, Data Analysis, and Regulatory Applications.'' The guidance is intended to provide recommendations for sponsors of investigational new drug applications (INDs) and applicants submitting new drug applications (NDAs) or biologics license applications (BLAs) on the use of exposure-response information in the development of drugs, including therapeutic biologics.

DATES: Submit written or electronic comments on the draft guidance by June 3, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 or the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lesko, Office of Clinical Pharmacology and Biopharmaceutics, Center for Drug Evaluation and Research (HFD–850), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5690, or David Green, Center for Biologics Evaluation and Research (HFM–579), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–5349.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Exposure-Response Relationships: Study Design, Data Analysis, and

Regulatory Applications.'' This guidance provides recommendations on the use of exposure-response information in the development of drugs, including therapeutic biologics. The guidance describes: (1) The uses of exposure-response studies in regulatory decisionmaking, (2) the important considerations in exposure-response study designs to ensure valid information, (3) the strategy for prospective planning and data analyses in the exposure-response modeling process, (4) the integration of assessment of exposure-response relationships into all phases of drug development, and (5) the format and content of reports of exposure-response studies.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on study design, data analysis, and regulatory applications of exposure-response relationships. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cder/guidance/index.htm, http://www.fda.gov/cber/guidelines.htm, or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: March 25, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–7883 Filed 4–1–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Fiscal Year 2002 Competitive Cycle for the Graduate Psychology Education Program 93.191a

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for the Graduate Psychology Education Program (GPEP) for Fiscal Year 2002.

Authorizing Legislation: These applications are solicited under section 755(b)(1)(J) of the Public Health Service Act as amended, and the FY 2002 Appropriations Act, Public Law 107–116 which provides $2 million to support graduate psychology education programs to train health service psychologists in accredited psychology programs.

Purpose: Grants will be awarded to assist eligible entities in meeting the costs to plan, develop, operate, or maintain graduate psychology education programs to train health service psychologists to work with underserved populations including children, the elderly, victims of abuse, the chronically ill or disabled and in areas of emerging needs, which will foster an integrated approach to health care services and address access for underserved populations. The Graduate Psychology Education Program addresses interrelatedness of behavior and health and the critical need for integrated health care services. Funding is available to doctoral programs or doctoral internship programs as defined and accredited by the American Psychological Association (APA). Funding may not be used for post-doctoral residency programs.

Eligible Applicants: Eligible entities are accredited health profession schools, universities, and other public or private nonprofit entities. Each Graduate Psychology Education Program must be accredited by the American Psychological Association (APA). As provided in section 750, to be eligible to receive assistance, the eligible entity must use such assistance in collaboration with two or more disciplines.

Funding Preference: A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of applications. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

As provided in section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (1) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (2) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. ''High Rate'' refers to a minimum of 20 percent of graduates in academic year 1999–2000 or academic year 2000–2001, whichever is greater, who spend at least 50 percent of their worktime in clinical practice in the specified settings.

''Significant Increase in the Rate'' means that, between academic years 1999–2000 and 2000–2001, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent.

Estimated Amount of Available Funds: $1,900,000.

Estimated Number of Awards: 15–19.

Estimated Average Size of Each Award: $100,000–$130,000.

Estimated Funding Period: One year.

Application Requests, Availability, Date and Addresses: Application materials will be available for downloading via the Web on March 29, 2002. Applicants may also request a hardcopy of the application material by contacting the HRSA Grants Application Center, 901 Russell Avenue, Suite 450, Gaithersburg, Maryland, 20879, by calling at 1–877–477–2123, or by fax at 1–877–477–2345. In order to be considered for competition, applications must be received by mail or delivered to the HRSA Grants Application Center by no later than May 22, 2002. Applications received after the deadline date may be returned to the applicant and not processed.

Projected Award Date: August 30, 2002.

FOR FURTHER INFORMATION CONTACT: LCDR Young Song, Division of State, Community and Public Health, Bureau of Health Professions, HRSA, Room 8C–09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; or e-mail at *ysong@hrsa.gov.* Telephone number is (301) 443–3353.

Additional Information: A Technical Assistance Videoconference Workshop is being planned for sometime in April, 2002. Detailed information regarding this workshop will be in the application

materials, and on the HRSA and APA Web site.

Dated: March 26, 2002.

Elizabeth M. Duke,

Administrator.

[FR Doc. 02–7830 Filed 4–1–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at the following websites: *http://workplace.samhsa.gov; http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 716–429–2264

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866 / 800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Laboratory Partners, LLC, 129 East Cedar St., Newington, CT 06111, 860–696–8115 (Formerly: Hartford Hospital Toxicology Laboratory)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (Formerly: Cox Medical Centers)

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468

DrugProof, Divison of Dynacare, 543 South Hull St., Montgomery, AL 36103, 888–777–9497/334–241–0522 (Formerly: Alabama Reference Laboratories, Inc.)

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories *, 14940–123 Ave. Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, Oxford, MS 38655, 662–236–2609

Express Analytical Labs, 3405 7th Avenue, Suite 106, Marion, IA 52302, 319–377–0500

Gamma-Dynacare Medical Laboratories *, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 10788 Roselle Street, San Diego, CA 92121, 800–882–7272 (Formerly: Poisonlab, Inc.)

Laboratory Corporation of America Holdings, 1120 Stateline Road West,

Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)
Marshfield Laboratories, Forensic Toxicology Laboratory 1000 North Oak Ave. Marshfield, WI 54449, 715–389–3734/800–331–3734
MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)
Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213
MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515
Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/800–322–3361 (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.)
One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134
Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory
Pathology Associates Medical Laboratories, 110 West Cliff Drive, Spokane, WA 99204, 509–755–8991/800–541–7891x8991
PharmChem Laboratories, Inc., 4600 N. Beach, Haltom City, TX 76137, 817–605–5300, PharmChem Laboratories, Inc., Texas Division; Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372 / 800–821–3627
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152 (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405; 818–989–2520 / 800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300 / 800–999–5227
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507 / 800–279–0027
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
Universal Toxicology Laboratories (Florida), LLC, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–717–0300, 800–419–7187x419 (Formerly: Integrated Regional Laboratories, Cedars Medical Center, Department of Pathology)
Universal Toxicology Laboratories, LLC, 9930 W. Highway 80, Midland, TX 79706, 915–561–8851 / 888–953–8851
US Army Forensic Toxicology Drug Testing Laboratory, Fort Meade, Building 2490, Wilson Street, Fort George G. Meade, MD 20755–5235, 301–677–7085

The following laboratory is voluntarily withdrawing from the National Laboratory Certification Program on March 25, 2002: Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200 / 800–446–4728, (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 FR 29908–29931, June 9, 1994). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–7879 Filed 4–1–02; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4723–C–02]

Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grant Programs for Fiscal Year 2002; Correction

AGENCY: Office of the Secretary, HUD.

ACTION: Super Notice of Funding Availability (SuperNOFA) for HUD Discretionary Grant Programs; correction.

SUMMARY: On March 26, 2002, HUD published its Fiscal Year (FY) 2002 Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grant Programs. This document makes a

technical correction with respect to one of the forms that follow the General Section of the SuperNOFA.

DATES: All application due dates remain as published in the **Federal Register** on March 26, 2002.

FOR FURTHER INFORMATION CONTACT: Barbara Dorf, Office of Grants Management and Oversight, Office of Administration, Room 2182, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–0667 (this is not a toll-free number). Hearing or speech impaired persons may access this number by calling the Federal Information Relay Service at 1–800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: On March 26, 2002 (67 FR 13826), HUD published its Super Notice of Funding Availability (SuperNOFA) for HUD's Discretionary Grant Programs for Fiscal Year (FY) 2002. The FY 2002 SuperNOFA announced the availability of approximately $2.2 billion in HUD program funds covering 41 grant categories within programs operated and administered by HUD offices. This notice published in today's **Federal Register** makes a technical correction with respect to one of the forms that follows the General Section of the SuperNOFA. Specifically, this notice removes from Appendix B of the General Section the form entitled ''Grant Applicant's Status as a Religious Organization'' (HUD–424f). This form is not yet an approved information collection form and was inadvertently included. This document therefore provides notice of the removal.

Correction

General Section of SuperNOFA, Beginning at 67 FR 13826

On page 13892, HUD removes from Appendix B of the General Section of the SuperNOFA the form entitled ''Grant Applicant's Status as a Religious Organization'' (HUD–424f).

Dated: March 28, 2002.

Aaron Santa Anna,

Assistant General Counsel, Regulations Division.

[FR Doc. 02–7949 Filed 4–1–02; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

Solicitation of Public Comments on Proposed Information Quality Guidelines

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Solicitation of public comments.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is soliciting comments on information quality guidelines. OFHEO has drafted proposed information quality guidelines pursuant to Office of Management and Budget Final Guidelines issued on February 22, 2002 (67 FR 8452–8460). OFHEO's proposed guidelines ensure and maximize the quality, objectivity, utility, and integrity of information that is disseminated by the agency to the public. The proposed guidelines also provide an administrative process allowing affected individuals to seek and obtain correction of information maintained and disseminated by OFHEO that does not comply with OMB guidelines. The purpose of this notice is to solicit public comment on OFHEO's proposed information quality guidelines to help OFHEO in developing and finalizing the guidelines. The proposed guidelines are posted on OFHEO's Web site, *http://www.ofheo.gov.*

DATES: Written comments regarding OFHEO's Information Quality Guidelines due by May 2, 2002.

ADDRESSES: Send written comments to Andrew Varrieur, Chief Information Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. Alternatively, comments may also be sent by electronic mail to *infoquality@ofheo.gov.* OFHEO requests that written comments submitted in hard copy also be accompanied by an electronic version in MS Word(c) or in portable document format (PDF) on 3.5″ disk. All comments will be posted on the OFHEO Web site at: *http://www.ofheo.gov.*

FOR FURTHER INFORMATION CONTACT: Andrew Varrieur, Chief Information Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552, telephone (202) 414–8883 (not a toll free number). The telephone number for the Telecommunications Device for the Deaf is: (800) 877–8339.

Dated: March 28, 2002.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 02–8014 Filed 4–1–02; 8:45 am]

BILLING CODE 4220–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Establishment of Trinity River Adaptive Management Working Group

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of establishment.

SUMMARY: The Secretary of the Interior, after consultation with the General Services Administration, has established the Trinity River Adaptive Management Working Group (Working Group). The Working Group will provide recommendations on all aspects of the implementation of the Trinity River Restoration Program and affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River restoration efforts. The Working group replaces the Trinity River Basin Fish and Wildlife Task Force (Bureau of Reclamation) and will perform similar, although expanded, functions.

FOR FURTHER INFORMATION CONTACT: Mary Ellen Mueller, U.S. Fish and Wildlife Service, California/Nevada Operations Office, 2800 Cottage Way, Suite W2606, Sacramento, CA 95825, 916–414–6464.

SUPPLEMENTARY INFORMATION: We are publishing this notice in accordance with the requirements of the Federal Advisory Committee Act (5 U.S.C. App.) (FACA). The Secretary of the Interior certifies that she has determined that the formation of the Working Group is necessary and is in the public interest.

The Working Group will conduct its operations in accordance with the provisions of Federal Advisory Committee Act. It will report to the Secretary of the Interior through the Trinity River Management Council and will function solely as an advisory body. The Working Group will provide recommendations and advice to the Trinity Management Council on (1) the effectiveness of management actions in achieving restoration goals and alternative hypotheses for study, (2) the priority of restoration projects, (3) funding priorities, and (4) other program components.

The Secretary will appoint members who can effectively represent the varied interests associated with the Trinity River Restoration Program. Members

will represent stakeholders, Federal and State agencies, and tribes. Members will be senior representatives of their respective constituent groups with knowledge of the Trinity River Restoration Program including the Adaptive Environmental Assessment and Management Program. The Secretary will appoint Working Group members based on nominations submitted by interested parties, including but not limited to Trinity County residents, recreational and commercial fishermen, commercial and recreational boaters, power utilities, water users, forestry, grazing/ranchers, tribal interests, environmental interests, and the general public.

The Working Group will meet at least two times per year. The U.S. Fish and Wildlife Service will provide necessary support services to the Working Group. All Working Group meetings, as well as its subcommittee meetings, will be open to the public. A notice announcing each Working Group meeting will be published in the **Federal Register** at least 15 days before the date of the meeting. The public will have the opportunity to provide input at all meetings.

We expect the Working Group to continue for the duration of the Trinity River Restoration Program. Its continuation is, however, subject to biennial renewal.

Fifteen days after publication of this notice in the **Federal Register**, we will file a copy of the Working Group's charter with the Committee Management Secretariat, General Services, Administration; Committee on Environment and Public Works, United States Senate; Committee on Resources, United States House of Representatives; and the Library of Congress.

The Certification for establishment is published below.

Certification

I hereby certify that the Trinity River Adaptive Management Working Group is necessary and is in the public interest in connection with the performance of duties imposed on the Department of the Interior by Public Laws 84–386, 96–335 (Trinity River Stream Rectification Act), 98–541 and 104–143 (Trinity River Basin Fish and Wildlife Management Act of 1984, and 102–575 (The Central Valley Improvement Act). The Working Group will assist the Department of the Interior by providing advice and recommendations on all aspects of implementation of the Trinity River Restoration Program.

Dated: March 12, 2002.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 02–7957 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by May 2, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Saad E. Zara, Tucson, AZ, PRT–054471.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Henry Doorly Zoo, Omaha, NE, PRT–051012.

The applicant requests a permit to export biological samples taken from captive-born seladang (*Bos gaurus*) going to the University of Guelph, Ontario, Canada, for the purpose of scientific research. This notification covers activities conducted by the applicant over a five year period.

Applicant: Circus Tihany Spectacular, Sarasota, FL, PRT–768272.

The applicant requests the re-issuance of their permit to export, re-export and re-import captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Dr. Annalisa Berta, San Diego State University, San Diego, CA, PRT–025336.

Permit Type: Import.

Name and Number of Animals: 2 polar bear (*Ursis maritimus*) specimens.

Summary of Activity to be Authorized: The applicant requests a permit to import one male carcass and one female skull from Canada for the purpose of comparative scientific research on the cranial, dental and postcranial anatomy of polar bears.

Source of Marine Mammals: subsistence hunting.

Period of Activity: Up to one year.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Richard Wayne Fuller, Albuquerque, NM, PRT–054557.

The applicant requests a permit to import a polar bear (*Ursus maritimus*)

sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Applicant: Howard Neal Stoneback, West Bloomfield, MI, PRT–054556.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Western Hudson Bay polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: March 22, 2002.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–7968 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Jamul Indian Village 101 Acre Fee-to-Trust Transfer and Casino Project, San Diego County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), with the cooperation of the Jamul Indian Village and the National Indian Gaming Commission (NIGC), intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for the proposed 101 acre Fee-to-Trust Transfer and Casino Project in San Diego County, California. The purpose of the proposed action is to help meet the land base and economic needs of the Jamul Indian Village.

DATES: Comments on the scope and implementation of this proposal must arrive by April 22, 2002.

ADDRESSES: Mail or hand carry written comments to Ronald M. Jaeger, Regional Director, Pacific Region, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825–1846.

FOR FURTHER INFORMATION CONTACT: William Allan, (916) 978–6043.

SUPPLEMENTARY INFORMATION: The Jamul Indian Village is located in eastern San Diego County, approximately one mile south of the community of Jamul. The project area is bordered on the north by Melody Lane, on the west by vacant and residentially developed land, on the south by vacant land and on the east by State Route 94. State Route 94 provides direct access to downtown San Diego, approximately 20 miles to the west, where it intersects with Interstate 5.

The Jamul Indian Village proposes that 101 acres of land be taken into trust, that a casino be constructed on existing trust land, and that parking and other facilities supporting the casino be constructed on the 101 acre trust acquisition. The gaming facility will be managed by Lakes Kean Argovitz Resorts-California, LLC (LKAR–CA), on behalf of the tribal government, pursuant to the terms of the management agreement between the tribal government and LKAR–CA. The BIA will serve as the Lead Agency for National Environmental Policy Act compliance. The NIGC, which is responsible for approval of the gaming management contract, will be a Cooperating Agency.

The BIA released an Environmental Assessment (EA) on the proposed action for public comment on February 1, 2001. The EA was revised in response to public comment and released as a final EA, with a Finding of No Significant Impact (FONSI), on November 16, 2001. The FONSI was based on, among other factors, mitigation of potentially significant impacts to traffic on highway 94. After three parties appealed the FONSI, the BIA determined the mitigation proposed for traffic to be too provisional, hence an EIS would be required.

The BIA and NIGC propose to use the extensive public comments received during the public review of the EA as scoping comments for the EIS. Areas of environmental concern identified include, in addition to traffic, threatened and endangered species, wildlife habitat and conservation areas, wastewater disposal, air quality, and socio-economic impacts. The range of issues to be addressed may be further expanded based on comments received during the scoping process.

Authority

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR Parts 1500 through 1508), implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: March 14, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–7948 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–PB–24 1A]

OMB Approval Number 1004–0068; Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted a request to reinstate an existing approval to collect the information listed below to the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On July 31, 2001, the BLM published a notice in the **Federal Register** (66 FR 39525) requesting comments on this information collection. The comment period ended on October 1, 2001. The BLM received no comments from the public in response to that notice. You may obtain copies of the collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0068), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Cooperative Range Improvement Agreement (43 CFR 4120.3–2).

OMB Approval Number: 1004–0068.

Bureau Form Number: 4120–6.

Abstract: The Bureau of Land Management uses the information to document terms and conditions under which construction, use and maintenance of range improvements may occur.

Frequency: On occasion.

Description of Respondents: Holders of BLM-issued grazing leases and permits and cooperators.

Estimated Completion Time: 20 minutes.

Annual Responses: 600.

Application Fee Per Response: 0. There is no filing fee.

Annual Burden Hours: 200.

Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: February 11, 2002.

Michael H. Schwartz,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 02–7834 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW155133]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.A. 201 (b), and to the regulations adopted at 43 CFR 3410, all interested parties are hereby invited to participate with RAG Coal West, Inc. on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Campbell County, WY:

T. 50 N., R. 72 W., 6th P.M., Wyoming
Sec. 2: Lots 8, 9;
Sec. 3: Lots 5–12;
Sec. 4: Lots 5–7, 10–12;
Containing 531.78 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Powder River Basin Known Recoverable Coal Resource Area. The purpose of the exploration program is to obtain data to determine quantity, quality, and extent of coal located between the southern boundary of the current coal leases in the Eagle Butte Mine and the re-located Wyoming State Highway 59.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW155133): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, WY 82604.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in *The News-Record* of Gillette, WY, once each week for two consecutive weeks beginning the week of March 18, 2002, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and RAG Coal West, Inc. no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: RAG Coal West, Inc., Eagle Butte Mine, Attn: James F. Goss, P.O. Box 3040, Gillette, WY 82717, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn: Mavis Love, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: February 15, 2002.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 02–7840 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1320–EL, WYW155334]

Coal Lease Exploration License, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Invitation for Coal Exploration License.

SUMMARY: Pursuant to section 2(b) of the Mineral Leasing Act of 1920, as amended by section 4 of the Federal Coal Leasing Amendments Act of 1976, 90 Stat. 1083, 30 U.S.A. 201 (b), and to the regulations adopted at 43 CFR part 3410, all interested parties are hereby invited to participate with Bridger Coal Company on a pro rata cost sharing basis in its program for the exploration of coal deposits owned by the United States of America in the following-described lands in Sweetwater County, WY:

T. 22 N., R. 101 W., 6th P.M., Wyoming
Sec. 26: Lots 1–16;
Sec. 34: Lots 1–13, NE¼NW¼, NE¼SE¼, SW¼SE¼.
Containing 1,279.10 acres, more or less.

All of the coal in the above-described land consists of unleased Federal coal within the Rock Springs Known Recoverable Coal Resource Area. The purpose of the exploration program is to obtain information on the coal bearing seams and geologic formations in addition to obtaining the following characteristics: coal quality and quantity, Btu content, percent ash, percent moisture, percent sulfur and percent sodium data from the Fox Hills, Lance and/or Fort Union Formations.

ADDRESSES: The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan are available for review during normal business hours in the following offices (serialized under number WYW155334): Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, WY 82003; and, Bureau of Land Management, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, WY 82901.

SUPPLEMENTARY INFORMATION: This notice of invitation will be published in the *Rocket-Miner* of Rock Springs, WY, once each week for two consecutive weeks beginning the week of March 18, 2002, and in the **Federal Register**. Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management and Bridger Coal Company no later than thirty days after publication of this invitation in the **Federal Register**. The written notice should be sent to the following addresses: Bridger Coal Company, Attn: Scott M. Child, One Utah Center, Suite 2100, 201 South Main Street, Salt Lake City, UT 84140–0021, and the Bureau of Land Management, Wyoming State Office, Branch of Solid Minerals, Attn:

Julie Weaver, P.O. Box 1828, Cheyenne, WY 82003.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Dated: February 15, 2002.

Phillip C. Perlewitz,

Chief, Branch of Solid Minerals.

[FR Doc. 02–7841 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lower Snake River District Resource Advisory Council; Notice of Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Lower Snake River District Resource Advisory Council will meet in Boise. Agenda topics include subgroup reports on the OHV initiative, sage grouse and river recreation, as well as an update on the two new Resource Management Plans and other land management issues.

DATES: May 15, 2002. The meeting will begin at 9:00 AM. Public comment periods will be held after each topic. The meeting is expected to adjourn at 4:00 PM.

ADDRESSES: The meeting will be held at the Lower Snake River District Office, located at 3948 Development Avenue, Boise Idaho.

FOR FURTHER INFORMATION CONTACT: Mary Jones, Lower Snake River District Office (208–384–3305).

Dated: January 8, 2002.

Howard Hedrick,

Acting District Manager.

[FR Doc. 02–7837 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–02–1410–PG]

Alaska Resource Advisory Council; Notice of Meeting

AGENCY: Bureau of Land Management (BLM), Alaska State Office, Interior.

ACTION: Notice of meeting locations and times for the Alaska Resource Advisory Council.

SUMMARY: The Bureau of Land Management's Alaska Resource Advisory Council will meet April 25–26, 2002, and October 15–16, 2002.

The April 25–26 meeting will be held at the BLM Northern Field Office, located at 1150 University Avenue in Fairbanks. The October 15–16 meeting will be held at the Anchorage Federal Building, located at 222 W. 7th Avenue. Both meetings will start at 8:30 a.m. each morning and will run until 4 p.m. on day one and until noon on day two. All meetings are open to the public. Members of the public may present written and/or oral comments to the council at 1 p.m. on the first day of each meeting.

Primary agenda items for both meetings include land use planning starts in Alaska and results of scoping for the northwest National Petroleum Reserve—Alaska and Colville River multiple use activity plans.

SUPPLEMENTARY INFORMATION: The Alaska Resource Advisory Council meets in accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972.

Inquiries or comments should be sent to BLM External Affairs, 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271–3322 or E-mail *TeresA_McPherson@ak.blm.gov.*

Dated: February 26, 2002.

Linda S.C. Rundell,

Associate State Director.

[FR Doc. 02–7838 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–00–1020–24]

Mojave Southern Great Basin Resource Advisory Council; Notice of Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting, location and time for the Mojave Southern Great Basin Resource Advisory Council (Nevada).

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Mojave Southern Great Basin Resource Advisory Council (RAC), Nevada, will be held as indicated below. Topics for discussion will include manager's reports of field office activities; an update on the Southern Nevada Public Land Management Act of 1998; and other topics the council may raise.

All meetings are open to the public. The public may present written and/or oral comments to the council at 3 p.m. on Thursday, June 6, 2002. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations should contact Phillip Guerrero at (702) 515–5046 by May 1, 2002.

Date and Time: The RAC will meet on Thursday, June 6 and Friday June 7, 2002 at the Bureau of Land Management, Ely Field Office, 702 North Industrial Way, Ely NV. 89301–9408 from 8:30 a.m. to 4 p.m. The information phone number at the Ely Field Office is 775–289–1800.

FOR FURTHER INFORMATION CONTACT: Phillip L. Guerrero, Public Affairs Officer, BLM Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas NV 89130–2301, or by phone at (702) 515–5046.

Dated: March 11, 2002.

Phillip L. Guerrero,

Public Affairs Officer, Las Vegas Field Office.

[FR Doc. 02–7839 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–01–1020–PG]

New Mexico Resource Advisory council meeting

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Council Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, the Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). New Mexico RAC meetings are planned in conjunction with the representative of the Governor of the State of New Mexico; the Office of the Lieutenant Governor.

DATES: The meeting will be held on April 25–26, 2002, with an optional Field Trip preceding on Wednesday, April 24. The meeting will begin at 8:00 a.m. and end by 5 p.m. both days.

ADDRESS: The meeting will take place at the Roswell Field Office, 2909 W. Second, Roswell, New Mexico.

Agenda

The draft agenda for the RAC meeting on Thursday, April 25, includes agreement on the meeting agenda, any RAC comments on the draft minutes of the last RAC meeting which was held on February 28 and March 1, 2002, in Albuquerque, New Mexico, and a check-in from the RAC members. Main topics of discussion will be BLM's overview and policy on oil and gas reclamation, industry issues and practices on oil and gas reclamation, and noxious weeds in disturbed areas. The three established RAC subcommittees may have late afternoon or evening meetings on Wednesday, April 24 or on Thursday, April 25. The exact time and location of possible subcommittee meetings will be established by the chairperson of each subcommittee and be available to the public at the front desk of the Roswell Field Office on those two days. The meeting is open to the public. Starting at 11:30 a.m. on Thursday, April 25, there will be an additional 15 minute Public Comment Period for members of the public who are not able to be present to address the RAC during the regular two hour Public Comment Period on Friday, April 26, from 10 a.m to 12 noon. The RAC may reduce or extend the end time of 12:00 noon depending on the number of people wishing to address the RAC. A RAC assessment of the current meeting and development of draft agenda items and selection of a location for the next RAC meeting will take place Friday afternoon. On Friday, April 26, the ending time of the meeting may be changed depending on the work remaining for the RAC.

FOR FURTHER INFORMATION CONTACT: Theresa Herrera, New Mexico State Office, Office of External Affairs, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7517.

SUPPLEMENTARY INFORMATION: The purpose of the RAC is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Carsten F. Goff,

Acting State Director.

[FR Doc. 02–7843 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1020–PG: GP2–0119]

Notice of Meeting of John Day/Snake Resource Advisory Council

AGENCY: Prineville District, Bureau of Land Management, Interior.

ACTION: Meeting of John Day/Snake Resource Advisory Council (RAC): Pendleton, Oregon May 21, 2002.

SUMMARY: On May 21, 2002 at 9:30 a.m. there will be a meeting of the John Day/Snake RAC at the Red Lion Hotel, 304 Southeast Nye Avenue, Pendleton, Oregon. The meeting is open to the public. Public comments will be received at 1 p.m. on May 21, 2002. The following topics may be discussed by the council during this meeting: Program of work review; Counties Payment Act (1608 Act) update; Hells Canyon Subgroup update; RAC membership update; Blue Mountain Subgroup update; ICBEMP Subgroup update; Noxious Weeds Subgroup update; National Fire Plan Update; National Fire Plan update; John Day River Management Plan Update; Sage Grouse Subgroup update; a 15 minute round table for general issues.

FOR FURTHER INFORMATION CONTACT: A. Barron Bail, Bureau of Land Management, Prineville District Office, 3050 NE Third Street, Prineville, Oregon 97754. Telephone (541) 416–6700.

A. Barron Bail,

District Manager.

[FR Doc. 02–7845 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–100–6334–AA; GP2–0095]

Roseburg District Resource Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting notices for the Roseburg District Bureau of Land Management (BLM) Resource Advisory Committee under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

SUMMARY: This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Roseburg District BLM Resource Advisory Committee pursuant to Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000, Public Law 106–393 (the Act). Topics to be discussed by the Roseburg District BLM Resource Advisory Committee include operating procedures, evaluation criteria for projects, technical details for projects under Title II of the Act, facilitation needs, as well as future meeting dates.

DATES: The Roseburg Resource Advisory Committee will meet at the BLM Roseburg District Office, 777 N.W. Garden Valley Boulevard, Roseburg, Oregon 97470, 9:00 a.m. to 4:00 p.m., on April 15, 2002 and 9:00 a.m. to 4:00 p.m., on April 22, 2002.

SUPPLEMENTARY INFORMATION: Pursuant to the Act, five Resource Advisory Committees have been formed for western Oregon BLM districts that contain Oregon & California (O&C) Grant Lands and Coos Bay Wagon Road lands. The Act establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on federal lands, which have dropped dramatically over the past 10 years.

The Act creates a new mechanism for local community collaboration with federal land management activities in the selection of projects to be conducted on federal lands or that will benefit resources on federal lands using funds under Title II of the Act. The Roseburg District BLM Resource Advisory Committee consists of 15 local citizens (plus 6 alternates) representing a wide array of interests.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Roseburg District BLM Resource Advisory Committee may be obtained from E. Lynn Burkett, Public Affair Officer, Roseburg District Office, 777 Garden Valley Blvd., Roseburg, Oregon 97470, or *elynn_burkett@blm.gov,* or on the web at *www.or.blm.gov.*

Dated: January 31, 2002.

Cary Osterhaus,

Roseburg District Manager.

[FR Doc. 02–7842 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–1430–ES; WYW–146223]

Classification and Conveyance of Public Lands for Recreation and Public Purposes in Sweetwater County, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following public lands in Green River, Wyoming have been examined and found suitable for classification for conveyance to the City of Green River under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Green River intends to use the land for expansion of a landfill.

Sixth Principal Meridian, Sweetwater County, Wyoming

T. 17 N., R. 107 W.,
Section 4, lot 9.

The land described above contains 20.04 acres.

FOR FURTHER INFORMATION CONTACT: Patricia Hamilton, Rock Springs Field Office, Bureau of Land Management, 280 Highway 191 North, Rock Springs, Wyoming 82901. (307–352–0334)

SUPPLEMENTARY INFORMATION: The lands are not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest. The conveyance, when completed, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of patent issuance, including Right-of-Way Grant WYW–039247, to U.S. West Communications, for a communications line.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. A right-of-way for ditches and canals constructed by the authority of the United States.

5. The above described land has been conveyed for utilization as a solid waste disposal site. The site may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (43 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5. Although there is no indication these materials pose any significant risk to human health or the environment, future land uses should be limited to those which do not penetrate the liner or final cover of the landfill unless excavation is conducted subject to applicable State and Federal requirements.

6. The patentee shall comply with all applicable Federal and State laws, including laws dealing with the disposal, placement, or release of hazardous substances.

7. The patentee shall indemnify and hold harmless the United States against any legal liability or future costs that may arise out of any violation of such laws.

8. As a result of an investigation of the lands covered by an application the United States has determined, as of the date of the patent, that no hazardous substances are present on the property and that such determination has been certified by the appropriate State agency.

9. The land conveyed under § 2743.2 of this part shall revert to the United States unless substantially all of the lands have been used in accordance with the plan and schedule of development on or before the date five years after the date of conveyance.

10. If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and the plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon.

11. No portion of the land covered by such patent shall under any circumstance revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance.

12. The patentee, its successors or assigns, assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in this clause as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees) or property growing out of, occurring, or attributable directly or indirectly, to the disposal of solid waste on, or the release of hazardous substances from lot 9, section 4, T. 17 N., R. 107 W., 6th Principal Meridian, Wyoming, regardless of whether such claims shall be attributable to: (1) the concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States.

There will be a decrease of 20.04 Federal acres within the Rock Springs Grazing Allotment. The three AUMs associated with the 20.04 acre parcel will be canceled. Mr. Leonard Hay, on behalf of the Rock Springs Grazing Association, has signed a waiver allowing for cancellation of the three federal AUMs from this allotment.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a 45 day period from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed conveyance or classification of the lands to the Assistant Field Manager, Minerals & Lands, 280 Highway 191 North, Rock Springs, Wyoming 82901.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a landfill. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the Bureau of Land Management followed proper administrative procedures in reaching the decision; or any other factor not directly related to the suitability of the land for a landfill. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: February 1, 2002.

Ted Murphy,

Assistant Field Manager, Minerals & Lands.

[FR Doc. 02–7847 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–BJ–044B]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Chief, Branch of Geographic Services, Bureau of Land Management (BLM), California State Office, 2800 Cottage Way, Room W–1834, Sacramento, CA 95825, (916) 978–4310.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, California.

Mount Diablo Meridian, California

T. 33 N., R.7 W.,—Dependent resurvey, and metes-and-bounds survey and the subdivision of sections 2, 4, 14, 22 and 26 under (Group 974), accepted January 19, 2001 to meet certain administrative needs of the BLM, Redding Field Office.

T. 22 S., R. 36 E.,—Dependent resurvey and subdivision of section 28, under (Group 1334) accepted February 26, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 3 S., R. 16 E.,—Supplemental plat of section 11, accepted March 20, 2001, to meet certain administrative needs of the BLM, Folsom Field Office.

T 7. N., R. 26 E.,—Supplemental plat of sections 31 and 32, accepted April 9, 2001, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 7 N., R. 25 E.,—Supplemental plat of section 34 accepted April 9, 2001, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 26 S., R. 37 E.,—Supplemental plat of the Northwest quarter of section 6, accepted April 23, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 26 N., R. 8 E.,—Supplemental plat of the West half of section 9, accepted April 18, 2001, to meet certain administrative needs of BLM, Eagle Lake Field Office.

T. 5 S., R. 24 E.,—Supplemental plat of section 7, accepted April 30, 2001, to meet certain administrative needs of the BLM, Palm Springs-South Coast Field Office.

T. 45 N., R. 8 W.,—Supplemental plat of the SE quarter of section 23, SW quarter of section 24 and section 26, accepted May 3, 2001, to meet certain administrative needs of the BLM, Redding Field Office.

T 5 S., R. 26 E.,—Amended protraction diagram for unsurveyed area, accepted May 8, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 5 S., R. 27 E.,—Amended protraction diagram for unsurveyed area, accepted May 8, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 26 N., R. 17 E.,—Dependent resurvey and subdivision of sections, accepted May 31, 2001, to meet certain administrative needs of the BLM, Eagle Lake Field Office.

T. 4 S., R. 27 E.,—Amended protraction diagram of unsurveyed portion, accepted June 8, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 4 S., R. 26 E.,—Amended protraction diagram of unsurveyed area, accepted June 8, 2001, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 42 N., R 8 E.,—Dependent resurvey and subdivision of sections, accepted June 18, 2001, to meet certain administrative needs of BLM, Alturas Field Office. *T. 2 S., R 23 E.,*—Protraction Diagram , accepted June 21, 2001 to meet certain administrative needs of BLM, Folsom Field Office.

T. 4 S.,R 24 E.,—Amended protraction diagram, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield field office.

T. 2 S., R 25 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office.

T. 3 S., R 21 E.,—Protraction diagram, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office.

T. 3 S., R 24 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 3 S., R 24 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 3 S., R 22 E.,—Protraction diagram, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 3 S., R 25 E.,—Amended protraction diagram, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 26 N., R 8 E.,—Amended Supplemental plat of the West half of section 9, accepted June 21, 2001, to meet certain administrative needs of BLM, Eagle Lake Field Office.

T. 1 S., R 27 E.,—Amended protraction diagram, accepted June 21, 2001, to meet certain needs of BLM, Bishop Field Office.

T. 2 S., R 22 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office.

T. 2 S., R 21 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office.

T. 1 S., R 25 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office and Bishop Field Office.

T. 3 S., R 26 and 27 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative need of BLM, Bakersfield Field Office.

T. 4 S., R 25 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Bakersfield Field Office.

T. 1 N., R 25 E.,—Amended protraction diagram for unsurveyed area, accepted June 21, 2001, to meet certain administrative needs of BLM, Folsom Field Office and Bishop Field Office.

T. 1 S., R 28 E.,—Dependent Resurvey and subdivision of Section 1, accepted June 29, 2001, to meet certain administrative needs of BLM, Bishop Field Office.

T. 1 S., R 16 E.,—Supplemental plat of the North Half of the North East quarter of Section 30, accepted July 13, 2001, to meet certain needs of BLM, Folsom Field Office.

T. 17 S., R 29 E.,—Supplemental plat of the North Half of the South East quarter of Section 5, accepted July 26,

2001, to meet certain needs of BLM, Bakersfield Field Office.

T. 10 N., R 8 W.,—Dependent resurvey and survey, under (group 1366), accepted August 6, 2001, to meet certain administrative needs of the BLM, Ukiah Field Office.

T. 5 S., R 30 E.,—Amended Protraction Diagram, accepted August 24, 2001, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 6 N., R 30 E.,—Amended Protraction Diagram, accepted September 6, 2001, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 11 S., R 21 E.,—Dependent resurvey, metes and bounds, and subdivision of Section 6, under (Group 1322), accepted September 28, 2001, to meet certain administrative needs of the BLM, Folsom Field Office.

T. 14 N., R 9 W.,—Dependent Resurvey, Subdivision of Section 32, and informative traverse in sections 29 and 32, under (Group 1245), accepted November 30, 2001, to meet certain administrative needs of the BLM, Ukiah Field Office.

San Bernardino Meridian, California

T. 27 N., R. 1 E.,—Dependent Resurvey and metes and bounds survey of tract 37, under (group 1337), accepted January 17, 2001, to meet certain administrative needs of the NPS, Death Valley National Park.

T. 10 N., R 1 W.,—Supplemental plat of section 30, accepted March 13, 2001, to meet certain administrative needs of the BLM, Barstow Field Office.

T. 3 N., R 1 W.,—Supplemental plat of section 2, accepted July 25, 2001, to meet certain administrative needs of the BLM, Barstow Field Office.

T. 14 N., R 18 E.,—Supplemental plat of Section 30, accepted July 25, 2001, to meet certain needs of the BLM, Needle Field Office.

T. 4 N., R 1 W.,—Amended Supplemental plat of section 31, accepted October 31, 2001, to meet certain needs of the BLM, Barstow Field Office.

T. 2 N., R 4 E.,—Dependent Resurvey and Subdivision of Sections, under (group 1231) accepted November 30, 2001, to meet certain needs of the BLM, Barstow Field Office.

T. 6 N., R 15 W.,—Dependent Resurvey of a portion of the North boundary and Homestead Entry No.89, under (group 1201) accepted November 30, 2001, to meet certain needs of the BLM, Palm Springs-South Coast Field Office.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: February 21, 2002.

Lance J. Bishop,

Chief, Branch of Geographic Services.

[FR Doc. 02–7835 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–BJ] ES–50988, Group 198, Florida]

Notice of Filing of Plat of Survey; Florida

The plat of the metes-and-bounds survey of a division line in former lot 13, being the boundary between lots 19 and 20 of section 31, Township 40 South, Range 43 East, Tallahassee Meridian, Florida, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on April 15, 2002.

The survey was made at the request of the Jackson Field Office.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., April 15, 2002.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: February 13, 2002.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 02–7836 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–02–1420–BJ]

Notice of Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

New Mexico Principal Meridian, New Mexico

T. 21 N., R. 9 E., approved February 14, 2002, for Group 952 NM;
T. 23 N., R. 8 W., approved February 14, 2002, for Group 986 NM;
T. 24 N., R. 10 W., approved February 14, 2002, for Group 986 NM;
T. 9 N., R. 12 W., approved October 22, 2001, for Group 973 NM; for sections 21, 29, 30 and 31;
T. 8 N., R. 12 W., approved October 22, 2001, for Group 973 NM;
T. 9 N., R. 12 W., approved October 22, 2001, for Group 973 NM; for sections 24, 25 and 36;

Indian Meridian, Oklahoma

T. 7 N., R. 16 E., approved February 14, 2002, for Group 62 OK;
T. 7 N., R. 13 W., approved February 14, 2002, for Group 62 OK;

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: March 1, 2002.

Stephen W. Beyerlein,

Acting Chief Cadastral Surveyor for New Mexico.

[FR Doc. 02–7844 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–957–00–1420–BJ: GP02–0087]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 40 S., R. 7 E., accepted October 16, 2001.
T. 41 S., R. 4 E., accepted October 16, 2001.
T. 32 S., R. 14 W., accepted January 3, 2002.
T. 31 S., R. 12 W., accepted January 3, 2002.

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 333 SW 1st Avenue, Portland, Oregon 97204, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey, and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, (333 SW 1st Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: January 28, 2002.

Robert D. DeViney, Jr.,

Branch of Realty and Records Services.

[FR Doc. 02–7846 Filed 4–1–02; 8:45 am]

BILLING CODE 4310–33–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–922 (Final)]

Automotive Replacement Glass Windshields From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports of automotive replacement glass windshields from China, provided for in subheading 7007.21.10 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that critical circumstances do not exist with regard to those imports of the subject merchandise from China that were subject to the affirmative critical circumstances determination by the Department of Commerce.

Background

The Commission instituted this investigation on March 20, 2001, following receipt of a petition filed with the Commission and the Department of Commerce by PPG Industries, Inc., Pittsburgh, PA; Safelite Glass Corp., Columbus, OH; and Apogee Enterprises, Inc., Minneapolis, MN. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of automotive replacement glass windshields from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 23, 2001 (66 FR 53630). The hearing was held in Washington, DC on February 5, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Deanna Tanner Okun and Commissioner Jennifer A. Hillman dissenting.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on March 28, 2002. The views of the Commission are contained in USITC Publication 3494 (March 2002), entitled *Automotive Replacement Glass Windshields from China: Investigation No. 731–TA–922 (Final).*

By order of the Commission.

Issued: March 26, 2002.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–7908 Filed 4–1–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Notice of Meetings and Agenda

The regular Spring meetings of the Business Research Advisory Council and its committees will be held on April 10 and 11, 2002. All of the meetings will be held in the Conference Center of the Postal Square Building, 2 Massachusetts Avenue, NE., Washington, DC.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officials from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, April 10, 2002—Meeting Rooms 2 & 3

10:00—11:30 a.m.—Committee on Compensation and Working Conditions

1. The Employment Cost Index, how it is constructed, and current issues.
2. Ongoing research into the way benefits data are computed in the Employment Cost Index.
3. Discussion of agenda items for the Fall 2002 meeting.

1:00—2:30 p.m.—Committee on Employment and Unemployment Statistics

1. Current Employment Statistics (CES) seasonal adjustment topics:
   a. Research into using concurrent adjustment.
   b. Seasonality of the birth/death adjustment.
2. Job Openings and Labor Turnover Survey (JOLTS): progress report and discussion of data reporting issues related to hires and separations.
3. Discussion of agenda items for the Fall 2002 meeting.

3:00—4:30 p.m.—Committee on Employment Projections

1. The impact of NAICS on the 2002–2012 projection cycle.
2. Presentation of the results of the 2000–2010 projection cycle.
3. Discussion of agenda items for the Fall 2002 meeting.

Thursday—April 11, 2002—Meeting Rooms 2 & 3

8:30—10:00 a.m.—Committee on Price Indexes

1. The Committee on National Statistics report on conceptual and measurement issues in the Consumer Price Index.
2. The new Consumer Price Index based on a formula of the Superlative type.
3. Posted Web prices in a product area of the PPI.
4. Discussion of agenda items for the Fall 2002 meeting.

8:30—10:00 a.m.—Committee on Safety and Health Statistics (Concurrent Session, Meeting Room #7)

1. 2000 Survey of Occupational Injuries and Illnesses-Industry Incidence Rates and Numbers of Cases.
2. 2000 Survey of Occupational Injuries and Illnesses-Worker Demographics and Case Circumstances.
3. Survey of Respirator Use and Practices.
4. Status reports on 2001 Survey of Occupational Injuries and Illnesses and 2002 Survey of Occupational Injuries and Illnesses.
5. Injury and Illness Follow-back Surveys.
6. Injuries and Illnesses involving restricted activity only.
7. Budget status.
8. Discussion of agenda items for the Fall 2002 meeting.

10:30 a.m—12:00 p.m.—Council Meeting

1. Commissioner's remarks.
2. Chairperson's remarks.

1:30—3:00 p.m.—Committee on Productivity and Foreign Statistics

1. The impact of alternative measures of non-production and supervisory worker hours on productivity growth.
2. Productivity growth in manufacturing industries characterized by ''high tech'' workers.
3. Status report on likely new measures for service sector industries.
4. Results from updated comparative labor force series.
5. Discussion of agenda items for the Fall 2002 meeting.

The meetings are open to the public. Persons with disabilities wishing to attend these meetings as observers should contact Tracy A. Jack, Liaison, Business Research Advisory Council, at 202–691–5869, for appropriate accommodations.

Signed at Washington, DC, the 25th day of March 2002.

Deborah P. Klein,

Associate Commissioner for Publications and Special Studies.

[FR Doc. 02–7864 Filed 4–1–02; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on April 6, 2002. The meeting will begin at 9 a.m. and continue until conclusion of the Board's agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open, except that a portion of the meeting may be closed pursuant to a vote of the Board of Directors to hold an executive session. At the closed session, the Corporation's General Counsel will report to the Board on litigation to which the Corporation is or may become a party, and the Board may act on the matters reported. The closing is authorized by the relevant provisions of the Government in the Sunshine Act [5 U.S.C. 552b(c) (10)] and the corresponding provisions of the Legal Services Corporation's implementing regulation [45 CFR 1622.5(h)]. A copy of the General Counsel's Certification that the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

Open Session

1. Approval of agenda.
2. Approval of the minutes of the Board's meeting of January 19, 2002.
3. Approval of the minutes of the Executive Session of the Board's meeting of January 19, 2002.
4. Approval of the minutes of the Executive Session of the Annual Performance Review Committee meeting of January 18, 2002.
5. Chairman's Report.
6. Members' Reports.
7. Acting Inspector General's Report.
8. President's Report.
9. Consider and act on the report of the Board's Committee on Provision for the Delivery of Legal Services.
10. Consider and act on the report of the Board's Operations and Regulations Committee.
11. Consider and act on the report of the Board's Finance Committee.
12. Consider and act on changes to the Board's 2002 meeting schedule.
13. Report by the Vice President for Government Relations & Public Affairs on the launch of LSC's new Equal Justice Magazine.

Closed Session

14. Briefing [1] by the Vice President for Government Relations & Public Affairs.
15. Briefing [1] by the Acting Inspector General on the activities of the Office of Inspector General.
16. Consider and act on the Office of Legal Affairs' report on potential and pending litigation involving LSC.

Open Session

17. Consider and act on other business.
18. Public Comment.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: March 28, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–8031 Filed 3–29–02; 11:28 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Finance Committee

TIME AND DATE: The Finance Committee of the Legal Services Corporation Board of Directors will meet on April 5, 2002 The meeting will begin at 3:30 p.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.

[1] Any portion of the closed session consisting solely of staff briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to any such portion of the closed session. 5 U.S.C. 552(b)(a)(2) and (b). See also 45 CFR 1622.2 & 1622.3.

2. Approval of the minutes of the Committee's meeting of January 19, 2002.

3. Report on LSC's Consolidated Operating Budget, Expenses and Other Funds Available through February 28, 2002.

4. Consider and act on amendments to the 403(b) Thrift Plan for Employees of LSC.

5. Briefing on efforts to locate and secure new office space to house LSC.

6. Consider and act on whether to authorize the President of LSC to negotiate and enter into a lease for offices to permanently house LSC.

7. Consider and act on other business.

8. Public comment.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: March 28, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–8032 Filed 3–29–02; 11:28 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Operations & Regulations Committee

TIME AND DATE: The Operations and Regulations Committee of the Legal Services Corporation Board of Directors will meet on April 5, 2002. The meeting will begin at 1:00 p.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.

2. Approval of the minutes of the Committee's meeting of January 18, 2002.

3. Consider and act on whether to authorize the President of LSC to extend the contracts of corporate officers for six months.

4. Staff report on the status of Current Negotiated Rulemakings: 45 CFR part 1626 (Restrictions on Legal Assistance to Aliens); and 45 CFR part 1611 (Eligibility).

5. Staff report on the development and publication of grant assurances.

6. Consider and act on draft Final Rule, 45 CFR part 1639 (Welfare Reform).

7. Consider and act on Property Acquisition and Management Manual issues relating to: incorporation into LSC regulations at title 45 of the CFR; application of PAMM standards to prior acquired property; and use of recouped funds.

8. Staff report on practices relating to Corporation access to grantee records.

9. Consider and act on a protocol for access to records by LSC's Office of Compliance and Enforcement.

10. Report on internal process for resolving disputes between grantees and LSC's Office of Compliance & Enforcement.

11. Consider and act on other business.

12. Public comment.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8800.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: March 28, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–8033 Filed 3–29–02; 11:28 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors Committee on Provision for the Delivery of Legal Services

TIME AND DATE: The Committee on Provision for the Delivery of Legal Services of the Legal Services Corporation Board of Directors will meet on April 5, 2002. The meeting will begin at 9 a.m. and continue until the Committee concludes its agenda.

LOCATION: The Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.

2. Approval of the minutes of the Committee's meeting of January 18, 2002.

3. Update by Patricia Hanrahan, Special Assistant to the Vice President for Programs, on LSC's Diversity Initiative/Creation of an Action Plan.

4. Update by Robert Gross Senior Program Counsel for State Planning, on State Planning.

5. Panel Discussion on Providing High Quality Legal Services—The Important and Continuing Role of Litigation and Extended Services. Moderator—Randi Youells, Vice President for Programs. Panel Participants: Hannah Lieberman, Legal Aid Bureau of Maryland; Wilson Yellowhair, DNA-Peoples Legal Services, Inc.; Christine Luzzie, Legal Services Corporation of Iowa; Luis Jaramillo, California Rural Legal Assistance; and Jessie Nicholson, Southern Minnesota Regional Legal Services.

6. Consider and act on other business.

7. Public comment.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary of the Corporation, at (202) 336–8800.

Special Needs: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Elizabeth S. Cushing, at (202) 336–8800.

Dated: March 28, 2002.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 02–8034 Filed 3–29–02; 11:29 am]

BILLING CODE 7050–01–P

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE (NCLIS)

Sunshine Act Meeting

AGENCY: National Commission on Libraries and Information Science.

ACTION: Notice of meeting.

SUMMARY: The U.S. National Commission on Libraries and Information Science is holding an open business meeting to discuss Commission programs and administrative matters with participation by most Commissioners primarily by conference call. Topics will include discussion about the NCLIS initiative regarding the role of libraries following the September 11th terrorist attack and updates of ongoing projects.

DATE AND TIME: NCLIS Business Meeting—April 12, 2002, 10:00 a.m. until 12:00 Noon.

ADDRESSES: Conference Room, NCLIS Office, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005.

STATUS: Open meeting.

FOR FURTHER INFORMATION CONTACT: Judith Russell, Deputy Director, U.S. National Commission on Libraries and Information Science, 1110 Vermont Avenue, NW, Suite 820, Washington, DC 20005, e-mail *jrussell@nclis.gov;fax 202–606–9203; or telephone 202–606–9200.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public, subject to space availability. To make special arrangements for physically challenged persons, contact Judith Russell, Deputy Director, 1110 Vermont Avenue, NW., Suite 820, Washington, DC 20005, e-mail jrussell@nclis.gov; fax 202–606–9203; or telephone 202–606–9200.

Dated: March 28, 2002.

Robert S. Willard,

NCLIS Executive Director.

[FR Doc. 02–8030 Filed 3–29–02; 10:29 am]

BILLING CODE 7527–$$–P

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Meeting

TIME AND DATE: 9 a.m. to 12 p.m., Friday, April 12, 2002.

PLACE: The offices of the Morris K. Udall Scholarship and Excellence in National Environment Policy Foundation, 110 South Church Avenue, Suite 3350, Tucson, AZ 85701.

STATUS: This meeting will be open to the public, unless it is necessary for the Board to consider items in executive session.

MATTERS TO BE CONSIDERED: (1) A report on the U.S. Institute for Environmental Conflict Resolution; (2) a report from the Udall Center for Studies in Public Policy; (3) a report on the Native Nations Institute; (4) Program Reports; (5) a report on the Udall Archives; and (6) a report from the Management Committee.

PORTIONS OPEN TO THE PUBLIC: All sessions with the exception of the session listed below.

PORTIONS CLOSED TO THE PUBLIC: Executive session.

CONTACT PERSON FOR MORE INFORMATION: Christopher L. Helms, Executive Director, 110 South Church Avenue. Suite 3350, Tucson, AZ 85701, (520) 760–5529.

Dated: March 28, 2002.

Christopher L. Helms,

Executive Director, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and Federal Register Liaison Officer.

[FR Doc. 02–8107 Filed 3–39–02; 3:53 pm]

BILLING CODE 6820–FN–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974 Republication of Systems of Records Notices

AGENCY: National Archives and Records Administration (NARA).

ACTION: Republication of systems of records notices.

SUMMARY: The National Archives and Records Administration (NARA) has reviewed and revised all of its Privacy Act Systems of Records notices. NARA is republishing a total of 33 systems. Eleven of the systems include proposed revisions that require an advance period for public comment. The remaining 22 systems include minor corrective and administrative changes that do not meet the criteria established by the Office of Management and Budget (OMB) for either a new or altered system of records. These changes are in compliance with OMB Circular No. A–130, Appendix I. One system (NARA 10–Employee Drug Abuse/Alcoholism Files) is being deleted from the inventory of systems because NARA no longer maintains the information. NARA 10 will be reserved for future usage.

EFFECTIVE DATES: The establishment of new systems NARA 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 and the revisions to system NARA 14 will become effective without further notice on June 3, 2002, unless comments received on or before that date cause a contrary decision. If changes are made based on NARA's review of comments received, a new final notice will be published. All other revisions included in this republication are complete and accurate as of April 2, 2002.

ADDRESSES: Send comments to the Privacy Act Officer, Office of General Counsel (NGC), Room 3110, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD, 20740–6001. They may be faxed to 301–713–6040. You may also comment via the Internet to comments@NARA.GOV.

FOR FURTHER INFORMATION CONTACT: Ramona Branch Oliver, Privacy Act Officer, 301–713–6025, ext. 252 (voice) or 301–713–6040 (fax).

SUPPLEMENTARY INFORMATION: NARA last published a comprehensive set of Privacy Act notices in the **Federal Register** on May 28, 1992 (57 FR 22430). We also published changes to 3 system of records notices on March 10, 2000 (65 FR 13052). They are NARA 1 (Researcher Application Files), NARA 5 (Conference, Workshop, and Training Course Files, and NARA 6 (Mailing List Files). The notice for each the 33 system of records states the following:

- Name and the location of the record system;
- Authority for and manner of its operation;
- Categories of individuals it covers;
- Types of records that it contains;
- Sources of information in these records;
- Proposed ''routine uses'' of each system of records; and
- Business address of the NARA official who will inform interested persons of the procedures they must follow to gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act, as stated in section 2(b)(4) of the Act, is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information. NARA intends to follow these principles in transferring information to another agency or individual as a ''routine use'', including assurance that the information is relevant for the purposes for which it is transferred.

The table below identifies the system notices that were previously published and that are being republished with only minor editorial and administrative changes, and the new systems (have not been published previously).

Previously published systems	New systems (not previously published)
NARA 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 (minor editorial and administrative changes made) .	NARA 26, 27, 29, 30, 31, 32, 33 and 34.

Previously published systems	New systems (not previously published)
NARA 10 (RESERVED) (This system was previously published as the system covering drug abuse/alcoholism. It is now reserved.) .	NARA 25 (information was previously covered in the existing system, NARA 2).
NARA 14 (This system, entitled the Payroll Time and Attendance Reporting System, is changing from a paper based system to an electronic system.) .	NARA 28 (information was previously covered in the existing system, NARA 18).

Dated: March 22, 2002.

John W. Carlin,

Archivist of the United States.

Accordingly, we are republishing the systems of records notices in their entirety as follows:

NARA 1

SYSTEM NAME:

Researcher Application Files.

SYSTEM LOCATION:

Researcher application files are maintained in the following locations in the Washington, DC, area and other geographical regions. The addresses for these locations are listed in Appendix B following the NARA Notices:

(1) Customer Services Division (Washington, DC, area);

(2) Presidential libraries and projects; and

(3) Regional records services facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who apply to use original records for research in NARA facilities in the Washington, DC, area, the Presidential libraries, and the regional records services facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Researcher application files may include: researcher applications; related correspondence; and electronic records. These files may contain the following information about an individual: Name, address, telephone number, proposed research topic(s), occupation, name and address of employer/institutional affiliation, educational level and major field, expected result(s) of research, photo, researcher card number, type of records used, and other information furnished by the individual. Electronic systems may also contain additional information related to the application process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2111 note, and 2203(f)(1).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains researcher application files on individuals to: Register persons who apply to use original records for research at a NARA facility; record initial research interests of researchers; determine which records researchers may want to use; contact researchers if additional information of research interest is found or if problems with the requested records are discovered; and prepare mailing lists for sending notices of events and programs of interest to researchers, including the fundraising and related activities of the National Archives Foundation (unless individuals elect that their application information not be used for this purpose). The electronic databases serve as finding aids to the applications. Information in the system is also used by NARA staff to compile statistical and other aggregate reports regarding researcher use of records. The routine use statements A, C, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in the records may be retrieved by the name of the individual or by researcher card number.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in areas accessible only to authorized personnel of NARA. Electronic records are accessible via passwords from terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Researcher application files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For researchers who apply to use records and Nixon Presidential materials in the Washington, DC, area, the system manager for researcher application files is the Assistant Archivist for Records Services—Washington, DC (NW). For researchers who apply to use accessioned records, Presidential records, and donated historical materials in the Presidential libraries and the regional records services facilities, the system managers of researcher application files are the directors of the individual libraries and regional records services facilities. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer, whose address is listed in Appendix B after the NARA Notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in researcher application files is obtained from researchers and from NARA employees who maintain the files.

NARA 2

SYSTEM NAME:

Reference Request Files.

SYSTEM LOCATION:

Reference request files are maintained in the following locations in the Washington, DC, area and other geographical regions. The addresses for these locations are listed in Appendix B following the NARA Notices:

(1) Office of Records Services—Washington, DC;

(2) National Historical Publications and Records Commission;

(3) Presidential libraries, projects, and staffs; and

(4) Regional records services facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who request information from or access to accessioned, inactive, congressional, Presidential records, Presidential materials, and/or donated historical materials in the custody of organizational units located in the Washington, DC, area; Presidential libraries, projects, and staffs; and regional records services facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reference request files may include: Reference service slips; reference service databases; correspondence control registers and databases; and correspondence, including administrative forms used for routine inquiries and replies, between NARA staff and researchers. These files may contain some or all of the following information about an individual: Name, address, telephone number, position title, name of employer/institutional affiliation, educational background, research topic(s), field(s) of interest, identification of requested records, credit card or purchase order information, and other information furnished by the researcher.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2111 note, 2203(f)(2), and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains reference request files on individuals to: Maintain control of records being used in a research room; establish researcher accountability for records; prepare replies to researchers' reference questions; record the status of researchers' requests and NARA replies to those requests; enable future contact with researchers, if necessary; and facilitate the preparation of statistical and other aggregate reports on researcher use of records. The routine use statements A, C, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in reference request files may be retrieved by: The name of the individual; the Record Group number; or the name, social security number, or military service number of the former civilian employee/veteran whose record was the subject of the request at the National Personnel Records Center.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Reference request files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For reference request files located in organizational units in the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for Records Services—Washington, DC. For reference request files located in the National Historical Publications and Records Commission (NHPRC), the system manager is the Executive Director, NHPRC. For reference request files located in the following locations, the system manager is the director of the individual Presidential libraries, projects, and staffs; and regional records services facilities. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in reference request files is obtained from researchers and from NARA employees who maintain the files.

NARA 3

SYSTEM NAME:

Donors of Historical Materials Files

SYSTEM LOCATION:

Donors of historical materials files are maintained in the following locations in the Washington, DC, area and other geographical regions. The addresses for these locations are listed in Appendix B following the NARA Notices:

(1) Office of Records Services—Washington, DC, organizational units;

(2) Office of Presidential Libraries;

(3) Presidential libraries, projects, and staffs; and

(4) Regional records services facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include donors and potential donors of historical materials and oral history interviews to the Office of Records Services—Washington, DC; Presidential libraries, projects, and staffs; and regional records services facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system may include correspondence, deeds of gift, deposit agreements, accession files, accession cards, accession logs, inventories of museum objects, and oral history use agreements, all of which are related to the solicitation and preservation of donations and oral history interviews. These files may contain the following information about an individual: Name, address, telephone number, occupation, and other biographical data as it relates to the solicitation and donation of historical materials and oral history interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2111 and 2112.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains donors of historical materials files on individuals to: Record deeds of gift and oral history use agreements; administer the solicitation of, accessioning of, and access to historical materials; maintain control over the accessions program; and facilitate future solicitations of gifts.

NARA may disclose these records to other Federal agencies and former

presidents and their agents as NARA administers the access provisions of a deed of gift. The routine use statements A, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in donors of historical materials files may be retrieved by the name of the individual or by the accession number assigned to the donation.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Donors of historical materials files are permanent records and are transferred to the National Archives of the United States in accordance with the disposition instructions in the NARA records schedule contained in Files 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For donors of historical materials files located in organizational units in the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for Records Services—Washington, DC (NW). For donors of historical materials files located in the Office of Presidential Libraries, the system manager is the Assistant Archivist for Presidential Libraries (NL). For donors of historical materials files located in Presidential libraries, projects, and staffs, and the regional records services facilities, the system manager is the director of the individual Presidential library, project, or staff, or regional records services facility. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given above.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in donors of historical materials files may be obtained from: Donors; potential donors; NARA employees who maintain the files and handle solicitations and donations of historical materials and oral history interviews; associates and family members of donors; associates of former presidents; and published sources.

NARA 4

SYSTEM NAME:

Committee and Foundation Member Files

SYSTEM LOCATION:

Committee member files may be maintained in NARA organizational units that provide administrative support to or oversight of internal and inter-agency committees and external standards-setting and professional organizations. Committee member files may also be located in organizational units that provide administrative support to NARA's Federal advisory committees. Foundation member files for the National Archives Foundation are maintained in the Development Office in the Washington, DC, area. Foundation member files for the private foundations that support the Presidential libraries may be located at individual Presidential libraries and projects. The addresses are listed in Appendix B following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees who serve on committees and current and prospective members of NARA's Federal advisory committees, the National Archives Foundation, and foundations associated with the Presidential libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Committee and foundation member files may include correspondence, resumes, biographical statements, mailing lists, and travel documents. These files may contain the following information about an individual: Name, address, telephone number, NARA correspondence symbol, educational background, employment history, list of professional accomplishments and awards, titles of publications, and other information furnished by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains committee member files to: Review professional qualifications of prospective committee members; document committee members' travel activities related to committee business; record the participation of committee members in committee activities; and contact members about future meetings and events. NARA maintains foundation member files in order to contact members about meetings, conferences, and special events.

The routine use statements A, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in committee and foundation member files may be retrieved by the name of the individual or by the name of the committee or foundation.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Committee and foundation member files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For committee member files the system manager is the Director of the Policy and Communications Staff. For working group member files, the system manager is the Assistant Archivist for Records Services—Washington, DC (NW). For the Foundation of the National Archives member files, the system manager is the Director of the Development Staff. For foundation member files located in the Presidential libraries and projects, the system manager is the director of the individual Presidential library or project. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer, whose address is listed in Appendix B following the NARA Notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in committee, working group, and foundation member files is obtained from NARA employees, current and prospective members of Federal advisory committees, working groups, foundations, and references furnished by such persons.

NARA 5

SYSTEM NAME:

Conference, Workshop, and Training Course Files

SYSTEM LOCATION:

Conference, workshop, and training course files may be maintained in the following locations in the Washington, DC, area and other geographical regions. The addresses for these locations are listed in Appendix B following the NARA Notices: (1) Office of Records Services—Washington, DC; (2) Office of Human Resources and Information Services; (3) Presidential libraries and projects; and (4) Regional records services facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include attendees and speakers at NARA-sponsored conferences, workshops, and training courses.

CATEGORIES OF RECORDS IN THE SYSTEM:

Conference, workshop, and training course files maintained on attendees may include: Standard Forms 182, Request, Authorization, Agreement, and Certification of Training; application/registration forms; evaluations; other administrative forms; and copies of payment records. Files maintained on speakers may include correspondence, biographical statements, and resumes. These files may contain some or all of the following information about an individual: name, home address, business address, home telephone number, business telephone number, social security number, birthdate, position title, name of employer/organization, employment history, professional awards, areas of expertise, research interests, reason(s) for attendance, titles of publications, and other information furnished by the attendee or speaker.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104, 2109, and 2904.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains files on attendees and speakers to: Register attendees for conferences, workshops, training courses, and other events; contact attendees for follow-up discussions; plan, publicize, and document interest in current and future NARA-sponsored conferences, workshops, training courses, and special events; and prepare mailing lists in order to disseminate information on future events and publications of related interest. Information in the records is also used to prepare statistical and other reports on conferences, workshops, training courses, and other events sponsored by NARA.

NARA may disclose information on individuals in the files to outside organizations that co-sponsor conferences, workshops, training courses, and other events for purposes of administering the course or event. NARA may disclose information on an individual to the organization or agency that funded the individual's attendance. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in paper records may be retrieved by either the title or the date of the conference, workshop, training course, or event and thereunder by the name of the individual. Information in electronic records may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Conference, workshop, and training course files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For conference, workshop, and training course files located in the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for Records Services—Washington, DC (NW). For files located in the Office of Human Resources and Information Services, the system manager is the Assistant Archivist for Human Resources and Information Services (NH). For files in the following locations, the system manager is the director of the individual: Presidential library and project; Federal Records Centers; and regional archives. The addresses are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer, whose address is listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy

Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in the files may be obtained from speakers, attendees, and potential speakers and attendees at NARA-sponsored conferences, workshops, and training courses, and from references provided by those individuals.

NARA 6

SYSTEM NAME:

Mailing List Files.

SYSTEM LOCATION:

Mailing lists may be maintained in the following NARA locations. The addresses for these locations are listed in Appendix B following the NARA Notices:

(1) Congressional and Public Affairs Staff (NCON);

(2) National Historical Publications and Records Commission (NHPRC);

(3) Office of Records Services '' Washington, DC;

(4) Staff Development Services Branch;

(5) Acquisitions Services Division;

(6) Presidential libraries and projects;

(7) Regional records services facilities;

(8) NARA Development Staff (NDEV); and

(9) Policy and Communications Staff (NPOL).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system may include: Members of the media; members of Congress; members of the National Historical Publications and Records Commission; members of the Foundation for the National Archives; local, political, and other dignitaries; researchers and records managers; historians, archivists, librarians, documentary editors, and other professionals in related fields; educators; authors; subscribers to free and fee publications and newsletters; buyers of NARA products; vendors; and other persons with an interest in National Archives programs, exhibits, conferences, training courses, and other events.

CATEGORIES OF RECORDS IN THE SYSTEM:

In addition to names and addresses, mailing lists may include any of the following information about an individual: Home/business telephone number; position title; name of employer, organization, and/or institutional affiliation; and subscription expiration date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104, 2307 and 2904(c).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains mailing lists to generate address labels to: Disseminate mailings of NARA publications, newsletters, press releases, and announcements of meetings, conferences, workshops, training courses, public and educational programs, special events, and procurements; send invitations for exhibit openings, lectures, and other special events; and send customers updated information about NARA holdings and about methods of requesting copies of accessioned and non-current records.

The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic records from which paper records may be printed.

RETRIEVABILITY:

Information about individuals maintained in mailing lists may be retrieved by: The name of the individual; the name of an employer or institutional/organizational affiliation; the category of individuals/organizations on mailing lists; the city or zip code.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Mailing lists are periodically updated and purged of outdated information. NARA organizational units retain mailing lists for as long as the lists are needed for the purposes previously cited.

SYSTEM MANAGER(S) AND ADDRESS:

For mailing lists maintained in the previously cited locations (1) through (9), the system managers are:

(1) Director, NCON;

(2) Executive Director, NHPRC;

(3) Assistant Archivist for Records Services—Washington, DC;

(4) Assistant Archivist for Human Resources and Information Services;

(5) Assistant Archivist for Administrative Services;

(6) Directors of the individual Presidential libraries;

(7) Directors of the individual regional records services facilities;

(8) Director, NDEV; and

(9) Director, NPOL.

The addresses are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify NARA Privacy Act Officer, whose address is listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in mailing lists is obtained from individuals whose names are recorded on mailing lists for the purposes previously cited or from NARA employees who maintain the lists.

NARA 7

SYSTEM NAME:

Freedom of Information Act (FOIA) Request Files and Mandatory Review of Classified Documents Request Files

SYSTEM LOCATION:

FOIA and mandatory review request files are maintained in the following locations. The addresses for these locations are listed in Appendix B following the NARA Notices.

(1) Office of the Federal Register;

(2) Office of the Inspector General;

(3) Office of General Counsel;

(4) Office of Records Services—Washington, DC;

(5) Regional records services facilities; and

(6) Presidential libraries, projects, and staffs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who cite FOIA to request access to records and persons who request the mandatory review of security-classified materials under Executive Order 12958 or predecessor orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files for requests made under FOIA and the mandatory review provisions of Executive Order 12958 (or predecessor orders) may include: Correspondence control registers, logs, and databases; requests for access or mandatory review, appeal letters from requestors, NARA replies to original requests and appeals, and supporting documents; Certificate of Citizenship; and other administrative forms used in the process. These files may also contain information or determinations furnished by and correspondence with other Federal agencies. FOIA and mandatory review request files may contain some or all of the following information about an individual: name, address, telephone number, position title, name of employer/institutional affiliation, marital status, birthplace, birthdate, citizenship, research interests, other information provided by the requestor, and copies of documents furnished to the requestor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12958, April 17, 1995, its predecessor orders governing access to classified information, and 5 U.S.C. 552, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains FOIA and mandatory review request files on individuals to record: Requests for records under FOIA, requests for access to security-classified materials under the mandatory review provisions of Executive Order 12958 and predecessor orders, and appeals of denials of access; actions taken on requests and appeals; and the status of requests and appeals in logs and databases. The records are also used to facilitate the preparation of statistical and other reports regarding use of FOIA and the mandatory review provisions of Executive Order 12958.

NARA may disclose information in request files to agencies that have an equity in the requested records in order for those agencies to review records for possible declassification and release. The routine use statements A, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in FOIA and mandatory review request files may be retrieved by one or more of the following data elements: The name of the individual; an alphanumeric case file number; a project number assigned to the request; the Record Group number; the type of request (FOIA or mandatory review); or the name, social security number, or military service number of the former civilian employee/veteran whose record was the subject of the request at the National Personnel Records Center.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Files for requests made under FOIA and the mandatory review provisions of Executive Order 12958 and predecessor orders are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For FOIA request files and mandatory review request files, the system managers are below.

(1) For FOIA requests related to the Office of Federal Register, the system manager is the Director of the Federal Register.

(2) For FOIA request files related to records held by the Office of the Inspector General, the system manager is the Inspector General, Office of the Inspector General.

(3) For FOIA requests for NARA's operational records, the system manager is the General Counsel, Office of General Counsel.

(4) For FOIA and mandatory review request files located in organization units within the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for the Office of Records Services—Washington, DC.

(5) For FOIA request files and mandatory review request files maintained in regional record services facilities, the system manager is the director for the individual regional facility.

(6) For FOIA request files for Nixon Presidential Materials the system manager is the Assistant Archivist for Presidential Libraries. For all other Presidential libraries, projects, and staffs, the director of the library, project, or staff is the system manager. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify NARA Privacy Act Officer, whose address is listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Information in FOIA and mandatory review request files is obtained from persons who cite FOIA to request access to records, researchers who request mandatory review of security-classified records, NARA employees who maintain the files and handle FOIA and mandatory review requests and appeals, and other agencies that have reviewed the requested records.

NARA 8

SYSTEM NAME:

Restricted and Classified Records Access Authorization Files.

SYSTEM LOCATION:

Restricted and classified records access authorization files are maintained in the following locations. The addresses are listed in Appendix B following the NARA Notices.

(1) Space and Security Management Division;

(2) Office of Records Services—Washington, DC;

(3) Regional records services facilities; and

(4) Presidential libraries, projects, and staffs.

CATEGORIES OF INDIVIDUALS COVERED BY THIS SYSTEM:

Individuals covered by the system include persons who request to use agency-restricted, donor-restricted, and security-classified records or materials in the custody of organizational units located in the Washington, DC, area; regional records services facilities; and Presidential libraries, projects, and staffs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Access authorization files include applications for access to restricted and classified records, letters of authorization from sponsoring agencies, other documentation related to security clearance levels, and information in an electronic database. These files may include some or all of the following information about an individual: Name, address, telephone number, birthdate, birthplace, citizenship, social security number, occupation, name of employer/institutional affiliation, security clearance level, basis of clearance, name of sponsoring agency, field(s) of interest, intention to publish, type of publication, subject(s) of restricted or classified records to be reviewed, the expiration date for authorization to review the records, and other information furnished by the requestor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108 and 2204.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains restricted and classified records access authorization files on individuals to: Maintain a record of requests for access to restricted and classified records; authorize and control access to restricted and classified records and materials; and facilitate preparation of statistical and other reports.

NARA may disclose information in these access authorization files to other agencies that have an equity in the restricted or classified records in order for agency officials to review access authorization requests. The routine use statements A, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in restricted and classified records access authorization files may be retrieved by some or all of the following: The name of the individual, the name of the sponsoring agency, Record Group number, or collection title.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Restricted and classified records access authorization files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For access authorization files maintained by Space and Security Management Division, the system manager is the Assistant Archivist for Administrative Services (NA). For access authorization files located in organizational units in the Office of Records Services—Washington, DC, the system manager is the Assistant Archivist for Records Services—Washington, DC. For access authorization files located in the Office of Presidential Libraries and the Nixon Presidential Materials Staff, the system manager is the Assistant Archivist for Presidential Libraries. For access authorization files located in the following locations, the system manager is the director of the individual regional records services facilities, and Presidential libraries and projects. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in these files is obtained from persons who request to use restricted and classified records, NARA employees who maintain the files, employers of requestors, and sponsoring agency officials.

NARA 9

SYSTEM NAME:

Authors Files.

SYSTEM LOCATION:

Authors files are maintained in the Policy and Communications Staff, in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include authors who have submitted manuscripts for publication in Prologue: Quarterly of the National Archives and Records Administration or in other NARA publications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files on authors may include correspondence, resumes, biographical statements, and manuscript copies of articles. These records may contain some or all of the following information about an individual: Name, address, telephone number, educational background, professional experience and awards, research interests, and titles of previous publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2307.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains files on individual authors in order to: Select authors' manuscripts for publishing in Prologue: Quarterly of the National Archives and Records Administration or in other NARA publications; maintain a record of authors' manuscripts; and contact authors concerning re-publication of manuscripts and other related issues. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in authors files may be retrieved by the issue date of the publication and thereunder by the name of the individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Authors files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Director of the Policy and Communications Staff . The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in authors files is obtained from authors or their agents.

NARA 10 (RESERVED)
NARA 11

SYSTEM NAME:

Credentials and Passes.

SYSTEM LOCATION:

Records related to credentials and passes are maintained at the following locations in the Washington, DC, area and other geographical regions. The addresses are listed in Appendix B following the NARA Notices.

(1) Space and Security Management Division;

(2) Facilities and Materiel Management Services Division;

(3) Office of the Federal Register (NF);

(4) Regional records services facilities;

(5) Presidential libraries and projects; and

(6) Washington National Records Center (NWMW).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system may include NARA employees, volunteers, contractors at all NARA facilities, and employees or contractors of other Federal agencies temporarily stationed at NARA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Credentials and passes may include: Copies of official passport records; copies of identification badges; and administrative forms and information in electronic databases used to generate NARA identification badges and access cards and to issue room and stack area keys and parking space permits. Credentials and passes may contain some or all of the following information about an individual:

(1) *Official passport records:* Copies of passport application records which include: Name; photograph; name of agency (NARA); address; telephone number; social security number; position title; grade; birthdate; height; weight; color of hair and eyes; passport number; passport issue and expiration dates;

(2) *Copies of identification badges and administrative forms and information in electronic databases used to generate NARA identification badges and access cards:* Name; photograph; NARA correspondence symbol; office telephone number; social security number; position title; grade; name of agency or firm (contractors only); birthdate; height; weight; color of hair and eyes; identification/access card number; card issue and expiration dates; building locations, time zones, and reasons for required access; signatures of the individual and authorized officials; and dates of signatures;

(3) *Administrative forms and information in electronic databases used to issue room and stack area keys:* Name; NARA correspondence symbol; office telephone number; building room number/stack area; type of key issued (single door or stack master); key tag number; signatures of the individual and authorized official; and dates of signatures; and

(4) *Administrative forms used to assign parking spaces:* Name; address; office telephone number; name of agency; make, year, and license number of vehicle; signatures of carpool members; and dates of signatures.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains records on individuals in order to facilitate the issuance and control of Government passports, NARA identification badges, access cards, room and stack area keys, and parking space permits. At the National Archives at College Park, information in an electronic database is used to generate single badges that identify individuals and electronically allow individuals to enter and exit secured and non-secured areas of the building. Routine use statements A, B, C, D, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in credentials and passes may be retrieved by the name of the individual, identification card number, and/or social security number.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Credentials and passes are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers for the following types of credentials and passes are as follows:

(1) *Official passport records:* Assistant Archivist for Administrative Services (NA);

(2) *Records used for NARA identification badges and access cards for employees and volunteers in the Washington, DC, area,* for badges and access cards for contractors at the

National Archives Building and the National Archives at College Park, and for key issuance and parking control at the National Archives Building and the National Archives at College Park: Assistant Archivist for Administrative Services (NA).

(3) *Records used for NARA identification badges and access cards for contractors and for key issuance and parking control at the Washington National Records Center:* Director, NWMW.

(4) *Records used for key issuance and parking control at the Office of the Federal Register:* Director, NF.

(5) *Records used for NARA identification badges and access cards and for key issuance and parking control at the National Personnel Records Center, Presidential libraries and projects, and regional records services facilities:* Directors of the National Personnel Records Center, Presidential libraries and projects, and regional records services facilities.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in credentials and passes is obtained from individuals being issued credentials and passes from authorized issuing officials.

NARA 12

SYSTEM NAME:

Emergency Notification Files.

SYSTEM LOCATION:

Emergency notification lists are maintained in the Space and Security Management Services Division at the National Archives at College Park. Local emergency notification files are maintained in all NARA facilities nationwide. The addresses for these locations are listed in Appendix B following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees who have been designated as primary and alternate emergency contact personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Emergency notification files include lists of names of NARA officials, cover memoranda, and administrative forms. These files may contain some or all of the following information about an individual: name, correspondence symbol, home address, business and home telephone numbers, position title, and emergency assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains current directory information on designated NARA employees to contact outside of business hours in case of emergencies involving NARA facilities, including records storage areas, and to notify these employees of weather and energy emergencies that would result in the closing of Government offices. The routine use statement A, D, and F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in emergency notification files may be retrieved by the name of the individual or the facility.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel and contractors. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment. Authorized individuals may maintain copies in additional locations.

RETENTION AND DISPOSAL:

Emergency notification files are temporary records that are periodically updated and purged of outdated information. NARA organizational units retain emergency notification files for as long as the information is needed for the purposes previously cited.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for the NARA-wide and Washington, DC, area notification lists is: Assistant Archivist for Administrative Services. The system managers for local emergency notification files are the directors of the individual Federal Records Centers, Presidential libraries and projects, and regional archives. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in emergency notification files is obtained from the NARA employees whose names appear on emergency notification lists and forms.

NARA 13

SYSTEM NAME:

Defunct Agency Records.

SYSTEM LOCATION:

Defunct agency records may be located in the Washington National Records Center (WNRC) and in the regional records services facilities at the locations listed in Appendix B following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include employees of a defunct agency and those persons who may have had dealings with the agency prior to termination.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes those records of an agency whose existence has been terminated with no successor in function. This system contains those records that were maintained by a defunct agency in internal Privacy Act systems of records. Categories of personal information maintained on individuals in these records are described in the Privacy Act system notices previously published by the originating agency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2107, 2907, and 3104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

If records of a defunct agency are unscheduled, NARA may review the records during the appraisal process in order to determine the disposition of the records.

NARA may disclose the records, while providing reference service on the records, in accordance with the routine uses in the Privacy Act notices previously published by the defunct agency. The routine use statements A, F, and G, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, electronic, and microfilm records.

RETRIEVABILITY:

Information in records of a defunct agency may be retrieved by the name of the individual or by other identifier established by the defunct agency when the records were maintained by that agency.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records of a defunct agency that are appraised as temporary are destroyed in accordance with the records disposition instructions approved by the Archivist of the United States. Records of a defunct agency that are appraised as permanent are transferred to the National Archives of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers for records of defunct agencies are the directors of the regional records services facilities and the Assistant Archivist for Records Services—Washington, DC (NW). The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Upon termination of an agency with no successor in function, the agency transfers its records to the custody of NARA. Prior to termination, the agency has described record source categories in its Privacy Act system notices for agency records.

NARA 14

SYSTEM NAME:

Payroll and Time and Attendance Reporting System Records.

SYSTEM LOCATION:

Payroll and time and attendance reporting system records are located in NARA organizational units nationwide that employ timekeepers. The addresses for Washington, DC, area offices and staffs and regional facilities are listed in Appendix B following the NARA Notices. An electronic record-keeping system, the Electronic Time and Attendance Management System (ETAMS), is maintained for NARA by the General Services Administration (GSA) under a reimbursable agreement.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include former NARA employees and current full-time, part-time, and intermittent NARA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Payroll and time and attendance files may include: Standard Forms (SF) 71, Application for Leave; GSA Forms 873, Annual Attendance Record; NA Forms 3004, Intermittent Employees Attendance Record; GSA Forms T–934, Time and Attendance Record; flextime sign-in sheets; and the electronic system, the Payroll Accounting and Reporting System (PAR). These paper and electronic records may contain some or all of the following information about an individual: Name; address; correspondence symbol; telephone number; social security number; birthdate; position title; grade; hours of duty; and salary, payroll and related information (*e.g.*, withholding status, voluntary deductions, financial institution), and attendance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., 2101 through 8901 is the authority for the overall system. Specific authority for use of social security numbers is contained in Executive Order 9397, 26 CFR 31.6011(b)2, and 26 CFR 31.6109–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA and GSA maintain payroll, time and attendance reporting system records on individual NARA employees to carry out pay administration functions and attendance-related personnel management actions.

To the extent necessary, NARA and GSA may disclose information in these records to outside entities for the monitoring and documenting of grievance proceedings, EEO complaints, and adverse actions, and for conducting counseling sessions. NARA, GSA, and other NARA agents may disclose information in the files to state offices of unemployment compensation in connection with claims filed by NARA employees for unemployment compensation. NARA and GSA may disclose information in this system of records to the Office of Management and Budget in connection with the review of private relief legislation. NARA and GSA may disclose information in these records to the Office of Personnel Management for its production of summary descriptive statistics or for related work studies; while published statistics and studies do not contain individual identifiers, the selection of elements of data included in studies may be structured in a way that makes individuals identifiable by inference. The routine use statements A, B, C, D, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfiche, and electronic records.

RETRIEVABILITY:

Information in payroll, time and attendance reporting system records may be retrieved by the name of the individual or by social security number.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via

passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Payroll and time and attendance paper records are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Electronic records in PAR are temporary records whose disposition is governed by the General Records Schedules. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for the electronic system and paper records sent to the National Payroll Center as input to that system is: Chief, National Payroll Center (6BCY–N), General Services Administration, Room 1118, 1500 East Bannister Rd., Kansas City, MO 64414.

System managers for paper records maintained in NARA offices such as SF's 71 and sign-in sheets are the office heads and staff directors of individuals offices and staffs in the Washington, DC, area and the directors of the individual Presidential libraries and projects, and regional records services facilities. The system manager for unemployment compensation records is the Assistant Archivist for Administrative Services. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in payroll and time and attendance reporting system records is obtained from: current and former NARA employees themselves, timekeepers, supervisors of employees, GSA payroll specialists, and other Federal agencies for which the individual worked.

NARA 15

SYSTEM NAME:

Freelance Editor/Indexer Files.

SYSTEM LOCATION:

Freelance editor/indexer files are located in the Product Development and Distribution Branch in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include freelance editors and indexers with whom NARA has contracted for editing and indexing services or who have expressed an interest in performing such services for NARA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Freelance editor/indexer files may include correspondence, resumes, biographical statements, evaluations, examples of previous work, invoices, and certifications for payment. These records may contain some or all of the following information about an individual: Name, address, telephone number, educational background, professional experience and awards, research interests, titles of publications, and other information furnished by the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104, 2109, and 2307.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains freelance editor/indexer files on individuals to: review professional qualifications of editors and indexers; make assignments and indicate assignment completion dates; evaluate the quality of work performed during assignments; and document editing and indexing expenditures for budgetary purposes.

The routine use statements A, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information in freelance editor/indexer files may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Freelance editor/indexer files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is Assistant Archivist for Office of Records Services—Washington, DC (NW). The address is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in freelance editor/indexer files may be obtained from: Freelance editors and indexers with whom NARA has contracted to perform editing and indexing services; freelance editors and indexers who have expressed an interest in performing services for NARA; NARA employees who maintain the files; and references furnished by freelance editors and indexers.

NARA 16

SYSTEM NAME:

Library Circulation Files.

SYSTEM LOCATION:

Library circulation files are located at the National Archives Library in the Washington, DC, area and at Presidential libraries. The addresses are

listed in Appendix B following the NARA notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include all NARA employees and researchers who have borrowed books and other materials from the library collections of the National Archives Library and/or the Presidential libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Library circulation files contain the following information about an individual: Name, correspondence symbol or address, telephone number, titles and call numbers of items borrowed, and dates that the items were borrowed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains library circulation files on individuals in order to control the circulation of library books, periodicals, and other materials in NARA's library collections. The routine use statements A, F, and G, described in Appendix A following the NARA Notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in library circulation files may be retrieved by the name of an individual, by the title of the item charged out, or by the call number for the item.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Library circulation files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for library circulation files in the Washington, DC, area is the Assistant Archivist, Office of Records Services—Washington, DC (NW). The system managers for library circulation files in the Presidential libraries are the directors of the individual libraries. The addresses for the locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in library circulation files is obtained from NARA employees and researchers who borrow books and other materials from the library collections of the National Archives Library and/or the Presidential Libraries.

NARA 17

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

Grievance records are maintained in Employee Relations and Benefits Branch locations at the National Archives at College Park, MD and in St. Louis, MO.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include current and former NARA employees who have submitted grievances to NARA in accordance with Office of Personnel Management (OPM) regulations (5 CFR part 771) or in accordance with internal negotiated grievance procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grievance records may include statements of witnesses, reports of interviews and hearings, findings and recommendations of examiners, copies of the original and final decisions, and related correspondence and exhibits. These files may contain some or all of the following information about an individual: Name, address, social security number, correspondence symbol, telephone number, occupation, grade, salary information, educational background, employment history, medical information, and names of supervisors and witnesses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, and 7121; Executive Order 10577 (3 CFR 1954 through 1958); Executive Order 10987 (3 CFR 1959 through 1963).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains grievance records on individuals in order to process grievances submitted by or on behalf of NARA employees in accordance with OPM regulations or internal negotiated grievance procedures. NARA may disclose only enough information in grievance records to any source from which additional information is requested in the course of processing a grievance in order to: Identify the source to the extent necessary, inform the source of the purpose(s) of the request, and identify the type of information requested from the source. NARA may also disclose information in grievance files to officials of labor organizations recognized under the Civil Service Reform Act when the information is relevant to the officials' duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions. The routine use statements A, D, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in grievance records may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/ or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Grievance files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files

Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is Assistant Archivist for Office of Human Resources and Information Services (NH). The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records, which have been the subject of a judicial or quasi-judicial action, will be limited in scope. Review of amendment requests of these records will be restricted to determine if the record accurately documents the action of the NARA ruling on the case and will not include a review of the merits of the action, determination, or finding. NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in grievance records may be obtained from: Individuals on whom records are maintained, witnesses, NARA officials, and NARA and the General Services Administration payroll and personnel specialists.

NARA 18

SYSTEM NAME:

General Law Files.

SYSTEM LOCATION:

Records are located in the Office of the General Counsel in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include: Current and former NARA employees, other Federal agency employees, individual members of the public, witnesses in litigation, persons who have requested records under the Freedom of Information Act (FOIA) and/or the Privacy Act, persons about whom requests under FOIA and/or the Privacy Act have been made, and persons involved in litigation to which NARA is a party.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain some or all of the following information about an individual: Name, social security number, position description, grade, salary, work history, complaint, credit ratings, medical diagnoses and prognoses, and doctor's bills. The system may also contain other records such as: case history files, copies of applicable law(s), working papers of attorneys, testimony of witnesses, background investigation materials, correspondence, damage reports, contracts, accident reports, pleadings, affidavits, estimates of repair costs, invoices, litigation reports, financial data, and other data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C., Part II; 5 U.S.C., Chapter 33; 5 U.S.C. 5108, 5314–5316 and 42 U.S.C. 20003, et seq.; 5 U.S.C. 7151–7154; 5 U.S.C. 7301; 5 U.S.C. 7501, note (adverse actions); 5 U.S.C., Chapter 77; 5 U.S.C. App.; 28 U.S.C. 1291, 1346(b)(c), 1402(b), 1504, 2110; 31 U.S.C. 3701, 3711, 3713, 3717, 3718, 3721.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to: Give general legal advice, as requested, throughout NARA; prepare attorneys for hearings and trials; reference past actions; and maintain internal statistics.

Information may be disclosed to the Department of Justice in review, settlement, defense, and prosecution of claims, complaints, and lawsuits involving contracts, torts, debts, bankruptcy, personnel adverse action, equal employment opportunity, unit determination, unfair labor practices, and FOIA and Privacy Act requests. Information may be disclosed to the Office of Government Ethics (OGE) to obtain OGE advice on an ethics issue, to refer possible ethics violations to OGE, or during an OGE evaluation of NARA's Ethics Program. The routine use statements A, B, C, D, E, F, and G, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information may be obtained by the name of the individual or by a case number assigned by the court or agency hearing the complaint or appeal.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Most files are temporary records and are destroyed in accordance with disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Significant litigation files are permanent records that are eventually transferred to the National Archives of the United States. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the NARA General Counsel. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from one or more of the following sources: Federal employees and private parties involved in torts and employee claims, contracts, personnel actions, unfair labor practices, and debts concerning the Federal Government; witnesses; and doctors and other health professionals.

NARA 19

SYSTEM NAME:

Workers Compensation Case Files.

SYSTEM LOCATION:

Workers compensation case files are located in the Employee Relations and Benefits Branch at the National Archives at College Park, and in the administrative offices of field units. The addresses are listed in Appendix B following the NARA notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees and former employees who have reported on CA–1 or CA–2 work-related injuries or other occupational health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Workers compensation case files may include: accident reports, including CA–1 & 2, Federal Employees Notice of Injury or Occupational Disease; CA–4, Claims For Compensation for Injury or Occupation Disease; CA–8, Claims for Continuance of Compensation on Account of Disability; time and attendance reports, and medical reports from physicians and other health care professionals. These files may contain some or all of the following information about an individual: Name, address, correspondence symbol, telephone number, occupation, birthdate, names of supervisors and witnesses, and medical information related to work-related accidents or other occupational health problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902 and Chapter 81.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains workers compensation case files on individuals in order to identify and record information about those NARA employees who have sustained injuries or reported other occupational health problems, and to facilitate the preparation of statistical and other reports regarding work-related injuries or other occupational health problems. NARA may disclose information in the files to a Federal, State, or local public health service agency, concerning individuals who have contracted certain communicable diseases or conditions. NARA may disclose information in the files to the Department of Labor for purposes of administering the workers compensation program. NARA may disclose information in the files to the Occupational Safety and Health Administration for the purposes of monitoring workplace health and safety issues. The routine use statements A, B, C, D, E, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in workers compensation case files may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Workers compensation case files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Assistant Archivist for Human Resources and Information Services. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in workers compensation case files may be obtained from: individuals to whom the records pertain, NARA supervisors, NARA personnel specialists, physicians, others providing health care services, and the Department of Labor.

NARA 20

SYSTEM NAME:

Reviewer/Consultant Files.

SYSTEM LOCATION:

Reviewer/consultant files are located at the National Historical Publications and Records Commission (NHPRC) in Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include persons who have expressed an interest in or have served as reviewers or consultants for the NHPRC records or publications grant programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reviewer/consultant files may include resumes, biographical statements, correspondence, and lists containing some or all of the following information about an individual: Name, address, telephone number, educational background, professional experience and awards, and titles of publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2501 through 2506.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NHPRC maintains reviewer/consultant files on individuals in order to select reviewers who will evaluate proposals received for the records and publications grant programs, and to recommend archival consultants for those state and non-state organizations that have received grants for records and publications projects. NARA may disclose to grant recipients the lists of names of potential consultants, in order for the recipients to contact individuals who have expressed an interest in serving as consultants on grant projects. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in reviewer/consultant files may be retrieved by the name of the individual or the proposal evaluated by the reviewer.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords

from terminals located in attended offices. After hours, the building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Reviewer/consultant files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for reviewer/consultant files is the Executive Director, NHPRC. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in reviewer/consultant files may be obtained from reviewers and consultants and from references furnished by them.

NARA 21

SYSTEM NAME:

Fellowship and Editing Institute Application Files.

SYSTEM LOCATION:

Fellowship and Editing Institute application files are located in the National Historical Publications and Records Commission (NHPRC) in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include applicants for NHPRC fellowships in archival administration and advanced historical editing and for the annual Institute for the Editing of Historical Documents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Fellowship and Editing Institute application files may include application forms, correspondence, resumes, college transcripts, and evaluations. These records may contain some or all of the following information about an individual: Name; address; telephone number; educational background; professional experience and awards; archival and historical records experience; titles of publications; and other information provided in letters of reference furnished by applicants and in evaluations completed by fellowship institutions and documentary editing projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2504 and 2506.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NHPRC maintains fellowship and Editing Institute application files on individuals in order to: Evaluate the preliminary eligibility of applicants for fellowships; jointly select, with the Director of the Editing Institute, applicants to attend the Institute for the Editing of Historical Documents; and oversee grant-making and grant administration programs. NHPRC discloses copies of individuals' fellowship application files to officials of fellowship institutions and documentary editing projects for the purposes of selecting fellows and administering fellowships in archival administration and advanced historical editing. NHPRC discloses copies of individuals' Editing Institute applications to the director of the Editing Institute to select applicants to attend the annual Institute and to determine the most useful areas of instruction for successful applicants. The routine use statements A and F, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in fellowship and Editing Institute application files may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Nearly all fellowship application files and all Editing Institute application files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. However, on occasion, files for accepted fellowship applications may be selected by the Executive Director for inclusion in grant case files which have met established criteria for permanent retention in the National Archives of the United States. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Executive Director, NHPRC, Washington, DC. The address for this location is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in fellowship and Editing Institute application files may be obtained from: Applicants for fellowships in archival administration or advanced historical editing under the NHPRC grant program; applicants for the Institute for the Editing of Historical Documents; references furnished by applicants; and officials of fellowship institutions, documentary editing projects, and the Institute for the Editing of Historical Documents.

NARA 22

SYSTEM NAME:

Employee Related Files.

SYSTEM LOCATION:

Employee related files may be maintained at supervisory or administrative offices at all NARA facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include former and current NARA employees and relatives of employees of the National Personnel Records Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee related files consist of a variety of employee related records maintained for the purpose of administering personnel matters. These files may contain some or all of the following information about an individual: Name; home and emergency addresses and telephone numbers; social security number; birthdate; professional qualifications, training, awards, and other recognition; employment history; and information about congressional employee relief bills, conduct, and work assignments. Employee related records may also include military service data on employees of the National Personnel Records Center and their relatives accumulated by operating officials in administering the records security program at the Center. Employee related files do not include official personnel files, which are covered by Office of Personnel Management systems of records OPM/GOVT–1 through 10.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. and 31 U.S.C.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains employee-related files on individuals in order to document travel and outside employment activities of NARA employees, and to carry out personnel management responsibilities in general. The routine use statements A, B, C, D, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in employee related files may be retrieved primarily by the name of the individual.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Employee related files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

System managers for employee files are the office heads and staff directors of individual offices and staffs in the Washington, DC, area and the directors of the individual Presidential libraries and projects, and regional records services facilities. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in employee related files may be obtained from NARA employees and supervisors, and other personnel and administrative records.

NARA 23

SYSTEM NAME:

Investigative Case Files.

SECURITY CLASSIFICATION:

Some of the material contained in this system of records has been classified in the interests of the national security pursuant to Executive Orders 12958 and 13142.

SYSTEM LOCATION:

Investigative case files are located in the Office of Inspector General at the National Archives at College Park.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Individuals covered by this system of records may include: persons who have been the source of a complaint or an allegation that a crime has occurred, witnesses having information or evidence concerning an investigation, and suspects in criminal, administrative, or civil actions. Current and former NARA employees, NARA contract employees, members of NARA's Federal advisory committees, and members of the public are covered under this system of records when they become subjects of or witnesses to authorized investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative case files may include: Statements of alleged administrative, ethical or criminal wrongdoing; reports; related correspondence; exhibits; copies of forms and decisions; summaries of hearings and meetings; notes; attachments; and other working papers. These records may contain some or all of the following information about an individual: name; address; correspondence symbol; telephone number; birthdate; birthplace; citizenship; educational background; employment history; medical history; identifying numbers such as social security and driver's license numbers; and insurance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. Section 3 et seq.; Executive Order 10450; Executive Order 11478; Executive Order 11246; and 44 U.S.C. 2104(h).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains investigative case files on individuals to: examine allegations and/or complaints of fraud, waste, abuse, and irregularities and violations of laws and regulations; make determinations resulting from these authorized investigations; and facilitate the preparation of statistical and other reports by the Office of Inspector General. The routine use statements A, B, C, and G, described in Appendix A following the NARA Notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information in investigative case files may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Nearly all investigative case files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. However, the retention and disposal of significant investigative case files, such as those that result in national media attention, congressional investigation, and/or substantive changes in agency policy or procedure, are determined on a case-by-case basis. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Inspector General, Office of Inspector General. The address is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in investigative case files may be obtained from current and former NARA employees, NARA contract employees, members of NARA's Federal advisory committees, researchers, law enforcement agencies, other Government agencies, informants, and educational institutions, and from individuals' employers, references, co-workers, and neighbors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), this system of records is exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act of 1974. The system is exempt:

(1) To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be entitled by Federal law or otherwise eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the source would be held in confidence; and

(2) To the extent the system of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified material, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the source would be held in confidence.

NARA 24

SYSTEM NAME:

Personnel Security Files.

SECURITY CLASSIFICATION:

Some of the material contained in this system of records has been classified in the interests of national security under Executive Orders 12958 and 13142.

SYSTEM LOCATION:

Personnel security records are located in the Space and Security Management Division at the National Archives at College Park, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include: Current and former NARA employees; applicants for employment with NARA; contract employees performing services under NARA jurisdiction; and private and Federal agency researchers, experts, and consultants who request access to security-classified records.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security files may include questionnaires, correspondence, summaries of reports, and electronic logs of individuals' security clearance status. These records may contain the following information about an individual: Name, current address, telephone number, birthdate, birthplace, social security number, educational background, employment and residential history, background investigative material, and security clearance data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450; Executive Order 12958; Executive Order 12968; Executive Order 13142; and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains personnel security records on individuals as a basis for determining suitability for Federal or contractual employment and for issuing and recertifying security clearances. Routine use statement C, described in Appendix A following the NARA Notices, applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, microfiche, and electronic records.

RETRIEVABILITY:

Information in the records may be retrieved by the name of the individual or by social security number.

SAFEGUARDS:

During business hours, paper and microfiche records are maintained in locked rooms and/or in three-way combination dial safes with access limited to authorized employees. Electronic records are accessible via passwords from terminals located in secured offices. Information is released only to officials on a need-to-know basis. After hours, buildings have security guards and/or doors are secured, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Personnel security files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in

FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Assistant Archivist for Administrative Services. The address for this location is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in personnel security files may be obtained from: NARA employees; applicants for employment; contractor employees; private and Federal agency researchers, experts, and consultants; law enforcement agencies; other government agencies; intelligence sources; informants; educational institutions; and individuals' employers, references, co-workers, and neighbors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the personnel security case files in this system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of the Privacy Act of 1974, as amended. The system is exempt:

(1) To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence; and

(2) To the extent that the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified material, but only to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence. This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the responsibilities of the National Archives and Records Administration in the areas of Federal employment, Government contracts, and access to security-classified information.

NARA 25

SYSTEM NAME:

Order Fulfillment and Accounting System Records.

SYSTEM LOCATION:

Order Fulfillment and Accounting System (OFAS) records are maintained in organizational units in the following locations:

(1) Office of Records Services—Washington, DC;

(2) Office of Presidential Libraries;

(3) Office of the Federal Register;

(4) Office of Regional Records Services; and

(5) National Archives Trust Fund Division.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include: Researchers who order reproductions at Washington, DC, area and regional records facilities; and customers who order NARA inventory items, such as microform and printed publications, mementos, and other specialty products from catalogues and other marketing publications.

CATEGORIES OF RECORDS IN THE SYSTEM:

OFAS records may include: Catalogue order forms; other ordering forms; correspondence; copies of checks, money orders, credit card citations, and other remittances; invoices; and order and accounting information in the electronic system. These records may contain some or all of the following information about an individual: name, address, telephone number, record(s) or item(s) ordered, and credit card or purchase order information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2116(c) and 2307.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains OFAS records on individuals to: Receive, maintain control of, and process orders for reproductions of archival records and other fee items; bill customers for orders; maintain payment records for orders; process refunds; and provide individuals information on other NARA products. Customer order information may be initially disclosed to a NARA agent, a bank that collects and deposits payments in a lockbox specifically used for crediting order payments to the National Archives Trust Fund. NARA may disclose certain order information to contractors, acting as NARA agents that make reproductions of archival records. NARA also may disclose information in OFAS records for the processing of customer refunds to the General Services Administration, which provides NARA's financial and accounting system under a cross-servicing agreement. The routine use statements A, E, F, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in OFAS records may be retrieved by the name of the individual and/or the OFAS transaction number. Information in electronic records may also be retrieved by the invoice number or zip code.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. Credit card information is compartmentalized so that it is available only to those NARA employees responsible for posting and billing credit card transactions. After hours, buildings have security guards and/or doors are secured and all

entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

OFAS records are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for OFAS records is the Assistant Archivist for Administrative Services. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in OFAS records is obtained from customers, NARA employees or agents who are involved in the order process, and GSA employees who process refunds.

NARA 26

SYSTEM NAME:

Volunteer Files.

SYSTEM LOCATION:

Volunteer files may be maintained at supervisory or administrative offices at all NARA facilities that use volunteer workers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who have applied to be NARA volunteers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteer files consist of a variety of records maintained by operating officials to administer personnel matters affecting volunteers. Records may include: Applications for volunteer service and for building passes, registration forms, other administrative forms, correspondence, resumes, letters of recommendation, college transcripts and forms, performance assessments, and copies of timesheets. Volunteer files may include some or all of the following information about an individual: Name; home and emergency addresses and telephone numbers; social security number; birthdate; professional qualifications, training, awards, and other recognition; employment history; and information about injuries, conduct, attendance, years of service, and work assignments. This system of records does not include official personnel files, which are covered by Office of Personnel Management systems of records OPM/GOVT–1 through 10.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2105(d) and generally 5 and 31 U.S.C.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains volunteer files on individuals to: Evaluate individuals who apply to serve as volunteers, docents, interns, and work study students at NARA facilities; assign work and monitor performance; and carry out personnel management responsibilities in general affecting those volunteers. NARA may disclose attendance and performance information on interns and work study students to colleges and universities that oversee those individuals in student internships and work-study programs. The routine use statements A, B, C, D, F, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in volunteer files may be retrieved primarily by the name of the individual.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Volunteer files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For volunteer files located in Staff Development Services Branch, the system manager is the Assistant Archivist for Human Resources and Information Services. For volunteer files located in organizational units in the Office of Records Services—Washington, DC the system manager is the Assistant Archivist for Records Services—Washington, DC. For volunteer files located in individual Presidential libraries, projects, and staffs, and regional records services facilities, the system manager is the director of the Presidential library, project, or staff or regional records services facilities. The addresses for these locations are listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in volunteer files is obtained from the volunteers themselves, NARA supervisors, persons listed as references in applications submitted by volunteers, and educational institutions.

NARA 27

SYSTEM NAME:

Contracting Officer and Contracting Officer's Technical Representative (COTR) Designation Files.

SYSTEM LOCATION:

Contracting officer and contracting officer's technical representative (COTR)

designation files are maintained in the Acquisitions Services Division and the Financial Services Division in the Washington, DC, area.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include current and former NARA employees who have been appointed as NARA contracting officers, Government credit cardholders, and COTRs in accordance with Federal Acquisition Regulations (FAR) and internal procurement procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contracting officer and COTR designation files may include: Standard Forms 1402, Certificate of Appointment; correspondence, copies of training course certificates; copies of training forms; and lists. These files may contain some or all of the following information about an individual: name, address, NARA correspondence symbol, telephone number, social security number, birthdate, position title, grade, procurement authorities, and information about procurement training and Government credit cards issued.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104 and 48 CFR 1.603 generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains contracting officer and COTR designation files in order to administer procurement certification and training programs for NARA contracting officers, credit cardholders, and COTRs in accordance with the FAR and internal procurement procedures.

The routine use statements A and F, described in Appendix A following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in contracting officer and COTR designation files may be retrieved by the name of the individual or by NARA correspondence symbol.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Contracting officer and COTR designation files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Electronic files are periodically updated and purged of outdated information. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for contracting officer and COTR designation files is the Assistant Archivist for Administrative Services. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in contracting officer and COTR designation files may be obtained from the individuals on whom records are maintained, NARA supervisors, and organizations that provide procurement training or issue Government credit cards.

NARA 28

SYSTEM NAME:

Tort and employee claim files.

SYSTEM LOCATION:

Records are located in the Office of General Counsel (NGC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include: Current and former NARA employees, other Federal agency employees, and individual members of the public who have filed a tort claim or an employee claim against NARA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain some or all of the following information about an individual: Name, social security number, position description, grade, salary, work history, complaint, credit ratings, medical diagnoses and prognoses, and doctor's bills. The system may also contain other records such as: Case history files, copies of applicable law(s), working papers of attorneys, testimony of witnesses, background investigation materials, correspondence, damage reports, contracts, accident reports, pleadings, affidavits, estimates of repair costs, invoices, financial data, and other data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C., Part II; 28 U.S.C. 1291, 1346(b)(c), 1402(b), 1504, 2110, 2401(b), 2402, 2411(b), 2412(c), 2671–2680.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to make determinations on tort and employee claims and for internal statistical reports. Information may be disclosed to: The General Services Administration to process payments for approved claims; and the Department of Justice in review, settlement, defense, and prosecution of claims, and law suits arising from those claims. The routine use statements A, B, C, E, F, and G, described in Appendix A following the NARA notices, also supply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Tort and employee claim files are temporary records and are destroyed in accordance with disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition

instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the General Counsel, Office of General Counsel. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA Notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from one or more of the following sources: Federal employees and private parties involved in torts and employee claims, witnesses, and doctors and other health professionals.

NARA 29

SYSTEM NAME:

State Historical Records Advisory Board Member Files.

SYSTEM LOCATION:

State historical records advisory board member files are located at the National Historical Publications and Records Commission (NHPRC) in Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include persons who have been appointed by states, territories, and the District of Columbia to serve as members of state historical records advisory boards.

CATEGORIES OF RECORDS IN THE SYSTEM:

Board member files may include correspondence, resumes, biographical statements, and lists containing some or all of the following information about an individual: Name, address, telephone number, appointment expiration date, educational background, professional experience and awards, archival and historical records experience, and titles of publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2504.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The NHPRC maintains files on members of state historical records advisory boards to: Document membership on state boards that participate in NHPRC records grant programs; oversee NHPRC grant-making and grant administration responsibilities; and contact board members about future meetings and events. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in state historical records advisory board member files may be retrieved by the name of the individual or by state.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After hours, the building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

State historical records advisory board member files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for state historical records advisory board member files is the Executive Director, NHPRC. The address is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B after the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in the NARA notices.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in state historical records advisory board member files may be obtained from board members themselves, state officials, and references furnished by board members.

NARA 30

SYSTEM NAME:

Garnishment files.

SYSTEM LOCATION:

Records are located in the Office of General Counsel (NGC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include current and former NARA employees against whom a garnishment order has been filed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in the system may contain some or all of the following information about an individual: Name, social security number, address, position title and NARA unit, salary, debts, and creditors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Part II; 42 U.S.C. 659; 11 U.S.C. 1325; 5 U.S.C. 15512 to 5514, 5517, 5520.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to process garnishment orders. Information is disclosed to the General Services Administration, acting as NARA's payroll agent, to process withholdings for garnishments. The routine use statements E, and F, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records.

RETRIEVABILITY:

Information may be retrieved by the name of the individual.

SAFEGUARDS:

During business hours, records are maintained in areas accessible only to authorized NARA personnel. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Garnishment files are temporary records and are destroyed in accordance with disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the General Counsel, Office of the General Counsel. The address for this location is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from courts that have issued a garnishment order and NARA personnel records.

NARA 31

SYSTEM NAME:

Ride Share Locator Database.

SYSTEM LOCATION:

The ride share locator database is maintained at the Facilities and Materiel Management Services Division (NAF).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees whose duty station is or may become College Park, MD, and who have expressed an interest in the NARA Ride Share Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The ride share locator database contains the following information about an individual: name; city, county and state and zip code of residence; NARA unit; and NARA work phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains the ride share locator database to provide employees with the names of and residential information of other employees who have expressed an interest in sharing rides for daily commuting to the National Archives at College Park, MD. The routine use statement F, described in Appendix A following the NARA Notices, also applies to this system.

STORAGE:

Electronic records from which paper records may be printed.

RETRIEVABILITY:

Information in the ride share locator database may be retrieved by the name of the individual, city, state, and/or zip code.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records in the ride share locator database are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for the ride share locator database is the Assistant Archivist for Administrative Services. The address for this location is listed in Appendix B following the NARA Notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in the ride share locator database is obtained from individuals who have furnished information to the NARA Ride Share Program.

NARA 32

SYSTEM NAME:

Alternate Dispute Resolution Files.

SYSTEM LOCATION:

The agency's Alternate Dispute Resolution (ADR) files are maintained by the Office of General Counsel (NGC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA staff and former staff, who participate in the ADR process, the agency's Dispute Resolution Specialist and Deputy Dispute Resolution Specialist, and contractor personnel used as mediators in the ADR process.

CATEGORIES OF RECORDS IN THE SYSTEM:

ADR files may include: Written and electronic communication between the employee or former employee, participant representative(s), Dispute Resolution Specialist and Deputy Dispute Resolution Specialist, and the contractor mediator; procurement data; invoices for services; and ADR case files. The system may contain the following information about an individual: Name, home and office addresses, telephone number, dollar value of services rendered by the contractor, previous employment disputes, and education and employment experience of the contractor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Laws 101–552 and 104–320, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains ADR files in order to facilitate the ADR program at the agency. These records may be used by members of the Dispute Resolution staff facilitating dispute resolution and payment of contractors, and by the contractor mediators performing services and invoicing for an ADR case. The Routine Use statements A and F, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in the records may be retrieved by: The name of the individual; the location of the work site; a numeric case file number; and/or the type of request.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in areas only accessible to authorized personnel of NARA. Electronic records are accessible via passwords from terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Agency ADR files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for ADR program files is the General Counsel, NGC. The address for this organization is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in the agency ADR program files is obtained from NARA staff and former staff, participant representative(s), the Dispute Resolution Staff, and the contractor mediators.

NARA 33

SYSTEM NAME:

Development and Donor Files.

SYSTEM LOCATION:

The agency's Development and Donor files are maintained by NARA's Development Staff in the Office of the Archivist (NDEV), the National Archives Trust Fund Division (NAT), and individual Presidential libraries.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include persons who donate money or other gifts to NARA or directly to a Presidential library or to the Foundation for the National Archives; prospective donors; and other persons contacted by NDEV, the Archivist of the United States, and other NARA officials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Development and Donor files may include biographical and demographic information for individuals and organizations; background information, interests, affiliations, and giving history for donors, including their relationship and participation with the organization and its stakeholders; prospect management data such as interests, affiliations, cultivation and solicitation of gifts, strategy reports, and talking points; information on gifts and pledges made and miscellaneous information about each gift; records of acknowledgment packages and solicitation letters, including membership cards, receipts, reminders, renewal notices, program announcements, invitations, and attendance records for special events.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2112(g)(1); 2305.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains Development and Donor files in order to facilitate the statutory gift solicitation and receipt authority of the Archivist of the United States. The information in these files may be used by NARA staff to solicit, receive, expend, or otherwise use the monetary donations and gifts on behalf of NARA. Development and Donor files relating to the Foundation for the National Archives may be used by NARA staff and the Board of Directors, staff and contractors of the Foundation for the National Archives—a non-governmental 501(c)(3) organization that supports the programs and activities of the National Archives—for these same purposes.

The Routine Use statements A, E, F, and G, described in Appendix A following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in the records may be retrieved by the name of the individual or the organization, interest, project, or gift level with which the individual is associated.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in areas accessible only to authorized personnel of NARA. Electronic records are accessible via passwords from terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Development and Donor files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

For Development and Donor files relating to the activities of the Foundation for the National Archives, the system manager is the Director, NDEV. For Development and Donor files relating to the activities of NAT, the system manager is the Director, NAT. For Development and Donor files relating to the activities of the individual Presidential libraries, the system manager is the director of the

individual Presidential library. The addresses for these offices are listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B following the NARA notices.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in the Development and Donor files is obtained from the Foundation for the National Archives, communications with members, cultivation and solicitation of prospective donors, and publicly available sources.

NARA 34

SYSTEM NAME:

Agency Ethics Program Files

SYSTEM LOCATION:

The agency's ethics program files are maintained by the Office of General Counsel (NGC). The address for this organization is listed in Appendix B following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees and former employees who request ethics guidance from the agency's ethics staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Ethics program files may include employee memoranda and correspondence, notes taken by the ethics staff, memoranda summarizing advice given orally, and electronic records. These files may contain the following information about an individual: Name, address, and telephone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 12674 and 12731, 5 CFR Parts 2638 and 7601.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains ethics program files on employees to document advice and opinions given in ethics matters and to maintain a historical record of ethics opinions that may be used in future ethics cases. Routine use statements A, E, and G, described in Appendix A following the NARA Notices, also apply to this system of records.

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Information in credentials and passes may be retrieved by the name of the individual or date.

SAFEGUARDS:

During business hours, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are accessible via passwords from terminals located in attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Agency ethics program files are temporary records and are destroyed in accordance with the disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for ethics program files is NGC. The address for this organization is listed in Appendix B following the NARA notices.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address given in Appendix B.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address given in Appendix B.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information in ethics program files is obtained from NARA employees, former employees and the agency's ethics staff.

Appendix A: Routine Uses

The following routine use statements apply to National Archives and Records Administration Privacy Act Notices where indicated:

A. Routine Use-Law Enforcement

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records, may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

B. Routine Use-Disclosure When Requesting Information

A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

C. Routine Use-Disclosure of Requested Information

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, conducting a security or suitability investigation, classifying a job, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

D. Routine Use-Grievance, Complaint, Appeal

A record from this system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management (OPM), the Merit Systems Protection Board, Federal Labor Relations Authority, or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties. To the extent that official personnel records

in the custody of NARA are covered within the system of records published by OPM as Governmentwide records, those records will be considered as a part of that Governmentwide system. Other records covered by notices published by NARA and considered to be separate systems of records may be transferred to OPM in accordance with official personnel programs and activities as a routine use.

E. Routine Use-Congressional Inquiries

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

F. Routine Use-NARA Agents

A record from this system of records may be disclosed as a routine use to an expert, consultant, agent, or a contractor of NARA to the extent necessary for them to assist NARA in the performance of its duties. Agents include, but are not limited to, GSA or other entities supporting NARA's payroll, finance, and personnel responsibilities.

G. Routine Use-Department of Justice/Courts

A record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body before which NARA is authorized to appear, when: (a) NARA, or any component thereof; or, (b) any employee of NARA in his or her official capacity; or, (c) any employee of NARA in his or her individual capacity where the Department of Justice or NARA has agreed to represent the employee; or (d) the United States, where NARA 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 by NARA before a court or adjudicative body is deemed by NARA to be relevant and necessary to the litigation, provided, however, that in each case, NARA determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

Appendix B—Addresses of NARA Facilities

To inquire about your records or to gain access to your records, you should submit your request in writing to: NARA Privacy Act Officer, Office of General Counsel (NGC), National Archives and Records Administration, 8601 Adelphi Road, Room 3110, College Park, MD 20740–6001.

If the system manager is the Assistant Archivist for Record Services—Washington, DC (NW), the records are located at the following address: Office of Record Services—Washington, DC (NW), National Archives and Records Administration, 8601 Adelphi Road, Room 3400, College Park, MD 20740–6001.

If the system manager is the director of a Presidential Library, the records are located at the appropriate Presidential Library, Staff or Project:

George Bush Library, 1000 George Bush Drive West, College Station, TX 77845.

Jimmy Carter Library, 441 Freedom Parkway, Atlanta, GA 30307–1498.

William J. Clinton Presidential Materials Project, 1000 LaHarpe Boulevard, Little Rock, AR 72201.

Dwight D. Eisenhower Library, 200 SE 4th Street, Abilene, KS 67410–2900.

Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, MI 48109–2114.

Herbert Hoover Library, 210 Parkside Drive, P.O. Box 488, West Branch, IA 52358–0488.

Lyndon B. Johnson Library, 2313 Red River Street, Austin, TX 78705–5702.

John F. Kennedy Library, Columbia Point, Boston, MA 02125–3398.

Nixon Presidential Materials Staff, National Archives and Records Administration, 8601 Adelphi Road, Room 1320, College Park, MD 20740–6001.

Ronald Reagan Library, 40 Presidential Drive, Simi Valley, CA 93065–0600.

Franklin D. Roosevelt Library, 4079 Albany Post Road, Hyde Park, NY 12538–1999.

Harry S. Truman Library, 500 West U.S. Highway 24, Independence, MO 64050–1798.

Office of Presidential Libraries, National Archives and Records Administration, 8601 Adelphi Road, Room 2200, College Park, MD 20740–6001.

If the system manager is the director of a regional records center or regional archives facility, the records are located at the appropriate regional records center or regional archives facility:

NARA's Pacific Alaska Region (Anchorage), 654 West Third Avenue, Anchorage, Alaska 99501–2145.

NARA's Southeast Region (Atlanta), 1557 St. Joseph Avenue, East Point, Georgia 30344–2593.

NARA's Northeast Region (Boston), Frederick C. Murphy Federal Center, 380 Trapelo Road, Waltham, Massachusetts 02452–6399.

NARA's Great Lakes Region (Chicago), 7358 South Pulaski Road, Chicago, Illinois 60629–5898.

NARA's Great Lakes Region (Dayton), 3150 Springboro Road, Dayton, Ohio 45439–1883.

NARA's Rocky Mountain Region (Denver), *Physical location:* Bldg. 48, Denver Federal Center, West 6th Avenue and Kipling Street, Denver, Colorado 80225–0307. *Mailing address:* P.O. Box 25307, Denver, Colorado 80225–0307.

NARA's Southwest Region (Fort Worth) *Physical location:* 501 West Felix Street, Building 1, Fort Worth, Texas 76115–3405,
Mailing address: P.O. Box 6216, Fort Worth, Texas 76115–0216.

NARA's Central Plains Region (Kansas City), 2312 East Bannister Road, Kansas City, Missouri 64131–3011.

NARA's Pacific Region (Laguna Niguel, CA), 24000 Avila Road, 1st Floor, East Entrance, Laguna Niguel, California 92677–3497.

NARA's Central Plains Region (Lee's Summit, MO), 200 Slpace Center Drive, Lee's Summit, Missouri 64064–1182.

NARA's Northeast Region (New York City), 201 Varick Street, New York, New York 10014–4811.

NARA's Northeast Region (Center City Philadelphia), 900 Market Street, Philadelphia, Pennsylvania 19107–4292.

NARA's Mid Atlantic Region (Northeast Philadelphia), 14700 Townsend Road, Philadelphia, Pennsylvania 19154–1096.

NARA's Northeast Region (Pittsfield, MA), 10 Conte Drive, Pittsfield, Massachusetts 01201–8230.

NARA's Pacific Region (San Francisco), 1000 Commodore Drive, San Bruno, California 94066–2350.

NARA's Pacific Alaska Region (Seattle), 6125 Sand Point Way NE, Seattle, Washington 98115–7999.

National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, Missouri 63118–4199.

National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132–5100.

Washington National Records Center (WNRC), 4205 Suitland Road, Suitland, MD 20746–8001.

If the system manager is the Director of the National Historical Publications and Records Commission, the records are located at the following address: National Historical Publications and Records Commission (NHPRC), National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room 111, Washington, DC 20408–0001.

If the system manager is the Director of the Policy and Communications Staff, the records are located at the following address: Policy and Communications Staff (NPOL), National Archives and Records Administration, 8601 Adelphi Road, Room 4100, College Park, MD 20740–6001.

If the system manager is the Director of the Development Staff, the records are located at the following address: Development Staff (NDEV), National Archives and Records Administration, 8601 Adelphi Road, Room 4100, College Park, MD 20740–6001.

If the system manager is the Assistant Archivist for Human Resources and Information Services, the records are located at the following address: Office of Human Resources and Information Services (NH), National Archives and Records Administration, 8601 Adelphi Road, Room 4400, College Park, MD 20740.

If the system manager is the Assistant Archivist for Administrative Services, the records are located at the following address: Office of Administrative Services (NA), National Archives and Records Administration, 8601 Adelphi Road, Room 4200, College Park, MD 20740.

If the system manager is the Director of the Federal Register, the records are located at the following mailing address: Office of the Federal Register (NF), National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Washington, DC 20408–0001.

If the system manager is the Inspector General, the records are located at the following address: Office of the Inspector General (OIG), National Archives and Records Administration, 8601 Adelphi Road, Room 1300, College Park, MD 20740.

If the system manager is the General Counsel, the records are located at the

following address: Office of the General Counsel (NGC), National Archives and Records Administration, 8601 Adelphi Road, Room 3110, College Park, MD 20740.

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BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285]

Omaha Public Power District; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Omaha Public Power District (the licensee) to partially withdraw its December 14, 2001, application for proposed amendment to Facility Operating License No. DPR–40 for the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska.

The purpose of the licensee's amendment request was to revise Technical Specifications (TS) 3.7.2(d) and 3.7(4) to allow the surveillance tests to be performed on a refueling frequency outside of a refueling outage, and (2) correct the docket concerning inconsistencies in the 1973 Fort Calhoun Station Safety Evaluation Report associated with the 13.8 kV transmission line capability. By letter dated March 21, 2002, the licensee withdrew its request related to the changes to TS 3.7(2)d.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 22, 2002 (67 FR 2927). However, by letter dated March 21, 2002, the licensee partially withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated December 14, 2001, and the licensee's letter dated March 21, 2001, which partially withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 26th day of March 2002.

For the Nuclear Regulatory Commission.

Alan Wang,

Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–7929 Filed 4–1–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–344 and 72–17; License Nos. NPF–1 and SNM–2509]

In the Matter of Portland General Electric Company, Trojan Nuclear Plant and Trojan Independent Spent Fuel Storage Installation; Order Approving Application Regarding Proposed Corporate Acquisition (Northwest Energy Corporation Purchase of Portland General Electric Company)

I.

Portland General Electric Company (PGE or the licensee) owns a 67.5 percent interest in the Trojan Nuclear Plant (TNP or Trojan) located on the west bank of the Columbia River in Columbia County, Oregon, and in connection with that interest, is a holder of Facility Operating License No. NPF–1 issued by the U.S. Nuclear Regulatory Commission (NRC), pursuant to part 50 of Title 10 of the Code of Federal Regulations (10 CFR part 50), on November 21, 1975. Under this license, PGE has the authority to possess and maintain but not operate TNP. PGE also owns a 67.5 percent interest in the Trojan Independent Spent Fuel Storage Installation (ISFSI) and accordingly, is a holder of Materials License No. SNM–2509 for the Trojan ISFSI. PGE is currently a wholly-owned subsidiary of Enron Corporation (Enron). PacifiCorp and the Eugene Water and Electric Board own the remaining 2.5 percent and 30 percent interests, respectively, in TNP and the Trojan ISFSI, but are not involved in the transaction described below affecting PGE, which is the subject of this Order.

II.

By an application dated December 6, 2001, as supplemented by a letter dated January 31, 2002 (collectively referred to as the application herein), PGE requested approval of an indirect transfer of the license for TNP and the license for the Trojan ISFSI, to the extent held by PGE. The requested transfers relate to a proposed purchase of all the issued and outstanding common stock of PGE owned by PGE's current parent, Enron, by Northwest Energy Corporation, also known as Northwest Natural Holdco (NW Natural Holdco). PGE is an Oregon corporation engaged principally in the generation, transmission, distribution, and sale of electric energy in Oregon.

On October 5, 2001, Enron and Northwest Natural Gas Company (NW Natural) entered into a Stock Purchase Agreement providing for the purchase by NW Natural Holdco from Enron of all of the issued and outstanding common stock of PGE, subject to certain conditions, including the approval of the NRC. NW Natural will be a wholly-owned subsidiary of NW Natural Holdco, a newly-formed Oregon corporation. The purchase will not affect PGE's status as a regulated public electric utility in the State of Oregon. No direct transfer of the TNP or Trojan ISFSI licenses will occur. Also, no changes to activities under the licenses or to the licenses themselves are being proposed in the application.

Approval of the indirect transfer was requested pursuant to 10 CFR 50.80 and 10 CFR 72.50. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on January 24, 2002 (67 FR 3515). No hearing requests or written comments were received.

Under 10 CFR 50.80 and 10 CFR 72.50, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information in the application, and other information before the Commission, the NRC staff has determined that NW Natural Holdco's proposed acquisition of PGE under the Stock Purchase Agreement will not affect the qualifications of PGE as a holder of Facility Operating License No. NPF–1 and as a holder of Materials License No. SNM–2509, and that the indirect transfer of the licenses, to the extent effected by the proposed acquisition, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated March 26, 2002.

III.

Accordingly, pursuant to sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80 and 10 CFR 72.50, it is hereby ordered that the application regarding the indirect license transfers referenced above is approved, subject to the following conditions:

(1) Following the completion of the indirect license transfers approved by this Order, PGE shall provide the Director of the Office of Nuclear Reactor Regulation and the Director of the Office of Nuclear Material Safety and Safeguards a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from PGE to its parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of PGE's consolidated net utility plant, as recorded on its books of account.

(2) Should the proposed stock purchase not be completed by March 31, 2003, this Order shall become null and void, provided, however, upon application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

IV.

For further details with respect to this Order, see the initial application dated December 6, 2001, supplemental letter dated January 31, 2002, and the safety evaluation dated March 26, 2002, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov*.

Dated at Rockville, Maryland, this 26th day of March 2002.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–7928 Filed 4–1–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of April 1, 8, 15, 22, 29, May 6, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 1, 2002

There are no meetings scheduled for the Week of April 1, 2002.

Week of April 8, 2002—Tentative

Friday, April 12, 2002

9:25 a.m. Affirmation Session (Public Meeting) (If needed)

Week of April 15, 2002—Tentative

There are no meetings scheduled for the Week of April 15, 2002.

Week of April 22, 2002—Tentative

There are no meetings scheduled for the Week of April 22, 2002.

Week of April 29, 2002—Tentative

Tuesday, April 30, 2002

9:30 a.m. Discussion of Intergovernmental Issues (Closed)

Wednesday, May 1, 2002

8:55 a.m. Affirmation Session (Public Meeting) (If needed)

9:00 a.m. Briefing on Results of Agency Action Review Meeting—Reactors (Public Meeting) (Contact: Robert Pascarelli, 301–415–1245)

This meeting will be webcast live at the Web address—*www.nrc.gov*

Week of May 6, 2002—Tentative

There are no meetings scheduled for the Week of May 6, 2002.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/what-we-do/policy-making/schedule.html.*

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: March 28, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–8035 Filed 3–29–02; 11:30 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 8, 2002 through March 21, 2002. The last biweekly notice was published on March 19, 2002 (67 FR 12597).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a

margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By May 2, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be

granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/reading-rm.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 304–415–4737 or by e-mail to *pdr@nrc.gov*.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: November 16, 2001.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Section 3.6.2.2, ''Suppression Pool Water Level,'' and TS 3.6.2.4, ''Suppression Pool Makeup (SMPU) System'' to revise the allowable operating range for the Suppression Pool water level and the modes of applicability for the upper containment pools. The amendment would permit draining of the reactor cavity pool portion of the upper containment pool with unit in Mode 3, ''Hot Shutdown,'' and reactor pressure less than 235 pounds per square inch gauge (psig). Draining of the upper containment pool is required as part of the refueling preparations and is currently not permissible in Mode 1, ''Power Operations,'' Mode 2, ''Startup,'' or Mode 3 by TS Section 3.6.2.4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes revise the required water levels in the upper containment pools and suppression pool during Mode 3. The probability of an accident previously evaluated is unrelated to the water levels in the pools since they are mitigative systems. The operation or failure of a mitigative system does not contribute to the occurrence of an accident. No active or passive failure mechanisms that could lead to an accident are affected by these proposed changes.

The consequences of a previously evaluated accident are not significantly increased. The changes have no impact on the ability of any of the Emergency Core Cooling Systems (ECCS) to function adequately, since adequate net positive suction head (NPSH) is provided with reduced water volumes. The post-accident containment temperature is not significantly affected by the proposed reduction in total heat sink volume. The increase in suppression pool water level to compensate for the reduction in upper containment pool volume will provide reasonable assurance that the minimum post-accident vent coverage is adequate to assure the pressure suppression function of the suppression pool is accomplished. The suppression pool water will be raised only after the reactor pressure has been reduced sufficiently to assure that the hydrodynamic loads from a loss of coolant accident will not exceed the design values. The reduced reactor pressure will also ensure that the loads due to main steam safety relief valve actuation with an elevated pool level are within the design loads. The change in exposure rate expected due to draining the upper containment pool in Mode 3 is small (i.e., by approximately two orders of magnitude) compared to the measured exposure rates in the reactor cavity during refueling preparations. Therefore, these changes do not have an adverse impact on the ability to maintain refueling exposure rates as low as reasonably achievable.

Therefore, the proposed changes do not significantly increase the consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of an accident from any accident previously evaluated?

The proposed changes to the water level requirements for the upper containment pool and the suppression pool do not involve the use or installation of new equipment. Installed equipment is not operated in a new or different manner. No new or different system interactions are created, and no new processes are introduced. The increased suppression pool water level does not increase the probability of flooding in the drywell. No new failures have been created by the change in the water level requirements.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed changes to the upper containment pool and suppression pool water levels do not introduce any new setpoints at which protective or mitigative actions are initiated. No current setpoints are altered by this change. The design and functioning of the containment pressure suppression system is unchanged. The proposed total water volume is sufficient to provide high confidence that the pressure suppression and containment systems will be capable of mitigating large and small break accidents. All analyzed transient results remain well within the design values for the structures and equipment. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert Helfrich, Mid-West Regional Operating Group, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Section Chief: Anthony J. Mendiola.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of amendment requests: March 1, 2002.

Description of amendment requests: A change is proposed to Surveillance Requirement (SR) 3.0.3 to allow a longer period of time to perform a missed surveillance. The time is extended from the current limit of ''* * * up to 24 hours or up to the limit of the specified frequency, whichever is less'' to ''* * * up to 24 hours or up to the limit of the specified frequency, whichever is greater.'' In addition, the following requirement would be added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The Nuclear Regulatory Commission (NRC) staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714).

The licensee affirmed the applicability of the following NSHC determination in its request for amendments dated March 1, 2002.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated.

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Section Chief: Stephen Dembek.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: January 31, 2002.

Description of amendment request: Entergy Operations, Inc. is proposing that the Grand Gulf Nuclear Station, Unit 1, Operating License be amended to reflect a 1.7 percent increase in the licensed 100 percent reactor core thermal power level (an increase in reactor power level from 3,833 megawatts thermal to 3,898 megawatts thermal). These changes result from increased accuracy of the feedwater flow and temperature measurements to be achieved by utilizing high accuracy ultrasonic flow measurement instrumentation. The basis for this change is consistent with the revision, issued in June 2000, to appendix K to part 50 of title 10 of the *Code of Federal Regulations,* allowing operating reactor licensees to use an uncertainty factor of less than 2 percent of rated reactor thermal power in analyses of postulated design basis loss-of-coolant accidents.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The comprehensive analytical efforts performed to support the proposed change included a review of the Nuclear Steam Supply System (NSSS) systems and components that could be affected by this change. All systems and components will function as designed, and the applicable performance requirements have been evaluated and found to be acceptable.

The comprehensive analytical efforts performed to support the proposed uprate conditions included a review and evaluation of all components and systems that could be affected by this change. Evaluation of accident analyses confirmed the effects of the proposed uprate are bounded by the current dose analyses. All systems will function as designed, and all performance requirements for these systems have been evaluated and found acceptable. Because the integrity of the plant will not be affected by operation at the uprated condition, it is concluded that all structures, systems, and components required to mitigate a transient remain capable of fulfilling their intended functions. The reduced uncertainty in the flow input to the power calorimetric measurement allows the current safety analyses to be used, with small changes to the core operating limits, to support operation at a core power of 3,898 megawatts thermal (MWt). As such, all Final Safety Analysis Report (FSAR) Chapter 15 accident analyses continue to demonstrate compliance with the relevant event acceptance criteria. Those analyses performed to assess the effects of mass and energy releases remain valid. The source terms used to assess radiological consequences have been reviewed and determined to either bound operation at the 1.7 percent uprated condition, or new analyses were performed to verify all acceptance criteria continue to be met.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. All systems, structures, and components previously required for the mitigation of a transient remain capable of fulfilling their intended design functions. The proposed changes have no adverse effects on any safety-related system or component and do not challenge the performance or integrity of any safety related system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Operation at the uprated power condition does not involve a significant reduction in a margin of safety. Analyses of the primary fission product barriers have concluded that all relevant design criteria remain satisfied,

both from the standpoint of the integrity of the primary fission product barrier and from the standpoint of compliance with the required acceptance criteria.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: January 31, 2002.

Description of amendment request: Entergy Operations, Inc. requests an amendment for the Grand Gulf Nuclear Station, Unit 1, Technical Specifications to extend the allowed out-of-service time from 72 hours to 14 days for a Division 1 or Division 2 Emergency Diesel Generator (DG) during reactor operational modes 1, 2, or 3. The proposed changes are intended to provide flexibility in performance of corrective and preventive maintenance on the DGs during power operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed Technical Specification (TS) changes do not affect the design, operational characteristics, function, or reliability of the DGs. The DGs are not the initiators of previously evaluated accidents. The DGs are designed to mitigate the consequences of previously evaluated accidents including a loss of offsite power. Extending the allowed outage time (AOT) for a single DG would not significantly affect the previously evaluated accidents since the remaining DGs supporting the redundant ESF systems would continue to perform the accident mitigating functions as designed.

The duration of a TS AOT is determined considering that there is a minimal possibility that an accident will occur while a component is removed from service. A risk-informed assessment was performed which concluded that the increase in plant risk is small and consistent with the USNRC [U.S. Nuclear Regulatory Commission] ''Safety Goals for the Operations of Nuclear Power Plants; Policy Statement,'' **Federal Register**, Vol. 51, p. 30028 (51 FR 30028), August 4, 1986, as further described by NRC [Nuclear Regulatory Commission] Regulatory Guide 1.177.

The current TS requirements establish controls to ensure that redundant systems relying on the remaining DGs are Operable. In addition to these requirements, administrative controls will be established to provide assurance that the AOT extension is not applied during adverse weather conditions that could potentially affect offsite power availability. Administrative controls are also implemented to avoid or minimize risk-significant plant configurations during the time when a DG is removed from service.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TS changes do not involve a change in the design, configuration, or method of operation of the plant that could create the possibility of a new or different kind of accident. The proposed change extends the AOT currently allowed by the TS.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The Engineered Safety Feature (ESF) systems required to mitigate the consequences of postulated accidents consist of three independent divisions. The ESF systems of any two of the three divisions provide for the minimum safety functions necessary to shut down the unit and maintain it in a safe shutdown condition. Each of the three independent ESF divisions can be powered from one of the offsite power sources or its associated on-site DG. This design provides adequate defense-in-depth to ensure that the ESF equipment needed to mitigate the consequences of an accident will have diverse power sources available to accomplish the required safety functions. Thus, with one DG out of service, there are sufficient means to accomplish the safety functions and prevent the release of radioactive material in the event of an accident.

The proposed AOT change does not affect any of the assumptions or inputs to the safety analyses of the FSAR and does not erode the decrease in severe accident risk achieved with the issuance of the Station Blackout (SBO) Rule, 10 CFR 50.63 ''Loss of All Alternating Current Power.''

The proposed extended AOT deviates from the recommended 72 hour AOT of Regulatory Guide (RG) 1.93. However, an extension of the 72 hour AOT to 14 days has been demonstrated to be acceptable based on deterministic and risk-informed analyses. The proposed changes are not in conflict with any other approved codes or standards applicable to the onsite AC [Alternating Current] power sources.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

GPU Nuclear Inc., Docket No. 50–320, Three Mile Island Nuclear Generating Station, Unit 2, Dauphin County, Pennsylvania

Date of amendment request: February 8, 2002.

Description of amendment request: The proposed amendment would replace referenced control requirements for access to high radiation areas with the actual requirements of 10 CFR part 20. The referenced document in Technical Specifications Section 6.11 would no longer exist.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes replace referenced control requirements affecting access to high radiation areas with the actual requirements. This proposed change does not involve any changes to system or equipment configuration. The reliability of systems and components relied upon to prevent or mitigate the consequences of accidents previously evaluated is not affected by the proposed changes. Therefore, these changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature and do not involve a change to the plant design or operation. No new or different types of equipment will be installed as a result of this change. The proposed change is administrative in nature and replaces referenced control requirements for

access to high radiation areas with the actual requirements. No new accident modes or equipment failure modes are created by these changes. Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed change does not impact or have a direct effect on any safety analysis assumptions. The proposed change is administrative in nature and replaces referenced control requirements for access to high radiation areas with the actual requirements.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Robert A. Gramm.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment requests: January 14, 2002.

Description of amendment requests: The proposed amendments would add an allowable plus or minus (±) 1 percent (%) as-left setpoint tolerance for the pressurizer code safety valves to Unit 1 and Unit 2 technical specification (TS) 3.4.2 and TS 3.4.3. In addition, the proposed amendments would revise Unit 2 TS 3.4.2 and TS 3.4.3 to increase the allowable as-found setpoint tolerance for the Unit 2 pressurizer code safety valves from ± 1 % to ± 3%.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability of occurrence or consequences of an accident previously evaluated?

Response: No.

Probability of Occurrence of an Accident Previously Evaluated—

The proposed changes to pressurizer code safety valve as-found and as-left setpoint tolerance do not affect any accident initiators or precursors. There are no new failure modes for the pressurizer code safety valves created by this change in setpoint tolerance. No adverse interactions with the RCS are created by this change in setpoint tolerance. The lowest possible setpoint of any of the pressurizer code safety valves (including the ± 3% tolerance) is higher than the highest RCS pressures anticipated during shutdown, startup, normal operating, and anticipated operational occurrence conditions. The lowest possible pressurizer code safety valve setpoint is also higher than the setpoint of the PORVs. Therefore, there would not be an adverse interaction between the pressurizer code safety valves and the PORVs. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

The format changes for the Unit 2 TS 3.4.3 page do not impact any accident initiators or precursors. Thus, the probability of occurrence of an accident previously evaluated is not significantly increased.

Consequences of an Accident Previously Evaluated—

The proposed change to add an allowable as-left setpoint tolerance for the Unit 1 and 2 pressurizer code safety valves does not adversely affect any of the accident and safety analyses. In addition, the proposed increase in the Unit 2 as-found pressurizer code safety valve setpoint tolerance does not adversely affect any of the accident and safety analyses. Both the as-left setpoint of ± 1% and the as-found setpoint of ± 3% of the nominal lift pressure of 2485 psig provides reasonable assurance that the pressurizer code safety valves are capable of performing their design function as assumed in the accident and safety analyses. Even at the highest allowable lift pressure, the pressurizer code safety valves, in conjunction with the RPS, remain capable of limiting the RCS pressure within the Safety Limit of 110% of design pressure (or 2735 psig). Thus, there will be no increase in offsite doses and the consequences of an accident previously analyzed are not increased.

The format changes for the Unit 2 TS 3.4.3 page do not impact the pressurizer code safety valve's function. Thus, there will be no increase in offsite doses, and the consequences of an accident previously analyzed are not increased.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to pressurizer code safety valve as-found and as-left setpoint tolerance do not create any new or different accident initiators or precursors. There are no new failure modes for the pressurizer code safety valves created by this change in setpoint tolerance. No adverse interactions with the RCS are created by this change in setpoint tolerance. The lowest possible setpoint of any of the pressurizer code safety valves (including the ± 3% tolerance) is higher than the highest RCS pressures anticipated during shutdown, startup, normal operating, and anticipated operational occurrence conditions. The lowest possible pressurizer code safety valve setpoint is also higher than the setpoint of the PORVs. Therefore, there would not be an adverse interaction between the pressurizer code safety valves and the PORVs. Thus, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The format changes for the Unit 2 TS 3.4.3 page do not create any new or different accident initiators or precursors. Thus, the possibility of a new or different kind of accident from any previously evaluated is not created.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not impact pressurizer code safety valve capability to perform the design function required by the accident and safety analyses, nor do the proposed changes impact the operational characteristics of the pressurizer code safety valves. The pressurizer code safety valves, in conjunction with the RPS, ensure that the RCS Safety Limit of 110% of design pressure (or 2735 psig) is not exceeded for any analyzed event. Therefore, the proposed changes do not involve a significant reduction in margin of safety.

The format changes for the Unit 2 TS 3.4.3 page do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: David W. Jenkins, Esq., 500 Circle Drive, Buchanan, MI 49107.

NRC Section Chief: William D. Reckley, Acting Section Chief.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: January 21, 2002.

Description of amendment request: The proposed revised Technical Specification (TS) Requirement will modify TS Surveillance Requirement (SR) 3.7.3.1 to improve consistency with Cooper Nuclear Station (CNS) License Amendment No. 185, approved on March 13, 2001, and eliminate unnecessary restrictions regarding how the Reactor Equipment Cooling (REC) System surge tank level is monitored.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This change eliminates the specific details regarding performing the SR 3.7.3.1 verification of Reactor Equipment Cooling (REC) surge tank level. This change will not result in a significant increase in the probability of an accident previously

evaluated because the method of verifications of REC surge tank level has no effect on the initiators of any analyzed events.

The method of performing the surveillance on REC surge tank level does not affect the performance of the minimum equipment credited in the mitigation of any analyzed event. As a result, no analysis assumptions or mitigative functions are impacted. Therefore, this change will not result in a significant increase in the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve a physical alteration of the plant. No new equipment is being introduced, and installed equipment is not being operated in a new or different manner. There is no change being made to the parameters within which the plant is operated. There are no setpoints, at which protective or mitigative actions are initiated, affected by this change. This change will not alter the manner in which equipment operation is initiated, nor will the function demands on credited equipment be changed. No alteration in the procedures which ensure the plant remains within analyzed limits is being proposed, and no change is being made to the procedures relied upon to an off-normal event. As such, no new failure modes are being introduced. The change does not alter assumptions made in the safety analysis and licensing basis. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety is established through equipment design, operating parameters, and the setpoints at which automatic actions are initiated. Credited equipment remains available to actuate upon demand for the purpose of mitigating an analyzed event. The proposed change is acceptable because the operability of the REC System is unaffected, there is no detrimental impact on any equipment design parameter, and the plant will still be required to operate within assumed conditions. The normal procedural controls on methods of surveillance performance provide adequate assurance that the REC System will be capable of performing its intended safety function. Detailing the performance method within the TSs does not impact the margin of safety (which is more closely related to tank volume than the method of verifying volume). Therefore, the change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499.

NRC Section Chief: Robert A. Gramm.

Nuclear Management Company, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: February 8, 2002.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to change TS Section 5.0, Administrative Controls, to adopt TSTF–258 Revision 4. Revisions to the TS are proposed to Section 5.2.2, Unit Staff, to delete details of staffing requirements and delete requirements for the Shift Technical Advisor (STA) as a separate position while retaining the function. Section 5.5.4, Radioactive Effluent Controls Program, would be revised to be consistent with the intent of 10 CFR part 20. Section 5.6.4, Monthly Operating Reports, would be revised by deleting periodic reporting requirements for main steam safety/relief valve challenges to be consistent with Generic Letter 97–02. Section 5.7, High Radiation Area, would be revised in accordance with 10 CFR 20.1601(c).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

This request for amendment to Duane Arnold Energy Center's TS provides for adoption of the NRC-approved generic change TSTF item TSTF–258, Revision 4. The Amendment request includes revisions to TS Section 5.0, ''Administrative Controls,'' to delete details of staffing requirements, delete requirements for the STA as a separate position while retaining the function, revise the Radioactive Effluent Controls Program to be consistent with the intent of 10 CFR 20, delete periodic reporting requirements of challenges to main steam safety/relief valves, and revise radiological control requirements for radiation areas to be consistent with those specified in 10 CFR 20.1601(c).

The proposed TS changes are administrative in nature and do not impact the operation, physical configuration, or function of plant equipment or systems. The changes do not impact the initiators or assumptions of analyzed events, nor do they impact mitigation of accidents or transient events. Therefore, these proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes are administrative in nature and do not alter plant configuration, require that new equipment be installed, alter assumptions made about accidents previously evaluated or impact the operation or function of plant equipment or systems. The proposed changes do not introduce any new modes of plant operation or make any changes to system setpoints. The proposed changes do not create the possibility of a new or different kind of accident due to credible new failure mechanisms, malfunctions, or accident initiators not considered in the design and licensing bases. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated has not been created.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The proposed TS changes are administrative in nature and do not involve physical changes to plant structures, systems, or components (SSCs), or the manner in which these SSCs are operated, maintained, modified, tested, or inspected. The proposed changes do not involve a change to any safety limits, limiting safety system settings, limiting conditions for operation, or design parameters for any SSC. The proposed changes do not impact any safety analysis assumptions and do not involve a change in initial conditions, system response times, or other parameters affecting any accident analysis. Regarding the deletion of the requirement for the STA as a separate position, the function will be retained, so there will be no reduction in the margin of safety. As a result, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Alvin Gutterman, Morgan Lewis, 1111 Pennsylvania Avenue NW., Washington, DC 20004.

NRC Section Chief: William D. Reckley, Acting Section Chief.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 12, 2002.

Description of amendment request: The proposed amendment would revise Surveillance Requirement (SR) 4.0.E to extend the delay period before entering a limiting condition for operation following a missed surveillance. The delay period would be extended from the current limit of ''* * * up to 24 hours or up to the limit of the time interval, whichever is less'' to ''* * *

up to 24 hours or up to the limit of the time interval, whichever is greater.'' In addition, the following requirement would be added to SR 4.0.E: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line-item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC determination in its application dated February 12, 2002.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: William D. Reckley, Acting.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: November 15, 2001, as supplemented by letter dated January 31, 2002.

Description of amendment request: The proposed amendment request modifies License Condition 2.C(10) associated with loading and contingency unloading of spent fuel casks in the fuel building due to changes in the dry storage system design.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The requested license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Accidents previously evaluated are those addressed in the Trojan Nuclear Plant (TNP) Defueled Safety Analysis Report (DSAR), the TNP Decommissioning Plan and License Termination Plan (''Decommissioning Plan''), and LCA [license change application] 237, Revision 3, and LCA 246, Revision 0. [Since their approval via Amendments 199 and 200 to the TNP License on April 23, 1999, Revision 3 of LCA 237 and Revision 0 of LCA 246, have undergone revision per 10 CFR 50.59, as allowed by TNP License Condition 2.C(10). The current revisions are LCA 237, Revision 4, and LCA 246, Revision 1.] The basis for the conclusion that the probability or consequences of an accident previously evaluated in the DSAR or Decommissioning Plan is not significantly increased is not materially changed from the significant hazards consideration determination provided in the current LCA 237, Revision 4, and LCA 246, Revision 1. Loading and contingency unloading of the MPC [multi-purpose canister] as described in the proposed Revision 5 of LCA 237 and Revision 2 of LCA 246 consist of activities that are functionally the same as those for loading and contingency unloading a PWR [pressurized water reactor] Basket under the previous Trojan Storage System design. With the original Transfer Cask, PWR Basket, and its shield and structural lids and associated welds replaced under the new design by the Holtec Transfer Cask, MPC, and its MPC redundant closures (i.e., lid, vent and drain port cover plates, closure ring, and associated welds), respectively, these and associated Trojan Storage System design changes do not significantly impact the activities that will be conducted during ISFSI [independent spent fuel storage installation] loading/unloading. Furthermore, the safety evaluations in the proposed Revision 5 of LCA 237 and Revision 2 of LCA 246 show that the Trojan ISFSI design changes do not significantly impact the potential for or consequences of off-normal events or accidents during ISFSI loading and contingency unloading. Thus, the probability or consequences of an accident previously evaluated in the DSAR or Decommissioning Plan is not significantly increased.

The postulated events previously evaluated in Revision 3 of LCA 237 and Revision 0 of LCA 246 include drops, tipovers, mishandling, operational errors, and support system malfunctions that could potentially

occur during loading and contingency unloading operations.

As discussed in proposed Revision 5 to LCA 237 and Revision 2 to LCA 246, the Trojan Storage System design changes do not significantly affect the conclusions with respect to the potential for or consequences of a Transfer Cask and/or MPC drop, tipover, or mishandling event. The design safety factors, load testing requirements, and administrative controls (i.e., procedures, training, maintenance, and inspections) for the fuel handling equipment are materially unaffected by the Trojan Storage System design changes, such that there is no significant increase in probability of a Transfer Cask and/or MPC drop, tipover, or mishandling event. As described in the safety evaluation in proposed Revision 5 to LCA 237 and Revision 2 to LCA 246, the calculated consequence of a Transfer Cask drop, tipover, or mishandling event prior to the MPC lid being welded to the MPC is approximately 0.003 rem whole body dose at the site boundary, which is the same as was calculated for these events in LCA 237, Revision 3. This calculated consequence, which is well below the EPA PAG [Environmental Protection Agency protective action guide] of 1 rem whole body dose for the early phase of an event, has accumulated additional conservatism since the submittal and NRC approval of LCA 237, Revision 3, applicable to loading the PWR Basket. The additional conservatism is the result of the calculation assumption that five years have elapsed for cooling of the fuel, combined with the fact that approximately five additional years have passed since this event was originally analyzed for LCA 237, Revision 3, during which additional cooling of the TNP spent nuclear fuel has occurred. Thus, there is no significant increase in consequences of a Transfer Cask drop, tipover, or mishandling event.

The Trojan Storage System design changes also do not significantly increase the probability or consequences of operational errors and/or support system malfunctions that could potentially occur during loading/unloading operations. As discussed in the safety evaluation in proposed Revision 5 to LCA 237 and Revision 2 to LCA 246, the changes to pressures associated with the ISFSI confinement boundary do not impact the conclusion that the postulated inadvertent over-pressurization of the MPC during draining and/or drying operations is not considered credible, since multiple equipment failures and a procedural error are still required in order for the event to occur. With the revised design decay heat load as summarized above, the longer time period required for boiling to occur in the MPC further reduces the potential for a postulated over-pressurization event.

As shown in proposed Revision 5 of LCA 237 and Revision 2 of LCA 246, the higher operating pressures during loading operations (*e.g.,* pressure testing and MPC blowdown and backfill pressures) and the redesign of several of the systems involved in MPC closure operations (*e.g.,* vacuum drying, blowdown system, and helium recirculation cooling), do not significantly impact the probability or consequences of equipment failures. The maximum normal design pressure ratings of the MPC, vacuum drying system, helium recirculation system, and helium backfill system, including their associated pressurized lines and system components, are such that the operating pressure increase does not significantly increase the probability of a passive failure of a pressurized line on the MPC. However, because of the increased operating and test pressures associated with the Holtec-designed MPC as compared to the PWR Basket, the consequence of a bounding scenario involving the passive failure of a pressurized line is increased. However, this increase is not considered to be significant since, as detailed in Section 5.2.5.2.2 of proposed Revision 5 to LCA 237 and Revision 2 to LCA 246, the dose consequence remains well below the EPA PAG of 1 rem whole body for the early phase of an event.

Based on the above, the impacts of the Trojan Storage System design changes on cask loading/unloading operations would not significantly increase the probability or consequences of any accident previously evaluated.

2. The requested license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The aforementioned design changes for the Trojan Storage System do not create the possibility of a new or different kind of accident from any accident previously evaluated, including those evaluated in Revision 3 of LCA 237 and Revision 0 of LCA 246 approved by the NRC on April 23, 1999. With the original Transfer Cask, PWR Basket, and its shield and structural lids and associated welds replaced under the new design by the Holtec Transfer Cask, MPC, and its MPC redundant closures (i.e., lid, vent and drain port cover plates, closure ring, and associated welds), respectively, these and associated Trojan Storage System design changes do not significantly impact the functional activities that will be conducted during ISFSI loading/unloading. Thus, the loading procedure and system design changes do not introduce any new types of accidents not previously analyzed in Revision 3 of LCA 237 and Revision 0 of LCA 246.

3. The requested license amendment does not involve a significant reduction in the margin of safety.

The basis for the conclusion that a significant reduction in the margin of safety is not involved is not materially changed from the significant hazards consideration determination provided in the current LCA 237, Revision 4, and LCA 246, Revision 1. Specifically, the TNP Permanently Defueled Technical Specifications (PDTS) contain four limiting conditions of operation that address: (1) Spent Fuel Pool water level, (2) Spent Fuel Pool boron concentration, (3) Spent Fuel Pool temperature, and (4) Spent Fuel Pool load restrictions. These Technical Specifications will remain in effect as long as spent fuel is stored in the Spent Fuel Pool, which is in accordance with their applicability statements. As discussed below, the Trojan Storage System design changes and their impact on ISFSI loading/unloading activities will not affect the PDTS or their bases.

Loading and contingency unloading of the MPC as described in the proposed Revision 5 of LCA 237 and Revision 2 of LCA 246 consist of activities that are functionally the same as those for loading and contingency unloading a PWR Basket under the previous Trojan Storage System design. The Cask Loading Pit, where spent fuel will be loaded into the MPC, is immediately adjacent to the Spent Fuel Pool. The gate between the Cask Loading Pit and Spent Fuel Pool will be opened to allow spent fuel assemblies to be moved from the spent fuel storage racks in the Spent Fuel Pool to the MPC in the Cask Loading Pit. Opening the gate will allow free exchange of the water between the Cask Loading Pit and the Spent Fuel Pool. The water in the Cask Loading Pit must be at essentially the same level, boron concentration, and temperature as the Spent Fuel Pool prior to the first opening of the gate to ensure that the limiting conditions of operation are continuously satisfied for the Spent Fuel Pool. Therefore, the Cask Loading Pit will be filled, to about the same level as the Spent Fuel Pool, with water that is about the same boron concentration and temperature as the Spent Fuel Pool. With these precautions, the limiting conditions of operation pertaining to Spent Fuel Pool level, boron concentration, and temperature will be continuously maintained for the Spent Fuel Pool and the margin of safety will be unaffected. Except for small changes to accommodate lid lift rigging, the level in the Cask Loading Pit will not be reduced until the MPC lid has been placed on the loaded MPC. This configuration is consistent with the objective of keeping the radiological exposure to personnel as low as reasonably achievable (ALARA). The contingency unloading sequence is essentially the reverse of the loading sequence. Thus, the loading and contingency unloading processes for the MPC with the Trojan Storage System design changes incorporated do not involve a significant reduction in the margin of safety.

As with the previous design, the Trojan Storage System design changes will be implemented such that when lifting and moving heavy loads, loads that will be carried over fuel in the Spent Fuel Pool racks and the heights at which they may be carried will be limited in such a way as to preclude impact energies, in the unlikely event of a drop, from exceeding 240,000 in-lbs in accordance with Limiting Condition for Operation (LCO) 3.1.4, ''Spent Fuel Pool Load Restrictions.'' With this precaution, the LCO pertaining to load restrictions over the Spent Fuel Pool will be satisfied for fuel stored in the Spent Fuel Pool racks and the margin of safety will be unaffected. The safe load path for heavy loads being lifted and moved outside the Spent Fuel Pool will be located sufficiently far from the Spent Fuel Pool as to not have an adverse effect on the Spent Fuel Pool in the unlikely event of a load drop. In addition, the Trojan Storage System design changes do not affect the implementation of mechanical stops and electrical interlocks on the Fuel Building overhead crane that provide additional assurance that heavy loads are not carried

over the fuel in the Spent Fuel Pool racks. Thus, the Trojan Storage System design changes and their impact on ISFSI loading and contingency unloading activities do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Douglas R. Nichols, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Section Chief: Robert A. Gramm.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: October 30, 2001, as supplemented by letter dated February 11, 2002.

Description of amendment request: The proposed amendments would revise Technical Specifications Table 3.3.1–1, ''Reactor Trip System Instrumentation'' and the associated Bases B 3.3.1. A limit or ''clamp'' on the Over Temperature Delta Temperature (OTDT) reactor trip function is proposed to address design issues related to fuel rod design under transient conditions. In addition, editorial revisions to Bases B 3.3.1 are included.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed clamp on the OTDT reactor trip function is not credited in the safety analyses. Implementation of the limit or ''clamp'' on the OTDT reactor trip function, along with the corresponding changes to the AFD [axial flux difference] modifier f_1 (AFD) and RAOC [relaxed axial offset control] band, will ensure the prevention of stress failure of the fuel rod cladding for Condition I and II reactor coolant system cooldown events. This demonstrates continued compliance with 10 CFR 50, Appendix A, Criterion 10, *i.e.*, that the specified acceptable fuel design limits are not exceeded.

There is no change in the radiological consequences of any accident since the fuel clad, the reactor coolant system pressure boundary, and the containment are not changed, nor will the integrity of these physical barriers be challenged. In addition, the proposed modification will not change, degrade, or prevent any reactor trip system actuations.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed clamp on the OTDT reactor trip function is not credited in the safety analyses. Implementation of the limit or ''clamp'' on the OTDT reactor trip function, along with the corresponding changes to the AFD modifier f_1 (AFD) and RAOC band, will ensure the prevention of stress failure of the fuel rod cladding for Condition I and II reactor coolant system cooldown events.

The design basis of the OTDT reactor trip setpoint is to ensure DNB [departure from nucleate boiling] protection and to preclude vessel exit boiling. The installation of the OTDT clamp would continue to ensure this same protection and that the OTDT design basis would remain unaffected. The introduction of the OTDT clamp would not create any new transients nor would it invalidate the OTDT design basis. In addition, there are no transients analyzed in the VEGP [Vogtle Electric Generating Plant] FSAR [final safety analysis report] that result in a reduction in the reactor coolant temperature which rely on OTDT as the primary reactor trip function, as cooldown events tend to be non-limiting with respect to the criterion of DNB.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

The proposed clamp on the OTDT reactor trip function is not credited in the safety analyses. Implementation of the limit or ''clamp'' on the OTDT reactor trip function, along with the corresponding changes to the AFD modifier f_1 (AFD) and RAOC band, will ensure the prevention of stress failure of the fuel rod cladding for Condition I and II RCS [reactor coolant system] cooldown events. This demonstrates continued compliance with 10 CFR 50, Appendix A, Criterion 10, i.e., that the specified acceptable fuel design limits are not exceeded.

The design basis of the OTDT reactor trip setpoint is to ensure DNB [departure from nucleate boiling] protection and to preclude vessel exit boiling. The installation of the OTDT clamp would continue to ensure this same protection and that the OTDT design basis would remain unaffected.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Arthur H. Domby, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, Georgia 30308–2216.

NRC Section Chief: Richard J. Laufer, Acting.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 14, 2002.

Description of amendment request: The proposed amendment revises Technical Specifications (TS) 3.4.2.2, ''Reactor Coolant System.'' to relax the lift setting tolerance of the pressurizer safety valves from ±2 percent to ±3 percent. The current TS requirements that the as left lift setting be within ±1 percent will remain intact.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed TS change takes credit for the assumptions made in the reanalysis of the turbine trip and rod withdrawal from power events already evaluated in the UFSAR [Updated Final Safety Analysis Report]. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed TS change takes credit for the assumptions made in the reanalysis of the turbine trip and rod withdrawal from power events already evaluated in the UFSAR. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel and fuel cladding, reactor coolant pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed TS change takes credit for the assumptions made in the reanalysis of the turbine trip and rod withdrawal from power events already evaluated in the UFSAR. Those analyses demonstrated that (1) the fuel design limits were maintained by the reactor protection system since the DNBR [departure from

nucleate boiling ratio] was maintained above the limit value, and (2) the plant design is such that a turbine trip presents no hazard to the integrity of the RCS [reactor coolant system] or the main steam system pressure boundary. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Morgan Lewis, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Section Chief: Robert A. Gramm.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 14, 2002.

Description of amendment request: The proposed amendment revises Technical Specifications to eliminate shutdown actions associated with radiation monitoring instrumentation. The proposed changes will enhance plant reliability by reducing exposure to unnecessary shutdowns and increase operational flexibility, and relax certain other restrictions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The radiation monitors affected by the proposed amendment are not potential accident initiators. Adequate measures are available to compensate for radiation monitors that are out of service. The proposed amendment does not affect how the affected radiation monitors function or their role in the response of an operator to an accident or transient. The core damage frequency in the STP [South Texas Project] PRA [probabilistic risk assessment] is not impacted by the proposed changes. Therefore, STPNOC [South Texas Project Nuclear Operating Company] concludes that there is no significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The radiation monitors affected by the proposed amendment are not credited for the prevention of any accident not evaluated in the safety analysis. The proposed amendment involves no changes in the way the plant is operated or controlled. It involves no change in the design configuration of the plant. No new operating environments are created. Therefore, STPNOC concludes the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change has no significant effect on functions that are supported by the affected radiation monitors. There will be no significant effect on the availability and reliability of the affected radiation monitors. Adequate measures are available to compensate for radiation monitors that are out of service. Therefore, STPNOC concludes the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Morgan Lewis, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Section Chief: Robert A. Gramm.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 14, 2002.

Description of amendment request: The proposed amendment revises Technical Specifications governing radiation monitoring instrumentation and reactor coolant system leakage detection to eliminate the associated shutdown action requirements and relax certain other restrictions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The radiation monitors and leakage detection instrumentation affected by the proposed amendment are not potential accident initiators. Adequate measures are available to compensate for instrumentation that is out of service. The proposed amendment does not affect how the affected instrumentation normally functions or its role in the response of an operator to an accident or transient. The core damage frequency in the STP [South Texas Project] PRA [probabilistic risk assessment] is not impacted by the proposed changes. Therefore, STPNOC [South Texas Project Nuclear Operating Company] concludes that there is no significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The instrumentation affected by the proposed amendment is not credited for the prevention of any accident not evaluated in the safety analysis. The proposed amendment involves no changes in the way the plant is operated or controlled. It involves no change in the design configuration of the plant. No new operating environments are created. Therefore, STPNOC concludes the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change has no significant effect on functions that are supported by the affected instrumentation. There will be no significant effect on the availability and reliability of the affected instrumentation. Adequate measures are available to compensate for instrumentation that is out of service. Therefore, STPNOC concludes the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Morgan Lewis, 1111 Pennsylvania Avenue, NW., Washington, DC 20004.

NRC Section Chief: Robert A. Gramm.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: January 14, 2002.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3.4.16, applicable Bases ''Reactor Coolant System Specific Activity,'' and Surveillance Requirement (SR) 3.4.16.2, from 1.0 microcuries per gram (uCi/gm) iodine-131 to 0.265 uCi/gm iodine-131. TS 3.4.16, Figure 3.4.16–1, ''Reactor Coolant Dose Equivalent Iodine-131 Specific Activity Limit Versus Percent of Rated Thermal Power,'' is being deleted and the maximum value of 21 uCi/gm iodine-131 is being added to TS Required Action 3.14.16.A and 3.4.16.C. In addition, TS Section 3.3.7, ''CREVS [Control Room Emergency Ventilation System] Actuation Instrumentation,'' Table 3.3.7–1 changes the allowable

value to the Control Room Radiation and Control Room Air Intakes for SR 3.3.7.1, 3.3.7.2, and 3.3.7.4 from less than or equal to (≤) 5.77E–04 uCi/cubic centimeter (cc) (20,199 counts per minute (cpm)) to ≤9.45E–05 uCI/cc (3,307 cpm).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification[s] change[s] to reduce the steady state and 48[-]hour reactor coolant system (RCS) allowable iodine concentrations, and to revise the surveillance requirement value for the Main Control Room [MCR] air intake radiation monitors [do] not change any operator actions nor [do they] change plant systems or structures. Therefore, the proposed change[s] to WBN Unit 1 Technical Specification[s] [do] not result in a significant increase in the probability of an accident.

The calculated radiological consequences at the Exclusion Area Boundary (EAB) and Low Population Zone (LPZ) are larger than currently discussed in the Final Safety Analysis Report (FSAR) accidents for the main steam line break (MSLB) and steam generator tube rupture (SGTR) (with the exception of thyroid and beta doses being slightly lower for STGR) accidents. The radiological consequences for the SGTR and MSLB accidents increased due to utilizing more conservative methodologies and more conservative assumptions in the calculation. However, the calculated radiological consequences remain within the limits identified in 10 CFR 100, ''Reactor Site Criteria,'' and General Design Criteria (GDC)–19, ''Control Room,'' and are consistent with NUREG–0800, ''Standard Review Plan,'' acceptance criteria.

The surveillance requirement radiation limit for the Main Control Room air intake radiation monitors will be reduced to compensate for the change in source terms which resulted from the use of the methodology changes in the SGTR accident. This change ensures the monitors perform their safety function of control room isolation during accident conditions and does not increase the probability or consequences of an accident previously evaluated.

In summary, the control room dose, the LPZ dose, and the EAB dose for the SGTR and MSLB remain bounded by the acceptance criteria of NUREG–0800 and continue to satisfy an appropriate fraction of the 10 CFR 100 dose limits and the GDC–19 dose limits. The surveillance requirement changes for the Main Control Room radiation monitors ensure the monitors perform their intended design function. Therefore, the proposed change does not result in a significant increase in the [probability or] consequences of an accident previously analyzed.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS change does not alter the configuration of the plant. The changes do not directly affect plant operation. The change will not result in the installation of any new equipment or system or the modification of any existing equipment or systems. No new operation procedures, conditions or modes will be created by this proposed change. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The methods for calculating the radiological consequences are revised for the MSLB and SGTR analysis to utilize the thyroid dose conversion factors in International Commission on Radiation Protection Publication 30 (ICRP–30) to calculate the dose and ARCON96 methodology to calculate atmospheric dispersion coefficients.

The calculated radiological consequences at the EAB and LPZ are slightly larger than those noted in the FSAR accidents for the MSLB and SGTR (thyroid and beta doses slightly lower for SGTR) accidents. The radiological dose consequences for the SGTR and MSLB accidents increased due to utilizing more conservative methodologies and more conservative assumptions in the calculation. The calculated dose consequences of the evaluated accidents remain less than the dose limits identified in 10 CFR 100 and GDC–19, and are consistent with NUREG–0800 acceptance criteria. The surveillance requirement for the MCR radiation monitors is being reduced for consistency with lower source terms and to ensure the monitors perform their intended design function of isolating the Main Control Room subsequent to an accident. Therefore, it is concluded that the proposed change to lower the RCS Specific Activity and subsequent changes to the Main Control Room radiation monitors are required to ensure the Main Control Room dose and the offsite dose are below the acceptable limits. Therefore these changes do not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Richard P. Correia.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application 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, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/reading-rm.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: August 13, 2001.

Brief description of amendment: The amendment defers withdrawal of the first set of reactor vessel surveillance specimens until 10.4 effective full

power years, expected to be one additional operating cycle.

Date of issuance: March 8, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 143.

Facility Operating License No. NPF–62: The amendment changes the updated safety analysis report.

Date of initial notice in ***Federal Register:*** October 17, 2001 (66 FR 52796). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of application for amendment: June 21, 2001, as supplemented by letter dated January 18, 2002.

Brief description of amendment: The amendment modifies the technical specification requirement that the main steamline safety relief valves (SRVs) open when they are manually actuated by instead requiring that the SRV valve actuators stroke on a manual actuation.

Date of issuance: March 19, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 144.

Facility Operating License No. NPF–62: The amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 3, 2001 (66 FR 50465). The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: November 9, 2001.

Brief description of amendments: The amendments would revise Technical Specification 5.6.5b to add NRC-approved Topical Report CENPD–404–P–A, ''Implementation of ZIRLO ™ Cladding Material in CE Nuclear Power Fuel Assembly Designs,'' into the list of analytical methods used to determine core operating limits and thus, enable use of ZIRLO clad fuel in Palo Verde Nuclear Generating Station units.

Date of Issuance: March 12, 2002.

Effective date: March 12, 2002, and shall be implemented within 60 days of the date of issuance.

Amendment Nos.: Unit 1–140, Unit 2–140, Unit 3–140.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 22, 2002 (67 FR 2919). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 12, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of amendment request: November 26, 2001, as supplemented January 31, 2002, February 5, 2002, and February 11, 2002.

Description of amendment request: The amendment revises the Improved Technical Specification 5.5.12 to allow a one-time interval increase for the Type A Integrated Leakage Rate Test for no more than 3 years, 2 months.

Date of issuance: March 6, 2002.

Effective date: March 6, 2002.

Amendment Nos: 216.

Facility Operating License No. DPR–71: The amendment changes the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 8, 2002 (67 FR 926). The January 31, 2002, and February 5, 2002, supplements contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial **Federal Register** notice. The February 11, 2002, supplement revised the original request, but the initial no significant hazards consideration determination bounded the revised request.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 6, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: June 26, 2001, as supplemented January 14, and February 1, 2002.

Description of amendment request: The amendments revise the Technical Specifications to support installation of the General Electric Nuclear Measurement Analysis and Control Digital Power Range Neutron Monitoring System.

Date of issuance: March 8, 2002.

Effective date: March 8, 2002.

Amendment Nos: 217 and 243.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 25, 2001 (66 FR 38759). The January 14, and February 1, 2002, supplements contained clarifying information only and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: August 1, 2001, as supplemented February 4, 2002.

Description of amendment request: The amendment revises the Technical Specifications to incorporate NRC-approved Technical Specification Task Force Traveler Item 51, ''Revise containment requirements during handling irradiated fuel and core alterations,'' Revision 2.

Date of issuance: March 14, 2002.

Effective date: March 14, 2002.

Amendment Nos: 218 and 244.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 5, 2001 (66 FR 46477). The February 4, 2002, supplement contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 14, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: November 7, 2001.

Description of amendment request: The amendments revise Technical Specification (TS) 3.1.4, ''Control Rod Scram Times,'' to delineate more specific requirements for testing control rod scram times following refueling outages. TS 5.1 is revised to reference Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.59. The amendment incorporates the Nuclear Regulatory Commission-approved Technical Specification Task Force (TSTF) Item 222, Revision 1, ''Control Rod Scram Testing,'' and TSTF Item 364, Revision 0, ''Revision to TS Bases Control Program to Incorporate Changes to 10 CFR 50.59.''

Date of issuance: March 19, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos: 219/245.

Facility Operating License Nos. DPR–71 and DPR–62: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** November 28, 2001 (66 FR 59502). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: August 6, 2001.

Brief description of amendments: The amendments revised Technical Specification (TS) 3.3.2 for Engineered Safety Feature Actuation System Instrumentation, and TS 3.3.6 for Containment Purge and Exhaust Isolation Instrumentation. The amendments excluded the Containment Purge Ventilation System and the Hydrogen Purge System containment isolation valves from the instrumentation testing requirements in TS 3.3.2 and TS 3.3.6. The amendments also made appropriate changes in the Bases for TS 3.3.6 and TS 3.6.3.

Date of issuance: March 20, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 196/189.

Facility Operating License Nos. NPF–35 and NPF–52: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 12, 2001 (66 FR 64291). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 2002.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: August 14, 2001.

Brief description of amendments: The proposed amendments would revise TS Surveillance Requirement 3.3.5.2 by changing the Engineered Safeguards Protective System Analog Instrument channel functional test frequency from 31 days to 92 days.

Date of Issuance: March 18, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 321/321/322.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 5, 2001 (66 FR 46478). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 18, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: December 21, 2001, as supplemented February 15, 2002.

Brief description of amendment: This amendment revises the minimum critical power ratio safety limits for operating cycle 10.

Date of issuance: March 12, 2002.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 156.

Facility Operating License No. NPF–39: This amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 22, 2002 (67 FR 2924). The February 15, 2002, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 12, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: May 23, 2001.

Brief description of amendments: These amendments deleted Technical Specification 3.4.2, Limiting Condition for Operation, Action Statement b, concerning operator actions with stuck open safety/relief valves.

Date of issuance: As of date of issuance and shall be implemented within 30 days.

Effective date: March 20, 2002.

Amendment Nos.: 157 and 119.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 22, 2001 (66 FR 44171). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 2002.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: June 26, 2001, as supplemented by letter dated November 15, 2001.

Brief description of amendments: The amendments revised Technical Specification 3/4.3.3, Emergency Core Cooling System, Actions 36 and 37 of Table 3.3.3–1, and associated TS Bases. The change to Action 36 clarifies equipment affected by inoperable components. The change to Action 37 takes advantage of the inherent overlap of the degraded voltage relays' characteristics such that inoperable relays that define a channel can be taken out of service without placing its associated source breaker in the trip position.

Date of issuance: March 20, 2002.

Effective date: As of date of issuance and shall be implemented within 30 days.

Amendment Nos.: 158 and 120.

Facility Operating License Nos. NPF–39 and NPF–85: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** August 22, 2001 (66 FR 44171). The November 15, 2001, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 20, 2002.

No significant hazards consideration comments received: No.

National Aeronautics and Space Administration, Docket Nos. 50–30 and 50–185, the Plum Brook Test Reactor and the Plum Brook Mockup Reactor, Sandusky, Ohio

Date of application for amendments: December 20, 1999, as supplemented by letters dated March 26, November 19, and December 20, 2001, and January 24, 2002.

Brief description of amendments: The amendment allows decommissioning of the PBRF in accordance with NASA's application as supplemented. Pursuant to 10 CFR 50.82(b)(5), the approved decommissioning plan will be a supplement to the Safety Analysis Report or equivalent.

Date of issuance: March 20, 2002.

Effective date: March 20, 2002.

Amendment Nos.: Amendment No. 11 to Plum Brook Test Reactor and Amendment No. 7 to the Plum Brook Mockup Reactor.

Facility Operating License Nos. TR–3 and R–93: These amendments consist of changes to the Facility Licenses.

*Date of initial notice in **Federal Register:*** January 22, 2002 (67 FR 2924). The January 24, 2002, supplemental letter provided additional clarifying information, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation enclosed with the amendments dated March 20, 2002.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: November 20, 2001, as supplemented January 28 and February 21, 2002.

Brief description of amendment: The amendment revised the Technical Specifications, Section 2.1.1.2, to reflect the results of cycle-specific calculations performed for the upcoming Operating Cycle 9, and Section 5.6.5.b, to delete two redundant references.

Date of issuance: March 13, 2002.

Effective date: As of the date of issuance, to be implemented prior to startup from Refueling Outage 8.

Amendment No.: 105.

Facility Operating License No. NPF–69: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** December 26, 2001 (66 FR 66468). The licensee's January 28 and February 21, 2002, supplemental letters provided clarifying information that was within the scope of the amendment request and did not change the initial proposed no significant hazards consideration determination.

The staff's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 2002.

No significant hazards consideration comments received: No.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: December 26, 2001.

Brief description of amendment: The amendment revises Table 3.6.1.3–1, ''Secondary Containment Bypass Leakage Paths Leakage Rate Limits,'' to reflect the NRC staff's approval of the licensee's proposed modification of two primary containment isolation valves on feedwater piping from air-operated to become simple check valves.

Date of issuance: March 8, 2002.

Effective date: As of the date of issuance to be implemented prior to startup from Refueling Outage 8.

Amendment No.: 104.

Facility Operating License No. NPF–69: Amendment revises the Technical Specifications.

*Date of initial notice in **Federal Register:*** February 5, 2002 (67 FR 5329).

The staff's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: February 28, 2001, as supplemented July 31, 2001, and December 21, 2001.

Description of amendment request: The amendment changes Seabrook Station Technical Specification 3/4.8.1.1 A.C. Sources—Operating. The changes are related to allowed outage time for restoration or verification of the operability of offsite power sources and to emergency diesel generator surveillance requirements.

Date of issuance: March 7, 2002.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 80.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** April 18, 2001 (66 FR 20007). The July 31, 2001, and December 21, 2001, letters were within the scope of and did not affect the staff's finding of no significant hazards considerations.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 2002.

No significant hazards consideration comments received: No.

PPL Susquehanna, LLC, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: July 30, 2001, as supplemented September 7, October 16, and December 5, 2001, and January 18, 2002.

Brief description of amendments: The amendments revised Technical Specification 5.5.12, ''Primary Containment Leakage Rate Testing Program,'' to allow a one-time deferral of the Type A containment integrated leakage rate test (ILRT) at the Susquehanna Steam Electric Station (SSES), Units 1 and 2. The Unit 1 test may be deferred to no later than May 3, 2007, and the Unit 2 test may be deferred to no later than October 30, 2007, resulting in an extended interval of 15 years for performance of the next ILRT at each unit. Additionally, the amendments allow a one-time deferral of the drywell-to-suppression chamber bypass leakage test, Surveillance Requirement (SR) 3.6.1.1.2, so that it will continue to be conducted along with the ILRT.

Date of issuance: March 8, 2002.

Effective date: As of date of issuance and shall be implemented within 60 days.

Amendment Nos.: 202, 176.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** February 5, 2002 (67 FR 5330). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: August 7, 2001.

Brief description of amendment: This amendment adds a response time requirement to the Technical Specifications for the Source Range Neutron Flux Reactor Trip function.

Date of issuance: March 8, 2002.

Effective date: March 8, 2002.

Amendment No.: 157.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5332). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: June 19, 2001.

Brief description of amendment: This amendment approves inclusion of two upgraded 7300 Process Protection System instrument cards (NLP—Loop Power Supply and Isolator card, and NSA—Summing Amplifier card) into the response time testing elimination population. The associated Bases for Technical Specification 3/4.3.1 is being revised to reflect this change.

Date of issuance: March 12, 2002.

Effective date: March 12, 2002.

Amendment No.: 158.

Facility Operating License No. NPF–12: Amendment revises the Technical Specifications.

Date of initial notice in ***Federal Register:*** July 25, 2001 (66 FR 38766).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 12, 2002.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendments: January 9, 2002.

Brief description of amendments: The amendments revise the Technical Specification 5.4, ''Technical Specifications (TS) Bases Control'' to delete the term ''unreviewed safety question.''

Date of issuance: March 19, 2002.

Effective date: March 19, 2002, to be implemented within 60 days of issuance.

Amendment Nos.: Unit 2–184; Unit 3–175.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5333). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: December 14, 2001.

Brief description of amendments: The amendments revise Surveillance Requirement (SR) 3.0.3 to extend the delay period, before entering a Limiting Condition for Operation, following a missed surveillance. The delay period is extended from the current limit of * * * up to 24 hours or up to the limit of the specified Frequency, whichever is less'' to ''* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater.'' In addition, the following requirement is added to SR 3.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.''

Date of issuance: March 8, 2002.

Effective date: As of the date of issuance and shall be implemented by August 1, 2002.

Amendment Nos.: 228/170.

Facility Operating License Nos. DPR–57 and NPF–5: Amendments revise the Technical Specifications and associated Bases.

Date of initial notice in Federal Register: February 5, 2002 (67 FR 5333). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: April 27, 2001.

Brief description of amendments: The amendments revised the Technical Specifications 3.3.6, ''Containment Ventilation Isolation Instrumentation,'' to extend the surveillance test interval for Potter and Brumfield type motor-driven slave relays in the containment ventilation isolation system from 92 days to 18 months. The associated Bases for SR 3.3.6.5 will be revised to reflect this change.

Date of issuance: February 21, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 124/102.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 21, 2001 (66 FR 31714). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 21, 2002.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 30, 2001.

Brief description of amendments: The proposed amendment permits relaxation of the allowed outage times and bypass test times for limiting conditions for operation outlined in Technical Specifications 3.3.1, ''Reactor Trip System Instrumentation,'' and 3.3.2, ''Engineered Safety Features Actuation System Instrumentation.''

Date of issuance: March 19, 2002.

Effective date: The amendments are effective as of the date of issuance, and shall be implemented within 30 days of the day of issuance.

Amendment Nos.: Unit 1–136; Unit 2–125.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 22, 2001 (66 FR 44177). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 2, 2001.

Brief description of amendments: The amendments consist of revision to Technical Specifications 3/4.6.1.6 regarding containment structural integrity.

Date of issuance: March 19, 2002.

Effective date: As of the date of issuance, and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–137; Unit 2–126.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** January 22, 2002 (67 FR 2929). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: March 12, 2001.

Brief description of amendments: The amendments delete Sequoyah Technical Specification (TS) Surveillance Requirement 4.7.7.a from TS 3/4.7.7, ''Control Room Emergency Ventilation Systems,'' and adds a new Section 3/4.7.13, ''Control Room Air-Conditioning System (CRACS),'' to the TS. This TS addition will also provide the necessary requirements, consistent with NUREG–1431, to address the condition when main control room chillers and air handling units are inoperable.

Date of issuance: February 27, 2002.

Effective date: February 27, 2002.

Amendment Nos.: 273 and 262.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** April 18, 2001 (66 FR 20011). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 27, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 15, 2002 (TS 01–13).

Brief description of amendments: The amendments revised Technical Specifications (TSs) Section 4.0.5.c to provide an exception to the recommendations of Regulatory Position c.4.b NRC Regulatory Guide 1.14, Revision 1, ''Reactor Coolant Pump Flywheel Integrity,'' dated August 1975. The exception allows either (a) a qualified in-place ultrasonic volumetric examination over the volume from the inner bore of the flywheel to the circle of one-half the outer radius or (b) a surface examination (magnetic particle testing and/or liquid penetrant testing) of exposed surfaces of the removed flywheel to be conducted at approximately 10-year intervals.

Date of issuance: March 8, 2002.

Effective date: Date of issuance, to be implemented within 45 days of issuance.

Amendment Nos.: 274/263.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revised the TSs.

Date of initial notice in ***Federal Register:*** February 5, 2002 (67 FR 5339). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket No. 50–339, North Anna Power Station, Unit 2, Louisa County, Virginia

Date of application for amendment: January 9, 2001.

Brief description of amendment: This amendment revises the Facility Operating License (FOL) to remove expired license conditions, make editorial changes in the FOL, relocate license conditions, and remove license conditions associated with completed modifications.

Date of issuance: March 19, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 211.

Facility Operating License No. NPF–7: Amendment changes the FOL.

Date of initial notice in ***Federal Register:*** February 21, 2001 (66 FR 11065). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 19, 2002.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: April 11, 2000, as supplemented August 28, and November 20, 2000, April 11, July 31, November 19, and December 20, 2001, and February 8, 2002.

Brief Description of amendments: These amendments revise the Technical Specifications requirements to be consistent with an alternative source term in accordance with the requirements of 10 CFR 50.67, ''Accident Source Term.''

Date of issuance: March 8, 2002.

Effective date: March 8, 2002.

Amendment Nos.: 230 and 230.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the Technical Specifications.

Date of initial notice in ***Federal Register:*** June 27, 2001 (66 FR 34289). The supplements contained clarifying information only, and did not change the initial no significant hazards consideration determination or expand the scope of the initial application.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 8, 2002.

No significant hazards consideration comments received: No.

Yankee Atomic Electric Co., Docket No. 50–29, Yankee Nuclear Power Station (YNPS) Franklin County, Massachusetts

Date of application for amendment: September 28, 2000, as supplemented by letters dated October 12, 2000, April 18, May 29 and June 28, 2001, and March 4, 2002.

Brief description of amendment: The amendment revises License Condition 2.C.(3) to reference the revisions of the Physical Security Plan, Guard Training and Qualification Plan, and Safeguards Contingency Plan which provide for movement of the spent nuclear fuel from the spent fuel pool to the Independent Spent Fuel Storage Installation.

Date of issuance: March 13, 2002.

Effective date: March 13, 2002.

Amendment No.: 156.

Facility Operating License No. DPR–3: The amendment revised the License.

Date of initial notice in ***Federal Register:*** March 26, 2001 (66 FR 16501). The April 18, May 29, and June 28, 2001, and March 4, 2002, supplemental letters provided additional clarifying information that did not expand the scope of the application as originally noticed and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 2002.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 25th day of March, 2002.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–7799 Filed 4–1–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension

Rule 17a–11 SEC File No. 270–94; OMB Control No. 3235–0085

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–11 (17 CFR 240.17a–11) requires broker-dealers to give notice when certain specified events occur. Specifically, the rule requires a broker-dealer to give notice of a net capital deficiency on the same day that the net capital deficiency is discovered or a broker-dealer is informed by its designated examining authority or the Commission that it is, or has been, in violation of its minimum requirement under Rule 15c3–1 (17 CFR 240.15c3–1) of the Securities Exchange Act of 1934 (''Exchange Act''). Under Rule 17a–11 an over-the-counter (''OTC'') derivatives dealers must also provide notice to the Commission when a net capital deficiency is discovered but need not give notice to any SRO because OTC derivatives dealers are only required to register with the Commission.

Rule 17a–11 also requires a broker-dealer to send notice promptly (within 24 hours) after the broker-dealer's aggregate indebtedness is in excess of 1,200 percent of its net capital, its net capital is less than 5 percent of aggregate debit items, or its total net capital is less than 120 percent of its required minimum net capital. In addition, a broker-dealer must give notice if it fails to make and keep current books and records required by Rule 17a–3 (17 CFR 240.17a–3), if any material inadequacy is discovered as defined in Rule 17a–5(g) (17 CFR 240.17a–5(g)), and if back testing exceptions are identified pursuant to Appendix F of Rule 15c3–1 (17 CFR 240.15c3–1f) for a broker-dealer registered as an OTC derivatives dealer.

The notice required by the rule alerts the Commission, self-regulatory organizations (''SROs''), and the Commodity Futures Trading Commission (''CFTC'') if the broker-dealer is registered as a futures commission merchant, which have oversight responsibility over broker-dealers, to those firms having financial or operational problems.

Because broker-dealers are required to file pursuant to Rule 17a–11 only when certain specified events occur, it is difficult to develop a meaningful figure for the cost of compliance with Rule 17a–11. In 2001, the Commission received 692 notices under this rule from 627 broker-dealers. Each broker-dealer reporting pursuant to Rule 17a–11 will spend approximately one hour preparing and transmitting the notice as required by the rule. Accordingly, the total estimated annualized burden for 2001 was 692 hours. With respect to those broker-dealers that must give notice under Rule 17a–11, the Commission staff estimates that the approximate administrative cost, consisting mostly of accountant clerical work, to broker-dealers would be $24.53 per hour (based on the Securities Industry Association salary survey and including 35% in overhead costs). Therefore, based on approximately one hour per notice and a total of 692 notices filed, the total annual expense for the reporting broker-dealers in 2001 was approximately $16,975.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: March 26, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7866 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Chicago Stock Exchange, Inc. (BellSouth Corporation, Common Stock, $1.00 Par Value) File No. 1–8607

March 27, 2002.

BellSouth, a Georgia corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $1.00 par value (''Security''), from listing and registration on the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'').

The Issuer stated in its application that it has complied with the rules of the CHX that govern the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the CHX, the Issuer considered the direct and indirect cost associated with maintaining multiple listing. The Issuer stated in its application that the Security has been listed on the New York Stock Exchange, Inc. (''NYSE'') since the company began operations in 1983. The Issuer represented that it will maintain its listing on the NYSE.

The Issuer's application relates solely to the Security's withdrawal from listing on the CHX and shall not affect its listing on the NYSE or its registration under section 12(b) of the Act.[3]

Any interested person may, on or before April 19, 2002 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

rules of the CHX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–7901 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Electrochemical Industries, Ltd., Common Stock, Par Value NIS 1 Per Share) From the American Stock Exchange LLC File No. 1–10422

March 27, 2002.

Electrochemical Industries, Ltd., a corporation organized under the laws of Israel (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, par value NIS 1 per share (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in Israel, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Amex has, in turn, informed the Issuer that it does not object to the proposed withdrawal of the Issuer's Security from listing and registration on the Exchange. The Issuer states that it will continue listing its Security on the Tel Aviv Stock Exchange. The Issuer's application relates solely to the withdrawal of the Security from listing and registration under section 12(b) of the Act [3] and shall not effect its obligation to be registered under section 12(g) of the Act.[4]

The Board of Trustees (''Board'') of the Issuer unanimously approved a resolution on March 10, 2002 to withdraw the Issuer's Security from listing on the Amex. In making the decision to withdraw its Security from the Amex, the Board cites low trading volume and market capitalization of its Security. In addition, the Company has recently sustained losses and is uncertain when it will return to profitability. The Company's Security has fallen below certain Amex guidelines with respect to continued listing due to the present market conditions of the Company's production.

Any interested person may, on or before April 19, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–7900 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45654; File No. S7–17–00]

Order Granting Temporary Exemption for Broken-Dealers from the Trade-Through Disclosure Rule

March 27, 2002.

In July 2000, the Commission approved an intermarket linkage plan, in which all five options exchanges [1] are currently participants (''Linkage Plan'').[2] Also in July 2000, the Commission proposed, and in November 2000 adopted, Rule 11Ac1–7 (''Trade-Through Disclosure Rule'') under the Securities Exchange Act of 1934 (''Exchange Act'').[3]

The Trade-Through Disclosure Rule requires a broker-dealer to disclose to a customer when the customer's order for a listed option is executed at a price inferior to the best-published quote (''intermarket trade-through''), and to disclose the better published quote available at that time. However, a broker-dealer is not required to disclose to its customer an intermarket trade-through if the broker-dealer effects the transaction on an exchange that participates in an approved linkage plan that includes provisions reasonably designed to limit customers' orders from being executed at prices that trade through a better published price. In addition, broker-dealers are not required to provide the disclosure required by the rule if the customer's order is executed as part of a block trade. Once implemented, the Linkage Plan would reasonably limit intermarket trade-throughs on each of the options markets,[4] provided that the Options Exchanges remain participants in the Linkage Plan.[5] Under these circumstances, broker-dealers would be excepted from the disclosure requirements of the Trade-Through Disclosure Rule.

To date, the options exchanges have taken steps to implement the Linkage Plan. Specifically, the options exchanges have selected The Options Clearing Corporation (''OCC'') to be the linkage provider and have worked closely with OCC to develop the technical requirements related to the linkage's central core or ''hub'' to and from which all linkage orders would be routed. The Commission understands that the options exchanges are completing the process of evaluating their internal systems to determine the

[4] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] The exchanges currently trading options are the American Stock Exchange (''Amex''), the Chicago Board Options Exchange (''CBOE''), the International Securities Exchange (''ISE''), the Pacific Exchange (''PCX''), and the Philadelphia Stock Exchange (''Phlx'') (collectively, ''Options Exchanges'').

[2] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). The Linkage Plan approved by the Commission in July 2000 is the plan filed by the Amex, CBOE, and ISE. Subsequently, the PCX and Phlx joined the Linkage Plan. *See* Securities Exchange Act Release Nos. 43310 (September 20, 2000), 65 FR 58583 (September 29, 2000) (approving an amendment to the Linkage Plan adding the PCX as a participant); and 43311 (September 20, 2000), 65 FR 58584 (September 29, 2000) (approving an amendment to the Linkage Plan adding the Phlx as a participant).

[3] 17 CFR 240.11Ac1–7. *See also* Securities Exchange Act Release Nos. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000); and 43085 (July 28, 2000), 65 FR 47918 (August 4, 2000).

[4] The Commission approved an amendment to the previously-approved Linkage Plan that would permit broker-dealers executing orders on participating exchanges to satisfy the exception to the disclosure requirements of the Trade-Through Disclosure Rule. Securities Exchange Act Release No. 44482 (June 27, 2001), 66 FR 35470 (July 5, 2001).

[5] The Linkage Plan permits an exchange to withdraw from participation in the Linkage Plan with 30 days written notice.

extent of modification necessary to integrate their systems into the central hub and beginning to modify those systems.

The Commission has twice extended the compliance date of the Trade-Through Disclosure Rule for broker-dealers, most recently until April 1, 2002, because of its reluctance to impose on broker-dealers the costs of complying with the disclosure requirements of the rule while the Options Exchanges are working to implement the Linkage Plan, which would render such disclosures unnecessary.[6] Recently the Options Exchanges, in a letter dated March 15, 2002 to Chairman Pitt, committed to implement the linkage in two phases by specified dates.[7] The first phase would comprise those elements of the linkage that are necessary to send and receive orders required under the Linkage Plan to be automatically executed by the exchange receiving the order. The Options Exchanges committed to begin full intermarket testing of the first phase by December 1, 2002, and to implement this phase no later than February 1, 2003. The second phase would comprise the remaining elements of the linkage. The exchanges commit to begin testing of this second phase by March 1, 2003, and to implement this phase no later than April 30, 2003. The Options Exchanges also committed to file with the Commission an amendment to the Linkage Plan that would incorporate this testing and implementation timetable.[8]

In addition, the Options Exchanges agreed to file an amendment to the Linkage Plan that would permit an exchange to withdraw from participation in the Linkage Plan only if it can satisfy the Commission that it can accomplish, by alternative means, the same goals as the Linkage Plan of limiting intermarket trade-throughs of prices on other markets.[9] The Options Exchanges are currently working on amendments to the Linkage Plan that would be approved by each of their boards and filed with the Commission by April 15, 2002. If the Commission approves the amendments to the Linkage Plan,[10] the principal purpose of the Trade-Through Disclosure Rule ‘‘ to require customers’’ orders to be executed on exchanges that participate in a linkage that limits intermarket trade-throughs or, in the alternative, to provide customers with additional information about the execution of their orders ‘‘ would be accomplished.

Accordingly, the Commission believes that it is appropriate in the public interest and consistent with the protection of investors at this time to temporarily exempt broker-dealers from the requirements of the Trade-Through Disclosure Rule. Moreover, in light of the expressed intent of the Options Exchanges to file amendments to the Linkage Plan so that no exchange may withdraw from its obligations to limit trade-throughs of prices on other markets without an alternative means to achieve this same goal, the Commission has directed the staff to develop a proposal so that the Commission may consider repeal of the Trade-Through Disclosure Rule. At the time the Commission considers the proposal to repeal the Trade-Through Disclosure Rule it has directed staff to develop, it will consider a further extension of this temporary exemption.

Accordingly,

It is ordered, pursuant to section 36 of the Exchange Act,[11] that broker-dealers are exempt from compliance with the Trade-Through Disclosure Rule until July 1, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7902 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[6] *See* Securities Exchange Act Release Nos. 44078 (March 15, 2001), 66 FR 15792 (March 21, 2001); and 44852 (September 26, 2001), 66 FR 50103 (October 2, 2001).

[7] *See* Letter from the Options Exchanges to Harvey L. Pitt, Chairman, Securities and Exchange Commission, dated March 15, 2002.

[8] *See* Exchange Act Rule 11Aa3–2(d), 17 CFR 11Aa3–2(d).

[9] *Id.*

[10] The Commission must publish any amendment to the Linkage Plan filed by the Options Exchanges and provide interested persons an opportunity to submit written comments. *See* Exchange Act Rule 11Aa3–2(c)(1), 17 CFR 11Aa3–2(c)(1). A proposed amendment may be put into effect summarily upon publication of notice, on a temporary basis not to exceed 120 days, if the Commission finds that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act. *See* Exchange Act Rule 11Aa3–2(c)(4), 17 CFR 11Aa3–2(c)(4). Within 120 days of publication of notice of filing of an amendment to the Linkage Plan, the Commission must approve the amendment, with such changes or subject to such conditions as the Commission may deem necessary or appropriate, if it finds that such amendment is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system, or otherwise in furtherance of the purposes of the Exchange Act. *See* Exchange Act Rule 11Aa3–2(c)(2), 17 CFR 11Aa3–2(c)(2).

[11] 15 U.S.C. 78mm.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45650; File No. SR–Amex–2001–72]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment Nos. 1 and 2 by the American Stock Exchange LLC Relating to an Expansion of the Hedge Exemption From Position and Exercise Limits

March 26, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on September 6, 2001, the American Stock Exchange LLC (‘‘Amex’’ or ‘‘Exchange’’) filed with the Securities and Exchange Commission (‘‘SEC’’ or ‘‘Commission’’) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On December 26, 2001, the Exchange filed Amendment No. 1 [2] with the Commission, and on February 4, 2002, the Exchange filed Amendment No. 2 [3] with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment Nos. 1 and 2 from interested persons. The Commission is also granting accelerated approval to the proposed rule change, including Amendment Nos. 1 and 2.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend Commentary .09 to Amex Rule 904 to eliminate position and exercise limits for certain qualified hedge strategies relating to stock and Exchange-Traded Fund (‘‘ETF’’) Share options and to establish a position and exercise limit of five times the standard limit for those strategies that include an OTC option

[1] 15 U.S.C 78s(b)(1).

[2] *See* Letter to Sharon Lawson, Senior Special Counsel, Division of Market Regulation (‘‘Division’’), Commission, from Jeffrey P. Burns, Senior Counsel, Amex, dated December 21, 2001 (‘‘Amendment No. 1’’). In Amendment No. 1, Amex amended the proposed rule change to state that for back-to-back options or where one of the option components of a qualified hedge consists of an over-the-counter (‘‘OTC’’) option, the hedge exemption is limited to five times the established position limit.

[3] *See* Letter to Sharon Lawson, Senior Special Counsel, Division, Commission, from Jeffrey P. Burns, Senior Counsel, Amex, dated February 1, 2002 (‘‘Amendment No. 2’’). Amendment No. 2 is a technical amendment whereby the Exchange moved language regarding the establishment of position and exercise limit of five times the standard limit for those strategies that include an OTC option contract to the beginning to Commentary .09 to Amex Rule 904.

contract. The current reporting procedures that serve to identify and document hedged positions will continue to apply.

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 Amex 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 Amex 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity option position and to establish a position and exercise limit of five times the standard limit for those strategies that include an OTC option contract. Position limits impose a ceiling on the aggregate number of options contracts (when long or short) of each class on the same side of the market that can be held or written by an investor or group of investors acting in concert. Exercise limits prohibit the exercise by an investor or group of investors acting in concert of more than a specified number of options contracts in a particular underlying security within five (5) consecutive business days. The Exchange believes that this proposal expands position and exercise limits to meet the needs of investors for market neutral strategies. This expansion of the Equity Hedge Exemption from position and exercise limits (the ''Equity Hedge Exemption'') is substantially identical to proposals recently filed by the Chicago Board Options Exchange, Inc. (''CBOE'') [4] and the Pacific Stock Exchange, Inc. (''PCX'').[5]

Current Commentary .07 to Amex Rule 904 provides position and exercise limits for stock and ETF Share options of 13,500, 22,500, 31,500, 60,000 and 75,000 options contracts on the same side of the market depending on the level of underlying trading volume over a six-month period.[6] The existing hedge exemption found in Commentary .09 to Amex Rule 904 provides an exemption to position and exercise limits of up to three (3) times the standard limit for certain qualified hedge strategies as follows: (i) Long call and short stock; (ii) short call and long stock; (iii) long put and long stock; and (iv) short put and short stock.[7] Moreover, in 1993 the Amex expanded the definition of a qualified hedge position to allow for the use of convertible securities.[8]

Since the inception of the Equity Hedge Exemption in 1988,[9] the types of hedge strategies employed by market participants have become increasingly more diversified. Amex believes that, through its experience in administering and processing Equity Hedge Exemption information, it has learned that market participants no longer rely strictly on a stock-option hedge. Additionally, while traditional hedge strategies such as a covered call or reverse conversion strategy continue to be utilized, the Amex believes that listed options contracts are now employed to hedge a wider spectrum of securities.

In response to the Commission's liberalization in granting position limit relief for market neutral strategies, and to more fully accommodate the hedging needs of investors, the Exchange is proposing to eliminate position and exercise limits when certain qualified strategies are employed to establish a hedged equity options position. Accordingly, the Amex proposes to expand the definition of a ''qualified hedged position'' found in Commentary .09 to Amex Rule 904. The proposed qualified hedged strategies are as follows:

1. Where each option contract is ''hedged'' by the number of shares underlying the option contract or securities convertible into the underlying security or, in the case of an adjusted option, the same number of shares represented by the adjusted contract: (a) Long call and short stock; (b) short call and long stock; (c) long put and long stock; or (d) short put and short stock.

2. *Reverse Conversions*—A long call position accompanied by a short put position, where the long call expires with the short put and the strike price of the long call and short put is the same, and where each long call and short put contract is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such underlying security.[10]

3. *Conversions*—A short call position accompanied by a long put position, where the short call expires with the long put and the strike price of the short call and long put is the same, and where each short call and long put contract is hedged with 100 shares (or other adjusted number of shares) of the underlying security or securities convertible into such underlying security.[11]

4. *Collars*—A short call position accompanied by a long put position, where the short call expires at the same time as the long put and the strike price of the short call equals or exceeds the strike price of the long put position and where each short call and long put position, is hedged with 100 shares of the underlying security (or other adjusted number of shares).[12] Neither side of the short call/long put position can be in-the-money at the time the position is established.

5. *Box Spreads*—A long call position accompanied by a short put position, where both the long call and short put have the same strike price, and a short call position accompanied by a long put position, where the short call and long put have the same strike price as each other, but a different strike price than the long call/short put position.

6. *Back-to-Back Options*—A listed option position hedged on a one-for-one basis with an over-the-counter (''OTC'') option position on the same underlying security. [13] The strike price of the listed

[4] *See* Securities Exchange Act Release No. 44681 (August 10, 2001), 66 FR 43274 (August 17, 2001) (SR–CBOE–00–12). The CBOE's proposed qualified hedge strategies contain certain examples of the strategies. *See* Amendment No. 1 to SR–CBOE–00–12. The Amex represents that the CBOE's examples apply equally to the Amex's proposed qualified hedge strategies.

[5] *See* Securities Exchange Act Release No. 44680 (August 10, 2001) 66 FR 43283 (August 17, 2001) (SR–PCX–00–45).

[6] *See* Securities Exchange Act Release No. 40875 (December 31, 1998), 64 FR 1842 (January 12, 1999).

[7] *See* Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201 (June 2, 1988).

[8] *See* Securities Exchange Act Release No. 36409 (October 23, 1995), 60 FR 55399 (October 31, 1995) and Securities Exchange Act Release No. 32902 (September 14, 1993), 58 FR 49066 (September 21, 1993).

[9] *See supra* note 8.

[10] For these strategies one of the option components can be an OTC option guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account. Hedge transactions and positions established pursuant to these strategies are subject to a position limit equal to five times the standards limit established under Commentary .07 to Amex Rule 904. For purposes of this rule filing, an OTC option contract is defined as an option that is not listed on a National Securities Exchange or cleared at the Options Clearing Corporation.

[11] *Id.*

[12] *Id.*

[13] Hedge transactions and positions established pursuant to this strategy are subject to a position limit equal to five times the standards limit established under Commentary .07 to Amex Rule 904.

option position and corresponding OTC option position must be within one strike price interval of each other and no more than one expiration month apart.

For reverse conversion, conversion and collar strategies, one of the option components can be an OTC option [14] guaranteed or endorsed by the firm maintaining the proprietary position or carrying the customer account.

Within the list of proposed hedge strategies eligible for the Equity Hedge Exemption, the Exchange proposes that the option component of a reversal, a conversion or a collar position can be treated as one contract rather than as two (2) contracts. All three strategies serve to hedge a related stock portfolio. Because these strategies require the contemporaneous [15] purchase/sale of both a call and put component, against the appropriate number of shares underlying the option (generally 100 shares) the Exchange believes that the position should be treated as one contract for hedging purposes.

With the exception of covered stock positions, Amex believes that all other proposed qualified strategies are market neutral,[16]that none of the proposed strategies lend themselves to market manipulation and, they therefore, should qualify for the Equity Hedge Exemption. In addition, the Exchange believes that the current reporting requirements under Amex Rule 906 and internal surveillance procedures for hedged positions will enable the Exchange to closely monitor sizable option positions and corresponding hedges.

Under the proposed rule change, the standard position and exercise limits will remain in place for unhedged equity option positions. Once an account nears or reaches the standard limit, positions identified as a qualified hedge strategy will be exempted from position limit calculations. The exemption will be automatic (*i.e.* does not require pre-approval from the Exchange) to the extent that the member identifies that a pre-existing qualified hedge strategy is in place or is employed from the point that an account's position reaches the standard limit and provides the required supporting documentation to the Exchange.

The exemption will remain in effect to the extent that the exempt positions remains intact and the Exchange is provided with any required supporting documentation. Procedures to demonstrate that the option position remains qualified are similar to those currently in place. Exchange procedures currently require a qualified account to report to the Exchange's Department of Market Surveillance all hedged positions together with the underlying stock positions that qualify the options position for the exemption. This report is filed with the Exchange no later than the close of business on the next day following the day on which the transaction or transactions that require the filing of such report occurred. Hedge information for member firm and customer accounts having 200 or more contracts are electronically reported via the Large Options Positions Report. Specialist and registered options trader account information is also reported to the Amex by such member's clearing firm. The existing requirement imposed on a member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will continue to apply.

The Amex believes that, with the exception of covered stock positions, all of the proposed qualified hedge strategies are market neutral. Therefore, none of the proposed strategies lend themselves to market manipulation and should be exempt from position limits. In addition, the Exchange believes that the current reporting requirements under Amex Rule 906 and the surveillance procedures for hedged positions will enable the Exchange to closely monitor sizable option positions and corresponding hedges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [17] in general and furthers the objectives of Section 6(b)(5) [18] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Amex has neither solicited nor received written comments with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of Amex. All submissions should refer File No. SR–Amex–2001–72 and should be submitted by April 23, 2002.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal is consistent with the requirements of section 6(b)(5) of the Act [19] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities,

[14] For the purpose of this ruling, an OTC option contract is defined as an option that is not listed on a national securities exchange or cleared at the Options Clearing Corporation.

[15] At or about the same time.

[16] Where covered stock transactions are not market neutral (i.e. long stock/short call; short stock/short put); the market exposure on such activity resides with the stock position where no limit is imposed. As the short option premium serves no mitigate the stock exposure, no limit should be imposed on this strategy.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78f(b)(5). In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, considered with section 3 of the Act. *Id.* at 78c(f).

and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

Position and exercise limits serve as a regulatory tool designed to address potential manipulative schemes and adverse market impact surrounding the use of options. In general, the Commission has taken a gradual, evolutionary approach toward expansion of position and exercise limits. The Commission has been careful to balance two competing concerns when considering the appropriate level at which to set position and exercise limits. The Commission has recognized that the limits must be sufficient to prevent investors from disrupting the market in the component securities comprising the indexes. At the same time, the Commission has determined that limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.[20]

The Commission has carefully considered the Amex's proposal to expand the hedge exemption from position and exercise limits. Given the market neutral characteristic of all the proposed qualified hedge strategies (except covered stock positions), the Commission believes it is permissible to expand the current equity hedge exemption without risk of disruption to the options or underlying cash markets. Specifically, the Commission believes that existing position and exercise limits, procedures for maintaining the exemption, and the reporting requirements imposed by the Exchange will help protect against potential manipulation. The Commission notes that the existing standard position and exercise limits will remain in place for unhedged equity option positions. To further ensure against market disruption, the Amex will establish a position and exercise limit equal to no greater than five times the standard limit for those hedge strategies that include an OTC option component.

Once an account nears or reaches the standard limit, positions identified as one or more of the proposed qualified hedge strategies will be exempted from limit calculations. Although the exemption will be automatic (*i.e.,* does not require pre-approval from the Exchange), the exemption will remain in effect only to the extent that the exempted position remains intact and that the Exchange is provided with any required supporting documentation.

In addition, as described above, a qualified account must report hedge information each time the option position changes. Hedge information for member firm and customer accounts having 200 or more contracts are reported to the Exchange electronically, via the Large Options Position Report. Specialist and registered options trader account information is also reported to the Exchange electronically by the member's clearing firm. For those option positions that do not change, a filing is generally required on a weekly basis. Finally, the existing requirement imposed on member firms to report hedge information for proprietary and customer accounts that maintain an options position in excess of 10,000 contracts will remain in place.

The Commission believes these reporting requirements will help the Amex to monitor options positions and ensure that only qualified hedges are being exempt from position and exercise limits. To the extent that any position raises concerns, the Commission believes that the Amex, through its monitoring, will be promptly notified, and the Commission would expect the Amex to take any appropriate action, as permitted by its rules.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that the proposal, as amended, is substantially identical to a proposed rule change submitted by the CBOE, which the Commission has approved.[21] The Commission does not believe that the proposed rule changes raises novel regulatory issues that were not already addressed and should benefit Exchange members by permitting them greater flexibility in using hedge strategies advantageously, while providing an adequate level of protection against the opportunity for manipulation of these securities and disruption in the underlying market. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act,[22] to approve the proposal, as amended, on an accelerated basis.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule change (SR–Amex–2001–72), as amended, is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7870 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[20] *Id.*

[21] *See* Securities Exchange Act Release No. 44503 (March 20, 2002) (SR–CBOE–00–12).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45649; File No. SR–BSE–2002–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Boston Stock Exchange, Inc. To Extend Its Specialist Performance Evaluation Program

March 26, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934[1] notice is hereby given that on March 20, 2002, the Boston Stock Exchange (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend its Specialist Performance Evaluation Program until June 30, 2002. The proposed language is below. Added language is in italics. Deleted language is in brackets.

Chapter XV

Specialists

Specialist Performance Evaluation Program

Sec. 17 (a)—(e) no change.

(f) This program will expire on [March 31, 2002] *June 30, 2002,* unless further action is taken by the Exchange.

* * * * *

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

[1] 15 U.S.C. 78s(b)(1).

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange seeks to extend its Specialist Performance Evaluation Program (''SPEP'') pilot, until June 30, 2002. Under the SPEP pilot program, the Exchange regularly evaluates the performance of its specialists by using objective measures, such as turnaround time, price improvement, depth, and added depth. Generally, any specialist who receives a deficient score in one or more measures may be required to attend a meeting with the Performance Improvement Action Committee, or the Market Performance Committee.

While the Exchange believes that the SPEP program has been a very successful and effective tool for measuring specialist performance, it realizes that modifications are necessary because of recent changes in the industry, particularly decimalization. Accordingly, the Exchange is seeking to extend the pilot period of this program so that evaluation and modification of the SPEP program can be undertaken before permanent approval is requested.

2. Basis

The statutory basis for the proposed rule change is section 6(b)(5) [2] of the Act in that the proposed rule change is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

[2] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on 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 upon filing pursuant to section 19(b)(3)[3] of the Act and paragraph (f) of Rule 19b–4[4] thereunder because the proposal (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; and the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of the filing of the proposed rule change,[5] or such shorter time as designated by the Commission.

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 Commission designates that the proposal become operative on March 31, 2002, because it is consistent with the protection of investors and the public interest to continue the pilot program uninterrupted and permit the Exchange to continue to evaluate the pilot program in light of changes in the marketplace.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–BSE–2002–03 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority[7].

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7873 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[3] 15 U.S.C. 78s(b)(3).

[4] 17 CFR 240.19b–4(f).

[5] BSE submitted this proposed rule change on March 8, 2002. The Commission deems the initial filing to meet the notice of intent to file requirement.

[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).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45603A; File No. SR–CBOE–00–12]

Self Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change Relating to the Expansion of the Equity Hedge Exemption From Position and Exercise Limits

March 27, 2002.

Correction

In FR Document No. 02–07327, beginning on page 14751 for Wednesday March 27, 2002, paragraph (iv) in column 3 on page 14751, which describes the collar hedge strategy, was incorrectly stated by the Chicago Board Options Exchange (''CBOE'').[1] The paragraph should read as follows:

(iv) Collar (sell call/buy put, neither in-the-money when established with the same expiration where the strike price of the short call equals or exceeds the

[1] Telephone conversation between Patricia L. Cerny, Director, Department of Market Regulation, CBOE, and Susie Cho, Special Counsel, Division of Market Regulation, Commission, March 26, 2002.

strike price of the long put/buy stock).[2] A collar strategy provides downside protection by the use of put option contracts and finances the purchase of the puts through the sale of short call option contracts. The goal of this strategy is to bracket the price of the underlying security at the time the position is established. For example, assume that the price of an underlying equity, XYZ, is $53 and account ABC is long 5000 shares of XYZ at $53. Account ABC sells 50 XYZ April 55 calls and purchases 50 XYZ April 50 puts. Under the collar exemption, one collar (*i.e.,* one short call, and one long put) must be hedged with 100 shares of the underlying security to remain exempt.

Additionally, neither side of the short call, long put position can be in-the-money at the time the position is established.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7867 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[2] *Id.*

[3] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45633; File No. SR–CBOE–2002–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Allocation of Orders for Appointed Market-Makers in Index FLEX Options

March 22, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2002, the Chicago Board Options Exchange, Inc. (''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 Exchange. On March 18, 2002, the CBOE submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 24A.5 relating to allocation of orders for Appointed Market Makers in Index Flex Options (''AMMs'').

Below is the text of the proposed rule change. Deleted language is in brackets. Proposed new language is *italicized*.

* * * * *

Chicago Board Options Exchange, Inc.

Rules

CHAPTER XXIVA

Flexible Exchange Options

* * * * *

FLEX Trading Procedures and Principles

* * * * *

Rule 24A.5

* * * * *

(e) Priority of Bids and Offers. (no change)

(i) Bids. (no change)

(ii) Offers. (no change)

(iii) Notwithstanding the foregoing sub-paragraphs (i) and (ii) of this paragraph (e), whenever the Submitting Member has indicated an intention to cross or act as principal on the trade and has matched or improved the BBO during the BBO Improvement Interval, the following priority principles will apply:

(A) (no change)

(B) In the case of Index FLEX Options, where the Submitting Member has matched the BBO or in the event the Submitting Member has improved the BBO and any other FLEX participating member matched the improved BBO, the Submitting Member will have priority to execute the contra side of the trade that is the subject of the Request for Quotes, but only to the extent of the largest of [25%] *20%* of the trade, a proportional share of the trade, $1 million Underlying Equivalent Value, or the remaining Underlying Equivalent Value on a closing transaction valued at less than $1 million.

(iv) Notwithstanding subparagraphs (i), (ii) and (iii), subject to the review of the Board of Directors, the appropriate Floor Procedure Committee may establish from time to time a participation entitlement formula that is applicable to all FLEX Appointed Market-Makers.

* * * * *

The CBOE has also submitted as part of its proposed rule change the draft text of a proposed Regulatory Circular that would establish a participation entitlement formula pursuant to the above proposed CBOE Rule 24A.5(e)(iv) and would further describe its application, as discussed in Section II.A. below. The text of this proposed Regulatory Circular 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 aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is submitting the proposed change to amend CBOE Rule 24A.5 pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000, [4] which requires that respondent options exchanges adopt new, or amend existing, rules to make express any practice or procedure ''whereby market makers trading any particular option class determine by agreement * * * the allocation of orders in that option class.'' The proposed rule change addresses the allocation of orders for FLEX Index Options.

The proposed rule change would add CBOE Rule 24A.5(e)(iv), which would permit the appropriate Floor Procedure Committee to establish a participation entitlement formula that is applicable to all AMMs in FLEX Index Options. In addition, the proposed rule change would amend the participation entitlement of the Submitting Member [5] by deleting ''25%'' in CBOE Rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jaime Galvan, Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 15, 2002 (''Amendment No. 1''). The changes made by Amendment No. 1 have been incorporated into this notice.

[4] Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000).

[5] A ''Submitting Member'' is defined in CBOE Rule 24A.1(q) as an Exchange member that initiates FLEX bidding and offering by submitting a FLEX Request for Quotes.

24A.5(e)(iii)(B) and replacing it with ''20%.''[6]

CBOE is also submitting as part of the proposed rule change a draft Regulatory Circular in which the SPX Floor Procedure Committee[7] would exercise its authority under the proposed CBOE Rule 24A.5(e)(iv) to set the participation entitlement formula for AMMs.[8] Specifically, the Regulatory Circular would state that the Submitting Member is entitled to cross up to 20% of the contracts in an order that occurs as a result of the Submitting Member's Request for Quotes (''RFQ''). The Regulatory Circular would stipulate that to receive this participation entitlement, the Submitting Member must indicate an intention to cross or act as principal with respect to the FLEX trade. The Regulatory Circular would also state that the AMM(s) is (are) entitled to the contracts remaining in the order up to an aggregate of 40% of the order, but that a Submitting Member and the AMM(s) could not receive an entitlement that collectively equals more than 40% of the order. The remaining contracts in the order would then be allocated according to the relevant Exchange rules.[9]

2. Statutory Basis

The CBOE believes that the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers, pursuant to section 6(b)(5) of the Exchange Act.[10] The CBOE believes that, through the AMMs' obligation to respond to all RFQs, liquidity is provided to the FLEX Index Options market. In return for the obligations that are imposed on AMMs in FLEX Index Options, the CBOE believes it is just and equitable that the AMMs receive a participation entitlement, which may be up to 40% of an order.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change, as amended.

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, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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 CBOE. All submissions should refer to file number SR–CBOE–2002–09 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7868 Filed 4–1–02; 8:45 am]

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[6] CBOE Rule 24A.5(e)(iii)(B) currently permits a Submitting Member who has matched or improved the BBO to have priority to execute the contra side of the trade that is the subject of the Request for Quotes (''RFQ''), but only to the extent of the largest of 25% of the trade, a proportional share of the trade, $1 million Underlying Equivalent Value, or the remaining Underlying Equivalent Value on a closing transaction valued at less than $1 million.

[7] The SPX Floor Procedure Committee would be the appropriate Floor Procedure Committee pursuant to proposed Rule CBOE Rule 24A.5(e)(iv) to establish the participation entitlement formula. Telephone conversation between Madge Hamilton and Jaime Galvan, Attorneys, the CBOE; and Nancy Sanow, Assistant Director, Ira Brandriss, Special Counsel, and Frank N. Genco, Attorney-Advisor, Division, Commission, on March 4, 2002.

[8] The Exchange states that changes to this Regulatory Circular, including changes to a participation entitlement formula, will be submitted to the Commission pursuant to section 19(b) of the Act.

[9] The AMM(s) would not be entitled to a share in these remaining contracts unless all other participants have been satisfied. Telephone conversation between Jaime Galvan, Attorney, CBOE, and Ira Brandriss, Special Counsel, and Frank N. Genco, Attorney-Advisor, Division, Commission, March 19, 2002.

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45640; File No. SR–CBOE–2002–10]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Allocation of Orders for Lead Market-Makers and Supplemental Market-Makers Logged On to the Exchange's Rapid Opening System

March 25, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2002 the Chicago Board Options Exchange, Inc. (''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 Exchange. On March 18, 2002, the CBOE submitted Amendment No. 1 to the proposed rule change.[3] On March 22, 2002, the CBOE submitted Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend Interpretation and Policies .01 of CBOE

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Jaime Galvan, Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 15, 2002. The changes made by Amendment No. 1 have been incorporated into this notice.

[4] *See* letter from Madge M. Hamilton, Attorney, CBOE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 22, 2002. The changes made by Amendment No. 2 have been incorporated into this notice.

Rule 6.2A (''Interpretation .01'') relating to allocation of orders for Lead Market-Makers (''LMMs'') and Supplemental Market-Makers (''SMMs'') logged on to the Exchange's Rapid Opening System (''ROS'').

Below is the text of the proposed rule change. Deleted language is in brackets. Proposed new language is *italicized.*

* * * * *

Chicago Board Options Exchange, Incorporated

Rules

* * * * *

Rapid Opening System

Rule 6.2A (a) Operation

* * * * *

* * * *Interpretation and Policies:*

.01 ROS may be used by LMMs and SMMs, *appointed pursuant to Rule 8.15*, to conduct rotations in [S&P 100] options *classes* [(''OEX'')]. *Notwithstanding paragraph (b) of this Rule, ROS contracts to trade will be assigned to the LMMs and SMMs logged onto the ROS system. In addition, subject to the review of the Board of Directors, the appropriate Committee may establish from time to time a participation entitlement formula that is applicable to the LMM who determines the formula for generating automatically updated market quotations during the trading day and provides the primary quote feed for an option class during an expiration cycle. The participation entitlement formula only applies to ROS contracts to trade and is subject to the following conditions: (i) the LMM will receive this participation right only during expiration cycles (and only with respect to time periods during those expiration cycles) when the LMM is providing the primary quote feed, and (ii) the LMM logs onto ROS the designated number of times as established by the appropriate Committee.*

* * * * *

The CBOE has also submitted as part of its proposed rule change the draft text of a proposed Regulatory Circular that would establish, and further describe the application of, a participation entitlement formula for qualifying LMMs pursuant to the above proposed amendment to Interpretation .01 of Rule 6.2A. The text of this proposed Regulatory Circular 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, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE is submitting the proposed change to Interpretation .01 pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000,[5] which requires that respondent options exchanges adopt new, or amend existing, rules to make express any practice or procedure ''whereby market makers trading any particular option class determine by agreement * * * the allocation of orders in that option class.'' The proposed rule change would clarify that ROS trades will be assigned to LMMs and SMMs logged onto ROS.[6] It would also permit the appropriate Floor Procedure Committee to establish an entitlement formula—*i.e.*, a participation right—that is applicable to the LMM who determines the formula for generating automatically updated market quotations during the trading day and provides the primary quote feed for an option class during the current expiration month.[7]

The proposed rule change provides that this LMM's participation right would apply only to ROS contracts to trade, and would be subject to the following conditions: (1) The LMM would only receive this participation right during the time it is actually providing the primary quote feed for an option class; and (2) the LMM must log onto ROS the minimum number of times established by the appropriate Floor Procedure Committee.

The CBOE states that the proposed rule change clarifies that ROS may be used by LMMs and SMMs appointed pursuant to CBOE Rule 8.15 to conduct rotations in options classes,[8] and would permit LMMs and SMMs to use ROS in any options class. Interpretation .01 currently limits the use of ROS to LMMs and SMMs in S&P 100 (''OEX'') Options. Thus, the proposed change would permit a wider use of ROS by LMMs and SMMs.

The proposed rule change to Interpretation .01 is also intended to clarify that despite CBOE Rule 6.2A(b)—which assigns ROS contracts to trade to participating market-makers—in crowds to which LMMs and SMMs are appointed, ROS contracts to trade will be assigned only to the LMMs and SMMs logged onto ROS.[9] The CBOE cites the notice in which the rule change to adopt Interpretation .01 was published,[10] which stated that openings in OEX options have been conducted for many years by the use of LMMs.[11] That notice also stated:

> CBOE * * * represent[ed] that the ROS system was not meant to supplant the LMM system which has added accountability to the openings in OEX. The CBOE believes that, at the option of the appropriate CBOE Floor Procedure Committee, ROS would be used as a tool by the LMM to facilitate openings. * * * To the extent that market-makers want to participate in the opening of a series in which they do not hold LMM or SMM appointments, they will continue to be able to transmit written non-cancelable proprietary and market-makers orders to the LMM in the appropriate zone ten minutes prior to the opening of trading, pursuant to the terms of Interpretation .02 to CBOE Rule 24.13.[12]

The CBOE states that it has introduced a vendor quote program in OEX to replace the Autoquote system. The vendor system accepts a quote stream from a firm's proprietary quote system and then sends this quote information to the Trading Support System to be disseminated as market

[5] Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions. Securities Exchange Act Release No. 43268 (September 11, 2000).

[6] ROS is the Exchange's automated system for opening classes of options at the beginning of the trading day or for re-opening classes of options during the trading day. *See* CBOE Rule 6.2A.

[7] The Exchange states that changes to this Regulatory Circular, including changes to a participation entitlement formula, will be submitted to the Commission pursuant to section 19(b) of the Exchange Act.

[8] *See* Securities Exchange Act Release No. 45574 (March 15, 2002) concerning a related amendment to CBOE Rule 8.15 that was recently approved by the Commission.

[9] Telephone conversation between Madge Hamilton and Jaime Galvan, Attorneys, CBOE, and Ira Brandriss, Special Counsel, Division, Commission, on March 21, 2002.

[10] Securities Exchange Act Release No. 43666 (December 4, 2000); 65 FR 77943 (December 13, 2000) (notice of filing and immediate effectiveness of proposed rule change that permitted the implementation of ROS in S&P 100 index options).

[11] *Id.* at 77944.

[12] Id.

quotes.[13] The CBOE believes that the LMM that provides the primary quote feed for an option class during the current expiration cycle provides a valuable service that ensures that the quotes are being updated in timely fashion to reflect the current state of the market. The LMM currently receives no participation entitlement for providing the primary quote feed for an option class, other than the entitlement it receives along with all other SMMs entitled to participate during the opening. The proposed rule change would permit the appropriate Floor Procedure Committee to establish a participation entitlement formula for the LMM providing the primary quote feed.

The CBOE is also submitting as part of the proposed rule change a draft Regulatory Circular for use by any appropriate Floor Procedure Committee to adopt the participation entitlement formula established in the circular. This Regulatory Circular establishes participation entitlements that range from 34 percent to 40 percent for the LMM providing the primary quote feed. These participation entitlements would be implemented by permitting the LMM providing the primary quote feed to log onto ROS an additional number of times as indicated in the table below:

If the total Number of appointed LMMs and SMMs is	The LMM providing the primary quote feed must log onto ROS the following Number of times	Participation right of the LMM providing the primary quote feed (percent)
3	1	34
4	2	40
5	2	34
6	3	38
7	4	40
8	4	36
9	5	38
10	6	40
11	6	38
12	7	39
13	8	40
14	8	38
15	9	39
16	10	40

The draft Regulatory Circular adds that in the event the total number of LMMs and SMMs appointed pursuant to CBOE Rule 8.15 is one, all ROS contracts to trade will be assigned to the appointed LMM or SMM. In the event the total number of LMMs and SMMs appointed pursuant to Rule 8.15 is two, the circular states that the LMMs and/or SMMs will each be assigned an equal portion of ROS contracts.

2. Statutory Basis

The CBOE believes that the proposed rule change is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers, pursuant to section 6(b)(5) of the Act.[14] The CBOE believes that the proposed rule change protects investors and the public interest by providing incentives to the LMMs to provide the primary quote feed. The CBOE states that the LMM that provides the primary quote feed uses its own proprietary system to provide the quotes, and, in addition, must make sure that quotes are updated in a timely fashion to reflect the current quotes in the underlying Index Options.

The proposed rule change proposes to give the LMM a limited participation entitlement during the opening of an Index Option. The CBOE believes that given the service that the LMM is performing, it is within just and equitable principles of trade to grant the limited participation entitlement that is proposed. For the reasons stated, the CBOE believes that the proposed rule change is consistent with the Act and the regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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, as amended, or

(B) institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, 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 CBOE. All submissions should refer to file number SR–CBOE–2002–10 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

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[13] A minimum of three market-makers or market-maker groups are approved by CBOE's Index Market Performance Committee to act as LMMs and SMMs and provide a proprietary quote feed to CBOE's vendor quote system. One feed serves as the primary quote feed, and the other feeds serve as backup. In addition, Autoquote provided by RISC Systems serves as a backup.

[14] 15 U.S.C. 78f(b)(5).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45656; File No. SR–GSCC–2002–01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving Proposed Rule Change Relating to Establishment of a Cross-Margining Program With BrokerTec Clearing Company, L.L.C.

March 27, 2002.

I. Introduction

On January 18, 2002, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'')

proposed rule change SR–GSCC–2002–01 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on February 21, 2002.[2] The Commission received two comment letters in response to the proposed rule change.[3] For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description [4]

On August 19, 1999, the Commission approved GSCC's rule filing to establish a cross-margining program with other clearing organizations and to begin its program with the New York Clearing Corporation (''NYCC'').[5] Subsequently, the Commission approved GSCC's rule filing to establish similar cross-margining programs with the Chicago Mercantile Exchange (''CME'') [6] and with the Board of Trade Clearing Corporation (''BOTCC'').[7] GSCC is now seeking to establish a similar cross-margining program with BCC.

BCC is the affiliated clearing organization for the BrokerTec Futures Exchange, L.L.C. (''BTEX''). On June 18, 2001, the Commodity Futures Trading Commission approved the application of BTEX for contract market designation and granted registration of BCC as a derivatives clearing organization. BCC clears the futures contracts on U.S. Treasury securities traded on BTEX.[8]

A. GSCC's Cross-Margining Program

GSCC believes that the most efficient and appropriate approach for establishing cross-margining links for fixed-income and other interest rate products is to do so on a multilateral basis with GSCC as the ''hub.'' Each clearing organization that participates in a cross-margining program with GSCC (''Participating CO'') enters into a separate cross-margining agreement between itself and GSCC, as in the case of NYCC, CME, BOTCC, and now BCC. Each of the agreements do and will continue to have similar terms, and no preference will be given by GSCC to one Participating CO over another. Under GSCC's arrangement, cross-margining occurs between GSCC and each Participating CO and not between Participating COs.

Cross-margining is available to any GSCC netting member (with the exception of inter-dealer broker netting members) that is or that has an affiliate that is a member of a Participating CO.[9] Any such member (or pair of affiliated members) may elect to have its margin requirements at both clearing organizations calculated based upon the net risk of its cash and repo positions at GSCC and its offsetting and correlated positions in certain futures contracts carried at the Participating CO. Cross-margining is intended to lower the cross-margining member's (or pair of affiliated members') overall margin requirement, as intermarket hedges are taken into consideration in the margining process. The GSCC member (and its affiliate, if applicable) sign an agreement under which it (or they) agree to be bound by the cross-margining agreement between GSCC and the Participating CO and which allows GSCC or the Participating CO to apply the member's (or its affiliate's) margin collateral to satisfy any obligation of GSCC to the Participating CO or the Participating CO to GSCC that results from a default of the member (or its affiliate).

Margining based on the combined net risk of correlated positions is based on an arrangement under which GSCC and each Participating CO agree to accept the offsetting correlated positions in lieu of supporting collateral. Under this arrangement, each clearing organization holds and manages its own positions and collateral and independently determines the amount of margin that it will collect from its member and that it will make available for cross-margining. This available margin is referred to as the ''residual margin amount.'' [10]

GSCC computes the amount by which the cross-margining member's margin requirement can be reduced at each clearing organization by comparing the member's positions and the related margin requirements at GSCC against those submitted to GSCC by each Participating CO. This reduction amount is referred to as the ''cross margin reduction.'' GSCC offsets each cross-margining member's residual margin amount (based on related positions) at GSCC against the offsetting residual margin amounts of the member (or its affiliate) at each Participating CO. If, within a given pair of offset classes, the margin that GSCC has available for a participant is greater than the combined margin submitted by the Participating COs, GSCC will allocate a portion of its margin equal to the combined margin at the Participating COs. If, within a given pair of offset classes, the combined margin submitted by the Participating COs is greater than the margin that GSCC has available for that member, GSCC will first allocate its margin to the Participating CO with the most highly correlated position. If, within a given pair of offset classes, the positions are equally correlated, GSCC will allocate pro rata based upon the residual margin amount submitted by each Participating CO. GSCC and each Participating CO may then reduce the amount of collateral that they collect to reflect the offsets between the cross-margining member's positions at GSCC and its (or its affiliate's) positions at the Participating CO(s).[11] In the event of the default and liquidation of a cross-margining participant, the loss sharing between GSCC and each of the Participating COs will be based upon the foregoing allocations and the cross-margin reduction.

GSCC will guarantee the cross-margining member's (or its affiliate's) performance to each Participating CO up to a specified maximum amount based on the loss sharing formula contained in the Cross-Margining Agreement. Each Participating CO will provide the same guaranty to GSCC. The amount of the guarantee is the lowest of:

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 45438 (February 13, 2002), 67 FR 8048.

[3] Letters from Douglas E. Harris, General Counsel, BrokerTec Clearing Company, L.L.C. (''BCC'') (January 28, 2002) and Henry D. Mlynarski, President, BCC (March 4, 2002).

[4] The description of GSCC's cross-margining program is drawn largely from representations made by GSCC.

[5] Securities Exchange Act Release No. 41766 (August 19, 1999), 64 FR 46737 (August 26, 1999) [File No. SR–GSCC–98–04]. The requisite rule changes necessary for GSCC to engage in cross-margining programs with other clearing organizations were made in the NYCC cross-margining rule filing.

[6] Securities Exchange Act Release No. 44301 (May 11, 2001), 66 FR 28207 (May 22, 2001) [File No. SR–GSCC–00–13]. In addition to approving GSCC's cross-margining program with the CME, the order granted approval to change GSCC Rule 22, Section 4, to clarify that before GSCC credits an insolvent member for any profit realized on the liquidation of the member's final net settlement positions, GSCC will fulfill its obligations with respect to that member under cross-margining agreements.

[7] Securities Exchange Act Release No. 45335 (January 25, 2002), 67 FR 4768 (January 31, 2001) [File No. SR–GSCC–2001–03].

[8] Currently, BTEX offers trading in futures contracts on the 5-year Note, 10-year Note, and 30-year Bond. It is expected that, in the future, BTEX will offer trading in other U.S. fixed-income futures contracts and options on futures contracts traded on BTEX. BCC will provide clearing services for these products.

[9] The GSCC–BCC cross-margining agreement requires ownership of 50 percent or more of the common stock of an entity to be deemed ''control'' of that entity for purposes of the definition of ''affiliate.''

[10] The residual margin amount is the long margin amount or the short margin amount in each offset class that is available for cross-margining after all internal offsets are conducted within and between offset classes at a particular clearing organization.

[11] GSCC and each Participating CO unilaterally have the right not to reduce a member's margin requirement by the cross-margin reduction or to reduce it by less than the cross-margin reduction. However, the clearing organizations may not reduce a participant's margin requirement by more than the cross-margin reduction.

(1) The cross-margin loss of the worse off party; (2) the higher of the cross-margin reduction or the cross-margin gain of the better off party; (3) the amount required to equalize the parties' cross-margin results; or (4) the amount by which the cross-margining reduction exceeds the better off party's cross-margin loss if both parties have cross-margin losses.

B. Information Specific to the Current Agreement Between GSCC and BCC

1. *Participation in the cross-margining program:* Any netting member of GSCC other than an inter-dealer broker will be eligible to participate.[12] Any clearing member of BCC will be eligible to participate.

2. *Products subject to cross-margining:* The products that will be eligible for the GSCC–BCC cross-margining program are the Treasury and non-mortgage-backed Agency securities of certain remaining maturities that fall into GSCC's Offset Classes C, E, F, and G and e and f as defined in the cross-margining agreement that are cleared by GSCC and the 5-year Note, 10-year Note, and the 30-year Bond futures contracts cleared by BCC.[13] In addition, it is anticipated that the GSCC products specified above will be cross-margined with the 5-year and 10-year Agency futures and options on futures when these products are traded on the BTEX and cleared by BCC.[14] All eligible positions maintained by a cross-margining member in its account at GSCC and in its (or its affiliate's) proprietary account at BCC will be eligible for cross-margining.[15] An appropriate disallowance factor[16] based on correlation studies and a minimum margin factor[17] will be applied.[18]

3. *Margin Rates:* Margin reductions in the GSCC–BCC cross-margining program will always be computed based on the lower of GSCC's and BCC's margin rates. This methodology results in potentially less benefits to the members but ensures a more conservative result (*i.e.*, more collateral held at the clearing organization) for both GSCC and the Participating COs.

4. *Daily Procedures:* On each business day, it is expected that BCC will inform GSCC of the residual margin amounts it is making available for cross-margining by approximately 10:30 p.m. New York time. GSCC will inform BCC by approximately 12:30 a.m. New York time of how much of these residual margin amounts it will use (*i.e.*, the cross-margining reduction). The actual reductions which may be no greater than the cross-margining reduction, will be reflected in the daily clearing fund calculation.

C. Benefits of Cross-Margining

GSCC believes that its cross-margining program enhances the safety and soundness of the settlement process for the Government securities marketplace by: (1) Providing clearing organizations with more data concerning members' intermarket positions (which is especially valuable during stressed market conditions) to enable them to make more accurate decisions regarding the true risk of such positions to the clearing organizations; (2) allowing for enhanced sharing of collateral resources; and (3) encouraging coordinated liquidation processes for a joint member, or a member and its affiliate, in the event of an insolvency. GSCC further believes that cross-margining benefits participating clearing members by providing members with the opportunity to more efficiently use their collateral. More important from a regulatory perspective, however, is that cross-margining programs have long been recognized as enhancing the safety and soundness of the clearing system itself. Studies of the October 1987 market break gave support to the concept of cross-margining. For example, The Report of the President's Task Force on Market Mechanisms (January 1988) noted that the absence of a cross-margining system for futures and securities options markets contributed to payment strains in October 1987. The Interim Report of the President's Working Group on Financial Markets (May 1988) also recommended that the SEC and CFTC facilitate cross-margining programs among clearing organizations. This resulted in the first cross-margining arrangement between clearing organizations which was approved in 1988.[19]

III. Comment Letters

The Commission received two comment letters in response to the proposed rule change.[20] Both letters from BCC were strongly in support of the proposed cross-margining program between GSCC and BCC. The January BCC comment letter stated that BCC has filed amendments to its rules and bylaws with the Commodity Futures Trading Commission to allow BCC to implement the cross-margining program with GSCC and that the program is similar in all major respects to GSCC's cross-margining programs with other U.S. futures clearing organizations that have been reviewed and approved by the Commission. Finally, the letter requested that the Commission act as quickly as possible on approval of the rule change.

The second BCC comment letter, which reiterated the comments in the January BCC letter, urged the Commission to approve promptly the proposed rule change because it will improve collateral and risk management. The second letter also stated that the amendments to BCC's rules and bylaws to allow it to implement the cross-margining program became effective on January 30, 2002.

IV. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. In section 17A(a)(2)(A)(ii) of the Act, Congress directs the Commission having due regard for, among other things, the

[12] Because inter-dealer brokers should not and generally do not have positions at GSCC at the end of the day, they should have no margin requirement to be reduced.

[13] GCF Repo products will not be included in the program.

[14] GSCC will notify the Commission when additional securities and futures are made eligible for the cross-margining program.

[15] The GSCC–BCC cross-margining program will be applicable, on the futures side, only to positions in a proprietary account of a cross-margining member (or its affiliate) at BCC. Positions in a customer account at BCC that would be subject to segregation requirements under the Commodity Exchange Act will not be included in the program. This is also the case with respect to the arrangements with NYCC, CME, and BOTCC.

[16] The disallowance factor is the haircut reflective of the correlation analysis done by GSCC for each offset class.

[17] The minimum margin factor is the contractually agreed upon cap on the amount of the margin reduction that the clearing organizations will allow. (In some of the documents submitted by GSCC, the minimum margin factor is referred to as the minimum disallowance factor.) Initially, the GSCC–BCC cross-margining program will employ a 25% minimum margin factor. Should GSCC decide to change the minimum margin factor, it will submit a proposed rule filing under Section 19(b) of the Act.

[18] GSCC will review the cross-margining parameters on a yearly basis unless market events dictate the need for more frequent reviews.

[19] Securities Exchange Act Release No. 26153 (October 3, 1988), 53 FR 39567 (October 7, 1988) [File No. SR–OCC–86–17] (order approving cross-margining program between OCC and The Intermarket Clearing Corporation).

[20] Letters from Douglas E. Harris and Henry D. Mlynarski, *supra* note 3.

public interest, the protection of investors, the safeguarding of securities and funds, to use its authority under the Act to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options.[21] Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency for which it is responsible.[22] The Commission finds that the approval of GSCC's proposed rule change is consistent with these Sections.

First, the Commission's approval of GSCC's proposed rule change to establish a cross-margining arrangement with BCC and to extend its hub and spoke approach to cross-margining to include BCC along with BOTCC, CME, and NYCC is in line with the Congressional directive to the Commission to facilitate linked and coordinated facilities for the clearance and settlement of securities and futures.[23] Second, approval of GSCC's proposal should result in increased and better information sharing between GSCC and Participating COs regarding the portfolios and financial conditions of participating joint and affiliated members. As a result, GSCC and participating COs will be in a better position to monitor and assess the potential risks of participating joint or affiliated members and will be in a better position to handle the potential losses presented by the insolvency of any joint or affiliated member. Therefore, GSCC's proposal should help GSCC better safeguard the securities and funds in its possession or control or for which it is responsible.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–2002–01) be and hereby is approved.

[21] 15 U.S.C. 78q–1(a)(2)(A)(ii).

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] 15 U.S.C. 78q–1(a)(2)(A)(ii).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7903 Filed 4–1–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45634; File No. SR–PCX–2002–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Priority of Bids and Offers on the Options Floor and the Manner in Which Orders Must Be Allocated in Connection With Options Transactions

March 22, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 19, 2002, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On March 21, 2002, the PCX submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to adopt new rules and to amend existing rules on the priority of bids and offers on the Options Floor and the manner in which orders must be allocated in connection with options transactions on the Exchange.

Below is the text of the proposed rule change. Deleted language is in brackets. Proposed new language is italicized.

* * * * *

Obligations of Market Makers

Rule 6.37(a)–(c)—No change.

(d) —No Change.

(e) Prohibited Practices and Procedures.

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Michael D. Pierson, Vice President, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 21, 2002. The changes made by Amendment No. 1 have been incorporated into this notice.

(1) —No Change.

(2) Any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the allocation of orders that may be executed in that issue is prohibited.

Priority of Bids and Offers

Rule 6.75

No change.

(a)–(b)—No change.

Simultaneous Bids and Offers

(c) Except as otherwise provided, if the bids (or offers) of two or more members are made simultaneously, or if it is impossible to determine clearly the order of time in which they were made, such bids (or offers) will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis.

(d)–(e) [(c)–(d)]

Order Allocation Procedures

(f) Determination of Time Priority Sequence.

(1) Floor Brokers. A Floor Broker is responsible for determining the sequence in which bids or offers are vocalized on the Trading Floor in response to the Floor Broker's bid, offer or call for a market. Any disputes regarding a Floor Broker's determination of time priority sequence will be resolved by the Order Book Official, provided that such determinations of the Order Book Official are subject to further review by two Floor Officials, pursuant to Rule 6.77.

(2) When a Floor Broker's bid or offer has been accepted by more than one member, that Floor Broker must designate the members who were first, second, third and so forth. Except as provided below, the member with first priority is entitled to buy or sell as many contracts as the Floor Broker may have available to trade. If there are any contracts remaining, the member with second priority will be entitled to buy or sell as many contracts as there are remaining in the Floor Broker's order, and so on, until the Floor Broker's order has been filled entirely.

(3) Market Makers and Order Book Officials. A Market Maker is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to that Market Maker's bid, offer or call for a market. Likewise, an Order Book Official is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to the Order Book Official's bid, offer or call for a market. The order allocation procedures for Market Makers

and Order Book Officials, including the determination of time priority sequence, are the same as those for Floor Brokers as set forth in this Rule 6.75(f).

(4) LMM Guaranteed Participation.

(A) If the LMM establishes first priority during the vocalization process, the LMM will be entitled to buy or sell as many contracts as the Floor Broker may have available to trade. However, if the LMM does not establish first priority during the vocalization process, but does establish second, third or some other time priority sequence, the LMM will be entitled to buy or sell the number of contracts equal to the LMM's guaranteed participation level (pursuant to Rule 6.82(d)(2)) plus any contracts the Floor Broker has remaining after the bids or offers of other members with higher time priority have been satisfied.

(B) If one or more orders in the limit order book have priority over an LMM's bid or offer, then the LMM's guaranteed participation level will apply only to the number of contracts remaining after all contracts in the limit order book that are at, or better than, the LMM's bid or offer have first been satisfied.

(C) LMMs may waive some or all of their guaranteed participation on particular trades, but only to the extent that doing so is permissible under Rule 6.86 (''Firm Quotes''). In such circumstances, if the LMM has waived the right to trade a certain number of option contacts, those option contracts will then become available for execution by the member (or members) who are next in priority sequence. For example, assume that there are 100 contracts available to sell, the LMM has guaranteed participation on 25 contracts, and the time priority sequence is as follows: the LMM is first, Market Maker #1 is second and Market Maker #2 is third. If the LMM buys 20 contracts, the remaining 80 contracts will then be available for execution by Market Maker #1. If Market Maker #1 buys 40 of those contracts, then the remaining 40 contracts will be available for execution by Market Maker #2.

(D) LMMs may direct some or all of their guaranteed participation to competing public orders in the trading crowd pursuant to Rule 6.82(d).

(E) Bid and offering prices that are disseminated by an automatic quotation system are presumed to be the bid and offering prices of the LMM for purposes of Rule 6.86 (''Firm Quotes'') and Rule 6.82(d)(2) (''Guaranteed Participation''). Nevertheless, LMMs must vocalize all of their bids and offers in response to a call for a market and in acceptance of another member's bid or offer. If a Floor Broker enters the trading crowd and vocalizes acceptance of a bid or offer that is then being disseminated, the LMM will be entitled to guaranteed participation on that transaction.

(5) Parity Due to Simultaneous Bidding or Offering.

(A) If the bids or offers of more than one member are made simultaneously, such bids or offers will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis, pursuant to Rule 6.75(c). Accordingly, efforts will be made to assure that each member on parity receives an equal number of contracts, to the extent mathematically possible. One or more members on parity may waive their rights to some of their share (or shares) of contracts, but only to the extent that doing so is permissible under Rule 6.86 (''Firm Quotes''). In such circumstances the remaining number of contracts will be allocated, to the extent practicable, on an equal basis. However, an LMM who has received guaranteed participation on a transaction may not participate in the waived portion of the order unless there are contracts remaining to be allocated after all other members have been satisfied.

(B) If the bids and offers of more than one member, including the LMM, are on parity, then the LMM's guaranteed participation will first be applied to the entire order and the remainder of the order will be allocated, to the extent practicable, on an equal basis among the members other than the LMM who are on parity. The LMM may participate in such remainder of the order only if there are contracts remaining after all members other than the LMM have first been satisfied.

(C) If the LMM waives priority or guaranteed participation when the LMM and one or more other members are on parity, then the portion of the order that the LMM has waived will be made available to the other members who are on parity. For example, assume that there are 100 contracts available to trade, the LMM has guaranteed participation on 25 contracts, and two other members are on parity with the LMM. If the LMM waives guaranteed participation (but claims priority), the order will be divided into three shares (consisting of 34 contracts, 33 contracts and 33 contracts). If the LMM waives all rights to participate in the trade, the order will be divided among the two other members who are on parity, in equal shares, each comprising 50 contracts.

(6) Size Pro Rata Allocations

(A) If the members of the trading crowd provide a collective response to a member's request for a market in order to fill a large order, pursuant to Rule 6.37(f)(2), then:

(i) if the size of the trading crowd's market, in the aggregate, is less than or equal to the size of the order to be filled, the members of the trading crowd will each receive a share of the order that is equal to the size of their respective bids or offers; and

(ii) if the size of the trading crowd's market exceeds the size of the order to be filled, that order will be allocated on a size pro rata basis, with the members of the trading crowd each receiving, to the extent practicable, the percentage of the order that is the ratio of the size of their respective bids or offers to the total size of all bids or offers. Specifically, in such circumstances, the size of the order to be allocated is multiplied by the size of an individual market participant's quote divided by the aggregate size of all market participants' quotes. For example, assume there are 200 contracts to be allocated, Market Maker #1 is bidding for 100, Market Maker #2 is bidding for 200 and Market Maker #3 is bidding for 500. Under the ''size pro rata'' allocation formula, Market Maker #1 will be allocated 25 contracts (200 x 100 ÷ 800); Market Maker #2 will be allocated 50 contracts (200 x 200 ÷ 800); and Market Maker #3 will be allocated 125 contracts (200 x 500 ÷ 800).

Com. .01–.04—No change.

Rule 6.76(a)–(b)—No change.

(c) Two or more members entitled to priority. If the bids or offers of two or more members are both entitled to priority in accordance with paragraph (a) or paragraph (b), it shall be afforded to them, insofar as practicable, on an equal basis.

Com. .01—No change.

* * * * *

Lead Market Makers

Rule 6.82(a)–(c)—No change.

(d) Rights of Lead Market Makers

(1)—No change.

(2) Guaranteed Participation. Except as provided in subsections (A) and (B), below, LMMs shall be allocated 50% participation *(or such lesser percentage as the Options Allocation Committee may establish as a condition in allocating an issue to an LMM)* in transactions occurring at their disseminated bids and/or offers in their allocated issue(s). LMM participation may be greater than 50% as a result of successful competition by means of ''public outcry.'' LMMs at their own discretion may direct some or all of their participation to competing public orders in the crowd. Public orders placed in the book shall take priority pursuant to Exchange rules. Oversight and enforcement shall be the responsibility of the OBO.

(A)–(C)—No change.

(e)–(h)(1)—No change.

(2) LMM Performance of Market Maker Function

(a) LMMs must perform all obligations provided *in* Rules 6.35 through 6.40 and 6.82(c). In addition, in executing transactions for their own accounts as Market Makers, LMMs [shall] have a right to participate [pro rata] with the trading crowd in trades that take place at the LMM's principal bid or offer, *pursuant to the priority rules set forth in Rule 6.75*.

(3)—No change.

Commentary:

.01–.03—No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. Introduction

The Exchange is proposing to adopt new rules, and to amend existing rules, to include practices and procedures whereby option orders are allocated on the Options Trading Floor. This rule filing is being submitted to the Commission pursuant to subparagraph IV.B.j. of the Commission's Order of September 11, 2000.[4]

b. Obligations of Market Makers

The Exchange is proposing to adopt new PCX Rule 6.37(e)(2), which would provide that any practice or procedure whereby Market Makers trading any particular option issue determine by agreement the allocation of orders that may be executed in that issue is prohibited.

c. Simultaneous Bids and Offers

The Exchange is proposing to adopt new PCX Rule 6.75(c), entitled ''Simultaneous Bids and Offers,'' which states that, except as otherwise provided, if the bids (or offers) of two or more members are made simultaneously, or if it is impossible to determine clearly the order of time in which they were made, such bids (or offers) will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis.

d. Order Allocation Procedures

1. In General

Proposed PCX Rule 6.75(f)(1) states that a Floor Broker is responsible for determining the sequence in which bids or offers are vocalized on the Trading Floor in response to the Floor Broker's bid, offer or call for a market. It further states that any disputes regarding a Floor Broker's determination of time priority sequence will be resolved by the Order Book Official, provided that such determinations of the Order Book Official are subject to further review by two Floor Officials, pursuant to PCX Rule 6.77.

Proposed PCX Rule 6.75(f)(2) provides that when a Floor Broker's bid or offer has been accepted by more than one member, that Floor Broker must designate the members who were first, second, third, and so forth. It further states that, except as otherwise provided, the member with first priority is entitled to buy or sell as many contracts as the Floor Broker may have available to trade. If there are any contracts remaining, the member with second priority will be entitled to buy or sell as many contracts as there are remaining in the Floor Broker's order, and so on, until the Floor Broker's order has been filled entirely.

Proposed PCX Rule 6.75(f)(3) (''Market Makers and Order Book Officials'') provides that a Market Maker is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to that Market Maker's bid, offer or call for a market. Likewise, an Order Book Official is responsible for determining the sequence in which bids and offers are vocalized on the Trading Floor in response to the Order Book Official's bid, offer or call for a market. The proposed rule further provides that the order allocation procedures for Market Makers and Order Book Officials, including the determination of time priority sequence, are the same as those for Floor Brokers as set forth in this proposed PCX Rule 6.75(f). [5]

2. LMM Guaranteed Participation

Proposed PCX Rule 6.75(f)(4)(A) provides that if the LMM establishes first priority during the vocalization process, the LMM will be entitled to buy or sell as many contracts as the Floor Broker may have available to trade. However, if the LMM does not establish first priority during the vocalization process, but does establish second, third, or some other time priority sequence, the LMM will be entitled to buy or sell the number of contracts equal to the LMM's guaranteed participation level (pursuant to PCX Rule 6.82(d)(2)) plus any contracts the Floor Broker has remaining after the bids or offers of other members with higher time priority have been satisfied.

Proposed PCX Rule 6.75(f)(4)(B) provides that if one or more orders in the limit order book have priority over an LMM's bid or offer, then the LMM's guaranteed participation level will apply only to the number of contracts remaining *after* all contracts in the limit order book that are at, or better than, the LMM's bid or offer have first been satisfied.

Proposed PCX Rule 6.75(f)(4)(C) provides that LMMs may waive some or all of their guaranteed participation on particular trades, but only to the extent that doing so is permissible under PCX Rule 6.86 (''Firm Quotes''). In such circumstances, if the LMM has waived the right to trade a certain number of option contacts, those option contracts will then become available for execution by the member (or members) who are next in priority sequence. For example, assume that there are 100 contracts available to sell, the LMM has guaranteed participation on 25 contracts, and the time priority sequence is as follows: the LMM is first, Market Maker #1 is second, and Market Maker #2 is third. If the LMM buys 20 contracts, the remaining 80 contracts will then be available for execution by Market Maker #1. If Market Maker #1 buys 40 of those contracts, then the remaining 40 contracts will be available for execution by Market Maker #2.

Proposed PCX Rule 6.75(f)(4)(D) provides that LMMs may direct some or all of their guaranteed participation to competing public orders in the trading crowd pursuant to PCX Rule 6.82(d).

Proposed PCX Rule 6.75(f)(4)(E) provides that bid and offering prices that are disseminated by an automatic quotation system are presumed to be the bid and offering prices of the LMM for purposes of PCX Rule 6.86 (''Firm

[4] *See* Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000).

[5] The PCX is currently reviewing the means by which it would be able to determine the identity of an individual who allocated a trade on the Exchange. Telephone conversation between, Michael D. Pierson, Vice President, PCX, and Nancy J. Sanow, Assistant Director, Division, Commission, on March 22, 2002.

Quotes'') and PCX Rule 6.82(d)(2) (''Guaranteed Participation''). Nevertheless, LMMs must vocalize all of their bids and offers in response to a call for a market and in acceptance of another member's bid or offer. If a Floor Broker enters the trading crowd and vocalizes acceptance of a bid or offer that is then being disseminated, the LMM will be entitled to guaranteed participation on that transaction.

3. Parity Due to Simultaneous Bidding or Offering

Proposed PCX Rule 6.75(f)(5)(A) states that if the bids or offers of more than one member are made simultaneously, such bids or offers will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis, pursuant to PCX Rule 6.75(c). Accordingly, efforts will be made to assure that each member on parity receives an equal number of contracts, to the extent mathematically possible. One or more members on parity may waive their rights to some of their share (or shares) of contracts, but only to the extent that doing so is permissible under PCX Rule 6.86 (''Firm Quotes''). In such circumstances, the remaining number of contracts will be allocated, to the extent practicable, on an equal basis. However, an LMM who has received guaranteed participation on a transaction may not participate in the waived portion of the order unless there are contracts remaining to be allocated after all other members have been satisfied.

Proposed PCX Rule 6.75(f)(5)(B) provides that if the bids and offers of more than one member, including the LMM, are on parity, then the LMM's guaranteed participation will first be applied to the entire order and the remainder of the order will be allocated, to the extent practicable, on an equal basis among the members other than the LMM who are on parity. The LMM may participate in such remainder of the order only if there are contracts remaining after all members other than the LMM have first been satisfied.

Proposed PCX Rule 6.75(f)(5)(C) states that if the LMM waives priority or guaranteed participation when the LMM and one or more other members are on parity, then the portion of the order that the LMM has waived will be made available to the other members who are on parity. For example, assume that there are 100 contracts available to trade, the LMM has guaranteed participation on 25 contracts, and two other members are on parity with the LMM. If the LMM waives guaranteed participation (but claims priority), the order will be divided into three shares (consisting of 34 contracts, 33 contracts and 33 contracts). If the LMM waives all rights to participate in the trade, the order will be divided among the two other members who are on parity, in equal shares, each comprising 50 contracts.

Proposed Rule 6.75(f)(6) states that if the members of the trading crowd provide a collective response to a member's request for a market in order to fill a large order, pursuant to Rule 6.37(f)(2), then if the size of the trading crowd's market, in the aggregate, is less than or equal to the size of the order to be filled, the members of the trading crowd will each receive a share of the order that is equal to the size of their respective bids or offers. However, if the size of the trading crowd's market exceeds the size of the order to be filled, that order will be allocated on a size pro rata basis, with the members of the trading crowd each receiving, to the extent practicable, the percentage of the order that is the ratio of the size of their respective bids or offers to the total size of all bids or offers. Specifically, in such circumstances, the size of the order to be allocated is multiplied by the size of an individual market participant's quote divided by the aggregate size of all market participants' quotes. For example, assume there are 200 contracts to be allocated, Market Maker #1 is bidding for 100, Market Maker #2 is bidding for 200 and Market Maker #3 is bidding for 500. Under the ''size pro rata'' allocation formula, Market Maker #1 will be allocated 25 contracts (200x100 800); ÷ Market Maker #2 will be allocated 50 contracts (200x200 800); ÷ and Market Maker #3 will be allocated 125 contracts (200x500 ÷ 800).

e. Procedures of Lead Market Makers

PCX Rule 6.82(d)(2) also currently provides, in part, that LMMs at their own discretion may direct their guaranteed participation to competing public orders in the crowd. The Exchange is modifying this provision to provide that LMMs may direct ''some or all'' of their guaranteed participation to competing public orders (*i.e.*, competing orders for the accounts of non-broker-dealers) in the crowd.

PCX Rule 6.82(d)(2) currently provides, in part, that LMMs ''shall be allocated 50% participation in transactions occurring at their disseminated bids and/or offers in their allocated issue(s).'' The Exchange is proposing to amend this rule so that it provides that LMMs ''shall be allocated 50% participation (or such lesser percentage as the Options Allocation Committee may establish in allocating an issue to an LMM) in transactions occurring at their disseminated bids and/or offers in their allocated issues.''

Finally, PCX Rule 6.82(e)(2)(a) currently provides, in part, that LMMs ''shall have a right to participate pro rata with the trading crowd in trades that take place at the LMM's principal bid or offer.'' The Exchange is proposing to modify this provision to state that LMMs ''have a right to participate with the trading crowd in trades that take place at the LMM's principal bid or offer, pursuant to the priority rules set forth in PCX Rule 6.75.''

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b)[6] of the Act, in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

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 PCX. All submissions should refer to file number SR–PCX–2002–13 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7871 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45651; File No. SR–Phlx–2002–16]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Amend Phlx Rule 237, ''The eVWAP Morning Session''

March 26, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4[2] thereunder, notice is hereby given that on March 7, 2002, 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 March 21, 2002, the Phlx amended the proposal.[3] The Phlx filed the proposal pursuant to section 19(b)(3)(A) of the Act[4] and Rule 19b-4(f)(5)[5] thereunder as effecting a change in an existing order entry or trading system of the Phlx, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 237, ''The eVWAP Morning Session,'' to expand the securities eligible for eVWAP trading to include additional component issues of the Standard and Poor's (''S&P'') 500 index, as well as the NASDAQ 100 Index. The text of the proposed rule change is below. Additions are in italics; deletions are in brackets.

(b) Eligible Securities. The following securities will be eligible for execution in the System:

(i) [Exchange listed] *Any* component issues of the Standard & Poor's 500 index and/*or NASDAQ 100 Index* and any [Exchange listed] issue that has been designated by the compiler of such index for inclusion in such index.

(ii) No change.

(iii) No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 expand the number of highly capitalized and actively traded securities eligible to participate in eVWAP trading pursuant to Phlx Rule 237. The eVWAP is a pre-opening order matching session for the electronic execution of large-sized stock orders at a standardized volume weighted average price (''eVWAP Price'').

The proposed expansion of eligible securities would expand the eligible issues to include those traded on the NASDAQ National Market that are reported to the NASDAQ Trade Dissemination Service (''NTDS'') and are component issues of the S&P 500 index, and the NASDAQ 100 Index. This expansion would increase the number of securities available for eVWAP participation by 100 over the counter NASDAQ National Market Securities that are not presently eVWAP eligible. There are 78 securities that are component issues of the S&P 500 index, 43 that are only NASDAQ 100 Index component issues. A number of eVWAP participants have requested that the Phlx make these issues eligible for inclusion in the system pursuant to Phlx Rule 237 issue eligibility procedures.

The Exchange notes that the additional eligible securities may not be securities that the Exchange otherwise trades on its equity floor. It should be noted that Phlx has recently reinstated its over the counter unlisted trading privileges (''OTC/UTP'') pilot program for NASDAQ National Market Securities.[6] These securities may instead only be traded through the eVWAP System; thus, they would be traded on an unlisted trading privileges (''UTP'') basis, but without trading during regular trading hours pursuant to regular trading rules and thus without the concomitant quoting obligations. Nevertheless, these eVWAP trades will be reported pursuant to the applicable reporting channel, in the case of NASDAQ National Market Securities the NTDS through the Exchange's communication linkage system supplied by TradinGear.

The Exchange notes that the additional securities that it has requested to be eligible for eVWAP matching are all high capitalization issues, enjoying active trading volume. The S&P 500 index is a key benchmark of large capitalization securities followed actively by institutional money managers and investment fiduciaries who seek to trade component issues relative to their index weightings. Certain of these market participants, among others, have indicated that they see considerable utility in extending the benefits now afforded to a limited group of listed issues to a more expansive eVWAP eligibility list, including all

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* March 20, 2002 letter from Murray L. Ross, Vice President and Secretary, Phlx to Joseph P. Morra, Special Counsel, Division of Market Regulation, SEC and attachments (''Amendment No. 1''). In Amendment No. 1, the Phlx made minor, technical changes to the proposed rule language. The Commission considers the 60-day abrogation period to have begun on March 21, 2002, the date the Phlx filed Amendment No. 1.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(5).

[6] See Securities Exchange Act Release No. 45182 (December 20, 2001), 66 FR 67609 (December 31, 2001)(SR–Phlx–2000–20).

component issues of the S&P 500 index and the NASDAQ 100 Index. Additionally, the eligibility of these additional issues is critical to developing eVWAP order flow connected with certain index-linked stock basket transactions.

The Exchange notes that several major broker-dealers sponsor alternative trading systems, which currently provide crossing networks that offer the opportunity to trade any listed or Nasdaq reported securities. For example, ITG (POSIT) and Instinet operate crossing systems that offer trade matching in thousands of reported securities without regard to capitalization or dollar volume. As a competitive matter, the Phlx believes that eVWAP needs to offer, at a minimum, the component NASDAQ National Market Securities of the S&P 500 index, as well as those of the NASDAQ 100 Index. The NASDAQ National Market Securities are actively traded and among the largest capitalization securities available in that market.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act [7] in general, and in particular, with Section 6(b)(5),[8] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices and protect investors and the public interest by expanding the number of highly capitalized, actively traded securities eligible for eVWAP trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [9] and subparagraph (f)(5) of Rule 19b–4 thereunder,[10] because it effects a change in an existing order entry or trading system of the Phlx. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 Exhange 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–2002–16 and should be submitted by April 23, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–7869 Filed 4–1–02; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(5).

[11] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer at the following addresses:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, NewExecutive Office Building, Room 10230, 72517th St., NW., Washington, DC 20503.

(SSA), Social Security Administration, DCFAM, Attn: SSA Reports Clearance Officer, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collection listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain a copy of the collection instrument by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to her at the address listed above.

1. Disability Hearing Officer's Decision—Title XVI Disabled Child Continuing Disability Review—0960–NEW. The information collected on form SSA–1209 will be used by State Disability Hearing Officers (DHO) to formalize disability decisions. The form will aid the DHO in addressing the crucial elements of the case in a sequential and logical fashion. The form is used as the official determination of the DHO's decision and the personalized portion of the notice to the claimant.

Number of Respondents: 35,000.

Frequency of Response: 1.

Average Burden Per Response: 1 1/4 hours.

Estimated Annual Burden: 43,750 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–0454, or by writing to her at the address listed above.

1. Statement Regarding the Inferred Death of an Individual By Reason of Continued and Unexplained Absence–0960–0002. The information collected on Form SSA–723–F4 is needed to determine if SSA may presume that a

missing wage earner is dead and, if so, to establish a date of presumed death. The respondents are people who have knowledge of the disappearance of the wage earner.

Number of Respondents: 3,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 1,500 hours.

2. Credit Card Payment Acknowledgement Form—0960–NEW. SSA will use the information collected on Form SSA–1414 to process payments from former employees and vendors who have outstanding debts owed to the agency. This form has been developed as a convenient method for respondents to satisfy such debts. The respondents are former employees and vendors who have debts owed to the agency.

Number of Respondents: 150.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 13 hours.

Please note: The SSA form number and the total number of respondents has been amended since the first FRN publication. This collection was previously published on December 31, 2001, as the SSA–324. The form number has been changed as a result of an internal SSA forms management review. The total number of respondents was adjusted after further evaluation of management information.

3. State Agency Ticket Assignment Form, SSA–1365, State Vocational Rehabilitation Ticket to Work Information Sheet, SSA–1366 and Individual Work Plans (IWP) Information Sheet, SSA–1367–0960–0641.

Background

Public Law (Pub. L.) 106–170, the Ticket to Work and Work Incentives Improvement Act of 1999, created a new Ticket to Work (TTW) program for providing work access services to Social Security disability beneficiaries. The new program requires SSA to monitor the services provided under the law. SSA has developed three data collection forms that request service provider and beneficiary information, which is essential to SSA's administration of this new program. Employment networks (ENs) providing TTW services under contracts with SSA are required to submit to SSA the information listed in form SSA–1367. State vocational rehabilitation agencies (VRAs) that provide services to our beneficiaries under either the traditional VR reimbursement mechanism or the new TTW program are required to submit to SSA the information listed in forms SSA–1365 and SSA–1366. SSA does not require that ENs or VRAs use forms SSA–1366 and SSA–1367 per se, but does require that any alternative forms submitted in place of these SSA forms include the SSA listed information at a minimum. VRAs are required to submit Form SSA–1365 in all cases as a means of assigning Tickets to VRAs.

a. State Agency Ticket Assignment Form—SSA–1365. The information collected on this form will be used by SSA's contracted Program Manager (PM) to perform the task of assigning beneficiaries' tickets and monitoring the use of tickets under the Ticket to Work and Self-Sufficiency Program. The State VRA answers the questions and the beneficiary reviews the data and if in agreement will sign the form acknowledging the Ticket assignment. The respondents are State VR agencies.

Number of Respondents: 21.

Frequency of Response: 4,048 annually per respondent.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 4,250 hours.

b. State Vocational Rehabilitation Ticket to Work Information Sheet-SSA–1366. The information collected on Form SSA–1366 will be used by SSA's contracted PM when a State VRA elects to participate in the Program as an EN. In this case, form SSA–1366, when combined with the SSA–1365, is intended to meet the minimum information requirements for IWPs and to monitor the appropriateness of the IWPs as required under the Pub. L. 106–107. The respondents are VRAs acting as ENs under the Ticket to Work Program.

Number of Respondents: 21.

Frequency of Response: 132 annually per respondent.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 92 hours.

Please Note: The Ticket to Work Program is being implemented in stages. The above represents the initial phase of the program with 13 participating states that include 21 State VR agencies. As the program continues to be phased in, each initial program year will result in a larger number of new tickets for the participating State VRs because existing clients will also be brought into the program.

c. Individual Work Plans (IWP) Information Sheet-SSA–1367. The information collected on Form SSA–1367 will be used to monitor the appropriateness of IWPs that have been assigned to ENs under the TTW program. The respondents are ENs under the TTW program.

Number of Respondents: 31,450.

Frequency of Response: 1 annually per respondent.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 1,573 hours.

Dated: March 26, 2002.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 02–7936 Filed 4–1–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3919]

Renewal of Cultural Property Advisory Committee Charter

AGENCY: Department of State.

ACTION: Renewal of Cultural Property Advisory Committee Charter.

The Charter of the Cultural Property Advisory Committee is being renewed for a two-year period. The membership of this advisory committee consists of private sector experts in archaeology/anthropology/ethnology; experts in the international sale of cultural property; and, representatives of museums and of the general public. The committee was established by 19 U.S.C. 2601 *et seq.,* the Convention on Cultural Property Implementation Act. It reviews requests from other countries seeking U.S. import restrictions on archaeological or ethnological material the pillage of which places a country's cultural heritage in jeopardy. The committee makes findings and recommendations to the Secretary of State, who, on behalf of the President, determines whether to impose the import restrictions.

FOR FURTHER INFORMATION CONTACT: Cultural Property Office, U.S. Department of State, Bureau of Educational and Cultural Affairs, Rm. 334, State Annex 44, 301 4th St., SW, Washington, DC 20547. Phone (202) 619–6612; Fax: (202) 260–4893.

Dated: March 25, 2002.

Maria P. Kouroupas,

Executive Director, Cultural Property Advisory Committee, Department of State.

[FR Doc. 02–7924 Filed 4–1–02; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending March 22, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST–2002–11867.
Date Filed: March 18, 2002.
Parties: Members of the International Air Transport Association.
Subject: PTC2 ME–AFR 0078 dated 26 February 2002, TC2 Middle East-Africa Expedited Resolution 002qq r1. PTC2 ME–AFR 0079 dated 8 March 2002, TC2 Middle East-Africa Resolutions r2–r17. Minutes—PTC2 ME–AFR 0080 dated 12 March 2002, Tables—PTC2 ME–AFR Fares 0050 dated 8 March 2002. Intended effective date: 30 April 2002, 1 May 2002.

Docket Number: OST–2002–11869.
Date Filed: March 18, 2002.
Parties: Members of the International Air Transport Association.
Subject: PTC2 EUR–ME 0131 dated 12 March 2002, Mail Vote 209—Resolution 010i, TC2 Europe-Middle East Special Passenger, Amending Resolutions r1–r3. PTC2 EUR–ME 0132 dated 15 March 2002. Technical Correction to PTC2 EUR–ME 0131. Intended effective date: 15 March 2002.

Cynthia L. Hatten,
Federal Register Liaison.
[FR Doc. 02–7911 Filed 4–1–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending March 22, 2002

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2002–11894.
Date Filed: March 20, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 10, 2002.
Description: Application of Continental Airlines, Inc., requesting amendment of its Route 561 certificate authority to incorporate New York/Newark-Acapulco/Puerto Vallarta/San Jose del Cabo and Houston-Mazatlan exemption authority currently held by Continental.

Docket Number: OST–2002–11905.
Date Filed: March 21, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 11, 2002.
Description: Application of JetConnection Businessflight AG, pursuant to 49 U.S.C. Section 41302, Subpart B and 14 CFR part 211, requesting a foreign air carrier permit to engage in charter foreign air transportation of persons, property, and cargo between: (1) Any point or points in Germany and any point or points in the United States; (2) between any point or points in the United States and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to Germany for the purpose of carrying local traffic between Germany and the United States; and, (3) on other charter flights between points in the United States and points in third countries in accordance with the provisions of 14 CFR part 212.

Docket Number: OST–1997–2764.
Date Filed: March 22, 2002.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 12, 2002.
Description: Application of Federal Express Corporation (Federal Express), pursuant to 49 U.S.C. Section 41102 and Subpart B, requesting renewal and amendment of its certificate of public convenience and necessity for Route 748, to engage in scheduled foreign air transportation of property and mail between points in the United States, on the one hand, and points in Colombia, on the other hand, via intermediate points, and beyond Colombia to points in the western hemisphere. Federal Express further requests authority to operate its services between the United States and Colombia in conjunction with other scheduled all-cargo services operated by Federal Express between the United States and points in Central and South America, Mexico, Canada, Europe, the Middle East and Africa, subject to existing bilateral provisions.

Cynthia L. Hatten,
Federal Register Liaison.
[FR Doc. 02–7910 Filed 4–1–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2002–11903]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DOT.
ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees on regulatory review I of recreational boating safety regulations, boats and associated equipment, aftermarket marine equipment, and prevention through people will meet to discuss various issues relating to recreational boating safety. All meetings will be open to the public.

DATES: NBSAC will meet on Monday, April 22, 2002, from 8:30 a.m. to 5 p.m. and Tuesday, April 23 from 8:30 a.m. to noon. The Recreational Boating Safety Regulatory Review I Subcommittee will meet on Saturday, April 20, 2002, from 1:30 p.m. to 4:30 p.m. The Boats and Associated Equipment Subcommittee will meet on Sunday, April 21, 2002, from 9 a.m. to 12 noon. The Aftermarket Marine Equipment Subcommittee will meet on Sunday, April 21, 2002, from 1 p.m. to 3 p.m. The Prevention Through People Subcommittee will meet on Sunday, April 21, 2002, from 3:30 p.m. to 5:30 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before April 10, 2002. Requests to have a copy of your material distributed to each member of the committee or subcommittees should reach the Coast Guard on or before April 10, 2002.

ADDRESSES: NBSAC will meet at the Sheraton Inner Harbor Hotel, 300 South Charles Street, Baltimore, Maryland, 21201. The subcommittee meetings will be held at the same address. Send written material and requests to make oral presentations to Mr. Bruce Schmidt, Commandant (G–OPB–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. You may obtain a copy of this notice by

calling the U. S. Coast Guard Infoline at 1–800–368–5647. This notice is available on the Internet at *http://dms.dot.gov* or at the Web Site for the Office of Boating Safety at URL address *www.uscgboating.org*.

FOR FURTHER INFORMATION CONTACT: Bruce Schmidt, Executive Director of NBSAC, telephone 202–267–0955, fax 202–267–4285.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Tentative Agendas of Meetings

National Boating Safety Advisory Council (NBSAC)

The agenda includes the following:
(1) Executive Director's report.
(2) Chairman's session.
(3) Recreational Boating Safety Regulatory Review I Subcommittee report
(4) Boats and Associated Equipment Subcommittee report
(5) Aftermarket Marine Equipment Subcommittee report
(6) Prevention Through People Subcommittee report
(7) Recreational Boating Safety Program report.
(8) Coast Guard Auxiliary report.
(9) Canadian Coast Guard report.
(10) National Association of State Boating Law Administrators Report.
(11) Update on recreational boat carbon monoxide issues.
(12) Update on personal flotation device issues.
(13) Discussion on Transportation Equity Act for the 21st Century reauthorization of Wallop-Breaux funding.
(14) Report on the results of survey of States regarding flare disposal.
(15) Discussion on canoe and kayak safety issues.
(16) Presentation on recreational boating statistics.
(17) Report on Recreational Boating Engagement Workshop.

Recreational Boating Safety Regulatory Review I Subcommittee

The agenda includes the following: (1) Review recreational boating safety regulations concerning administrative requirements for manufacturers and importers of recreational vessels (33 CFR part 179 and part 181, subparts B and C) and fire and explosion prevention requirements for manufacturers and importers of recreational vessels (33 CFR part 183, subparts I, J, and K).

(2) Present recommendations to the Council as to whether the current recreational boating safety regulations need to be changed or removed based on a review of need, technical accuracy, cost/benefit, problems and alternatives.

Boats and Associated Equipment Subcommittee

The agenda includes the following: (1) Discuss current regulatory projects, grants, contracts and new issues impacting boats and associated equipment.

Aftermarket Marine Equipment Subcommittee

The agenda includes the following: (1) Discuss current regulatory projects, grants, contracts and new issues impacting aftermarket marine equipment.

Prevention Through People Subcommittee

The agenda includes the following: (1) Discuss current regulatory projects, grants, contracts and new issues impacting prevention through people.

Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than April 10, 2002. Written material for distribution at a meeting should reach the Coast Guard no later than April 10, 2002. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than April 10, 2002.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals With disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: March 25, 2002.

Kenneth T. Venuto,

Rear Admiral, U.S. Coast Guard, Director of Operations Policy.

[FR Doc. 02–7829 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–25]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status.

FOR FURTHER INFORMATION CONTACT: Denise Emrick (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 27, 2002.

Gary A. Michel,

Acting Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–11716.
Petitioner: Falcon Aviation Consultants, Inc.
Section of 14 CFR Affected: 14 CFR 91.109(a) and (b) (3).
Description of Relief Sought/Disposition: To permit Falcon Aviation Consultants, Inc. flight instructors to conduct certain flight instruction to meet recent experience requirements in a Beechcraft Bonanza airplane equipped with a functioning throwover control wheel in place of functioning dual controls, subject to certain conditions and limitations.

Grant, 03/14/2002, Exemption No. 6803B (Previously Docket No. 29284)

Docket No.: FAA–2000–8009.
Petitioner: Alaska Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.433(c)(1)(iii), 121.440(a), 121.441(a)(1) and (b)(1), and appendix F to part 121.
Description of Relief Sought/Disposition: To permit Alaska Airlines to combine recurrent flight and ground

training and proficiency checks for Alaska Airline's flight crewmembers in a single, annual training and proficiency evaluation program.

Grant, 03/19/2002, Exemption No. 6043D

Docket No.: FAA–2002–10876.
Petitioner: Experimental Aircraft Association.
Section of 14 CFR Affected: 14 CFR 91.319(a)(2), 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit Experimental Aircraft Association to operate its Spirit of St. Louis airplane for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes.

Grant, 03/15/2002, Exemption No. 6541E

Docket No.: FAA–2000–8468.
Petitioner: Yankee Air Force, Inc.
Section of 14 CFR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit Yankee Air Force to operate its B–25, in addition to its already approved Boeing B–17, for the purpose of carrying passengers for compensation or hire on local flights for educational and historical purposes.

Grant, 03/14/2002, Exemption No. 6631D

Docket No.: FAA–2001–11090.
Petitioner: Army Aviation Heritage Foundation.
Section of 14 CFR Affected: 14 CFR 91.319, 119.5(g), and 119.25(b).
Description of Relief Sought/ Disposition: To permit Army Aviation Heritage Foundation to operate its former military UH–1H helicopter that holds an experimental airworthiness certificate for the purpose of carrying passengers for compensation or hire on local educational flights.

Grant, 03/14/2002, Exemption No. 7736A

[FR Doc. 02–7859 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–26]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains the dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Vanessa Wilkins, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Tel. (202) 267–8029.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on March 28, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–11549.
Petitioner: Mitsubishi Heavy Industries, Ltd.
Section of 14 CFR Affected: 14 CFR 145.47(b).
Description of Relief Sought/ Disposition: To permit Mitsubishi to use the calibration standards of the National Metrology Institute of Japan in lieu of the calibration standards of the U.S. National Institute of Standards and Technology to test its inspection and test equipment.
Grant, 03/26/2002, Exemption No. 7153A.

Docket No.: FAA–2002–11773.
Petitioner: Air Jamaica Limited.
Section of 14 CFR Affected: 14 CFR 145.57(b).
Description of Relief Sought/ Disposition: To permit Air Jamaica to substitute the calibration standards of the Jamaica Bureau of Standards for the calibration standards of the U.S. National institute of Standards and Technology to test its inspection and test equipment.
Grant, 03/26/2002, Exemption No. 7152A.

Docket No.: FAA–2002–11844.
Petitioner: The Boeing Company.
Section of 14 CFR Affected: 14 CFR 25.561(b)(3)(ii).
Description of Relief Sought/ Disposition: To allow the modification, certification, and re-delivery of Boeing Model 747 series airplanes using a reduced center of gravity of the occupant for passenger seats that is used in the determination of interface loads for the § 25.516(b)(3)(ii) loading condition.
Partial Grant, 03/18/2002, Exemption No. 7742.

[FR Doc. 02–7966 Filed 4–1–02; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 200: Modular Avionics

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 200 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 200: Modular Avionics.

DATES: The meeting will be held on May 7–9, 2002 from 9:00 am to 5:00 pm.

ADDRESSES: The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036–5133.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for a Special Committee 200 meeting. *Modular avionics are shared, interoperable hardware and software resources that provide services to host applications performing aircraft-related functions. This committee has been established to develop recommended guidance for regulatory approval of the platform and supporting components. SC–200 will propose means to approve the modular avionics platform independent of the operational application and propose a method for transferring certification credit between stakeholders. The committee's document will include guidance for partitioning and resource management, fault management, safety and security, flight operations and maintenance, environmental qualification, configuration management, and assurance.*

The agenda will include:

- May 7–9:
- Opening Session (Welcome, Introductory and Administrative Remarks, Review Federal Advisory Committee Act and RTCA procedures, Review Agenda, Review Terms of Reference)

• Organize Working Groups as needed/establish milestones
• Working Group meetings as determined
• Working Group Reports
• Closing Session (Make Assignments, Date and Place of Next Meeting, Closing Remarks, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 27, 2002.

Jane P. Caldwell,

Program Director, System Engineering Resource Management.

[FR Doc. 02–7967 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Monterey Peninsula Airport, Monterey, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent To Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Monterey Peninsula Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 2, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Susan Press, Manager, Support Services, Monterey Peninsula Airport District, at the following address: 200 Fred Kane Drive, Suite 200, Monterey, CA 93940. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Monterey Peninsula Airport District under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Monterey Peninsula Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). On March 1, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Monterey Peninsula Airport District was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 1, 2002.

The following is a brief overview of the use application No. 02–08–C–00–MRY:

Level of proposed PFC: $4.50.

Charge effective date: August 1, 2002.

Proposed charge expiration date: February 1, 2003.

Total estimated PFC revenue: $364,245.

Brief description of the proposed projects: Environmental Impact Report and Airport Biological Assessment for Airport Roadway Circulation Projects including Terminal Road, North Access Road (Phases 2 and 3) and Runway 28L Service Road, Sky Park Storm Drain Detention Facility; Generator Power to Del Monte East Facility, Phase 1; Residential Soundproofing, Phase 8; and Airport Property Map.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Unscheduled Part 135 Air Taxi Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Monterey Peninsula Airport District.

Issued in Hawthorne, California, on March 5, 2002.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 02–7964 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Sacramento International Airport, Sacramento, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Sacramento International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 2, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 93010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. G. Hardy Acree, Director of Airports, Sacramento County Department of Airports, at the following address: 6900 Airport Boulevard, Sacramento, CA 95837. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Sacramento County under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 9410–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Sacramento International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). On February 28, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Sacramento County Department of Airports was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 30, 2002.

The following is a brief overview of the impose and use application No. 02–07–C–00–SMF:

Level of proposed PFC: $4.50.

Proposed charge effective date: February 2, 2010.

Proposed charge expiration date: June 1, 2010.

Total estimated PFC revenue: $11,141,350.

Brief description of the proposed projects: International Arrivals. Facility, CCTV Camera and VCR Replacement, Card Access System Replacement, Taxiway A Rehabilitation, Aircraft Rescue and Firefighting Vehicle (568) Replacement, Runway 16R–34L and Exit Taxiway Rehabilitation, Terminal A Apron-Phase 2, Aircraft Rescue and Firefighting Building Remodel, and United Airlines Air Cargo Building Pavement Reconstruction.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Sacramento County Department of Airports.

Issued in Hawthorne, California, on February 28, 2002.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 02–7965 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2002ACE–01–CS]

Security Enhancement Issues for Smaller, Non-Transport Category Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Request for comments.

SUMMARY: The purpose of this Request for comments is to obtain public input to the Aviation and Transportation Security Act (ATSA), Public Law 107–71. Paragraph 104(c), which addresses securing the flight deck of Commuter Aircraft. We recognize Commuter Aircraft as small non-transport category airplanes. This portion of the ATSA applies to all scheduled passenger aircraft operating in air transportation or intrastate air transportation. The Law does not single out *types* of airplanes, but rather how the airplanes are operated. Therefore, the FAA, considers all non-transport category airplanes in scheduled operations in accordance with 14 CFR Parts 119, 121, 135, and 129 affected by the ATSA. A preliminary study indicated that small airplanes approved to operate with ten to nineteen passengers that operate in scheduled operations should be further examined for potential ways to improve flight deck security. The same preliminary study of airplanes with nine or less passenger seats that operate in scheduled operations should also be examined for potential ways to improve general security.

DATES: Comments must be received on or before May 25, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002ACE–01–CS, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9–ACE–7–Docket@faa.gov*. Comments sent electronically must contain ''Docket No. 2002ACE–01–CS'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

FOR FURTHER INFORMATION CONTACT: Gunnar Berg, Project Support ACE–112, 901 Locust, Room 301, Kansas City, MO 64106, telephone (816) 329–4112.

SUPPLEMENTARY INFORMATION:

Comments Invited

For Those Airplanes Carrying 10 to 19 Passengers

One solution that the FAA is considering is requiring airplanes type certificated in accordance with 14 CFR part 23, Civil Air Regulations Part 3, Special Federal Aviation Regulations (SFAR) 23, or SFAR 41, and operated in accordance with parts 135, 119, 121, and 129 that carry ten to nineteen passengers in scheduled service to be modified by installation of a rigid fixed door with a lock between the flight deck area and the passenger area. We are requesting public input from manufacturers, owners, operators and other interested public entities before any official FAA action in this regard is taken. Specifically the FAA is interested in public comment on the following issues:

a. The feasibility and practicality of installing a rigid door and lock in these airplanes.

2. What advantages and disadvantages to having a door with a lock on airplanes that carry ten to nineteen passengers and what operating burdens would be felt.

3. Any other methods or means of securing the flight deck of these airplanes.

4. Any ideas regarding other means of improving the security of these airplanes in a general sense, not just isolation of the flight deck from the passengers.

For those small airplanes approved for nine or less passengers, that operate in scheduled operations

The initial review recently completed by the FAA indicates that those airplanes that operate in scheduled operations that were type certificated for nine or fewer passengers, should not be subjected to any measures to isolate the flight deck from the passenger areas. The FAA is, however, still interested in improving the security of these airplanes. We are requesting public input from manufactures, owners, operators, and other interested public entities before any official FAA action in this regard is taken. Specifically the FAA is interested in public comments on the following issues:

1. Justification for not installing a rigid door and lock in these airplanes based on feasibility and practicality.

2. Any other methods or means, of securing the flight deck of these airplanes.

3. Any means that could be employed that would improve the general security of these airplanes.

Issued in Kansas City, Missouri, on March 25, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–7962 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–2001–9706]

Outdoor Advertising Control

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of amended Federal/State agreement.

SUMMARY: The Federal Highway Administration agrees with the Oregon Department of Transportation (ODOT) that the Highway Beautification Federal/State Agreement, dated August 26, 1974, between the United States of America and the State of Oregon should be amended to allow tri-vision signs, adjacent to routes controlled under the Highway Beautification Act. This change will be consistent with State law. A copy of the amended agreement will be mailed to the State of Oregon for execution.

FOR FURTHER INFORMATION CONTACT: Mr. John Burney, Office of Real Estate Services, HRE–20, (202) 366–5853; or Mr. Robert Black, Office of Chief Counsel, HCC–31, (202) 366–1359, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may be downloaded, using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

The Highway Beautification Act of 1965, Public Law 89–285, 79 Stat. 1028, Oct. 22, 1965, as amended (HBA), partially codified at 23 U.S.C. 131, requires the States to provide effective control of outdoor advertising in the areas adjacent to the Interstate System, the Federal-aid primary system in existence on June 1, 1991, and the National Highway System.[1] States must provide effective control of outdoor advertising as a condition of receiving their full apportionment of Federal-aid highway funds.

Outdoor advertising may be allowed by a State in zoned or unzoned commercial or industrial areas. Signs in such areas must conform to the requirements of an agreement between the State and the Federal Government, through the FHWA, which establishes size, lighting and spacing criteria consistent with customary use. The agreement between Oregon and the FHWA was executed on August 26, 1974. The 1974 Agreement includes the provision that ''No sign shall contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights or moves or has any animated or moving parts.''[2]

On July 28, 1999, the 70th Oregon Legislative Assembly passed Senate Bill 855, which made an exception in Oregon's outdoor advertising control law to allow tri-vision signs (1999 Or. Rev. Stat. Vol. 9, amending title 31, ORS, chap. 377. See Or. Rev. Stat., title 31, sections 377.710 and 377.720(d)). Tri-vision signs are composed of a series of three-sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process, capable of displaying a total of three separate and distinct messages, one message at a time. Prior to this change, outdoor advertising signs subject to Oregon's law could not have moving parts. This change created an exception for the tri-vision sign.

In July 1996, the FHWA issued a policy memorandum[3] indicating that the FHWA will concur with a State that can reasonably interpret its State/Federal agreement to allow changeable message signs if such interpretation is consistent with State law. The interpretation is limited to conforming signs, which are signs permitted under 23 U.S.C. 131(d). Applying updated technology to nonconforming signs would be considered a substantial change and inconsistent with 23 CFR 750.707(d)(5). Many States allow tri-vision signs. The frequency of message change and limitation in spacing for these signs is determined by each State.

In April 1980 the FHWA adopted a procedure to be followed if a State requested a change in the Federal/State agreement. In accordance with this procedure, the State of Oregon first submitted its proposed change, along with the reasons for the change and the effects of the change, to the FHWA Division Office in Oregon. The Oregon Department of Transportation (ODOT) held a public hearing on November 8, 2000, regarding its proposal to amend the Federal/State agreement. The hearing generated fifteen comments.[4]

Discussion Of Comments

The proposed amended agreement was published in the **Federal Register** on August 17, 2001, at 66 FR 43291. We received one comment to the docket. The Oregon Roadside Council, a statewide organization dedicated to preserving Oregon's scenic beauty, objected to the change. It maintained that the tri-vision signs would divert a driver's attention and would detract from safety, especially in areas of increased traffic congestion.

The FHWA is certainly concerned with the safety of the motoring public, and one of the bases of the HBA is ''to promote the safety * * * of public travel.'' 23 U.S.C. 131(a). Tri-vision signs do not appear to compromise the safety of the motoring public. Under Oregon law, each of the three faces in the tri-vision sign will be displayed for at least eight seconds. The next face must rotate into position within four seconds. A majority of the States allow tri-vision signs, with the time periods for displaying and rotating the sign faces being similar to Oregon's statutory time periods. There have been no reports of increases in traffic accidents in those States, due to tri-vision signs being installed adjacent to highways.

The Oregon law requires each tri-vision sign to have three permits. Oregon has ''frozen'' the statewide number of permits for off-premise

[1] The National Highway System, described in 23 U.S.C. 103(b), consists of the Interstate Highway System and other urban and rural principal arterial routes.

[2] The agreement between the State of Oregon and the FHWA is available on-line through the Document Management System (DMS) at the following URL: *http://dms.dot.gov* under FHWA Docket No. FHWA–2001–9706.

[3] The 1996 FHWA policy memorandum is available on-line through the Document Management System (DMS) at the following URL: *http://dms.dot.gov* under the FHWA Docket No. FHWA–2001–9706.

[4] The fifteen written submissions are available on line through the Document Management System (DMS) at *http://dms.dot.gov/* under FHWA Docket No. FHWA–2001–9706.

billboards to approximately 1,700, with approximately 500 permits still unused. Tri-vision billboards should help ultimately to reduce the number of separate billboard sites.

Oregon and the FHWA have completed the above procedure up to the point of publishing the FHWA's decision in the **Federal Register**. The FHWA has decided the Federal/State agreement between the FHWA and the State of Oregon should be amended as proposed. A copy of the amended agreement will be mailed to the State of Oregon for execution and will then be returned to the FHWA for signature.

Amendment to the Federal/State Agreement

The Federal/State Agreement ''For Carrying Out the National Policy Relative to Control of Outdoor Advertising in Areas Adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System'' (the Agreement) made and entered into on August 26, 1974, between the United States of America represented by the Secretary of Transportation acting by and through the Federal Highway Administrator and the State of Oregon shall include a new definition of Tri-vision signs in Section I. *Definitions* to read as follows:

O. *Tri-Vision sign* means an outdoor advertising structure that contains display surfaces composed of a series of three sided rotating slats arranged side by side, either horizontally or vertically, that are rotated by an electromechanical process, capable of displaying a total of three separate and distinct messages, one message at a time.

III: *State Control*, Paragraph A, Lighting (1) should be amended to read as follows:

No sign shall contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights or moves or has any animated or moving parts; however, this paragraph does not apply to a traffic control sign or signs providing only public information such as time, date, temperature, weather or similar information and Tri-vision signs. Tri-vision signs, however, shall not contain, include or be illuminated by any flashing intermittent, revolving, rotating or moving light or lights. The frequency of message change is determined by the State.

Authority: 23 U.S.C. 131; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: March 27, 2002.

Mary E. Peters,

Administrator, Federal Highway Administrator.

[FR Doc. 02–7912 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2002–11714]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice announces FMCSA's receipt of applications from 30 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before May 2, 2002.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments as well as see the submissions of other commenters at *http://dms.dot.gov.* Please include the docket numbers that appear in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Thirty individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemptions will achieve the required level of safety.

Qualifications of Applicants

1. Ronald M. Aure

Mr. Aure, age 57, has amblyopia of the left eye. His visual acuity is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his optometrist certified, ''After extensive testing, it is my medical opinion that Ronald Aure has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' In his application, Mr. Aure indicated he has driven straight trucks for 5 years, accumulating 50,000 miles, and tractor-trailer combinations for 37 years, accumulating 4.6 million miles. He holds a Class A commercial driver's license (CDL) from Iowa, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

2. Steven S. Bennett

Mr. Bennett, 46, has amblyopia of the right eye. His visual acuity is 20/200 in the right eye and 20/20 in the left. An optometrist examined him in 2001 and stated, ''Based on my findings, and not withstanding other factors, Mr. Bennett should have sufficient visual acuity and peripheral vision to operate a commercial motor vehicle.'' In his application, Mr. Bennett indicated he has driven straight trucks for 5 years, accumulating 250,000 miles, and tractor-trailer combinations for 13 years,

accumulating 650,000 miles. He holds a Class A CDL from California, and his driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

3. Joe W. Brewer

Mr. Brewer, 53, has a prosthetic right eye due to an injury in 1969. His corrected visual acuity is 20/20 in the left eye. An optometrist examined him in 2001 and stated, ''Joe Brewer in my opinion has sufficient vision to drive a commercial vehicle.'' According to Mr. Brewer's application, he has driven straight trucks for 23 years, accumulating 2.3 million miles. He holds a Class D driver's license from South Carolina, and in the last 3 years he has had no accidents or convictions for moving violations in a CMV, according to his driving record.

4. Trixie L. Brown

Ms. Brown, 47, has amblyopia in her left eye. Her best-corrected vision is 20/25 in the right eye and 20/50 in the left. Following an examination in 2001, her optometrist certified, ''It is true Mrs. Brown does not have normal acuity, but she is well adapted to this condition. With her proper prescription in place she functions quite well. I think that as long as her record is good she can continue in her current position as a commercial vehicle operator.'' Ms. Brown submitted that she has operated buses for 7 years, accumulating 105,000 miles. She holds a Class B CDL from Indiana, and she has had no accidents or convictions for traffic violations for the last 3 years, according to her driving record.

5. James D. Coates

Mr. Coates, 60, underwent cataract surgery on his right eye in 1994. His vision is 20/80 in the right eye and 20/20 in the left. His optometrist examined him in 2001 and certified, ''In my medical opinion, Mr. Coates has 20/20 overall visual acuity uncorrected, and has sufficient visual acuity to perform the driving tasks required to operate a commercial vehicle.'' In his application, Mr. Coates indicated he has driven straight trucks for 8 months, accumulating 24,000 miles, and tractor-trailer combinations for 31 years, accumulating 3.1 million miles. He holds a Class A CDL from Arizona, and his driving record for the past 3 years shows no accidents or convictions for traffic violations in a CMV.

6. Michael D. DeBerry

Mr. DeBerry, 45, has amblyopia in his left eye. His best-corrected vision is 20/25 in the right eye and 20/80 in the left. Following an examination in 2001, his optometrist certified, ''In my opinion, Mr. DeBerry has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. DeBerry reported that he has driven straight trucks for 6 years, accumulating 90,000 miles, and tractor-trailer combinations for 18 years, accumulating 2.1 million miles. He holds a Class A CDL from West Virginia, and his driving record shows no accidents or convictions for traffic violations in a CMV for the last 3 years.

7. James W. Ellis, IV

Mr. Ellis, 39, has been blind in the right eye since 1978 due to trauma. His visual acuity in the left eye is 20/20. Following an examination in 2001, his ophthalmologist affirmed, ''Yes, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ellis holds a Class A CDL from New Jersey, and reported that he has driven straight trucks for 2 years, accumulating 200,000 miles, and tractor-trailer combinations for 18 years, accumulating 1.8 million miles. His driving record shows no accidents or convictions for moving violations in a CMV for the past 3 years.

8. John E. Engstad

Mr. Engstad, 57, has amblyopia in his left eye. His best-corrected visual acuity is 20/15–2 in the right eye and 20/70+1 in the left. An ophthalmologist examined him in 2001 and certified, ''In my medical opinion, you have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Engstad stated he has driven straight trucks for 5 years, accumulating 400,000 miles, and tractor-trailer combinations for 10 years, accumulating 1.3 million miles. He holds a Wisconsin Class ABCD CDL, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

9. Jose D. Espino

Mr. Espino, 40, lost his left eye due to trauma in 1980. His uncorrected visual acuity is 20/20 in the right eye. His ophthalmologist examined him in 2001 and certified, ''I believe that Mr. Espino has adequate vision and peripheral visual field to operate commercial vehicles as he has in the past.'' In his application, Mr. Espino reported that he has driven tractor-trailer combinations for 20 years, accumulating 1.8 million miles. He holds a Florida Class A CDL. There are no accidents and one conviction for a moving violation—Speeding—in a CMV on his driving record for the last 3 years. He exceeded the speed limit by 9 mph.

10. Dan M. Francis

Mr. Francis, 43, has amblyopia in his right eye. His best-corrected visual acuity is 20/200 in the right eye and 20/20 in the left. An optometrist who examined him in 2001 certified, ''It is our judgment that Mr. Francis' vision is good enough to operate a commercial vehicle with no restrictions day or night.'' Mr. Francis submitted that he has operated tractor-trailer combinations for 23 years, accumulating 2.3 million miles. He holds a Class A CDL from California. His driving record shows he has had no accidents and two convictions for traffic violations in a CMV for the last 3 years. Both convictions were for Failure to Obey Traffic Sign.

11. David W. Grooms

Mr. Grooms, 46, has amblyopia in his right eye. His best-corrected visual acuity is 20/40–2 in the right eye and 20/20 in the left. Following an examination in 2001, his ophthalmologist certified, ''It is my medical opinion that Mr. Grooms has sufficient vision to perform commercial vehicle driving tasks.'' Mr. Grooms reported he has operated tractor-trailer combinations for 16 years, accumulating 960,000 miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—Speeding—in a CMV. He exceeded the speed limit by 11 mph.

12. Joe H. Hanniford

Mr. Hanniford, 57, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his optometrist commented, ''As stated before in my letter, I feel Mr. Hanniford's vision is stable and is sufficient to drive a commercial vehicle.'' Mr. Hanniford submitted that he has driven straight trucks for 24 years, accumulating 480,000 miles, and tractor-trailer combinations for 15 years, accumulating 124,000 miles. He holds a Class A CDL from South Carolina. His driving record shows he has had no accidents and one conviction for a moving violation—Speeding—in a CMV during the last 3 years. He exceeded the speed limit by 9 mph.

13. David A. Inman

Mr. Inman, 45, is blind in his left eye due to an injury 13 years ago. His visual acuity in the right eye is 20/20 without correction. An optometrist examined

him in 2001 and certified, ''It is my opinion that he has performed his driving skills now for many years without incident. He has sufficient vision to perform the driving tasks required to operate any commercial vehicle.'' Mr. Inman reported he has 8 years' and 320,000 miles' experience driving straight trucks. He holds a Class A CDL from Indiana, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

14. Harry L. Jones

Mr. Jones, 47, has nerve damage in his right eye due to a viral infection in childhood. His best-corrected visual acuities are 20/200 in the right eye and 20/25 in the left. His optometrist examined him in 2001 and certified, ''In my opinion Mr. Jones has sufficient visual function to perform the driving tasks required to operate a commercial vehicle.'' Mr. Jones submitted that he has driven straight trucks for 6 years, accumulating 288,000 miles, and tractor-trailer combinations for 25 years, accumulating 2.5 million miles. He holds a Class A CDL from Ohio. There are no CMV accidents and two convictions for moving violations—Speeding—on his record for the last 3 years. He exceeded the speed limit by 13 mph in one instance and 9 mph in the other.

15. Teddie W. King

Mr. King, 46, has amblyopia in his right eye. His corrected visual acuity is 20/60-in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist stated, ''In my opinion, he has sufficient vision to continue his operation of a commercial vehicle.'' Mr. King reported that he has driven tractor-trailer combinations for 20 years, accumulating 1.6 million miles. He holds a Class A CDL from North Carolina, and his driving record shows he has had no accidents or convictions for moving violations in a CMV over the last 3 years.

16. Richard B. Leonard

Mr. Leonard, 32, has amblyopia in his right eye. His vision is 20/200 in the right eye and 20/20 in the left. An optometrist examined him in 2002 and certified, ''In my opinion, this is a stable condition, and due to past performance Mr. Leonard has proven his ability to perform the driving tasks required to operate a commercial vehicle.'' Mr. Leonard reported that he has operated tractor-trailer combinations for 6 years, accumulating 450,000 miles. He holds a Class A CDL from the State of Washington. His driving record for the last 3 years shows he has had no accidents and one conviction for a moving violation—Speeding—in a CMV. He exceeded the speed limit by 16 mph.

17. Robert P. Martinez

Mr. Martinez, 54, has nerve damage to his right eye due to removal of a pituitary adenoma in 1991. His best-corrected vision is 20/60-in the right eye and 20/20 in the left. An ophthalmologist examined him in 2001 and stated, ''It is my opinion that Mr. Martinez has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Martinez, who holds a Class C driver's license from California, reported that he has been driving straight trucks for 35 years, accumulating 700,000 miles. His driving record shows he has had no accidents and one conviction for a traffic violation—Traveling in the Car Pool Lane—in a CMV during the last 3 years.

18. Michael L. McNeish

Mr. McNeish, 32, has amblyopia in his left eye. His visual acuity in the right eye is 20/20 and in the left 20/200. An optometrist examined him in 2001 and certified, ''With Michael's only deficiency being central vision loss in the left eye and a full field of view in that eye, I feel he should have no difficulty in performing the driving tasks required to operate a commercial vehicle.'' In his application, Mr. McNeish stated he has 6 years' and 90,000 miles' experience operating tractor-trailer combinations. He holds a Class A CDL from Pennsylvania, and there are no accidents or convictions for moving violations in a CMV on his record for the last 3 years.

19. David E. Miller

Mr. Miller, 45, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/400 in the left. An optometrist examined him in 2001 and certified, ''Mr. Miller clearly has sufficient vision to operate a commercial vehicle.'' Mr. Miller submitted that he has driven straight trucks for 1½ years, accumulating 30,000 miles, and tractor-trailer combinations for 1½ years, accumulating 210,000 miles. He holds a Class A CDL from Florida. His driving record shows he has had no accidents and one conviction—Failure to Obey Traffic Instruction Sign/Device—while operating a CMV during the last 3 years.

20. Bobby G. Minton

Mr. Minton, 60, has amblyopia of the left eye. His best-corrected vision is 20/20 in the right eye and 20/70–1 in the left. Following an examination in 2001, his optometrist stated, ''In my medical opinion, I feel that Mr. Minton has sufficient vision to perform driving tasks while operating a commercial vehicle.'' Mr. Minton reported that he has 10 years' experience operating straight trucks, accumulating 1.2 million miles. He holds a Class A CDL from North Carolina. There are no accidents and one conviction for a moving violation—Drive on Wrong Side of Undivided Street/Road—in a CMV on his driving record for the last 3 years.

21. Lawrence C. Moody

Mr. Moody, 58, has a prosthetic left eye due to trauma at age 24. The visual acuity of his right eye is 20/20. Following an examination in 2001, his optometrist certified, ''In my opinion, Mr. Moody has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' According to his application, Mr. Moody has operated straight trucks for 5 years, accumulating 250,000 miles, and tractor-trailer combinations for 23 years, accumulating 2.8 million miles. He holds a Class A CDL from New Jersey. His driving record for the last 3 years shows that he had one accident and two convictions for moving violations in a CMV, all on separate occasions. The accident occurred when his vehicle collided with another vehicle at an intersection controlled by a traffic light. The other driver, and not Mr. Moody, was charged in the accident. The traffic violations were Speeding and Fail to Obey Sign/Traffic Control Device. He exceeded the speed limit by 15 mph.

22. Stanley W. Nunn

Mr. Nunn, 37, has a congenital cataract in his right eye. He has hand-motion vision in the right eye and 20/20 vision in the left. Following an examination in 2002, his optometrist certified, ''In my opinion, Mr. Nunn has sufficient vision to perform any driving task required for a commercial vehicle.'' Mr. Nunn submitted that he has driven straight trucks for 7 years, accumulating 98,000 miles. He holds a Class B CDL from Tennessee. His driving record for the last 3 years shows no accidents or convictions for traffic violations in a CMV.

23. William R. Proffitt

Mr. Proffitt, 41, has amblyopia in his left eye. His visual acuity is 20/20 in the right eye and 20/200 in the left. Following an examination in 2001, his ophthalmologist certified, ''Therefore, in my medical opinion, Bill has sufficient

vision to operate a commercial vehicle.'' Mr. Proffitt submitted that he has driven straight trucks for 4 years, accumulating 40,000 miles. He holds a Class B CDL from Arkansas, and his driving record shows he has had no accidents or convictions for moving violations in a CMV in the last 3 years.

24. Charles L. Schnell

Mr. Schnell, 53, has a prosthetic right eye following removal of the eye for an ocular tumor in 1955. His corrected visual acuity is 20/20 in the left eye. An ophthalmologist who examined him in 2001 certified, ''The patient has normal visual function in his left eye. He has normal peripheral vision and normal central vision and this should supply him with sufficient vision to perform driving tasks. However, this only qualifies his visual potential and not overall competency to perform the tasks of operating a commercial vehicle.'' Mr. Schnell reported that he has driven tractor-trailer combination vehicles for 10 years, accumulating 900,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows one accident and no convictions for moving violations in a CMV. Another vehicle crossed the centerline and struck his vehicle. He was not charged in the accident.

25. Charles L. Shirey

Mr. Shirey, 51, has amblyopia in his left eye. He has best-corrected visual acuity of 20/20+ in the right eye and 20/300 in the left. Following an examination in 2001, his optometrist stated, ''My impression is that Mr. Charles L. Shirey has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Shirey submitted that he has driven straight trucks for 6 years, accumulating 600,000 miles, and tractor-trailer combinations for 19 years, accumulating 2.0 million miles. He holds a Pennsylvania Class AM CDL, and his driving record shows that during the last 3 years he has had no accidents or convictions for moving violations in a CMV.

26. James R. Spencer, Sr.

Mr. Spencer, 61, has amblyopia in his left eye. The best-corrected visual acuity of his right eye is 20/20 and of his left eye 20/60. His optometrist examined him in 2001 and stated, ''This letter is to certify that in my professional opinion, found on the exam done in my office on December 19, 2001, Mr. Spencer has adequate vision to perform the driving tasks required of a commercial vehicle driver.'' Mr. Spencer reported that he has driven tractor-trailer combinations for 43 years, accumulating 4.3 million miles. He holds a Class A CDL from Florida, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

27. David E. Steinke

Mr. Steinke, 50, has congenital right anophthalmia. His best-corrected vision in the left eye is 20/15+. An optometrist examined him in 2001 and certified, ''I will again reaffirm that in my medical opinion, David has sufficient visual skills to operate a commercial vehicle.'' Mr. Steinke submitted that he has driven tractor-trailer combinations for 24 years, accumulating 2.6 million miles. He holds a Class ABCD CDL from Wisconsin, and has no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

28. Kevin R. Stoner

Mr. Stoner, 28, has amblyopia in his right eye. His best-corrected vision is 20/400 in the right eye and 20/15 in the left. An optometrist examined him in 2001 and stated, ''Once again, my clinical evaluation of this patient reveals no reason why this patient should not qualify for an interstate commercial driver's license under the waiver for monocular drivers without an optical correction.'' Mr. Stoner reported he has driven straight trucks for 2½ years, accumulating 150,000 miles, and tractor-trailer combinations for 6 years, accumulating 360,000 miles. He holds a Pennsylvania Class A CDL, and he has had no accidents or convictions for moving violations in a CMV for the past 3 years, according to his driving record.

29. Carl J. Suggs

Mr. Suggs, 64, has a macular scar in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/400 in the left. An ophthalmologist examined him in 2001 and certified, ''Mr. Suggs has been driving commercial vehicles for many years and has an exemplary record and it is my opinion that he has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Suggs reported that he has driven straight trucks for 32 years, accumulating 390,000 miles, and buses for 41 years, accumulating 2.2 million miles. He holds a Class B CDL from North Carolina, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

30. James A. Torgerson

Mr. Togerson, 51, has amblyopia in his left eye. His best-corrected visual acuities are 20/20 in the right eye and 20/200 in the left. An optometrist examined him in 2001 and certified, ''In my opinion, Mr. Torgerson is visually capable of operating a commercial motor vehicle.'' Mr. Torgerson submitted that he has driven straight trucks for 5 years, accumulating 250,000 miles, and tractor-trailer combinations for 5 years, accumulating 625,000 miles. He holds a Class A CDL from Minnesota, and his driving record for the past 3 years shows no accidents or convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address.

Issued on: March 27, 2002.

Julie Anna Cirillo,

Chief Safety Officer.

[FR Doc. 02–7913 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety regulations. The individual petition is 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.

National Railroad Passenger Corporation

[Docket Number FRA–2001–10596]

The National Railroad Passenger Corporation (Amtrak) seeks a permanent waiver of compliance from certain provisions of the Railroad Power Brake and Drawbars regulations, 49 CFR 229, regarding the required periodic tests of locomotive brake equipment. Specifically, Amtrak requests that the electronic brake equipment used on the new HHP8 electric locomotives be

subjected to the same provisions as outlined in a waiver (H–95–3) granted to New York Air Brake Company (NYAB) for their CCB brake equipment, which extended the time requirements for cleaning, repairing and testing of brake components listed in § 229.27(a)(2) and § 229.29(a), to a period not to exceed five years or 1,840 days.

Amtrak claims that the HHP8 electronic brake equipment is similar in arrangement and function to the NYAB CCB system. It also incorporates a number of the same components used in the CCB system. Amtrak believes that the five-year interval is justified on the basis of the duty cycle and FMECA performed for the Acela brake system, of which this system is a direct variant set up for double end control and includes the locomotive independent brake and quick release functions. This five-year maintenance interval is also currently outlined in the maintenance plan for the Acela Train Sets under 49 CFR Part 238, Tier II requirements. Further, the HHP8 locomotive is equipped with an air quality (dryers and filters) system that meets current industry standards. Amtrak would like to maintain the HHP8 locomotive brake equipment with the same conditions and time intervals as specified in waiver H–95–3, which has been re-numbered and re-issued as waiver number FRA–2000–7367.

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 Number FRA–2001–10596) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, D.C. 20590–0001. 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 (9:00 a.m.—5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at http://dms.dot.gov.

Issued in Washington, DC. on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7820 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket No. FRA–2002–11635]

Applicant: Norfolk Southern Corporation, Mr. Brian L. Sykes, Chief Engineer, C&S Engineering, 99 Spring Street, SW., Atlanta, Georgia 30303

The Norfolk Southern Corporation (NS) seeks approval of the proposed discontinuance and removal of the automatic block signal system on the two main track Stanley Secondary between milepost DK–1.8 and milepost DK–4.8, near Toledo, Ohio, on the Dearborn Division. The proposed changes include the removal of the existing four automatic block signals, and installation of back to back fixed approach signals near milepost DK–3.2.

The reason given for the proposed changes is to eliminate facilities no longer needed for present day operation. Both tracks are predominately used for storage, and there have been no through train movements on the Stanley Secondary since June 1, 1999.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, D.C. 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.—5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7824 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket No. FRA–2002–11633]

Applicant: Norfolk Southern Corporation, Mr. G. A. Thelen, Assistant Vice President—Mechanical, 185 Spring Street, SW., Atlanta, Georgia 30303–3703.

The Norfolk Southern Railway Company (NS) seeks relief from the requirements of the Rules, Standards and Instructions, Title 49 CFR, part 236, section 236.586, ''Daily or after trip test'' in its entirety for locomotives equipped with Ultra Cab equipment, including the associated record keeping requirements of the 236.586 test contained in Section 236.110.

Applicant's justification for relief: NS believes that a ''proper visual inspection'' is redundant to inspections already being performed, and a second

identical inspection should not be necessary solely for the purpose of complying with § 236.586 when UltraCab equipment is involved. Therefore, NS contends that the cab signal equipment (including the receiver bars) already receives a visual inspection each day, as well as an electronic inspection each time prior to entering cab signal territory.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7825 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements.

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–11501]

Applicant: Rail America, Incorporated, Saginaw Valley Railway and Huron & Eastern Railway, Mr. Larry Ross, General Manager, 101 Enterprise Drive, Vassar, Michigan 48768.

Rail America Incorporated seeks approval of the proposed discontinuance and removal of the automatic interlocking near Vassar, Michigan, were the single main track of the Saginaw Valley Railway's Brown City Line, at milepost 19.70, crosses at grade with the Huron and Eastern Railway's Millington Industrial Spur, at milepost 85.95. The proposed changes include the discontinuance and removal of all associated signals, and installation of a swing gate with two stop signs and locks governed by operating rules.

The reasons given for the proposed changes is the severe reduction in traffic and it is not feasible to justify the high maintenance costs required of the antiquated equipment used.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7821 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–11743]

Applicant: South Central Florida Express, Incorporated, Ms. Sally C. Conley, General Manager, 900 South W.C. Owen, Clewiston, Florida 33440.

The South Central Florida Express, Incorporated seeks approval of the proposed discontinuance of the Automatic Block Signal Rules which are currently in effect and supplement the Direct Traffic Control Rules between mileposts K39.28 and K40.95, near Port Mayaca, Florida. The proposed changes include conversion of the operative approach signals to inoperative type with ''APP Markers'', and the speed between the home signals has been reduced to 20 mph.

The reason given for the proposed changes is that present day operation does not warrant retention of the signal system, and the Drawbridge remains up for water traffic.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the

interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, D.C. 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.—5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on March 22, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7822 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements.

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–11668]

Applicant: Union Pacific Railroad Company, Mr. Phil M. Abaray, Chief Engineer—Signals 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed modification of the automatic block signal system, on the Milwaukee Subdivision, near Norma, Illinois, consisting of the discontinuance and removal of three electric switch locks at milepost 8.3, and one electric switch lock at milepost 10.

The reason given for the proposed changes is that the locks are in ABS territory with a 50 mph maximum authorized speed limit, and are no longer needed.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, D.C. 20590–0001. Communications received within 45 days of the date of this notice will be considered by the 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 (9:00 a.m.—5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator, for Safety Standards and Program Development.

[FR Doc. 02–7823 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2002–11779]

Applicant: Union Pacific Railroad Company, Mr. Phil M. Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed modification of the traffic control system, on the track and Boulder Industrial Lead, at milepost 5.0 on the Greeley Subdivision, near Denver, Colorado, consisting of the following:

1. Conversion of the power-operated crossover to hand operation;
2. Discontinuance and removal of the exiting southbound controlled signal on the main track, and two controlled and one approach signals on the Boulder Industrial Lead;
3. Discontinuance and removal of the SL–6 locked derail and switch lock on the Commerce City Yard Lead; and
4. Installation of two leaving signals from the Boulder Industrial and Commerce City Yard Leads, and installation of a new southbound controlled signal on the main track to protect the BNSF Interlocking at milepost 4.8.

The reason given for the proposed changes is that the Boulder Industrial Lead has been shortened and no longer carries sufficient traffic to justify the controlled crossover.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45

days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications 3 concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on March 26, 2002.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 02–7826 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–7744; Notice 3]

General Motors Corporation; Notice of Appeal of Denial of Petition for Determination of Inconsequential Noncompliance

General Motors Corporation (GM), of Warren, Michigan, has appealed a decision by the National Highway Traffic Safety Administration (NHTSA) that denied its application for a decision that its noncompliances with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, Reflective Devices, and Associated Equipment,'' be deemed inconsequential to motor vehicle safety.

Notice of receipt of the petition was published in the **Federal Register** on August 14, 2000, (65 FR 49632). On July 23, 2001, NHTSA published a notice in the **Federal Register** denying GM's petition, stating that the petitioner had not met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's appeal is published in accordance with NHTSA regulations (49 CFR 556.7 and 556.8) and does not represent any agency decision or other exercise of judgment concerning the merits of the appeal.

GM manufactured 201,472 Buick Century and Buick Regal models between October 1998 and June 1999, some of whose headlamps do not meet the photometric requirements in FMVSS No. 108 for test points above the horizontal (intended for overhead sign illumination). To evaluate the noncompliance, GM randomly collected 10 pairs of lamps from production and photometrically tested them. Additionally, GM tested the same 10 pairs of lamps using accurately-rated bulbs. These are bulbs that have their filaments positioned within strict tolerances. In large-scale bulb production, the filament positions vary slightly and, therefore, can produce varying photometric output. The photometric output of a lamp using an accurately-rated bulb is intended to closely represent the output that was intended in its design, and not that which would occur in a mass-produced headlamp as sold on motor vehicles.

The test results indicated that five test points (production bulbs) and three test points (accurately-rated bulbs), respectively, failed to meet the minimum candela requirements. The test results also indicated that the amount of light below the minimum required was generally less than 10 percent at all noncomplying test points. However, seven failures at certain test points that were greater than 16 percent below the minimum, with the maximum variation being 24.4 percent (at 1.5 degrees up) with a production bulb. Transport Canada conducted tests on headlamps used on the same types of vehicles, and found that all the test points in question met the requirements. GM believes that these results show the noncomplying results were related to manufacturing variations and were present in only a portion of the lamps.

GM supported its application for inconsequential noncompliance with the following statements:

> The test points at issue are all above the horizon and are intended to measure illumination of overhead signs. They do not represent areas of the beam that illuminate the road surface, and the headlamps still fulfill applicable Federal Motor Vehicle Safety Standard 108 requirements regarding road illumination.
>
> For years the rule of thumb has been that a 25 percent difference in light intensity is not significant to most people for certain lighting conditions.
>
> GM has not received any complaints from owners of the subject vehicles about their ability to see overhead signs.
>
> GM is not aware of any accidents, injuries, owner complaints or field reports related to this condition for these vehicles.

GM also cited a number of inconsequentiality applications that the agency has granted in the past as support for granting its application. Those cited were submitted by GM [59 FR 65428; December 19, 1994], Subaru of America, [56 FR 59971; November 26, 1991], and Hella, Inc. [55 FR 37602; September 12, 1990]. GM also cited a University of Michigan Transportation Research Institute (UMTRI) report entitled ''Just Noticeable Differences for Low-Beam Headlamp Intensities'' (UMTRI–97–4, February 1997)

In the only public comment received, Advocates stated its ''strongest opposition to NHTSA granting a finding of inconsequential noncompliance for the GM headlamps which are the subject of this notice.'' Advocates first pointed out that it believes GM's purported lack of complaints about inadequate headlamp illumination has ''no merit whatever.'' It believes that it is unlikely that drivers would attribute their driving errors or crashes to a faulty beam. Further, it believes it unlikely that an investigating officer at a crash scene would consider the characteristics of the beam pattern as the causal factor. It goes on to say that crashes may have occurred as a result of the noncompliance of which GM is not aware.

Advocates also discussed the importance of overhead lighting. It stated that:

> It is especially crucial for adequate levels of lighting to fall on the surfaces of high-mounted retroreflectorized traffic control devices that advise of vehicle maneuvers, speed limit changes, warnings of hazardous conditions, and destination information to ensure driver confidence and safety in executing the moment-to-moment driving task.

Advocates referred to the amendment of FMVSS No. 108 on January 12, 1993 [58 FR 3856] that added minimum photometric requirements for headlamps for illumination of overhead signs. Advocates reiterated the agency's rationale for this rulemaking, namely that some manufacturers were introducing headlamps in the 1980s and 1990s that widely departed from the traditional U.S. beam pattern. These headlamps were providing inadequate light above the horizontal to illuminate overhead signs.

After review of its application the agency disagreed with GM that the noncompliances were inconsequential to motor vehicle safety. As Advocates correctly noted in its comment, the sole purpose of the 1993 final rule was to establish photometric minima above the horizon so that headlamps would sufficiently illuminate overhead signs. Without any test point minima specified, some manufacturers were

designing headlamps that provided very little light above the horizon. Because States were choosing retroreflectorized overhead signs rather than the more expensive self-illuminated ones, the agency determined that it should address the increasing need for illumination of overhead reflectorized signs.

In setting these minima, the agency expected the industry to design its headlamps to ensure that production variability would not result in noncompliances. GM's own compliance tests showed failures that were as much as 24.4 percent below the required minima. Each of the ten headlamps GM tested had noncomplying test points, with all but two having failures that were greater than 14.1 percent below the minimum requirement. This testing indicated that there may be a serious flaw in the design and/or production of these lamps.

Although GM stated that Transport Canada tested and found all lamps to be compliant, the company did not provide any substantiating data, or even the number of headlamps tested by Transport Canada. The agency contacted Transport Canada and obtained the test data on the subject vehicles. Initially, there were four failures at the relevant test points. The failures were resolved by reaiming the headlamps one-quarter degree, an adjustment allowed by the standard. After reaiming, Transport Canada found the lamps to be in compliance at the four test points where they had previously failed. Although these four lamps were found to be in compliance, the need to reaim certain points and the marginal compliance at others shows that the design of the lamps was marginal.

A January 1991 study conducted by UMTRI (UMTRI–91–3) recommended certain minimum intensity levels for test points above the horizontal that are intended to illuminate signs. UMTRI divided its recommendations for minima between three types of retroreflectorized signs: enclosed lens, encapsulated lens, and microprismatic, each respectively more reflective than the previous. The first two are most relevant, as microprismatic signs comprised only about three percent of the current signs at that time. UMTRI concluded that, for a test point 1.5 degrees up, the minimum intensities for the enclosed and encapsulated lens signs were 700 and 250 candela (cd), respectively. The standard currently requires a minimum of 200 cd. In setting this level, the agency expected manufacturers to factor in a certain level of design variability to assure compliance. GM's poorest performing lamp provided about 150 cd at this test point. The agency finds this unacceptable. As Advocates pointed out in its comments, there are many critical maneuvers that must be undertaken in low light situations, and to not provide sufficient light to illuminate signs is a detriment to motor vehicle safety.

GM cited a number of the agency's previous grants of inconsequentiality applications that were based upon our conclusion that a change in luminous intensity of approximately 25 percent must occur before the human eye can discern a difference. GM also cited an UMTRI report [UMTRI–97–4; February 1997] to support its position.

The agency determined that these actions and the 1997 UMTRI report did not support GM's conclusion. The previous actions and the UMTRI report all dealt with an observer's ability to see a headlamp or a signal light, not the ability to see the light reflected back from headlamp-illuminated signs or other reflectors. The inconsequential applications that GM cited all involved signal lighting with deficiencies in photometric requirements. In all cases, the agency was confident that the noncompliant signal lights would still be visible to nearby drivers. Because signal lighting is not intended to provide roadway illumination to the driver, a less than 25 percent reduction in light output at any particular test point is less critical.

Regarding the UMTRI study on just-noticeable differences for lower-beam headlamps, the research and findings are mostly analogous to those of the signal lighting research. UMTRI's study was designed to evaluate the just-noticeable differences for glare intensities of oncoming headlamps. Like the signal light research, it was performed from the point of view of a driver observing differences in headlamp intensities. The agency was not persuaded by GM's contentions about the meaning of this research. In its report, UMTRI states:

> The applications of (just noticeable differences) derived from judgments about the subjective brightnesses of lamps viewed directly seems less of a leap in the case of signal lamp functions, and of those aspects of headlamps that involve direct viewing (primarily discomfort glare), than in the case of headlamp functions that involve the illumination of objects. The primary reason for caution in extending the current results to illuminated objects is that the range of luminances of such objects (e.g., a pedestrian at 100 meters illuminated by headlamps at night) will be much lower than the luminances of the headlamps themselves. The [research] can therefore be used more confidently to justify applying the 25 percent limit for inconsequential noncompliance to a photometric test point that specifies a maximum for glare protection than to one that specifies a minimum for seeing light. Further work on the effects of changes in lamp intensity on the visibility of illuminated objects is desirable to clarify more completely the issue of inconsequential noncompliance for headlamps.

In its appeal, GM offers this new information to support its petition:

> GM recently obtained and tested twenty-one pairs of headlamps from used 1999 Regal and Century vehicles built between August 1998 and March 1999. The 42 headlamps all exceed the minimum photometric requirements of FMVSS 108. This was true for the sign illumination test points as well as all other test points. [GM stated that t]he weathering of the lenses over the past two to three years accounts for this change in performance.
>
> Because overhead sign illumination is affected by the output of both headlamps, GM asked two independent lighting research experts to analyze overhead sign illumination based on the test results of the ten pairs of headlamps. Their report shows that the combined sum of the illumination from any combination of two of those headlamps exceeds twice the minimum illumination from each headlamp required by FMVSS 108. The system light output, therefore, exceeds the implicit functional requirement of the standard.
>
> This evidence, which [GM describes] in greater detail below, indicates that customers driving these vehicles are and have been experiencing no less than the amount of overhead sign illumination that FMVSS 108 requires. On this basis, the noncompliance is inconsequential and [thus, GM requested] reconsideration of NHTSA's decision.

Photometric Test Data From Field Headlamps

GM collected 42 headlamps from twenty-one vehicles and all photometric test points were measured. Each bulb appeared to be the original bulb for the headlamp assembly and the bulbs were not disturbed before testing. Visual aim was used because of the condition with the operation of the VHAD that lead to a recall campaign (NHTSA No. 99V356000, GM No. 99093).

The vehicles were produced between August 18, 1998 and February 15, 1999. Three of the vehicles were owned by GM employees and eighteen were selected at random at auto auctions in Detroit and Flint, Michigan. All 42 headlamps exceeded the minimum photometric requirements for the sign illumination test points found in FMVSS 108 (as summarized below).

Test point	Requirement (Candela)	Average (Candela)	Range (Candela)
Left Headlamp:			
0.5U, 1R–3R	500	674	501–1214
4U–8L	64	114	88–148
4U–8R	64	91	64–125
2U–4L	135	159	136–198
Right Headlamp:			
0.5U, 1R–3R	500	895	577–2679
4U–8L	64	82	64–107
4U–8R	64	135	109–196
2U–4L	135	308	274–346

[GM's] hypothesis was that these results were caused by weathering of the lens coating, which increases light scatter. Weathering is caused by exposure to temperature changes, precipitation, and contact with dust, stones, and other environmental factors. This is a well-known phenomenon that occurs in lamps that meet fully the haze requirement in S5.1.2, as these lamps do. To test our hypothesis, the lenses of four of the tested lamps were removed and replaced with a new, unused lens. The photometric results with the original and new lenses were:

Test point	Requirement Average	Average with new lenses (Candela)	Average with original lenses (Candela)	Percent change
Left Headlamp:				
0.5U, 1R–3R	500	577	632	8.7
4U–8L	64	87	117	25.6
4U–8R	64	72	122	40.9
2U–4L	135	126	183	31.1
Right Headlamp:				
0.5U, 1R–3R	500	957	864	−10.7
4U–8L	64	74	90	17.7
4U–8R	64	128	154	16.9
2U–4L	135	263	289	9.0

Using the averages, the results for the original lenses exceeded those for the new lenses for all but one test point.

In the group of 42 lamps, [GM] also compared the performance of the lamps from the ten newest and eleven oldest vehicles. No significant difference was observed.

Because of weathering, the headlamps on these vehicles now meet the photometric requirements that some of the new headlamps did not meet. The noncompliance of the new, unused lamps is, therefore inconsequential.

Combined Light Output From Left and Right Low-beam Headlamps

The test point values for each headlamp were set by NHTSA to achieve a certain overall level of sign illumination. 58 FR 3856, 3858 (Jan. 12, 1993). At least two headlamps are required by the standard. To assess the impact of the noncompliance on the illumination of overhead signs, one should examine the light output of both headlamps. [GM] asked two well-known researchers in the field of vehicle lighting to do so.

Their analysis was based on the 1999 photometric data from an independent test laboratory for ten pairs of headlamps with production bulbs. The combined light output from a left and a right headlamp was calculated for three different scenarios:

Worst case: The worst performing left lamp was paired with the worst performing right lamp. For each test point, the worst case headlamps were selected separately.

Best case: As above, but using the best performing left and right headlamps.

Average case: The mean values were paired for the left and right headlamps.

The result, even in the worst case scenario, is illumination of overhead signs that is greater than twice the minimum photometric requirements for a single headlamp. When pairing the worst performing left and right headlamps, the combined light exceeded twice the requirement by 20% for 4U–8R, 6% for 4U–8L, 45% for 2U–4L, 26% for 1.5U–1R to 3R, and 11% for 0.5U–1R to 3R. The points at which left and right lamps failed were consistently different, so the margin by which each exceeded the points at which they passed offset the failures when the results are combined.

Consistent with FMVSS 108, these vehicles could have been equipped with left and right headlamps that each precisely met (but did not exceed) the overhead sign illumination test point requirements. While some of these vehicles were equipped with lamps that did not meet some of the individual test points (and exceed others), the overhead sign illumination from these vehicles is no less than what is lawful. Indeed, the requirements are exceeded by six to forty-five percent for the worst case.

In denying the petition, NTHSA noted that it expected manufacturers to account for design variability. GM's design and performance requirements do account for expected variability to assure compliance. In this instance, variability exceeded reasonable expectations and a noncompliance occurred. When the light that can reach overhead signs from both headlamps on these vehicles is considered, the performance not only meets the implied requirement, but meets it with a margin. This demonstrates that the noncompliance is inconsequential.

Interested persons are invited to submit written data, views, and arguments on the application appealing NHTSA's decision described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: May 2, 2002.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: March 28, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–7960 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–11882; Notice 1]

Michelin North America, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Michelin North America, Inc., (Michelin) has determined that approximately 385 275/80 R 22.5 Michelin PXZE TL LRG tires do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New pneumatic tires for vehicles other than passenger cars.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Michelin has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

During the period of the 42nd week of 2001 through the 44th week of 2001, the Kentville, Nova Scotia, Canada plant of Michelin North America (Canada) Inc., produced a number of tires where, on one side of the tire, the maximum load rating information was substituted for the tire inflation pressure information. This condition does not meet the requirements of FMVSS No. 119, S6.5(d).

The required marking reads:

Max Load Single 2800kg (6175 lbs) at 760 kPa (110 psi) cold

Max Load Dual 2575 kg (5675 lbs) at 760 kPa (110 psi) cold

The noncompliant tires were marked on one side as below:

Max Load Single 2800 kg (6175 lbs) 2800 kg (6175 lbs)

Max Load Dual 2575 kg (5675 lbs) 2575 kg (5675 lbs)

The opposite side of the tire was correctly marked.

Of the 385 noncompliant tires, approximately 283 tires may have been delivered to end-users. The remaining tires have been isolated in Michelin's warehouses and will be brought into full compliance with the marking requirement of FMVSS No. 119 or scrapped.

Michelin does not believe that this marking error will impact motor vehicle safety because the tires meet all Federal Motor Vehicle Safety performance standards. The routine source of tire inflation pressure is not the tire sidewall marking. Typically the proper inflation pressures are obtained from the vehicle owner's manual, manufacturer's or industry standards publications or from the vehicle placard, thus the source of the property inflation is readily available to the user.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below. Comment closing date: May 2, 2002.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: March 28, 2002.

Stephen R. Kratzke,

Associate Administrator, for Safety Performance Standards.

[FR Doc. 02–7961 Filed 4–1–02; 8:45 am]

BILLING CODE 4910–59–P

Federal Register

Tuesday,
April 2, 2002

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline); Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7163–4]

RIN 2060–AH41

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for organic liquids distribution (OLD) (non-gasoline) operations, which are carried out at storage terminals, refineries, crude oil pipeline stations, and various manufacturing facilities. These proposed standards would implement section 112(d) of the Clean Air Act (CAA) by requiring all OLD operations at plant sites that are major sources to meet hazardous air pollutant (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT).

The EPA estimates that approximately 70,200 megagrams per year (Mg/yr) (77,300 tons per year (tpy)) of HAP are emitted from facilities in this source category. Although a large number of organic HAP are emitted nationwide from these operations, benzene, ethylbenzene, toluene, vinyl chloride, and xylenes are among the most prevalent. These HAP have been shown to have a variety of carcinogenic and noncancer adverse health effects.

The EPA estimates that these proposed standards would result in the reduction of HAP emissions from major sources in the OLD source category by 28 percent. The emissions reductions achieved by these proposed standards, when combined with the emissions reductions achieved by other similar standards, would provide protection to the public and achieve a primary goal of the CAA.

DATES: *Comments.* Submit comments on or before June 3, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by April 22, 2002, a public hearing will be held on May 2, 2002.

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–98–13, 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–98–13, U.S. EPA, 401 M Street, SW, Washington DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will be held at 10 a.m. in the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–98–13 contains supporting information used in developing the standards. 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, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Martha Smith, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, NC 27711; phone (919) 541–2421, e-mail *''smith.martha@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. Comments will also be accepted on disks in WordPerfect® Corel 8 file format. All comments and data submitted in electronic form must note the docket number: A–98–13. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: OAQPS Document Control Officer, Attn: Ms. Martha Smith, U.S. EPA, 411 W. Chapel Hill Street, Room 740B, Durham, NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. JoLynn Collins of the EPA at (919) 541–5671 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Collins to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Docket. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket, or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule is also available on the WWW through the Technology Transfer Network (TTN). The TTN provides information and technology exchange in various areas of air pollution control. Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Title Change. For purposes of this proposed rule, the title has been changed to ''National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (non-Gasoline)'' to better describe the affected population. The source category list and regulatory agenda will be amended to reflect this name change in a separate action.

Background Information. The background information for the proposed standards is not contained in a formal background information

document (BID). Instead, we have prepared technical memoranda covering the following topic areas:

- Industry description.
- Model OLD plants.
- Industry baseline emissions.
- Emission control options.
- MACT floor determination.
- Environmental, energy, and cost impacts.
- Economic impacts.

These memos have been combined into a technical support document (TSD), which is included in Docket No. A–98–13.

In addition, there are several other memos that discuss individual issues, such as selection of the affected organic HAP and the minimum HAP cutoff defining the affected organic liquids. Each of these technical memos has also been placed in Docket No. A–98–13.

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	SIC*	NAICS*	Examples of regulated entities
Industry	2821 2865 2869 2911 4226 4612 5169 5171	325211 325192 325188 32411 49311 49319 48611 42269 42271	Operations at major sources that transfer organic liquids into or out of the plant site, including: liquid storage terminals, crude oil pipeline stations, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with collocated OLD operations.
Federal Government			Federal agency facilities that operate any of the types of entities listed under the ''industry'' category in this table.

*Considered to be the primary industrial codes for the plant sites with OLD operations, but the list is not necessarily exhaustive.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in § 63.2334 of the proposed rule. If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed in the preceding FOR FURTHER INFORMATION CONTACT section or your EPA regional representative as listed in § 63.13 of 40 CFR part 63, subpart A (General Provisions).

Outline. The following outline is provided to assist you in reading this preamble.

I. Background
A. How would this rule relate to other EPA regulatory actions?
B. What is the source of authority for development of NESHAP?
C. What criteria are used in the development of NESHAP?
D. What are the potential health effects associated with HAP emitted from OLD operations?
II. Summary of the Proposed Rule
A. What source category would be affected by the proposed NESHAP?
B. What are the primary sources of emissions and what are the emissions?
C. What would be the affected source?
D. What would be the emission limits, operating limits, and other standards?
E. What would be the testing and initial compliance requirements?
F. What would be the continuous compliance provisions?
G. What would be the notification, recordkeeping, and reporting requirements?
III. Rationale for Selecting the Proposed Standards
A. How did we select the source category?
B. How did we select the proposed pollutants to be regulated?
C. How did we select the proposed affected source?
D. How did we determine the basis and level of the proposed standards for existing and new sources?
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I. Background

A. How Would This Rule Relate to Other EPA Regulatory Actions?

Owners and operators of plant sites which contain organic liquids distribution activities that are potentially subject to these proposed standards for OLD operations may also be subject to other NESHAP because of other activities that take place on the same plant site. Some tank farms are used to store and transfer organic liquids onto or off a synthetic organic chemical manufacturing industry (SOCMI) plant site that is subject to 40 CFR part 63, subparts F, G, and H—National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (commonly referred to as the hazardous organic NESHAP, or ''HON''). Distribution of crude oil or other organic liquids at a petroleum refinery subject to 40 CFR part 63, subpart CC—National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries (the Refinery NESHAP), may also come under OLD NESHAP coverage. Finally, bulk gasoline terminals subject to 40 CFR part 63, subpart R—National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) may distribute non-gasoline organic liquids through dedicated equipment which would fall under these proposed OLD standards. At plant sites subject to both the proposed OLD standards and another NESHAP, the OLD NESHAP, when finalized, would apply only to the specific equipment and activities that are related directly to the distribution of

affected non-gasoline organic liquids (which includes liquids moved either onto or off the site).

Some existing NESHAP may already regulate, and some NESHAP under development may intend to regulate, equipment used to distribute organic liquids (*e.g.,* certain storage tanks or transfer racks at chemical production facilities subject to the HON). To avoid overlap of requirements in these cases, the OLD NESHAP would not apply to any OLD emission source already complying with control provisions under another part 63 NESHAP. For other applicable NESHAP that are not yet final and which potentially would apply to OLD equipment, the NESHAP that have the earliest compliance date would apply. One NESHAP, 40 CFR part 63, subpart FFFF, the Miscellaneous Organic Chemical Production and Processes NESHAP (MON), is being developed concurrently with the OLD NESHAP, and potentially will regulate certain organic liquid distribution sources (*i.e.,* storage tanks, transfer racks, and equipment leaks) located at MON facility plant sites. For all such distribution sources at MON facilities, the OLD NESHAP would defer to the MON and would not apply to any of those sources.

The Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq.*, Public Law 101–508, November 5, 1990) establishes the national policy of the United States for pollution prevention. This Act declares that: (1) Pollution should be prevented or reduced whenever feasible; (2) pollution that cannot be prevented or reduced should be recycled or reused in an environmentally-safe manner wherever feasible; (3) pollution that cannot be recycled or reused should be treated; and (4) disposal or release into the atmosphere should be chosen only as a last resort.

The OLD operations covered by these proposed standards distribute organic liquids that are often manufactured and consumed by other parties. Thus, two of the most common approaches for preventing pollution (product reformulation or substituting less polluting products) are not available to these facilities. Similarly, these facilities cannot use recycling or reuse as a way of limiting the amount of these liquids that they handle. However, the proposed equipment and work practice standards would prevent pollution from two of the principal emission sources in OLD operations. For storage tanks, we expect floating roofs to be used as a common alternative to add-on control technologies. For leaks from equipment such as pumps or valves, the required leak detection and repair program also would prevent pollution at the source without the need for add-on control equipment. The EPA is considering whether there are any pollution prevention measures that could be specified as alternatives to the control approaches in the proposed standards. We are specifically requesting comments from the public on ways that additional pollution prevention measures could be applied at OLD operations facilities.

B. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP, and to establish NESHAP for the listed source categories and subcategories. The category of major sources covered by today's proposed NESHAP was on our initial list of HAP emission source categories as published in the **Federal Register** on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit 10 tons/yr or more of any one HAP or 25 tons/yr or more of any combination of HAP.

C. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the maximum achievable control technology (MACT).

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on consideration of the cost of achieving the emissions reductions, any health and environmental impacts, and energy requirements.

D. What Are the Potential Health Effects Associated With HAP Emitted From OLD Operations?

The type of adverse health effects associated with HAP emitted by this source category can range from mild to severe. The extent and degree to which health effects may be experienced is dependent upon: (1) The ambient concentrations observed in the area; (2) duration and frequency of exposures; and (3) characteristics of exposed individuals (*e.g.*, genetics, age, preexisting health conditions, and lifestyle) which vary greatly within the population. Some of these factors are also influenced by source-specific characteristics (*e.g.*, emission rates, release heights, and local weather conditions) as well as pollutant-specific characteristics such as toxicity. The following is a summary of the potential health effects associated with exposure to some of the primary HAP emitted from OLD operations.

Benzene. Acute (short-term) inhalation exposure of humans to benzene may cause drowsiness, dizziness, and headaches, as well as eye, skin, and respiratory tract irritation, and, at high levels, unconsciousness. Chronic (long-term) inhalation exposure has caused various disorders in the blood, including reduced numbers of red blood cells and aplastic anemia, in occupational settings. Reproductive effects have been reported for women exposed by inhalation to high levels, and adverse effects on the developing fetus have been observed in animal tests. Increased incidence of leukemia (cancer of the tissues that form white blood cells) has been observed in humans occupationally exposed to benzene. The EPA has classified benzene as a Group A, known human carcinogen.

Ethylbenzene. Acute exposure to ethylbenzene in humans results in respiratory effects such as throat irritation and chest constriction, irritation of the eyes, and neurological effects such as dizziness. Chronic exposure to ethylbenzene by inhalation in humans has shown conflicting results regarding its effects on the blood. Animal studies have reported effects on the blood, liver, and kidneys from chronic inhalation exposures. No information is available on the developmental or reproductive effects of ethylbenzene in humans, but animal

studies have reported developmental effects, including birth defects in animals exposed via inhalation. The EPA has classified ethylbenzene in Group D, not classifiable as to human carcinogenicity.

Toluene. Humans exposed to toluene for short periods may experience irregular heartbeat and effects on the central nervous system (CNS) such as fatigue, sleepiness, headaches, and nausea. Repeated exposure to high concentrations may induce loss of coordination, tremors, decreased brain size, and involuntary eye movements, and may impair speech, hearing, and vision. Chronic exposure to toluene in humans has also been indicated to irritate the skin, eyes, and respiratory tract, and to cause dizziness, headaches, and difficulty with sleep. Children exposed to toluene before birth may suffer CNS dysfunction, attention deficits, and minor face and limb defects. Inhalation of toluene by pregnant women may increase the risk of spontaneous abortion. The EPA has developed a reference concentration of 0.4 milligrams per cubic meters (mg/m^3) for toluene. Inhalation of this concentration or less over a lifetime would be unlikely to result in adverse noncancer effects. No data exist that suggest toluene is carcinogenic. The EPA has classified toluene in Group D, not classifiable as to human carcinogenicity.

Vinyl chloride. Acute exposure to high levels of vinyl chloride in air has resulted in CNS effects such as dizziness, drowsiness, and headaches in humans. Chronic exposure to vinyl chloride through inhalation and oral exposure in humans has resulted in liver damage. Human and animal studies show adverse effects which raise a concern about potential reproductive and developmental hazards to humans from exposure to vinyl chloride. Cancer is a major concern from exposure to vinyl chloride via inhalation, as vinyl chloride exposure has been shown to increase the risk of a rare form of liver cancer in humans. The EPA has classified vinyl chloride as a Group A, known human carcinogen.

Xylenes. Short-term inhalation of mixed xylenes (a mixture of three closely related compounds) in humans may cause irritation of the nose and throat, nausea, vomiting, gastric irritation, mild transient eye irritation, and neurological effects. Long-term inhalation of xylenes in humans may result in CNS effects such as headaches, dizziness, fatigue, tremors, and incoordination. Other reported effects include labored breathing, heart palpitation, severe chest pain, abnormal electrocardiograms, and possible effects on the blood and kidneys. Developmental effects have been indicated from xylene exposure via inhalation in animals. Not enough information exists to determine the carcinogenic potential of mixed xylenes. The EPA has classified xylenes in Group D, not classifiable as to human carcinogenicity.

Implementation of the OLD NESHAP would reduce nationwide organic HAP emissions significantly from current levels. Thus, the proposed standards have the potential for providing both cancer and noncancer related health benefits.

By requiring facilities to reduce organic HAP emitted from OLD operations, the proposed standards would also reduce emissions of volatile organic compounds (VOC). Many VOC react photochemically with nitrogen oxides in the atmosphere to form tropospheric (low-level) ozone. A number of factors affect the degree to which VOC emission reductions will reduce ambient ozone concentrations.

Human laboratory and community studies have shown that exposure to ozone levels that exceed the national ambient air quality standards (NAAQS) can result in various adverse health impacts such as alterations in lung capacity and aggravation of existing respiratory disease. Animal studies have shown increased susceptibility to respiratory infection and lung structure changes. The VOC emissions reductions resulting from these proposed NESHAP will reduce low-level ozone and have a positive impact toward minimizing these health effects.

Among the welfare impacts from exposure to air that exceeds the ozone NAAQS are damage to some types of commercial timber and economic losses for commercially valuable crops such as soybeans and cotton. Studies have shown that exposure to excessive ozone can disrupt carbohydrate production and distribution in plants. This can lead in turn to reduced root growth, reduced biomass or yield, reduced plant vigor (which can cause increased susceptibility to attack from insects and disease and damage from cold), and diminished ability to successfully compete with more tolerant species. In addition, excessive ozone levels may disrupt the structure and function of forested ecosystems.

II. Summary of the Proposed Rule

A. What Source Category Would Be Affected by the Proposed NESHAP?

The proposed NESHAP would affect organic liquids distribution activities which, taken together, are considered to be a facility, or OLD operations. The regulated liquids consist of organic liquids that contain 5 percent by weight or more of the organic HAP compounds in Table 1 of the proposed subpart EEEE, and all crude oil except black oil. The activities in this category occur either at individual distribution facilities or on manufacturing plant sites that consume or produce the organic liquids regulated by the proposed standards. Only those OLD operations at major source facilities or plant sites would be regulated.

B. What Are the Primary Sources of Emissions and What Are the Emissions?

The emission of organic HAP vapors results from storing and transferring HAP-containing liquids. Fixed-roof tanks undergo losses due to atmospheric changes and changes in the liquid level in the tank. Floating roof tanks experience standing storage and liquid withdrawal losses and also losses from fittings on the floating deck.

As organic liquids are loaded into cargo tanks (tank trucks and railcars) at transfer racks, vapors are emitted to the atmosphere as the rising liquid displaces vapors formed above the liquid. To control these vapor emissions, the parked cargo tank may be connected to a closed vent vapor collection system and control device. Even in these controlled transfer systems, vapors may leak to the atmosphere from hatch covers, relief valves, or other parts of the system.

The equipment components used to convey organic liquids between tanks or pipelines can also be a source of vapor leakage. At OLD operations, the equipment of concern are pumps, valves, and sampling connection systems.

The volatile constituents of organic liquids, many of which are HAP, escape in the vapors emitted from these sources. Our 1998 survey of the OLD industry indicates that essentially all of the organic HAP listed in the CAA are present in the liquids distributed in these operations. Based on that survey and other information, we have estimated the total current HAP emissions from OLD operations to be 70,200 Mg/yr (77,300 tons/yr).

C. What Would Be the Affected Source?

The affected source would be the combination of all regulated OLD activities and equipment at a single OLD operation. The following regulated activities are typically performed within OLD operations and are part of the affected source:

- Transfer of organic liquids into, and storage in, fixed-roof or floating roof storage tanks;
- Transfer of organic liquids into cargo tanks (tank trucks or railcars) at transfer racks; and
- Transfer of organic liquids through pumps, piping, valves, and other equipment that may potentially leak.

Only those OLD operations facilities with an organic liquids throughput greater than 27.6 million liters (7.29 million gallons) per year (either into or out of the facility) would be subject to the proposed standards. Also, only those transfer rack loading positions with an organic liquids throughput of 11.8 million liters (3.12 million gallons) per year or greater would be required to install the specified emission controls on those activities.

D. What Would Be the Emission Limits, Operating Limits, and Other Standards?

The proposed NESHAP have various formats for the different activities and equipment being regulated. For affected storage tanks, you would have two options for control. First, you could install a closed vent system and control device with at least a 95 percent control efficiency for organic HAP or total organic compounds (TOC). As an option, combustion devices may meet an exhaust concentration limit of 20 parts per million by volume (ppmv) of organic HAP or TOC. An operating parameter of the control device would have to be continuously monitored and maintained within the established operating limits. Second, you could meet a work practice standard by installing a properly constructed floating roof in the affected tank. The tank size and vapor pressure cutoffs defining affected tanks would be different for existing and new tanks.

For affected organic liquids transfer racks, you would have to install a vapor collection system and a control device that achieves 95 percent control efficiency or 20 ppmv exhaust concentration for combustion devices, and you would have to continuously monitor the device. A work practice standard would apply to cargo tanks loading at these controlled racks. Each tank equipped with vapor collection equipment would have to be tested annually for vapor tightness using EPA Method 27. Cargo tanks not equipped with vapor collection equipment would have to be tested using the Department of Transportation (DOT) standard test procedures at DOT's required frequency. For cargo tanks that you do not own, you would have to ensure that each tank loading at affected loading positions is certified for vapor tightness. These proposed standards would be the same for existing or new transfer racks.

A work practice standard would also apply to equipment (pumps, valves, and sampling connection systems) that is in organic liquids service for at least 300 hours per year. This form of control involves regular instrument monitoring for leaks, and repair of leaking equipment. Owners and operators would have the option of applying the provisions of either subpart TT or UU of 40 CFR part 63. This leak detection and repair (LDAR) standard is being proposed for both existing and new equipment.

E. What Would Be the Testing and Initial Compliance Requirements?

Affected OLD operations would need to determine which of their distributed liquids qualify as an organic liquid as defined in the proposed standards. The specified test method for this is EPA Method 18 in 40 CFR part 60, appendix A, and you would have the option of suggesting alternative approaches for the Administrator's approval.

Control devices used for storage tanks or transfer racks would be subject to performance testing using EPA Method 18, 25, or 25A of 40 CFR part 60, appendix A, or Method 316 of 40 CFR part 63, appendix A, depending on the constituents of the gas stream being controlled and the format of the standard (organic HAP or TOC) the facility selects for its compliance demonstration. Floating roof tanks would be subject to visual and seal gap inspections to determine initial compliance with the tank work practice standards. The EPA Method 21 of 40 CFR part 60, appendix A, is specified for the equipment LDAR program.y

All cargo tanks equipped with vapor collection equipment that are used to distribute organic liquids from affected transfer rack loading positions would have to be tested annually for vapor tightness using EPA Method 27 of 40 CFR part 60, appendix A. For cargo tanks that are not so equipped, the current approved DOT methods would continue to be used.

Initial compliance with the emission limits for storage tanks and transfer racks would consist of demonstrating that the control device achieves 95 percent control efficiency for organic HAP or TOC, or 20 ppmv exhaust concentration for combustion devices. Note that all organic HAP are considered in this emission limit, not just the HAP listed in Table 1 of this proposed subpart. During the same initial performance test (or during a design evaluation of the device), you would establish the reference value or range for the appropriate operating parameter of the control device.

Work practice standards are being proposed for storage tanks, transfer racks, and equipment. For floating roof storage tanks, you would have to visually inspect each internal floating roof tank before the initial filling. For external floating roof tanks, you must perform a seal gap inspection of the primary and secondary deck seals within 90 days after filling.

For affected transfer rack loading positions, you would have to maintain documentation showing that cargo tanks that will load at those positions are certified as vapor-tight.

If you implement an LDAR program for your OLD equipment, you would have to provide us with written specifications of the program as part of your initial compliance demonstration.

F. What Would Be the Continuous Compliance Provisions?

To demonstrate continuous compliance with the emission limitation for control devices controlling storage tanks or transfer racks, you would have to continuously monitor the appropriate operating parameter and keep a record of the monitoring data. Compliance would be demonstrated by maintaining the parameter value within the limits established during the initial compliance demonstration.

There are different proposed means of demonstrating continuous compliance with the work practice standards, depending on the emission source. For floating roof storage tanks, you would have to visually inspect the tanks on a periodic basis and keep records of the inspections. For external floating roof tanks, seal gap measurements must be performed on the secondary seal once per year and on the primary seal every 5 years. Any conditions causing inspection failures would need to be repaired and records of the repairs kept.

The owner or operator would need to perform vapor tightness testing on cargo tanks and keep vapor tightness records of all cargo tanks loading at regulated rack loading positions, and also would have to take steps to ensure that only cargo tanks with vapor tightness certification are loaded at these positions. Examples of these steps are contacting cargo tank owners to explain the vapor tightness requirements and posting reminder signs summarizing the requirements at the affected loading positions.

G. What Would Be the Notification, Recordkeeping, and Reporting Requirements?

The proposed OLD NESHAP would require you to keep records and file reports consistent with the notification, recordkeeping, and reporting requirements of the General Provisions of 40 CFR part 63, subpart A. Two basic types of reports would be required: initial notification and semiannual compliance reports. The initial notification report would apprise the regulatory authority of applicability for existing sources or of construction for new sources.

The initial compliance report would demonstrate that compliance had been achieved. This report would contain the results of the initial performance test, which include the determination of the reference operating parameter value or range and a list of the organic liquids and equipment subject to the standards. Subsequent compliance reports would describe any deviations of monitored parameters from reference values; failures to comply with the startup, shutdown, and malfunction plan (SSMP) for control devices; and results of LDAR monitoring and storage tank inspections. These reports are also used to notify the regulatory authority of any changes in the organic liquids handled or changes in the OLD equipment or operations.

Records required under the proposed standards would have to be kept for 5 years, with at least 2 of these years being on the facility premises. These records would include copies of all reports that you have submitted; an up-to-date record of your organic liquids and affected equipment; and a listing of all cargo tanks that transfer organic liquids at affected rack loading positions, including their vapor tightness certification. Monitoring data from control devices would have to be kept to ensure that operating limits are being maintained. Records from the LDAR program and storage vessel inspections, and records of startups, shutdowns, and malfunctions of each control device are needed to ensure that the controls in place are continuing to be effective.

III. Rationale for Selecting the Proposed Standards

A. How Did We Select the Source Category?

Organic liquids distribution operations were included as a source category on our initial list of HAP source categories. Since liquid distribution is often carried out at SOCMI, refinery, or other manufacturing plant sites, there is the potential for overlapping control requirements in those cases where OLD activities are already regulated by other NESHAP. To avoid the situation where an emission source could be subject to multiple NESHAP, we are defining the OLD source category to exclude emission sources already covered by other NESHAP from control under these proposed standards.

The proposed Organic Liquids Distribution (non-Gasoline) NESHAP would apply to organic liquids distribution activities at sites that are determined to be ''major sources'' as defined in section 112(a)(1) of the CAA. This means those plants or facilities where the stationary sources located within a contiguous area and under common control emit or have the potential to emit, considering controls, a total of 10 tpy or more of any single HAP or 25 tpy or more of any combination of HAP.

Under the EPA's 1995 Potential to Emit Transition Policy, State and local air regulators have the option of treating the following types of sources as nonmajor under section 112 and permit programs under title V of the CAA: (1) sources that maintain adequate records to demonstrate that their actual emissions are less than 50 percent of the applicable major source threshold and have continued to operate at less than 50 percent of the threshold since January 1994; and (2) sources with actual emissions between 50 and 100 percent of the threshold, but which hold State-enforceable limits that are enforceable as a practical matter. During the EPA's rulemaking related to the potential to emit (PTE) requirements in the General Provisions (40 CFR part 63, subpart A) and the title V operating permits program, we have issued three extensions to the original transition policy, the latest memorandum dated December 20, 1999 and entitled, ''Third Extension of January 25, 1995 Potential to Emit Transition Policy.'' Sources that comply with either of the two criteria listed above will not be considered a major source under the OLD NESHAP. However, sources will be required to comply with the applicable provisions of the final PTE rule as of the effective date of that rule.

Organic liquids distribution operations that do not meet the criteria for a major source under the PTE transition policy are not being regulated at this time. We may consider area sources for regulation at a future date as part of the area source strategy authorized under section 112(k) of the CAA.

The source category covered by the proposed standards is not a single established ''industry'' in the usual sense, but involves a number of traditional industry segments. The purpose of the proposed standards is to enact controls on major source OLD operations wherever they occur, and this includes a variety of traditional industries. While these industry segments are distinct from one another (for example, they are described by several different SIC/NAICS codes), they are related to each other because they handle similar types of liquids which are inputs or outputs of the other segments. As an example, a particular organic liquids produced by a chemical manufacturing facility may be handled by a for-hire storage terminal, and then enter another manufacturing plant to be used in the making of a product.

We believe the OLD source category is best explained through a description of the organic liquids and distribution activities that are affected, and the types of facilities where the OLD activities occur.

The organic liquids affected by the proposed standards are those liquids that contain 5 percent by weight or more of the 69 organic HAP listed in Table 1 of the proposed subpart. These liquids include pure HAP chemicals (straight toluene, for example), petroleum liquids, and many blended mixtures and solutions of organic HAP chemicals that are stored and transported in bulk throughout the economy. The proposed rule would also affect all crude oil, with the exception of black oil, that has undergone custody transfer out of production facilities, even though individual crudes may have a total HAP content either above or below 5 percent by weight. Note that gasoline (including aviation gasoline) distribution is excluded from the proposed OLD NESHAP because these operations are already covered by the Gasoline Distribution NESHAP, 40 CFR part 63, subpart R.

The OLD activities and equipment that would be subject to the proposed control requirements are: (a) Storage of organic liquids in stationary storage tanks; (b) organic liquids transfer into cargo tanks (tank trucks or railcars) at transfer racks; and (c) the equipment components used in organic liquids transfer activities (pumps, valves, and sampling connection systems). Note that distribution under the proposed standards consists of those activities involved in storing organic liquids and transferring them either onto or off a major source plant site.

Organic liquids distribution is carried out at three primary categories of operations. First is the stand-alone bulk terminal, which typically receives,

stores, and sends out liquids owned by other companies (''for-hire'' facilities). These facilities are not collocated with a manufacturing site and will be affected if they meet the major source criteria based on their OLD activities. Some chemical companies own stand-alone terminals to distribute their own liquids, and they may also lease storage space at these terminals to other companies. The second category consists of OLD operations that are contiguous and under common control with a manufacturing (e.g., SOCMI facility or petroleum refinery) plant site. The OLD operations that satisfy the annual throughput cutoff at plant sites that constitute a major source of HAP will be subject to the proposed standards. There may also be additional types of manufacturing facilities that have affected OLD operations. The third facility type is pipeline stations, typically handling crude oil, that have breakout storage tanks used to absorb surges in the pipeline flow or to serve as distribution points for other modes (marine vessels, etc.) outside of the pipeline.

Section 112(d)(1) of the CAA requires us to promulgate NESHAP for ''each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation * * *'' Subcategorization of a source category is sometimes appropriate for NESHAP when industrial segments within the category have different types of processes or emission characteristics or require the use of different types of control techniques. As we developed the proposed OLD NESHAP, we considered whether we should develop different control requirements for the various OLD industry segments.

A review of the OLD data base and the information gathered during our site visits to OLD facilities showed that, despite the extreme operating conditions that occur in the process units at SOCMI facilities and refineries, the liquid distribution operations at the various types of facilities are carried out under conditions at or close to ambient. Furthermore, common organic HAP control technologies (such as thermal oxidizers and flares) are applicable to and in use for the activities performed at all of the facility types. Thus, based on these factors, we concluded that designation of separate subcategories for the purpose of developing different emission standards in the OLD NESHAP was not warranted.

B. How Did We Select the Proposed Pollutants To Be Regulated?

The data base of results from our 1998 survey of OLD operations indicates the presence of about 93 different HAP in all of the reported liquids, which is most of the organic compounds or groups of compounds listed as HAP under section 112(b) of the CAA. The variety of HAP is so large because the OLD industry represents the sum total of the chemical and petroleum liquids handled throughout industry (except gasoline). Yet, there may be additional organic HAP in liquids that are not in the EPA's OLD data base.

We considered whether it would be reasonable to select all organic HAP listed under section 112(b) for regulation in the OLD NESHAP. Some organic HAP have a very low potential to be emitted to the atmosphere from OLD operations because of their low volatilities (vapor pressure value). We do not consider it reasonable for facilities that may have a significant part of their OLD operations dedicated to handling low-volatility HAP liquids to apply controls representing MACT to those activities.

As a result, we decided it would be appropriate to develop a list of the specific organic HAP to be regulated by the proposed standards. We first made a listing of all of the HAP believed to exist in OLD operations, ranked in order of decreasing vapor pressure (at 25 degrees C). We then selected a vapor pressure cutoff of 0.1 pound per square inch absolute (psia) (about 0.7 kilopascal) to exclude the compounds with the lowest volatilities from the bottom of the table. This cutoff point was selected and was agreed to by industry reviewers as a reasonable level below which the emission potential would be minimal. The 0.7 kilopascal vapor pressure cutoff is recommended by the fact that the HON (in Table 6 of 40 CFR part 63, appendix to subpart G) requires the application of controls for new storage vessels with a capacity of 151 cubic meters or greater and storing liquids with a vapor pressure of 0.7 kilopascal or greater. The proposed applicability cutoffs for OLD storage tanks are similar to the cutoffs in the HON (for example, new OLD tanks larger than 151 cubic meters storing any liquid with a vapor pressure greater than 0.7 kilopascal would be covered). If we choose a cutoff higher than 0.7 kilopascal, which would leave even fewer HAP subject to control, there would be an inconsistency between the HAP table and the proposed storage tank applicability cutoffs. Therefore, on the basis of these considerations, we used a cutoff of 0.7 kilopascal to derive the specific organic HAP listed in Table 1 of the proposed standards.

The proposed standards would affect OLD activities involving two categories of organic liquids: (1) Those liquids containing at least 5 percent by weight of the HAP listed in Table 1 of the proposed subpart; and (2) all crude oils except black oil. As with the 0.7 kilopascal cutoff used to determine which HAP would be in Table 1, the intent of the 5 percent HAP cutoff is to exclude the lowest emitting organic liquids from the control requirements. The 5 percent HAP cutoff also has precedent in existing part 63 subparts. In the HON, 40 CFR part 63, subpart H and the NESHAP for Polycarbonate Production (40 CFR 63.1103(d), subpart YY), the equipment leak provisions affect only equipment containing or contacting a fluid that is at least 5 percent by weight of total organic HAP, on an annual average basis.

Our analysis of 17 different crude oil profiles indicated an average HAP weight percentage in the emitted vapors of about 6.0 percent. However, about half of these samples had a HAP percentage below 5 percent. Under the 5 percent HAP cutoff defining a regulated organic liquid, this would exempt from control a large amount of the crude oil as it enters and leaves distribution facilities.

Despite its relatively low HAP content, crude oil had a significant vapor pressure that was as high as 8 psia and averaged about 3.5 psia for all of the profile data we examined. Also, crude oil is estimated to make up approximately 68 percent of the volume of organic liquids in the distribution system, and 84 percent of the volume for liquids with a HAP content below 10 percent. Since the potential emissions from crude oil are a significant fraction of the total OLD emissions, we believe that the potential reductions from controlling crude oil would be significant and are a compelling reason to regulate all distributed crude oil except for the specific variety discussed below.

Black oil is a form of crude oil that we determined in the final NESHAP for Oil and Gas Production, 40 CFR part 63, subpart HH, to have a very low potential to produce flash emissions from storage tanks. Furthermore, tanks containing black oil are not considered to be affected sources under subpart HH. We are including a similar exemption for black oil in the OLD NESHAP because we do not consider storage or transfer of black oil to constitute a significant emission source. The definition of black oil is being altered from that used in subpart HH. In subpart HH it is the ''initial producing'' gas-to-oil ratio and API (American Petroleum Institute) gravity that are used to define some crude oils as black oil. For this proposed

subpart, we are using the gas-to-oil ratio and API gravity of the crude oil at the point of entry to the distribution system to define the crude oil as black oil.

C. How Did We Select the Proposed Affected Source?

The affected source would be the combination of all regulated emission sources at an OLD operations facility. The regulated emission sources at an OLD operations facility are:

- Storage tanks;
- Transfer racks; and
- Equipment in organic liquids service.

We have chosen a broad source definition which allows a storage tank, transfer rack, or single piece of equipment to be replaced or upgraded without its replacement being designated as a new source. The broad source definition was chosen for this source category because a more narrow source definition would mean that a change to an individual regulated emission source at a facility could cause that individual emission source to be designated as new. The designation as new would mean that the individual emission source (such as a single storage tank) would be required to observe the emission or operating limits in the proposed subpart for new sources. It also means that the emission source would need to be permitted separately, and its recordkeeping and reporting requirements could fall on intervals different from the rest of the facility. We looked at the emissions reductions that could possibly be gained through a narrow definition of affected source and decided that, on balance, a broad definition is the better choice.

D. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New Sources?

1. MACT Floor Determination

We determined separate MACT floors for each of the emission sources that exist at OLD operations. We received data through questionnaire responses from 247 facilities owned or operated by 77 companies. These facilities reflected the various major industry segments involved in organic liquids distribution. However, due to the pervasive nature of distribution operations throughout the economy, we believe that our survey only captured about 40 percent of all of the large OLD operations in the country. Additional detailed information was obtained from site visits to nine OLD facilities. The data collected represent a complete range of the large facilities that would be affected by the proposed standard. Therefore, we believe the data are representative of OLD operations throughout the country.

We determined MACT floors for existing sources based on the arithmetic average of the lowest-emitting 12 percent where this approach made sense and produced a result that corresponded to use of a specific control technology. For the remaining cases, we used the median (middle) value to represent the MACT floor. For storage tanks and transfer racks, floors were determined for each subgroup (size and vapor pressure range for tanks, vapor pressure range for loading positions). For the several storage tank subgroups with fewer than 30 sources, we used the median of the five lowest-emitting tanks (the third tank).

Using the storage tank data collected from OLD operations, we determined the relative emissions from 1,175 reported tanks and listed these tanks from lowest to highest emitting within several tank size and liquid vapor pressure ranges. For transfer racks, we listed individual loading positions from lowest to highest emitting, starting with those with a control device, followed by those using bottom or submerged loading, and finally those using splash fill (considered the baseline, uncontrolled case). For equipment leaks, the facilities with a Federal LDAR program were listed first, followed by those with a State or local program, and then those with no program.

The best controlled storage tanks at OLD facilities in our data base use either a closed vent system and control device or a well-designed internal or external floating roof. These controls represent the maximum level of control available for storage tanks. The existing source MACT floor for tanks was determined to be a choice of control device or a floating roof with effective emission seals. The specific tank sizes and organic liquids to which the MACT floor applies are essentially the same as those in the HON.

The best controlled transfer racks at the OLD operations facilities in our survey data base are equipped with a vapor collection system and control device to reduce organic HAP emissions. Control efficiencies for these devices were reported as ranging from below 90 percent to over 99 percent, but no test data were provided to support these control efficiencies. The MACT floor for existing transfer racks was determined to be the use of a control device, without identifying any specific control efficiencies that constitute the floor. However, based on the types of devices in use and the liquids being controlled, we believe that a control efficiency of 95 percent is appropriate for this floor.

The best controlled OLD equipment is subject to an instrument-based LDAR program, and we found that an LDAR program similar to the HON program represents the existing source MACT floor.

For new sources, the CAA requires the MACT floor to be based on the degree of emissions reductions achieved in practice by the best-controlled similar source. The MACT floor for new sources and existing sources is the same in the case of transfer racks (use of a control device) and equipment leaks (an instrument LDAR program). For storage tanks, the control technologies in the MACT floors for existing and new sources are also the same. However, in the new source floor, these controls are applied to smaller tanks and to less volatile liquids when they are stored in larger tanks.

A more detailed summary of the MACT floor analysis, including the data and the considerations used to determine the MACT floors for OLD operations, can be found in the technical support document located in the docket.

2. Beyond-the-Floor Levels of Control

Using the MACT floor levels as a starting point, we investigated whether any applicable control approaches were available that were both more stringent than these floors and satisfied the criteria in section 112(d)(2) of the CAA.

The MACT floors for existing and new organic liquids storage tanks consist of a choice between the emission limitation in the HON (closed vent system and control device at 95 percent efficiency) and the floating roof requirements in 40 CFR part 63, subpart WW. These controls represent the maximum level of control available for storage tanks. The tank capacity and liquid vapor pressure cutoffs defining which tanks would be affected are the same as those in the HON. We believe that these cutoffs define all of the storage tanks that it is reasonable to regulate with MACT technology. Therefore, we were not able to identify any reasonable technologies that would create beyond-the-floor control levels for storage tanks.

The best controlled organic liquids transfer racks achieve emissions reductions of 95 percent or greater using a closed vent system and control device. Due to the diversity of liquids handled in the industry and the consequent use of a variety of control devices, we concluded that levels above 95 percent should not be considered as an alternative control level for transfer

racks. Therefore, no beyond-the-floor control levels were deemed achievable for this emission source.

The best controlled OLD equipment is subject to an instrument-based LDAR program, and we found that an LDAR program similar to the HON program represents both the existing and new source MACT floors. We have not identified any beyond-the-floor control approaches that provide better control of leakage emissions from equipment at a reasonable cost.

3. Selection of the Standards

Some OLD operations may involve very low organic liquids throughputs because they operate intermittently, but they would still be defined as a major source if they are on the same plant site as a major source manufacturing operation. We desired a small size cutoff to exempt OLD operations with a very small amount of distribution activity. The survey data did not indicate any specific organic liquids throughput into or out of a facility that would help us in identifying a lower size threshold for the size of OLD operations facility that should be affected by the proposed standards. Therefore, we turned to existing Federal and State organic liquids transfer rules. The cutoff value of 20,000 gallons per day is frequently used to identify affected transfer facilities. This value converts to 27.6 million liters per year, the smallest size facility we are proposing to affect by these standards. This is a reasonable approach as facilities below this size cutoff do not have the volume of organic liquids throughput that would yield emissions warranting control, as identified by other Federal and State rules. If the throughputs into and out of the facility during a calendar year are different, then the larger of the two values would be used to determine whether the operation is affected by these proposed standards.

The proposed standards were selected following the completion of the MACT floor and beyond-the-floor analyses. After we determined that there were no reasonable control measures more stringent than the MACT floors, we used the floors as the basis for the selection of the standards. While some of our survey responses appeared to indicate control levels beyond the levels normally associated with these devices (*i.e.,* many reports at or near 100 percent efficiency), we believed that these values did not represent the continuous performance of the control devices in use. Also, these high efficiency values were not supported by test data. Therefore, a control efficiency of 95 percent is being proposed for control devices used for storage tanks or transfer racks. To be consistent with the results from the test methods allowed for showing compliance, this control efficiency can be demonstrated in terms of either total organic HAP or TOC. In addition, combustion devices have an optional emission limit of 20 ppmv of organic HAP or TOC in the exhaust.

Some transfer racks at OLD facilities are used only on a periodic or intermittent basis and, therefore, have relatively low volume throughputs and low emissions. We do not believe it would be reasonable to install a control system on such low usage racks. However, the survey data did not indicate any specific throughput level below which transfer rack emission controls were not being used in OLD operations.

As the survey data could not provide direction on a throughput cutoff, we searched existing Federal and State air rules to evaluate the cutoffs in use. The provisions of 40 CFR 63.1101, subpart YY (Generic MACT Standards), define a low throughput transfer rack as a rack that transfers less than 11.8 million liters (3.12 million gallons) per year of liquid containing regulated HAP. This cutoff is equivalent to about one tank truck full of liquid per day. No additional cutoffs affecting individual transfer racks were identified. The cutoff used in subpart YY was considered reasonable for the OLD transfer rack control requirement, and, therefore, we are proposing to regulate only those transfer rack positions that load 11.8 million liters per year or more of organic liquid.

A transfer rack may have more than one loading position (i.e., ''parking spot'') for cargo tanks. Since each loading position may receive liquid from a specific storage tank independently of the other positions, each position can be considered an individual emission source during the time that a cargo tank is in place and loading liquid. Therefore, we are proposing to apply both the emission limit and throughput cutoff to each individual loading position. Under this approach, owners and operators would have maximum flexibility in determining the optimum configuration for their loading activities.

At controlled transfer racks (those equipped with a vapor collection system and a control device), fugitive emissions may occur from leaking truck transport tanks or railcars through dome covers, malfunctioning pressure relief vents, or other potential leak sources. Thus, a requirement to control liquid transfer operations using a vapor collection system and control device could be ineffective if the cargo tanks leak vapors to the atmosphere during the loading process. For cargo tanks equipped with vapor collection equipment (which typically includes an integrated vapor valve that is opened to release vapors to the control system during loading), EPA Method 27 in 40 CFR part 60, appendix A, is specified for ensuring the tank's vapor tightness. Tank trucks used for gasoline distribution are routinely equipped for vapor collection and undergo an annual Method 27 test under the NESHAP regulating gasoline distribution. However, tank trucks in organic chemical service typically are not equipped for vapor collection. For these tanks, Method 27 would not be applicable. Instead, the current DOT methods which require periodic leak testing of chemical tank trucks and railcars are in place and effective for organic liquids cargo tanks.

E. How Did We Select the Format of the Proposed Standards?

The format selected for the proposed standards was developed after a comprehensive review of Federal and State rules affecting the same emission sources that occur in similar industries. Our goal was to set an overall format that is compatible with the applicable test methods, reflects the performance of the MACT technologies, and is consistent with the formats used in other NESHAP for similar HAP sources.

The proposed standards for OLD operations consist of a combination of several formats: numerical emission limits and operating limits, equipment standards, and work practice standards. Section 112(h) of the CAA states that ''* * * if it is not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, or operational standard, or combination thereof * * *.'' Section 112(h) further defines the phrase ''not feasible to prescribe or enforce an emission standard'' as any situation in which ''* * * a hazardous air pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, * * * or the application of measurement methodology to a particular class of sources is not practicable * * *.''

Numerical emission limits are feasible for storage tanks and transfer racks outfitted with a closed vent system and a control device. For these control situations, we have proposed a percentage control efficiency for consistency with the HON and the

Refinery NESHAP, which taken together, regulate a great number of the organic liquids handled in OLD operations. To allow flexibility, we are proposing a 95 percent control efficiency limit in terms of either total organic HAP or TOC. For combustion devices, we are proposing an alternate emission limit of 20 ppmv of either organic HAP or TOC. Depending on the test methods chosen, the owner or operator would select the most suitable format.

The proposed 95 percent and 20 ppmv limits apply not to entire transfer racks but to each individual loading position at the racks. We felt that under this format, sources would have more freedom in choosing how to organize the transfer of affected organic liquids. For example, at a rack with two loading positions you might designate and configure one position to be an uncontrolled position, and another position to be a controlled position piped through a vapor collection system to a control device. You could then load affected organic liquids only at the controlled position but could still load unregulated liquids through the same rack at the uncontrolled position.

Equipment and work practice standards affect each of the emission sources being regulated. The following subparagraphs describe the selection of these formats.

Floating Roof Standard for Storage Tanks

You would have the option of installing floating roofs that meet the requirements of 40 CFR part 63, subpart WW, in your affected storage tanks. The floating roof option has been included in most Federal rules affecting storage tanks. Our goal was to be consistent with these other rules and to provide you with flexibility in controlling the storage tanks that contain affected organic liquids.

Vapor Tightness Testing for Cargo Tanks

For the closed vent (vapor collection) system on transfer racks to be effective in conveying all of the displaced HAP vapors to the control device, the cargo tanks must be maintained in a way that minimizes leakage. There is no means available for collecting or measuring these leakage emissions. Therefore, we have proposed a work practice standard consisting of an annual vapor tightness test which involves pressurizing the empty tank and measuring any loss of pressure. The same approach is used for cargo tanks in two of the Federal rules that affect gasoline distribution, the new source performance standards (NSPS) for bulk gasoline terminals (40 CFR part 60, subpart XX), and the Gasoline Distribution NESHAP (40 CFR part 63, subpart R).

Leak Detection and Repair Program for Equipment

The LDAR program has been used for many years as the principal means of locating leaking equipment for repairs to maintain low emission rates on equipment components. In surveying OLD operations nationwide, we found that about 35 percent of the facilities are under a Federal LDAR requirement. Therefore, we decided that this format would be the best approach for the equipment requirements. Owners and operators would have the choice between the LDAR requirements in 40 CFR part 63, subpart TT or UU.

F. How Did We Select the Proposed Testing and Initial Compliance Requirements?

These NESHAP propose to control three different emission points: Storage tanks, transfer racks, and equipment leaks. The control technologies and work practices used to control these emission points would have different testing and initial compliance requirements. The methods proposed for testing and for demonstrating initial compliance with the proposed standards are similar to those in other Federal NESHAP using these same control technologies and work practices. The HON (40 CFR part 63, subpart G) prescribes EPA Method 18 or 25A for determining the control efficiency of a control device. We have added EPA Method 25 to allow additional flexibility. In addition, if a principal component of the inlet gas stream to the control device is formaldehyde, EPA Method 316 of 40 CFR part 63, appendix A, may be used instead of Method 18 to measure the formaldehyde.

The HON also specifies EPA Method 21 for performing LDAR monitoring. The visual and seal gap inspections proposed for determining the initial compliance of floating roof tanks are the methods outlined in subpart WW of 40 CFR part 63. The EPA Method 27 is the method proposed for confirming the vapor tightness of tank trucks and railcars equipped with vapor collection equipment. This is the same approach required for testing cargo tanks in 40 CFR part 63, subpart R, the Gasoline Distribution NESHAP. We have determined while developing other part 63 rules that these methods are appropriate for fulfilling the testing and initial compliance requirements in standards for HAP emissions.

G. How Did We Select the Proposed Continuous Compliance Requirements?

Continuous monitoring is required by the proposed standards so that we can determine whether a source is in compliance on an ongoing basis. When determining appropriate monitoring options, we considered the availability and feasibility of a number of monitoring strategies.

In evaluating the use of continuous emission monitoring systems (CEMS) in these proposed standards, we determined that monitoring of HAP compounds emitted from control devices is feasible and has been implemented in other rules at certain types of facilities. However, the cost of applying monitors that provide a continuous measurement in the units of these proposed standards would be unacceptably high. Similarly, we found that continuous monitoring of a HAP surrogate (such as TOC) would not provide an accurate indication of compliance with the proposed HAP emission limitations because of the many non-HAP organic compounds.

Monitoring of control device operating parameters is considered appropriate for many other emission sources (such as gasoline distribution sources under 40 CFR part 63, subpart R) and, therefore, we have included this as the primary monitoring approach in these proposed standards. Based on information from OLD sources, we selected operating parameters for the following types of control devices that are reliable indicators of control device performance: Thermal and catalytic oxidizers, flares, adsorbers, and condensers. In general, we selected parameters and monitoring provisions that were included in both subpart R and the HON. Sources would monitor these parameters to demonstrate continuous compliance with the emission limits and operating limits.

The proposed NESHAP also requires monitoring for the storage tank work practice standards which consist of periodic inspections of the floating roof seals. We took this approach because there is no device available to continuously monitor the performance of the roof seals.

You may choose an alternative to the monitoring required by these proposed standards. If you do, you would have to request approval for alternative monitoring according to the procedures in § 63.8 of the General Provisions.

H. How Did We Select the Proposed Notification, Recordkeeping, and Reporting Requirements?

The required notifications and other reporting are based on the General

Provisions in subpart A of 40 CFR part 63. The initial notification and the semiannual compliance reports include information on organic liquids and affected OLD activities, and they would require any changes to this information to be reported in subsequent reports. Similarly, records would be required that will enable an inspector to verify the facility's compliance status. Due to the nature of control devices that would be installed on OLD operations and the emissions being controlled, we have determined that control device parameter monitoring is appropriate in this circumstance. The proposed records and reports are necessary to allow the regulatory authority to verify that the source is continuing to comply with the standards.

IV. Summary of Environmental, Energy, and Economic Impacts

As discussed earlier, organic liquids distribution activities are carried out at many different types of facilities. Most of these facilities can be grouped under three general categories: Stand-alone (usually for-hire) storage terminals dedicated to distribution activities; OLD operations collocated with a petroleum refinery, chemical manufacturing, or other manufacturing plant site; and crude oil pipeline pumping or breakout stations (containing crude oil tankage).

We estimate that in 1997, the baseline year for the proposed standards, there were approximately the following numbers of major source OLD facilities: 480 collocated OLD operations, 135 stand-alone terminals, and 35 crude oil pipeline stations, for a total of about 650 existing major source OLD plant sites.

A. What Are the Air Quality Impacts?

On a nationwide basis, the OLD operations at facilities that would be affected by the proposed NESHAP emit an estimated 70,200 Mg/yr (77,300 tons/yr) of HAP. Most of the organic HAP listed in section 112(b)(1) of the CAA are included in these emissions. After the promulgated standards are implemented, HAP emissions will be reduced by approximately 19,700 Mg/yr (21,700 tpy), or 28 percent, from the baseline. Such emissions impacts are likely to reduce the risk of adverse effects of HAP.

Although the proposed OLD NESHAP would not specifically require control of VOC emissions, the organic HAP emission control technologies upon which the proposed standards are based would also significantly reduce VOC emissions from the source category. We estimate that implementation of the promulgated NESHAP would reduce nationwide VOC emissions by about 33,700 Mg/yr (37,100 tpy), or 28 percent, from baseline levels. This will have the effect of reducing ozone-related health and welfare impacts.

B. What Are the Cost Impacts?

The cost of implementing the proposed standards for affected OLD operations would consist of the capital and annualized costs to control storage tanks, transfer racks, and equipment leaks, and the costs of complying with the monitoring, reporting, and recordkeeping requirements.

Approximately 1,740 storage tanks, or 23 percent of the 7,725 tanks used in OLD operations, would need to be controlled (or further controlled) to meet the proposed control requirements. Depending on the size and configuration of a particular tank, the capital cost would vary from $4,300 to $120,000 per tank. The total capital cost to control all 1,740 tanks is estimated at $84.3 million.

Transfer rack controls would consist of installing a flare or other control device at approximately 200 OLD operations, at an estimated total capital cost of $5.4 million. Since organic liquids cargo tanks are typically not equipped with vapor collection equipment, most of them would continue to undergo the DOT leak tightness testing and not the annual EPA Method 27 testing. The total annual cost for performing Method 27 on the small number of equipped cargo tanks is estimated at about $21,700 per year.

The establishment of an LDAR program for equipment leak control at about 430 existing operations nationwide would involve a capital cost of approximately $3.5 million.

The annual cost for industry to keep records and prepare and send the necessary reports is estimated at about $12.7 million per year.

We have estimated the total nationwide capital cost (in 1997 dollars) of implementing the proposed rule at $94.4 million, and the annual cost at $41.4 million per year. We are soliciting comment from the public on the accuracy of the cost impacts that are summarized above and presented in detail in the TSD.

C. What Are the Economic Impacts?

The economic impact analysis shows that the expected price increase for affected output would be less than 0.01 percent as a result of the proposed standard for petroleum producers, pipeline operators, and petroleum bulk terminals, and less than 0.02 percent for chemical manufacturers. The expected change in production of affected output is a reduction of less than 0.01 percent for petroleum producers, pipeline operators, and petroleum bulk terminals, and less than 0.02 percent for chemical manufacturers. None of the facilities out of the 651 affected are expected to close as a result of incurring costs of the proposed standard. Therefore, it is likely that there is no adverse impact expected to occur for those industries that produce output affected by this proposed rule, such as chemical manufacturers, petroleum refineries, pipeline operators, and petroleum bulk terminal operators.

D. What Are the Nonair Quality Health, Environmental, and Energy Impacts?

Water quality would not be significantly affected by implementation of the proposed standards. The proposed standards do not contain any requirements related to water discharges, wastewater collection, or spill containment, and no additional organic liquids are expected to enter these areas as a result of the proposed OLD NESHAP. A few facilities may select a scrubber (depending on the specific emissions they are controlling) to control emissions from transfer racks or fixed-roof storage tanks. The impact on water quality from the use of scrubbers is not expected to be significant.

We also project that there will be no significant solid waste or noise impact. Neither flares, thermal oxidizers, scrubbers, nor condensers generate any solid waste as a by-product of their operation. When adsorption systems are used, the spent activated carbon or other adsorbent that cannot be further regenerated may be disposed of in a landfill, which would contribute a small amount of solid waste.

We have tested the noise level from control devices and found these levels (usually due to pumps and blowers) to be moderate (less than 70 decibels at 7 meters). Thus, the noise impact would be small.

The control devices used for transfer rack and storage tank control use electric motor-driven blowers, dampers, or pumps, depending on the type of system, in addition to electronic control and monitoring systems. The installation of these devices would have a small negative energy impact. To the extent that some of the controlled organic liquids are non-gasoline fuels, the applied control measures would keep these liquids in the distribution system and thus have a positive impact on this form of energy.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA 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.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record. Any written comments from OMB and written EPA responses are available in the docket (see **ADDRESSES** section of this preamble).

B. Executive Order 13132, Federalism

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

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

This proposed 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 proposed rule.

C. 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 EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed 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. No tribal governments are believed to own or operate an affected source. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this proposed rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

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

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), required EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, and the Office of Management and Budget, for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1) (i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the

Administrator of the Office of Information and Regulatory Affairs as a significant energy action.'' This proposed rule is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, and use of energy. The basis for this determination follows.

The reduction in petroleum product output, which includes reductions in fuel production, is estimated at only 0.003 percent, or about 137 barrels per day based on 2000 U.S. fuel production nationwide. The reduction in coal, natural gas, and electricity output is expected to be negligible compared to 2000 U.S. output of these products nationwide. The increase in price of petroleum products is estimated to be only 0.003 percent nationwide. While energy distribution services such as pipeline operations will be directly affected by this proposal, energy distribution costs are expected to increase by only 0.36 percent. We estimate that there will be a slight increase of only 0.002 percent of net imports (imports—exports), and no other adverse outcomes are expected to occur with regard to energy supplies. Given the minimal impacts on energy supply, distribution, and use as a whole nationally, no significant adverse energy effects are expected to occur. For more information on these estimated energy effects, please refer to the economic impact analysis for the proposed rule. This analysis is available in the public docket.

Therefore, we conclude that this proposed rule when implemented will not have a significant adverse effect on the supply, distribution, or use of energy.

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, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this proposed 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. The maximum total annual cost of this proposed rule for any year has been estimated to be about $41.4 million. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

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 today's proposed rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,500 employees, depending on size definition for the affected North American Industry Classification System (NAICS) code, or a maximum of $5 million to $18.5 million in revenues; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. It should be noted that companies in 42 NAICS codes are affected by this proposed rule, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration (SBA) size standards (13 CFR 121). For more information on size standards for particular industries, please refer to the economic impact analysis in the docket.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that nineteen small firms in the industries affected by this rule may be affected. Out of the nineteen affected small firms, two firms are estimated to have compliance costs that exceed one percent of their revenues.

In addition, the rule is likely to also increase profits at the many small firms not affected by the rule due to the very slight increase in market prices. Finally, while there is a difference between the median compliance cost to sales estimates for the affected small and large firms (0.26 percent compared to 0.01 percent for the large firms), no small or large firms are expected to close in response to incurring the compliance costs associated with this rule.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, we nonetheless have tried to minimize the impact of this rule on small entities in several ways. First, we chose to set the control requirements at the MACT floor control level and not at a control level more stringent. Thus, the control level specified in the proposed OLD rule is the least stringent allowed by the CAA. Second, we have set facility size, transfer rack throughput, and tank size cutoffs in the rule to minimize the effects on small businesses. Third, we have identified a list of 69 HAP from the list of 188 in the CAA to be considered for regulation. Regulated liquids are organic liquids that contain at least 5

percent by weight of the 69 HAP listed. In addition, we worked with various trade associations during the development of the proposed rule. These actions have reduced the economic impact on small entities from this rule. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

H. Paperwork Reduction Act

We will submit the information collection requirements in this rule for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* We have prepared an Information Collection Request (ICR) document (ICR No. 1963.01) and you may obtain a copy from Sandy Farmer, Office of Environmental Information, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet (WWW) at *http://www.epa.gov/icr.* The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

The proposed rule would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden to affected sources for this collection (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to be 242,900 labor-hours per year, with a total annual cost of $12.7 million per year. These estimates include a one-time performance test and report (with repeat tests where needed), one-time submission of an SSMP with semiannual reports for any event when the procedures in the plan were not followed, semiannual compliance reports, maintenance inspections, notifications, and recordkeeping.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, all Federal agencies are required to use voluntary consensus standards (VCS) in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable VCS.

Consistent with the NTTAA, the EPA conducted searches to identify VCS for use in emissions monitoring. This search is described in a memorandum which is in the docket. The search for emissions monitoring procedures identified 19 VCS that appeared to have possible use in lieu of EPA standard reference methods. However, after reviewing the available VCS, the EPA determined that nine of the candidate VCS identified for measuring emissions of the HAP or surrogates subject to emission standards in the proposed rule would not be practical due to lack of equivalency, documentation, and validation data. Ten of the remaining candidate VCS are under development or under EPA review. The EPA plans to follow, review, and consider adopting these VCS after their development and further review by the EPA is completed.

Two VCS, ASTM D2879–83, Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope; and API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, were already incorporated by reference in 40 CFR 63.14 and are also being used in this proposed rule.

The ASTM D6420–99 is currently under EPA review as an approved alternative to Method 18. The EPA will also compare this final ASTM standard to methods previously approved as alternatives to EPA Method 18 with specific applicability limitations. These methods, designated as ALT–017 and CTM–028, are available through the EPA's Emission Measurement Center internet site at *www.epa.gov/ttn/emc/tmethods.html.* The final ASTM D6420–99 standard is very similar to these approved alternative methods, which may be equally suitable for specific applications. We plan to continue our review of the final standard and will consider adopting the ASTM standard at a later date.

The EPA is requesting comment on the compliance demonstration requirements being proposed in this proposed rule and specifically invites the public to identify potentially-applicable VCS. Commenters should also explain why this proposed rule should adopt these VCS in lieu of the EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied by a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, appendix A was used).

Section 63.2406 and Table 5 of the proposed subpart list the EPA testing methods and performance standards included in the proposed rule. Most of the standards have been used by States and industry for more than 10 years. Nevertheless, under § 63.7(f) of subpart A of 40 CFR part 63, the proposal also allows any State or source to apply to the EPA for permission to use an alternative method in place of any of the EPA testing methods or performance standards listed in proposed subpart EEEE.

List of Subjects in 40 CFR Part 63

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

Dated: March 19, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

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

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

2. Section 63.14 is amended by revising paragraphs (b)(3) and (c)(1) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(3) ASTM D2879–83, Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for § 63.111 of subpart G of this part and for § 63.2406 of subpart EEEE of this part.

(c) * * *

(1) API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, IBR approved for § 63.111 of subpart G of this part and for § 63.2406 of subpart EEEE of this part.

* * * * *

3. Part 63 is amended by adding subpart EEEE to read as follows:

Subpart EEEE—National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (non-Gasoline)

Sec.

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What This Subpart Covers

§ 63.2330 What is the purpose of this subpart?

This subpart establishes national emission limitations and work practice standards for hazardous air pollutants (HAP) emitted from organic liquids distribution (OLD)(non-gasoline) operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.2334 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an OLD operation that is located at or is part of a major source of hazardous air pollutant emissions.

(b) Your OLD operation must have a total organic liquids throughput of 27.6 million liters (7.29 million gallons) per year or more either into or out of the operation to be subject to the control provisions of this subpart. Organic liquids are all crude oils other than black oil, and those liquids or liquid mixtures, except gasoline, that contain a total of 5 percent by weight or more of the organic HAP listed in Table 1 of this subpart.

(1) An OLD operation is the combination of activities and equipment used to transfer organic liquids into or out of a plant site or to store organic liquids on the plant site. Gasoline, as well as any fuels that are consumed or dispensed on the plant site directly to users (such as fuels used for fleet refueling) are not considered organic liquids in this subpart.

(2) A major source of HAP is a plant site that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year, or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(c) This subpart covers:

(1) Organic liquids distribution operations that occupy an entire plant site; and

(2) Organic liquids distribution operations that are collocated with other industrial (e.g., manufacturing) operations at the same plant site.

§ 63.2338 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing OLD operation affected source.

(b)(1) The affected source is each entire OLD operation at a plant site in any industrial category, except for those emission sources that are controlled under the provisions of another 40 CFR

part 63 national emission standards for hazardous air pollutants regulation. The main types of plant sites that either are in themselves an OLD operation or contain a collocated OLD operation are:

(i) Liquid terminal facilities that distribute either organic liquids that they own, or organic liquids owned by others on a for-hire basis, or a combination of both;

(ii) Organic chemical manufacturing facilities, petroleum refineries, and other industrial facilities that have a collocated OLD operation; and

(iii) Crude oil pipeline pumping stations and breakout stations.

(2) The following emission sources within OLD operations constitute the affected source: Storage tanks storing organic liquids and meeting the tank size and liquid vapor pressure cutoffs in Table 2 of this subpart; transfer rack loading positions at which organic liquids are loaded into cargo tanks (tank trucks or railcars) at or above the minimum throughput shown in Table 2 of this subpart; and equipment (pumps, valves, etc.) in organic liquids service for at least 300 hours per year. In addition, vapor leakage points on cargo tanks while loading organic liquids at affected transfer racks are considered part of the affected source.

(c) The provisions of this subpart do not apply to research and development facilities, consistent with section 112(b)(7) of the Clean Air Act (CAA).

(d) An affected source is a new affected source if you commenced construction of the affected source after April 2, 2002, and you meet the applicability criteria in § 63.2334 at the time you commenced operation.

(e) An affected source is reconstructed if you meet the criteria for reconstruction as defined in § 63.2.

(f) An affected source is existing if it is not new or reconstructed.

§ 63.2342 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to the guidance in paragraphs (a)(1) and (2) of this section:

(1) If you startup your affected source before [the effective date of this subpart], you must comply with the emission limitations and work practice standards for new and reconstructed sources in this subpart no later than [the effective date of this subpart].

(2) If you startup your affected source after [the effective date of this subpart], you must comply with the emission limitations and work practice standards for new and reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations and work practice standards for existing sources no later than [3 years after the effective date of the final rule].

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, the guidance in paragraphs (c)(1) and (2) of this section applies:

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the source must be in compliance with this subpart no later than 3 years after it becomes a major source.

(d) You must meet the notification requirements in § 63.2382(a) according to the schedule in § 63.2382(b), (c), (d), and (e) and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limitations and work practice standards in this subpart.

Emission Limitations and Work Practice Standards

§ 63.2346 What emission limitations and work practice standards must I meet?

(a) You must meet each emission limit in Table 2 of this subpart that applies to you.

(b) You must meet each operating limit in Table 3 of this subpart that applies to you.

(c) You must meet each work practice standard in Table 4 of this subpart that applies to you.

(d) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section. If you apply for permission to use an alternative to the work practice standards in this section, you must submit the information described in § 63.6(g)(2).

General Compliance Requirements

§ 63.2350 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and work practice standards in this subpart at all times, except during periods of startup, shutdown, or malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

Testing and Initial Compliance Requirements

§ 63.2354 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) For existing sources, you must conduct initial performance tests and other initial compliance demonstrations no later than the compliance date specified in § 63.2342(b).

(b) For new sources, you must conduct initial performance tests and other initial compliance demonstrations according to the provisions in § 63.7(a)(2)(i) and (ii).

§ 63.2358 When must I conduct subsequent performance tests?

(a) For cargo tanks equipped with vapor collection equipment that load organic liquids at affected transfer rack loading positions, you must perform the vapor tightness testing required in Table 5 of this subpart on each cargo tank that you own or operate at least once per year.

(b) For nonflare control devices, you must conduct the performance testing required in Table 5 of this subpart at any time the EPA requests you to in accordance with section 114 of the CAA.

§ 63.2362 What performance tests, design evaluations, and performance evaluations must I conduct?

(a) You must conduct each performance test in Table 5 of this subpart that applies to you.

(b) You must conduct each performance test according to the requirements in § 63.7(e)(1), using the procedures specified in § 63.997(e).

(c) You must conduct three separate test runs for each performance test on a nonflare control device, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(d) In addition to Method 25 or 25A of 40 CFR part 60, appendix A, to determine compliance with the organic HAP or total organic compounds (TOC) emission limit, you may use Method 18 of 40 CFR part 60, appendix A. If you use Method 18 to measure compliance with the percentage efficiency limit, you must first determine which HAP are present in the inlet gas stream (i.e., uncontrolled emissions) using knowledge of the organic liquids or the screening procedure described in Method 18. In conducting the performance test, you must analyze samples collected as specified in

Method 18, simultaneously at the inlet and outlet of the control device. Quantify the emissions for all HAP identified as present in the inlet gas stream for both the inlet and outlet gas streams of the control device.

(e) If you use Method 18 of 40 CFR part 60, appendix A, to measure compliance with the emission concentration limit, you must first determine which HAP are present in the inlet gas stream using knowledge of the organic liquids or the screening procedure described in Method 18. In conducting the performance test, analyze samples collected as specified in Method 18 at the outlet of the control device. Quantify the control device outlet emission concentration for the same HAP identified as present in the inlet or uncontrolled gas stream.

(f) If a principal component of the uncontrolled or inlet gas stream to the control device is formaldehyde, you may use Method 316 of appendix A of this part instead of Method 18 of 40 CFR part 60, appendix A, for measuring the formaldehyde. If formaldehyde is the predominant HAP in the inlet gas stream, you may use Method 316 alone to measure formaldehyde either at the inlet and outlet of the control device using the formaldehyde control efficiency as a surrogate for total organic HAP or TOC efficiency, or at the outlet of a combustion device for determining compliance with the emission concentration limit.

(g) You must conduct each design evaluation of a control device according to the requirements in § 63.985(b)(1)(i).

(h) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(i) You must conduct each continuous monitoring system (CMS) performance evaluation according to the requirements in § 63.8(e).

§ 63.2366 What are my monitoring installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the requirements in § 63.996. In addition, you must collect and analyze temperature, flow, pressure, or pH data according to the requirements in paragraphs (a)(1) through (4) of this section:

(1) To calculate a valid hourly value, you must have at least four equally spaced data values (or at least two, if that condition is included to allow for periodic calibration checks) for that hour from a CMS that is not out of control according to the monitoring plan (e.g., one that incorporates elements of appendix F, procedure 1 of 40 CFR part 60, appendix F).

(2) To calculate the average emissions for each averaging period, you must have at least 75 percent of the hourly averages for that period using only block hourly average values that are based on valid data (i.e., not from out-of-control periods).

(3) Determine the hourly average of all recorded readings.

(4) Record the results of each inspection, calibration, and validation check.

(b) For each temperature monitoring device, you must meet the requirements in paragraphs (a)(1) through (4) and paragraphs (b)(1) through (8) of this section:

(1) Locate the temperature sensor in a position that provides a representative temperature.

(2) For a noncryogenic temperature range, use a temperature sensor with a minimum tolerance of 2.2 degrees Celsius or 0.75 percent of the temperature value, whichever is greater.

(3) For a cryogenic temperature range, use a temperature sensor with a minimum tolerance of 2.2 degrees Celsius or 2 percent of the temperature value, whichever is greater.

(4) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(5) If a chart recorder is used, it must have a sensitivity in the minor division of at least 20 degrees Fahrenheit.

(6) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owner's manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed near the process temperature sensor must yield a reading within 16.7 degrees Celsius of the process temperature sensor's reading.

(7) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range, or install a new temperature sensor.

(8) At least monthly, inspect all components for integrity and all electrical connections for continuity, oxidation, and galvanic corrosion.

(c) For each flow measurement device, you must meet the requirements in paragraphs (a)(1) through (4) and paragraphs (c)(1) through (5) of this section:

(1) Locate the flow sensor and other necessary equipment such as straightening vanes in a position that provides a representative flow.

(2) Use a flow sensor with a minimum tolerance of 2 percent of the flow rate.

(3) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(4) Conduct a flow sensor calibration check at least semiannually.

(5) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(d) For each pressure measurement device, you must meet the requirements in paragraphs (a)(1) through (4) and paragraphs (d)(1) through (7) of this section:

(1) Locate the pressure sensor(s) in a position that provides a representative measurement of the pressure.

(2) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(3) Use a gauge with a minimum tolerance of 0.5 inch of water or a transducer with a minimum tolerance of 1 percent of the pressure range.

(4) Check for pressure tap pluggage daily.

(5) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(6) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range, or install a new pressure sensor.

(7) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(e) For each pH measurement device, you must meet the requirements in paragraphs (a)(1) through (4) and paragraphs (e)(1) through (4) of this section:

(1) Locate the pH sensor in a position that provides a representative measurement of pH.

(2) Ensure that the sample is properly mixed and representative of the fluid to be measured.

(3) Check the pH meter's calibration on at least two points every 8 hours of process operation.

(4) At least monthly, inspect all components for integrity and all electrical connections for continuity.

§ 63.2370 How do I demonstrate initial compliance with the emission limitations and work practice standards?

(a) You must demonstrate initial compliance with each emission limit and work practice standard that applies to you according to Tables 6 and 7 of this subpart.

(b) You must establish each site-specific operating limit in Table 3 of

this subpart that applies to you according to the requirements in § 63.2362 and Table 5 of this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.2382(e).

Continuous Compliance Requirements

§ 63.2374 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, or required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all of the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.2378 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

(a) You must demonstrate continuous compliance with each emission limitation and work practice standard in Tables 2 through 4 of this subpart that applies to you according to the methods specified in Tables 8, 9, and 10 of this subpart.

(b) You must report each instance in which you did not meet any emission limit or operating limit in Tables 8 and 9 of this subpart that applies to you. This includes periods of startup, shutdown, or malfunction. You must also report each instance in which you did not meet the requirements in Table 10 of this subpart that apply to you. These instances are deviations from the emission limitations and work practice standards in this subpart. These deviations must be reported according to the requirements in § 63.2386.

(c) During periods of startup, shutdown, or malfunction, you must operate in accordance with your SSMP.

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you make an adequate demonstration that you were operating in accordance with the SSMP. We will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.2382 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(e), (f)(4) and (6), and 63.9(b) through (h) that apply to you.

(b) As specified in § 63.9(b)(2), if you startup your affected source before [the effective date of this subpart], you must submit an Initial Notification no later than 120 calendar days after [the effective date of this subpart].

(c) As specified in § 63.9(b)(3), if you startup your new or reconstructed affected source on or after [the effective date], you must submit an Initial Notification no later than 120 days after initial startup.

(d) If you are required to conduct a performance test, you must submit a notification of intent to conduct the test at least 60 calendar days before it is scheduled to begin as required in § 63.7(b)(1).

(e) If you are required to conduct a performance test or other initial compliance demonstration as specified in Table 5, 6, or 7 of this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(1) For each initial compliance demonstration required in Table 5, 6, or 7 of this subpart that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) For each initial compliance demonstration required in Table 5, 6, or 7 of this subpart that includes a performance test conducted according to the requirements in Table 5 of this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

§ 63.2386 What reports must I submit and when?

(a) You must submit each report in Table 11 of this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 11 of this subpart and according to the requirements in paragraphs (b)(1) through (5) of this section:

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.2342 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.2342.

(2) The first compliance report must be postmarked no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.2342.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(3)(iii)(A) or 71.6(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information in paragraphs (c)(1) through (7) of this section:

(1) Company name and address.

(2) Statement by a responsible official, including the official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(3) Date of report and beginning and ending dates of the reporting period.

(4) Any changes to the information listed in paragraph (d) of this section that have occurred since the last report.

(5) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information described in § 63.10(d)(5)(i).

(6) If there are no deviations from any emission limitation (emission limit or operating limit) that applies to you and there are no deviations from the requirements for work practice

standards in Table 10 of this subpart, a statement that there were no deviations from the emission limitations or work practice standards during the reporting period.

(7) If there were no periods during which the CMS was out of control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS was out of control during the reporting period.

(d) The first compliance report must contain the information in paragraphs (c)(1) through (7) of this section and also the information in paragraphs (d)(1) through (5) of this section:

(1) A listing of the organic liquids stored or transferred at the facility during the previous 6 months, including for each liquid the information in paragraphs (d)(1)(i) through (iv) of this section:

(i) Liquid name;

(ii) Total weight percentage of the organic HAP in Table 1 of this subpart;

(iii) Annual average true vapor pressure; and

(iv) Total throughput into and out of the facility.

(2) An inventory of all storage tanks at the facility that stored organic liquids during the previous 6 months, including for each tank the information in paragraphs (d)(2)(i) through (iv) of this section:

(i) Tank ID code and capacity;

(ii) Tank roof configuration, rim seal type(s), and description of floating deck fittings, as applicable;

(iii) Name of organic liquid(s) stored in the tank; and

(iv) Control device in use for each fixed-roof tank, where applicable.

(3) A listing of all transfer rack loading positions that transferred organic liquids into cargo tanks during the previous 6 months, including for each loading position the information in paragraphs (d)(3)(i) through (iii) of this section:

(i) ID code;

(ii) Organic liquids name(s) and throughput(s); and

(iii) Control device in use at each position, where applicable.

(4) A listing of all cargo tanks (tank trucks and railcars) that loaded organic liquids at affected transfer rack loading positions during the previous 6 months, including the type of cargo tank, owner, ID number, and date and test method for the most recent vapor tightness test.

(5) A listing of all equipment in organic liquids service during the previous 6 months, including for each component the information in paragraphs (d)(5)(i) through (iv) of this section:

(i) ID code;

(ii) Facility plan drawing showing the equipment location;

(iii) An estimate of the number of hours that the component operated in organic liquids service during the reporting period; and

(iv) Method of compliance with the standard (e.g., ''leak detection and repair monitoring'' or ''equipped with dual mechanical seals''), if applicable.

(e) For each deviation from an emission limitation (emission limit or operating limit) occurring at an affected source where you are using a CMS to comply with an emission limitation in this subpart, you must include the information in paragraphs (c)(1) through (4) and paragraphs (e)(1) through (12) of this section. This includes periods of startup, shutdown, or malfunction.

(1) The date and time that each malfunction started and stopped.

(2) The date and time that each CMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time, and duration that each CMS was out of control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction, or during another period.

(5) A summary of the total duration of the deviations during the reporting period and the total duration as a percentage of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CMS downtime during the reporting period and the total duration of CMS downtime as a percentage of the total source operating time during that reporting period.

(8) An identification of each HAP that was potentially emitted during the deviation.

(9) A brief description of the process at which the CMS deviation occurred.

(10) A brief description of the CMS.

(11) The date of the latest CMS certification or audit.

(12) A description of any changes in CMS, processes, or controls since the last reporting period.

(f) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 11 of this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit or work practice standard) requirement in this subpart, we will consider submission of the compliance report as satisfying any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report will not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

§ 63.2390 What records must I keep?

(a) You must keep records as described in paragraphs (a)(1) through (3) of this section:

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(1) and (2)(xiv).

(2) The records in §§ 63.6(e)(3)(iii) through (v) and 63.10(b)(2)(i)(v) related to startups, shutdowns, and malfunctions.

(3) Results of performance tests.

(b) For each CMS, you must keep records as described in paragraphs (b)(1) and (2) of this section:

(1) Records described in § 63.10(b)(2)(vi) through (xi) that apply to your CMS.

(2) Performance evaluation plans, including previous (i.e., superseded) versions of the plan as required in § 63.8(d)(3).

(c) You must keep the records required in Tables 8, 9, and 10 of this subpart to show continuous compliance with each emission limitation and work practice standard that applies to you.

§ 63.2394 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep your files of all information (including all reports and notifications) for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each

occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.2398 What parts of the General Provisions apply to me?

Table 12 of this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.2402 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the EPA or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, as well as the EPA, has the authority to implement and enforce this subpart. You should contact your EPA Regional Office (see list in § 63.13) to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority for this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of the EPA and are not delegated to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are described in paragraphs (c)(1) through (4) of this section:

(1) Approval of alternatives to the nonopacity emission limitations and work practice standards in § 63.2346(a) through (c) under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.2406 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in § 63.2, and in this section. If the same term is defined in another subpart and in this section, it will have the meaning given in this section for purposes of this subpart.

Annual average true vapor pressure, as used in this subpart, means the total vapor pressure exerted by a stored or transferred organic liquid at the temperature equal to the annual average of the local (nearest) average monthly temperatures reported by the National Weather Service. This temperature is the arithmetic average of the 12 monthly average temperatures for each calendar year at each affected source and is recalculated at the end of each year. The vapor pressure value is determined:

(1) In accordance with methods described in American Petroleum Institute Publication 2517, Evaporative Loss from External Floating-Roof Tanks (incorporated by reference as specified in § 63.14);

(2) Using standard reference texts;

(3) By the American Society for Testing and Materials Method D2879–83 (incorporated by reference as specified in § 63.14); or

(4) Using any other method that the EPA approves.

API gravity means the weight per unit volume of hydrocarbon liquids as measured by a system recommended by the American Petroleum Institute (API) and is expressed in degrees.

Black oil means hydrocarbon (petroleum) liquid with a gas-to-oil ratio less than 0.31 cubic meters per liter (41.4 cubic feet per gallon) and an API gravity less than 40 degrees, measured at the point of entry to the distribution system.

Capacity means the volume of liquid that is capable of being stored in a storage tank, determined by multiplying the tank's internal cross-sectional area by the internal height of the shell.

Cargo tank means a tank truck or railcar into which organic liquids are loaded at an OLD operation transfer rack.

Closed vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapors from an emission point to a control device. This system does not include the vapor collection system that is part of some tank trucks and railcars or the loading arm or hose that is used for vapor return. For transfer racks, the closed vent system begins at, and includes, the first block valve on the downstream side of the loading arm or hose used to convey displaced vapors.

Combustion device means an individual unit of equipment, such as a flare, incinerator, process heater, or boiler, used for the combustion of organic emissions.

Control device, as used in this subpart, means any combustion device, recovery device, recapture device, or any combination of these devices used to comply with this subpart. Such equipment or devices include, but are not limited to, absorbers, adsorbers, condensers, incinerators, flares, boilers, and process heaters. Primary condensers, steam strippers, or fuel gas systems are not considered control devices.

Crude oil, as used in this subpart, means any of the naturally occurring liquids commonly referred to as crude oil, other than black oil, regardless of specific physical properties.

Crude oil pipeline breakout station plant site means a facility along a pipeline containing storage tanks and equipment used to temporarily store crude oil from the pipeline. Breakout stations may also contain booster pumps used to move the crude oil along the pipeline. These facilities are downstream of the point of custody transfer.

Crude oil pipeline pumping station plant site means a facility along a pipeline containing equipment (i.e., booster pumps, etc.) used to sustain the movement of crude oil through the pipeline. Pumping stations may also contain crude oil breakout storage tanks. These facilities are downstream of the point of custody transfer.

Custody transfer means the transfer of hydrocarbon liquids, after processing and/or treatment in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

Design evaluation means a procedure for evaluating control devices that complies with the requirements in § 63.985(b)(1)(i).

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart, and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means an emission limit, opacity limit, operating limit, or visible emission limit.

Equipment means each pump, valve, and sampling connection system used in organic liquids service at an OLD operation.

Gasoline means any petroleum distillate or petroleum distillate/alcohol

blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psia) or greater which is used as a fuel for internal combustion engines. Aviation gasoline is included in this definition.

Gas-to-oil ratio means the number of standard cubic meters of gas produced per liter of crude oil or other hydrocarbon liquid.

In organic liquids service means that a piece of equipment contains or contacts organic liquids having 5 percent by weight or greater of the organic HAP listed in Table 1 of this subpart.

Organic liquid, as used in this subpart, means:

(1) Crude oil; or

(2) Any liquid or liquid mixture that contains a total of 5 percent by weight or more of the organic HAP listed in Table 1 of this subpart, as determined using Method 18 of 40 CFR part 60, appendix A, or any other method approved by the Administrator. Any fuels consumed or dispensed directly to users on the plant site and all gasoline are excluded from the definition.

Organic liquids distribution (OLD) operation means the activities and equipment used to transfer organic liquids into or out of a plant site. It also includes storage of distributed organic liquids on the site. The OLD operation can be those activities performed at a dedicated distribution plant site, or it may be collocated in a plant site at which manufacturing operations are carried out.

Permitting authority means one of the following:

(1) The State air pollution control agency, local agency, or other agency authorized by the EPA Administrator to carry out a permit program under part 70 of this chapter; or

(2) The EPA Administrator, in the case of EPA-implemented permit programs under title V of the CAA (42 U.S.C. 7661) and part 71 of this chapter.

Plant site, as used in this subpart, means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination.

Research and development facility means laboratory and pilot plant operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and which are not engaged in the manufacture of products for commercial sale, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Shutdown means the cessation of operation of a regulated source and equipment required or used to comply with this subpart, or the emptying and degassing of a storage tank. Shutdown as defined in this section includes, but is not limited to, events that result from periodic maintenance, replacement of equipment, or repair.

Storage tank, as used in this subpart, means a stationary unit that is constructed primarily of nonearthen materials (such as wood, concrete, steel, or reinforced plastic) that provide structural support and is designed to hold a bulk quantity of liquid. Storage tanks do not include:

(1) Vessels permanently attached to conveyances such as trucks, railcars, barges, or ships;

(2) Bottoms receiver tanks;

(3) Surge control vessels;

(4) Vessels storing wastewater; or

(5) Reactor vessels associated with a manufacturing process unit.

Transfer rack means a single system used to load organic liquids into bulk cargo tanks mounted on or in a truck, truck trailer, or railcar. It includes all loading arms, pumps, meters, shutoff valves, relief valves, and other piping and equipment necessary for the transfer operation. Transfer equipment and operations that are physically separate (*i.e.,* do not share common piping, valves, and other equipment) are considered to be separate transfer racks.

Transfer rack loading position means an individual tank truck or railcar parking spot at a transfer rack. An affected loading position is one at which 11.8 million liters (3.12 million gallons) per year or more of organic liquids are transferred into a combination of tank trucks and railcars.

Vapor-tight cargo tank means a cargo tank liquid delivery tank that has been demonstrated to be vapor-tight. To be considered vapor-tight, a cargo tank equipped with vapor collection equipment must undergo a pressure change of no more than 250 pascals (1 inch of water) within 5 minutes after it is pressurized to 4,500 pascals (18 inches of water). This capability must be demonstrated annually using the procedures specified in Method 27 of 40 CFR part 60, appendix A. For all other cargo tanks, vapor tightness is demonstrated by performing the U.S. Department of Transportation pressure test procedures for tank cars and cargo tanks.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the CAA.

Tables to Subpart EEEE of Part 63

TABLE 1 TO SUBPART EEEE OF PART 63—ORGANIC HAZARDOUS AIR POLLUTANTS

[As stated in § 63.2334(b), you must use the information listed in the following table to determine if the liquids handled at your facility contain at least 5 percent by weight of these HAP]

Compound name	CAS No.[a]
Acetaldehyde	75–07–0
Acetonitrile	75–05–8
Acrolein	107–02–8
Acrylic acid	79–10–7
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
Benzene	71–43–2
Bis (chloromethyl) ether	542–88–1
Bromoform	75–25–2
Butadiene (1,3-)	106–99–0
Carbon disulfide	75–15–0
Carbon tetrachloride	56–23–5
Chlorobenzene	108–90–7
2-Chloro-1,3-butadiene (Chloroprene)	126–99–8
Chloroform	67–66–3
Cumene	98–82–8

TABLE 1 TO SUBPART EEEE OF PART 63—ORGANIC HAZARDOUS AIR POLLUTANTS—Continued

[As stated in § 63.2334(b), you must use the information listed in the following table to determine if the liquids handled at your facility contain at least 5 percent by weight of these HAP]

Compound name	CAS No.[a]
Dichloroethane (1,2-) (Ethylene dichloride) (EDC)	107–06–2
Dichloroethylether (Bis(2-chloroethyl)ether)	111–44–4
Dichloropropene (1,3-)	542–75–6
Diethylene glycol monobutyl ether	112–34–5
Diethylene glycol monomethyl ether	111–77–3
Dimethylhydrazine (1,1-)	57–14–7
Dioxane (1,4-) (1,4-Diethyleneoxide)	123–91–1
Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106–89–8
Epoxybutane (1,2-)	106–88–7
Ethyl acrylate	140–88–5
Ethylbenzene	100–41–4
Ethyl chloride (Chloroethane)	75–00–3
Ethylene dibromide (Dibromomethane)	106–93–4
Ethylene glycol dimethyl ether	110–71–4
Ethylene glycol monomethyl ether	109–86–4
Ethylene glycol monomethyl ether acetate	110–49–6
Ethylene glycol monophenyl ether	122–99–6
Ethylene oxide	75–21–8
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Hexane	110–54–3
Hydrazine	302–01–2
Methanol	67–56–1
Methyl bromide (Bromomethane)	74–83–9
Methyl chloride (Chloromethane)	74–87–3
Methylene chloride (Dichloromethane)	75–09–2
Methyl ethyl ketone (2-Butanone) (MEK)	78–93–3
Methyl hydrazine	60–34–4
Methyl isobutyl ketone (Hexone) (MIBK)	108–10–1
Methyl isocyanate	624–83–9
Methyl methacrylate	80–62–6
Methyl tert-butyl ether (MTBE)	1634–04–4
Nitropropane (2-)	79–46–9
Phosgene	75–44–5
Propionaldehyde	123–38–6
Propylene dichloride (1,2-Dichloropropane)	78–87–5
Propylene oxide	75–56–9
Styrene	100–42–5
Tetrachloroethane (1,1,2,2-)	79–34–5
Tetrachloroethylene (Perchloroethylene)	127–18–4
Toluene	108–88–3
Trichloroethane (1,1,1-) (Methyl chloroform)	71–55–6
Trichloroethane (1,1,2-) (Vinyl trichloride)	79–00–5
Trichloroethylene	79–01–6
Triethylamine	121–44–8
Trimethylpentane (2,2,4-)	540–84–1
Vinyl acetate	108–05–4
Vinyl chloride (Chloroethylene)	75–01–4
Vinylidene chloride (1,1-Dichloroethylene)	75–35–4
Xylene (m-)	108–38–3
Xylene (o-)	95–47–6
Xylene (p-)	106–42–3
Xylenes (isomers and mixtures)	1330–20–7

[a] CAS numbers refer to the Chemical Abstracts Services registry number assigned to specific compounds, isomers, or mixtures of compounds.

TABLE 2 TO SUBPART EEEE OF PART 63—EMISSION LIMITS

[As stated in §§ 63.2338(b)(2) and 63.2346(a), you must comply with the emission limits for organic liquid distribution affected sources in the following table]

If you own or operate * * *	And if * * *	Then you must * * *
1. A storage tank at an existing affected source with a capacity ≥75 cubic meters (20,000 gallons) and <151 cubic meters (40,000 gallons).	a. The annual average true vapor pressure of the stored organic liquid is ≥13.1 kilopascals (1.9 psia) and <76.6 kilopascals (11.1 psia).	i. Reduce emissions of total organic HAP or TOC by 95 weight-percent (or, for combustion devices, to an exhaust concentration of 20 parts per million by volume, on a dry basis, corrected to 3% oxygen) by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in §§ 63.982(a)(1) and (f), 63.983, 63.984, 63.985, 63.987, 63.988, 63.990, and 63.995; or ii. Comply with the work practice standards specified in Table 4, item 1 of this subpart.
2. A storage tank at an existing affected source with a capacity ≥151 cubic meters (40,000 gallons).	The annual average true vapor pressure of the stored organic liquid is ≥5.2 kilopascals (0.75 psia).	Same as item 1 of Table 2 of this subpart.
3. A storage tank at a new affected source with a capacity ≥38 cubic meters (10,000 gallons) and <151 cubic meters (40,000 gallons).	The annual average true vapor pressure of the stored organic liquid is ≥13.1 kilopascals (1.9 psia) and <76.6 kilopascals (11.1 psia).	Same as item 1 of Table 2 of this subpart.
4. A storage tank at a new affected source with a capacity ≥151 cubic meters (40,000 gallons).	The annual average true vapor pressure of the stored organic liquid is ≥0.7 kilopascals (0.1 psia).	Same as item 1 of Table 2 of this subpart.
5. A transfer rack	a. The transfer rack loads at any loading position ≥11.8 million liters (3.12 million gallons) per year of organic liquids into a combination of tank trucks and railcars.	i. Reduce emissions of total organic HAP or TOC at each affected loading position by 95 weight-percent (or, for combustion devices, to an exhaust concentration less than or equal to 20 parts per million by volume, on a dry basis, corrected to 3% oxygen) by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in §§ 63.982(a)(3)(ii) and (f), 63.983, 63.984, 63.987, 63.988, 63.990, 63.995, and 63.997; and ii. Comply with the work practice standards specified in Table 4, item 2 of this subpart.

TABLE 3 TO SUBPART EEEE OF PART 63—OPERATING LIMITS

[As stated in §§ 63.2346(b) and 63.2370(b), you must comply with the operating limits for organic liquid distribution affected sources in the following table]

For * * *	You must * * *
1. Each existing and each new affected source using a thermal oxidizer to comply with an emission limit in Table 2 of this subpart.	Maintain the hourly average firebox temperature greater than or equal to the reference temperature established during the design evaluation or performance test.
2. Each existing and each new affected source using a catalytic oxidizer to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing catalyst bed with a bed that meets the replacement specifications established during the design evaluation or performance test before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test; and b. Maintain the hourly average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test; and c. Maintain the hourly average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test.
3. Each existing and each new affected source using a condenser to comply with an emission limit in Table 2 of this subpart.	Maintain the hourly average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test.
4. Each existing and each new affected source using an adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test; and b. Maintain the frequency of regeneration greater than or equal to the reference frequency established during the design evaluation or performance test; and c. Maintain the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test; and d. Maintain the temperature of the adsorption bed during regeneration (except during the cooling cycle) greater than or equal to the reference temperature established during the design evaluation or performance test; and

TABLE 3 TO SUBPART EEEE OF PART 63—OPERATING LIMITS—Continued

[As stated in §§ 63.2346(b) and 63.2370(b), you must comply with the operating limits for organic liquid distribution affected sources in the following table]

For * * *	You must * * *
	e. Maintain the temperature of the adsorption bed after regeneration (and within 15 minutes after completing any cooling cycle) less than or equal to the reference temperature established during the design evaluation or performance test.
5. Each existing and each new affected source using an adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test; and b. Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test.
6. Each existing and each new affected source using a flare to comply with an emission limit in Table 2 of this subpart.	a. Comply with the equipment and operating requirements in § 63.987(a); and b. Conduct an initial flare compliance assessment in accordance with § 63.987(b); and c. Install and operate monitoring equipment as specified in § 63.987(c).

TABLE 4 TO SUBPART EEEE OF PART 63—WORK PRACTICE STANDARDS

[As stated in § 63.2346(c), you must comply with the work practice standards for organic liquid distribution affected sources in the following table]

For each * * *	You must * * *
1. Storage tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1–4 of this subpart.	As an alternative to the emission limit in Table 2 of this subpart, comply with the requirements of subpart WW (control level 2) of this part.
2. Transfer rack affected loading position at an existing or new affected source that meets the throughput cutoff specified in Table 2, item 5 of this subpart.	a. For cargo tanks equipped with vapor collection equipment, ensure that organic liquids are loaded only into cargo tanks that have been demonstrated, using EPA Method 27, 40 CFR part 60, appendix A within the last 12 months, to be vapor-tight (i.e., will undergo a pressure change of not more than 250 pascals (1 inch of water) within 5 minutes after being pressurized to 4,500 pascals (18 inches of water)). Follow the steps outlined in 40 CFR 60.502(e) for these equipped cargo tanks. The required vapor tightness documentation is described in 40 CFR 60.505(b); and b. For cargo tanks without vapor collection equipment, ensure that organic liquids are loaded only into cargo tanks that have a current certification in accordance with the U.S. DOT pressure test requirements; and c. Comply with the provisions in 40 CFR 60.502(d), (f), (g), (h), and (i) for the equipped cargo tanks described in item 2.a in Table 4 of this subpart.
3. Piece of equipment, as defined under 63.2406, of this subpart, that operates in organic liquids service ≥ 300 hours per year.	Comply with the requirement of subpart TT (control level 1) or subpart UU (control level 2) of this part.

TABLE 5 TO SUBPART EEEE OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS

[As stated in §§ 63.2358 and 63.2362(a), you must comply with the requirements for performance tests for existing or new affected sources in the following table]

For * * *	You must conduct a performance test * * *	Using * * *	To determine * * *	According to the following requirements * * *
1. Each existing and each new affected source using a nonflare control device to comply with an emission limit in Table 2 of this subpart.	a. To determine the organic HAP or TOC control efficiency of each nonflare control device, or the exhaust concentration of each combustion device.	i. Method 1 or 1A in appendix A of 40 CFR part 60, as appropriate.	(1) Sampling port locations and the required number of traverse points.	(A) Sampling sites must be located at the inlet and outlet of each control device and prior to any releases to the atmosphere; and (B) Sampling sites must be located at the outlet of each control device and prior to any releases to the atmosphere.
		ii. Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A of 40 CFR part 60, as appropriate.	Stack gas velocity and volumetric flow rate..	See the requirement in item 1.a.i.(1)(A) and (B) of this table.
		iii. Method 3 or 3B in appendix A of 40 CFR part 60, as appropriate.	Concentration of CO_2 and O_2 and dry molecular weight of the stack gas.	See the requirement in item 1.a.i.(1)(A) and (B) of this table.
		iv. Method 4 in appendix A of 40 CFR part 60.	Moisture content of the stack gas.	See the requirement in item 1.a.i.(1)(A) and (B) of this table.

TABLE 5 TO SUBPART EEEE OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As stated in §§ 63.2358 and 63.2362(a), you must comply with the requirements for performance tests for existing or new affected sources in the following table]

For * * *	You must conduct a performance test * * *	Using * * *	To determine * * *	According to the following requirements * * *
		v. Method 18, 25, or 25A in appendix A of 40 CFR part 60, as appropriate, or Method 316 in appendix A of 40 CFR part 63 for measuring formaldehyde.	(1) Total organic HAP or TOC, or formaldehyde emissions.	(A) The organic HAP used for the calibration gas for Method 25A must be the single organic HAP representing the largest percent by volume of emissions; and (B) during the performance test or a design evaluation, you must establish the operating parameter limits within which total organic HAP or TOC emissions are reduced by at least 95 weight-percent or to 20 ppmv exhaust concentration
2. Each cargo tank that you own that loads at an existing or new affected transfer rack loading position and equipped with vapor collection equipment.	To determine the vapor tightness of the tank and repair as needed until it passes the test.	Method 27 in appendix A of 40 CFR part 60.	Vapor tightness	The pressure change in the tank must be no more than 250 pascals (1 inch of water) in 5 minutes after it is pressurized to 4,500 pascals (18 inches of water).

TABLE 6 TO SUBPART EEEE OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITS

[As stated in §§ 63.2370(a) and 63.2382(e), you must show initial compliance with the emission limits for existing or new affected sources according to the following table]

For each * * *	For the following emission limit * * *	You have demonstrated initial compliance if * * *	By * * *
1. Storage tank at an existing affected source meeting either set of capacity and vapor pressure limits specified in Table 2, items 1 and 2 of this subpart.	a. Reduce total organic HAP or TOC emissions by at least 95 weight-percent, or to an exhaust concentration of ≤20 ppmv.	i. Total organic HAP or TOC emissions, based on the results of the performance testing specified in Table 5 of this subpart, are reduced by at least 95 weight-percent or to an exhaust concentration of ≤20 ppmv.	3 years after [publication date of final rule in the FR].
2. Storage tank at a new affected source meeting either set of capacity and vapor pressure limits specified in Table 2, items 3 and 4 of this subpart.	See the emission limit in item 1.a. of this table.	See the compliance demonstration in item 1.a.i. of this table.	The initial startup date for the affected source.
3. Transfer rack loading position at an existing affected source meeting the throughput level for organic liquids specified in Table 2, item 5 of this subpart.	See the emission limit in item 1.a.i.(1)(A) and (B) of this table.	See the compliance demonstration in item 1.a.i.(1)(A) and (B) of this table.	3 years after [publication date of final rule in the FR].
4. Transfer rack loading position at a new affected source meeting the throughput level for organic liquids specified in Table 2, item 5 of this subpart.	See the emission limit in item 1.a.i.(1)(A) and (B) of this table.	See the compliance demonstration item 1.a.i.(1)(A) and (B) of this table.	The initial startup date for the affected source.

TABLE 7 TO SUBPART EEEE OF PART 63—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS

[As stated in §§ 63.2370(a) and 63.2382(e), you must show initial compliance with the work practice standards for existing or new affected sources according to the following table]

For each * * *	For the following standard * * *	You have demonstrated initial compliance if * * *	By * * *
1. Storage tank at an existing affected source meeting either set of capacity and vapor pressure specified in Table 2, items 1 and 2 of this subpart.	Install a floating roof or equivalent control that meets the requirements in Table 4, item 1 of this subpart.	You visually inspect each internal floating roof before the initial filling of the storage tank, and perform seal gap inspections of the primary and secondary rim seals of each external floating roof within 90 days after the initial filling of the storage tank.	3 years after [publication date of final rule in the FR].
2. Storage tank at a new affected source meeting either set of capacity and vapor pressure limits specified in Table 2, items 3 and 4 of this subpart.	See the standard in item 1. of this table.	See the compliance demonstration in item 1. of this table.	The initial startup date for the affected source.
3. Transfer rack loading position at an existing affected source that meets the throughput cutoff in Table 2, item 5 of this subpart.	Load organic liquids only into cargo tanks having current vapor tightness certification as described in Table 4, item 2 of this subpart.	You take steps to ensure that only vapor-tight cargo tanks load at affected loading positions.	3 years after [publication date of final rule in the FR].
4. Transfer rack loading position at a new affected source that meets the throughput cutoff in Table 2, item 5 of this subpart.	See the standard in item 3. of this table.	See the compliance demonstration in item 3. of this table.	The initial startup date for the affected source.
5. Piece of equipment at an existing affected source, as defined under § 63.2410 that operates in organic liquids service ≥ 300 hours per year.	Carry out a leak detection and repair program or equivalent control according to one of the subparts listed in Table 4, item 3 of this subpart.	You make available written specifications for the leak detection and repair program or equivalent control approach.	3 years after [publication date of final rule in the FR].
6. Piece of equipment at a new affected source, as defined under § 63.2410 that operates in organic liquids service ≥ 300 hours per year.	See the standard in item 5. of this table.	See the compliance demonstration in item 5. of this table.	The initial startup date for the affected source.

TABLE 8 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS

[As stated in §§ 63.2378(a) and (b) and 63.2390(c), you must show continuous compliance with the emission limits for existing or new affected sources according to the following table]

For * * *	For the following emission limit * * *	You must demonstrate continuous compliance by * * *
1. Each storage tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1 through 4 of this subpart.	a. Reduction of total organic HAP or TOC emissions from the closed vent system and control device must be 95 weight-percent or greater, or 20 ppmv of organic HAP or TOC in the exhaust of combustion devices.	i. Performing CMS monitoring and collecting data according to §§ 63.2366, 63.2374, and 63.2378; and ii. Maintaining the site-specific operating limits within the ranges established during the design evaluation or performance test.
2. Each transfer rack loading position at an existing or new affected source meeting the throughput cutoff for organic liquids specified in Table 2, item 5 of this subpart.	See the emission limit in item 1.a. of this table	See the compliance demonstration in item 1.a.i. and ii. of this table.

TABLE 9 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS

[As stated in §§ 63.2378(a) and (b) and 63.2390(c), you must show continuous compliance with the operating limits for existing or new affected sources according to the following table]

For each existing and each new * * *	For the following operating limit * * *	You must demonstrate continuous compliance by * * *
1. Affected source using a thermal oxidizer to comply with an emission limit in Table 2 of this subpart.	a. Maintain the hourly average firebox temperature greater than or equal to the reference temperature established during the design evaluation or performance test.	i. Continuously monitoring and recording firebox temperature every 15 minutes and maintaining the hourly average firebox temperature greater than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.

TABLE 9 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

[As stated in §§ 63.2378(a) and (b) and 63.2390(c), you must show continuous compliance with the operating limits for existing or new affected sources according to the following table]

For each existing and each new * * *	For the following operating limit * * *	You must demonstrate continuous compliance by * * *
2. Affected source using a catalytic oxidizer to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing catalyst bed with a catalyst bed that meets the replacement specifications established during the design evaluation or performance test before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test.	i. Replacing the existing catalyst bed with a catalyst bed that meets the replacement specifications established during the design evaluation or performance test before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	b. Maintain the hourly average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test.	i. Continuously monitoring and recording the temperature at the inlet of the catalyst bed at least every 15 minutes and maintaining the hourly average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	c. Maintain the hourly average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test.	i. Continuously monitoring and recording the temperature at the outlet of the catalyst bed every 15 minutes and maintaining the hourly average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
3. Affected source using a condenser to comply with an emission limit in Table 2 of this subpart.	a. Maintain the hourly average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test.	i. Continuously monitoring and recording the temperature at the exit of the condenser at least every 15 minutes and maintaining the hourly average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
4. Affected source using an adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test.	i. Replacing the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	b. Maintain the frequency of regeneration greater than or equal to the reference frequency established during the design evaluation or performance test.	i. Maintaining the frequency of regeneration greater than or equal to the reference frequency established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	c. Maintain the regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test.	i. Maintaining the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.

TABLE 9 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

[As stated in §§ 63.2378(a) and (b) and 63.2390(c), you must show continuous compliance with the operating limits for existing or new affected sources according to the following table]

For each existing and each new * * *	For the following operating limit * * *	You must demonstrate continuous compliance by * * *
	d. Maintain the temperature of the adsorption bed during regeneration (except during the cooling cycle) greater than or equal to the reference temperature established during the design evaluation or performance test.	i. Maintaining the temperature of the adsorption bed during regeneration (except during the cooling cycle) greater than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	e. maintain the temperature of the adsorption bed after regeneration (and within 15 minutes after completing any cooling cycle) less than or equal to the reference temperature established during the design evaluation or performance test.	i. Maintaining the temperature of the adsorption bed after regeneration (and within 15 minutes after completing any cooling cycle) less than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
5. Affected source using an adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test.	i. Replacing the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	b. Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test.	i. Maintaining the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
6. Affected source using a flare to comply with an emission limit in Table 2 of this subpart.	a. Maintain a pilot flame present in the flare at all times that vapors are not being vented to the flare (§ 63.11(b)(5)).	i. Continuously operating a device that detects the presence of the pilot flame; and ii. Keeping the applicable records required in § 63.998.
	b. Maintain a flare flame at all times that vapors are being vented from the emission source (§ 63.11(b)(5)).	i. Maintaining a flare flame at all times that vapors are being vented from the emission source; and ii. Keeping the applicable records required in § 63.998.
	c. Operate the flare with no visible emissions, except for up to 5 minutes in any 2 consecutive hours (§ 63.11(b)(4)).	i. Operating the flare with no visible emissions exceeding the amount allowed; and ii. Keeping the applicable records required in § 63.998.
	d. Operate the flare with an exit velocity that is within the applicable limits in § 63.11(b)(6), (7), and (8).	i. Operating the flare within the applicable exit velocity limits; and ii. Keeping the applicable records required in § 63.998.
	e. Operate the flare with a net heating value of the gas being combusted greater than the applicable minimum value in § 63.11(b)(6)(ii).	i. Operating the flare with the gas net heating value within the applicable limit; and ii. Keeping the applicable records required in § 63.998.

TABLE 10 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS

[As stated in §§ 63.2378(a) and (b) and 63.2386(c)(6), you must show continuous compliance with the work practice standards for existing or new affected sources according to the following table]

For* * *	For the following standard* * *	You must demonstrate continuous compliance by* * *
1. Each internal floating roof (IFR) storage tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1 through 4 of this subpart.	a. Install a floating roof designed and operated according to the applicable specifications in § 63.1063(a) and (b).	i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each IFR: once per year, and each time the storage tank is completely emptied and degassed, or every 10 years, whichever occurs first (§ 63.1063(c)(1), (d), and (e)); and ii. Keeping the tank records required in § 63.1065.
2. Each external floating roof (EFR) storage tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1 through 4 of this subpart.	a. See the standard in item 1.a. of this table ..	i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each EFR each time the storage tank is completely emptied and degassed, or every 10 years, whichever occurs first (§ 63.1063(c)(2), (d), and (e)); and ii. Performing seal gap measurements on the secondary seal of each EFR at least once every year, and on the primary seal of each EFR at least every 5 years (§ 63.1063(c)(2), (d), and (e)); and iii. Keeping the tank records required in § 63.1065.
3. Each IFR or EFR tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1 through 4 of this subpart.	a. Repair the conditions causing storage tank inspection failures (§ 63.1063(e)).	i. Repairing conditions causing inspection failures: before refilling the storage tank with liquid, or within 45 days (or up to 105 days with extensions) for a tank containing liquid; and ii. keeping the tank records required in § 63.1065(b).

TABLE 11 TO SUBPART EEEE OF PART 63—REQUIREMENTS FOR REPORTS

[As stated in § 63.2386(b) and (f), you must submit a compliance or startup, shutdown, and malfunction report according to the following table]

You must submit a (n) * * *	The report must contain * * *	You must submit the report * * *
1. Compliance report	a. A statement that there were no deviations from the standards during the reporting period; or if you have a deviation from any standard during the reporting period, the report must contain the information in § 63.2386(e).	i. Semiannually, and report. it must be postmarked within 30 days after the end of each calendar half (§ 63.10(e)(3)(v)).
	b. If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i).	See the submission in item 1.a.i. of this table.
2. Immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	a. Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§ 63.10(d)(5)(ii)).

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.1	Applicability	Initial applicability determination; Applicability after standard established; Permit requirements; Extensions, Notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; Circumvention, Severability	Yes.

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.5	Construction/Reconstruction	Applicability; Applications; Approvals	Yes.
§ 63.6(a)	Compliance with Standards/ O&M–Applicability.	GP apply unless compliance extension; GP apply to area sources that become major.	Yes.
§ 63.6(b)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved]		
§ 63.6(b)	Compliance Dates for New and Reconstructed Area Sources that Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4)	[Reserved]		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources that Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (e.g., 3 years).	Yes.
§ 63.6(d)	[Reserved]		
§ 63.6(e)(1)–(2)	Operation & Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; and operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction (SSM) Plan.	Requirement for SSM plan; content of SSM plan	Yes.
§ 63.6(f)(1)	Compliance except During SSM	You must comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)	Opacity/Visible Emission (VE) Standards.	Requirements for opacity and visible emission standards	No. The subpart does not have opacity/VE standards.
§ 63.6(h)(1)	Compliance with opacity/VE Standards.	You must comply with opacity/VE standards at all times except during SSM.	No.
§ 63.6(h)(2)(i)	Determining Compliance with Opacity/VE Standards.	If standard does not state test method, use Method 9 for opacity and Method 22 for VE.	No.
§ 63.6(h)(2)(ii)	[Reserved]		
§ 63.6(h)(2)(iii)	Using Previous Tests to Demonstrate Compliance with Opacity/VE Standards.	Criteria for when previous opacity/VE testing can be used to show compliance with this subpart.	No.
§ 63.6(h)(3)	[Reserved]		
§ 63.6(h)(4)	Notification of Opacity/VE Observation Date.	Must notify Administrator of anticipated date of observation	No.
§ 63.6(h)(5)(i), (iii)–(v).	Conducting Opacity/VE Observations.	Dates and schedule for conducting opacity/VE observations	No.
§ 63.6(h)(5)(ii)	Opacity Test Duration and Averaging Times.	Must have at least 3 hours of observation with thirty 6-minute averages.	No.
§ 63.6(h)(6)	Records of Conditions During Opacity/VE Observations.	Must keep records available and allow Administration to inspect.	No.
§ 63.6(h)(7)(i)	Report COMS Monitoring Data from Performance Test.	Must submit COMS data with other performance test data	No.
§ 63.6(h)(7)(ii)	Using COMS instead of Method 9.	Can submit COMS data instead of Method 9 results even if rule requires Method 9, but must notify Administrator before performance test.	No.
§ 63.6(h)(7)(iii)	Averaging Time for COMS during Performance Test.	To determine compliance, must reduce COMS data to 6-minute averages.	No.
§ 63.6(h)(7)(iv)	COMS Requirements	Owner/operator must demonstrate that COMS performance evaluations are conducted according to § 63.8(e); COMS are properly maintained and operated according to § 63.8(c) and data quality as § 63.8(d).	No.

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.6(h)(7)(v)	Determining Compliance with Opacity/VE Standards.	COMS is probable but not conclusive evidence of compliance with opacity standard, even if Method 9 observation shows otherwise. Requirements for COMS to be probable evidence-proper maintenance, meeting PS 1, and data have not been altered.	No.
§ 63.6(h)(8)	Determining Compliance with Opacity/VE Standards.	Administrator will use all COMS, Method 9, and Method 22 results, as well as information about operation and maintenance to determine compliance.	Yes.
§ 63.6(h)(9)	Adjusted Opacity Standard	Procedures for Administrator to adjust an opacity standard	Yes.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt any source from requirement to comply with subpart.	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for conducting initial performance testing and other dates are compliance demonstrations; must contained in conduct 180 days after first subject to subpart.	No. These dates are contained in § 63.2354.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	If have to reschedule performance test, must notify Administrator of rescheduled date 5 days before scheduled date.	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	Requirement to submit site-specific 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance test must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least one hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the notification of compliance status; keep data for 5 years.	Yes
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved]		
§ 63.8(a)(4)	Monitoring with Flares	Unless this subpart says otherwise, the requirements for flares in § 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Follow the SSM plan for routine repairs; keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan.	Yes.
§ 63.8(c)(1)(ii)	SSM not in SSM plan	Reporting requirements for SSM when action is not described in SSM plan.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How Administrator determines if source complying with operation and maintenance requirements; review of source O&M procedures, records, manufacturer's recommendations; inspections.	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	Must install to get representative emission or parameter measurements; must verify operational status before or at performance test.	Yes.

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.8(c)(4)	CMS Requirements	CMS must be operating except during breakdown, out-of control, repair, maintenance, and high-level calibration drifts; COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period; CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes. However, CEMS/COMS are not applicable.
§ 63.8(c)(5)	COMS Minimum Procedures	COMS minimum procedures	No.
§ 63.8(c)(6)–(8)	CMS Requirements	Zero and high level calibration check requirements Out-of-control periods.	Yes.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions.	Yes.
§ 63.8(e)	CMS Performance Evaluation	Notification, performance evaluation test plan, reports	Yes.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	No.
§ 63.8(g)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1 hour averages computed over at least 4 equally spaced data points; data that cannot be used in average.	Yes. However, CEMS/COMS are not applicable.
§ 63.9(a)	Notification Requirements	Applicability and State delegation	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	Submit notification within 120 days after effective date; notification of intent to construct/reconstruct, Notification of commencement of construction/reconstruction, Notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Sources.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	No.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification about use of COMS data; Notification that exceeded criterion for relative accuracy alternative.	Yes. However, there are no opacity/VE standards.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than 1 source.	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i)–(iv)	Records Related to Startup, Shutdown, and Malfunction.	Occurrence of each for operations (process equipment); occurrence of each malfunction of air pollution control equipment; maintenance on air pollution control equipment; actions during startups, shutdowns, and malfunctions.	Yes.
§ 63.10(b)(2)(vi)–(xi)	CMS Records	Malfunctions, inoperative, out-of-control periods	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting initial notification and notification of compliance status.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)	Records	Additional records for CMS	Yes.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	Yes.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Contents and submission	Yes.

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.10(e)(1)–(2)	Additional CMS Reports	Must report results for each CEMS on a unit; written copy of CMS performance evaluation; 2–3 copies of COMS performance evaluation.	Yes. However, CEMS/COMS are not applicable.
§ 63.10(e)(3)(i)–(iii)	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	Yes. However, note that the title of the report is the compliance report. Deviations are excess emissions or parameter exceedances.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedances (now defined as deviations); provision to request semi-annual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emissions (now defined as deviations), report contents in a statement that there have been no deviations; must submit report containing all of the information in §§ 63.8(c)(7)–(8) and 63.10(c)(5)–(13).	Yes.
§ 63.10(e)(3)(vi)–(viii).	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMS (now called deviations); requires all of the information in §§ 63.10(c)(5)–(13) and 63.8(c)(7)–(8).	Yes.
§ 63.10(e)(4)	Reporting COMS data	Must submit COMS data with performance test data	N/A.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11	Flares	Requirements for flares	Yes.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporation by Reference	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes.

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Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline); Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7163–4]

RIN 2060–AH41

National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for organic liquids distribution (OLD) (non-gasoline) operations, which are carried out at storage terminals, refineries, crude oil pipeline stations, and various manufacturing facilities. These proposed standards would implement section 112(d) of the Clean Air Act (CAA) by requiring all OLD operations at plant sites that are major sources to meet hazardous air pollutant (HAP) emission standards reflecting the application of the maximum achievable control technology (MACT).

The EPA estimates that approximately 70,200 megagrams per year (Mg/yr) (77,300 tons per year (tpy)) of HAP are emitted from facilities in this source category. Although a large number of organic HAP are emitted nationwide from these operations, benzene, ethylbenzene, toluene, vinyl chloride, and xylenes are among the most prevalent. These HAP have been shown to have a variety of carcinogenic and noncancer adverse health effects.

The EPA estimates that these proposed standards would result in the reduction of HAP emissions from major sources in the OLD source category by 28 percent. The emissions reductions achieved by these proposed standards, when combined with the emissions reductions achieved by other similar standards, would provide protection to the public and achieve a primary goal of the CAA.

DATES: *Comments.* Submit comments on or before June 3, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by April 22, 2002, a public hearing will be held on May 2, 2002.

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–98–13, 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–98–13, U.S. EPA, 401 M Street, SW, Washington DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below (*see* **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will be held at 10 a.m. in the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–98–13 contains supporting information used in developing the standards. 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, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Martha Smith, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, NC 27711; phone (919) 541–2421, e-mail *''smith.martha@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. Comments will also be accepted on disks in WordPerfect® Corel 8 file format. All comments and data submitted in electronic form must note the docket number: A–98–13. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: OAQPS Document Control Officer, Attn: Ms. Martha Smith, U.S. EPA, 411 W. Chapel Hill Street, Room 740B, Durham, NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. JoLynn Collins of the EPA at (919) 541–5671 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Collins to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Docket. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket, or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule is also available on the WWW through the Technology Transfer Network (TTN). The TTN provides information and technology exchange in various areas of air pollution control. Following signature, a copy of the rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Title Change. For purposes of this proposed rule, the title has been changed to ''National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (non-Gasoline)'' to better describe the affected population. The source category list and regulatory agenda will be amended to reflect this name change in a separate action.

Background Information. The background information for the proposed standards is not contained in a formal background information

document (BID). Instead, we have prepared technical memoranda covering the following topic areas:

- Industry description.
- Model OLD plants.
- Industry baseline emissions.
- Emission control options.
- MACT floor determination.
- Environmental, energy, and cost impacts.
- Economic impacts.

These memos have been combined into a technical support document (TSD), which is included in Docket No. A–98–13.

In addition, there are several other memos that discuss individual issues, such as selection of the affected organic HAP and the minimum HAP cutoff defining the affected organic liquids. Each of these technical memos has also been placed in Docket No. A–98–13.

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	SIC*	NAICS*	Examples of regulated entities
Industry	2821 2865 2869 2911 4226 4612 5169 5171	325211 325192 325188 32411 49311 49319 48611 42269 42271	Operations at major sources that transfer organic liquids into or out of the plant site, including: liquid storage terminals, crude oil pipeline stations, petroleum refineries, chemical manufacturing facilities, and other manufacturing facilities with collocated OLD operations.
Federal Government			Federal agency facilities that operate any of the types of entities listed under the ''industry'' category in this table.

*Considered to be the primary industrial codes for the plant sites with OLD operations, but the list is not necessarily exhaustive.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in § 63.2334 of the proposed rule. If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed in the preceding FOR FURTHER INFORMATION CONTACT section or your EPA regional representative as listed in § 63.13 of 40 CFR part 63, subpart A (General Provisions).

Outline. The following outline is provided to assist you in reading this preamble.

I. Background
A. How would this rule relate to other EPA regulatory actions?
B. What is the source of authority for development of NESHAP?
C. What criteria are used in the development of NESHAP?
D. What are the potential health effects associated with HAP emitted from OLD operations?
II. Summary of the Proposed Rule
A. What source category would be affected by the proposed NESHAP?
B. What are the primary sources of emissions and what are the emissions?
C. What would be the affected source?
D. What would be the emission limits, operating limits, and other standards?
E. What would be the testing and initial compliance requirements?
F. What would be the continuous compliance provisions?
G. What would be the notification, recordkeeping, and reporting requirements?
III. Rationale for Selecting the Proposed Standards
A. How did we select the source category?
B. How did we select the proposed pollutants to be regulated?
C. How did we select the proposed affected source?
D. How did we determine the basis and level of the proposed standards for existing and new sources?
E. How did we select the format of the proposed standards?
F. How did we select the proposed testing and initial compliance requirements?
G. How did we select the proposed continuous compliance requirements?
H. How did we select the proposed notification, recordkeeping, and reporting requirements?
IV. Summary of Environmental, Energy, and Economic Impacts
A. What are the air quality impacts?
B. What are the cost impacts?
C. What are the economic impacts?
D. What are the nonair quality health, environmental, and energy impacts?
V. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Executive Order 13132, Federalism
C. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments
D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
F. Unfunded Mandates Reform Act of 1995
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.*
H. Paperwork Reduction Act
I. National Technology Transfer and Advancement Act

I. Background

A. How Would This Rule Relate to Other EPA Regulatory Actions?

Owners and operators of plant sites which contain organic liquids distribution activities that are potentially subject to these proposed standards for OLD operations may also be subject to other NESHAP because of other activities that take place on the same plant site. Some tank farms are used to store and transfer organic liquids onto or off a synthetic organic chemical manufacturing industry (SOCMI) plant site that is subject to 40 CFR part 63, subparts F, G, and H—National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (commonly referred to as the hazardous organic NESHAP, or ''HON''). Distribution of crude oil or other organic liquids at a petroleum refinery subject to 40 CFR part 63, subpart CC—National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries (the Refinery NESHAP), may also come under OLD NESHAP coverage. Finally, bulk gasoline terminals subject to 40 CFR part 63, subpart R—National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) may distribute non-gasoline organic liquids through dedicated equipment which would fall under these proposed OLD standards. At plant sites subject to both the proposed OLD standards and another NESHAP, the OLD NESHAP, when finalized, would apply only to the specific equipment and activities that are related directly to the distribution of

affected non-gasoline organic liquids (which includes liquids moved either onto or off the site).

Some existing NESHAP may already regulate, and some NESHAP under development may intend to regulate, equipment used to distribute organic liquids (*e.g.,* certain storage tanks or transfer racks at chemical production facilities subject to the HON). To avoid overlap of requirements in these cases, the OLD NESHAP would not apply to any OLD emission source already complying with control provisions under another part 63 NESHAP. For other applicable NESHAP that are not yet final and which potentially would apply to OLD equipment, the NESHAP that have the earliest compliance date would apply. One NESHAP, 40 CFR part 63, subpart FFFF, the Miscellaneous Organic Chemical Production and Processes NESHAP (MON), is being developed concurrently with the OLD NESHAP, and potentially will regulate certain organic liquid distribution sources (*i.e.,* storage tanks, transfer racks, and equipment leaks) located at MON facility plant sites. For all such distribution sources at MON facilities, the OLD NESHAP would defer to the MON and would not apply to any of those sources.

The Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq.*, Public Law 101–508, November 5, 1990) establishes the national policy of the United States for pollution prevention. This Act declares that: (1) Pollution should be prevented or reduced whenever feasible; (2) pollution that cannot be prevented or reduced should be recycled or reused in an environmentally-safe manner wherever feasible; (3) pollution that cannot be recycled or reused should be treated; and (4) disposal or release into the atmosphere should be chosen only as a last resort.

The OLD operations covered by these proposed standards distribute organic liquids that are often manufactured and consumed by other parties. Thus, two of the most common approaches for preventing pollution (product reformulation or substituting less polluting products) are not available to these facilities. Similarly, these facilities cannot use recycling or reuse as a way of limiting the amount of these liquids that they handle. However, the proposed equipment and work practice standards would prevent pollution from two of the principal emission sources in OLD operations. For storage tanks, we expect floating roofs to be used as a common alternative to add-on control technologies. For leaks from equipment such as pumps or valves, the required leak detection and repair program also would prevent pollution at the source without the need for add-on control equipment. The EPA is considering whether there are any pollution prevention measures that could be specified as alternatives to the control approaches in the proposed standards. We are specifically requesting comments from the public on ways that additional pollution prevention measures could be applied at OLD operations facilities.

B. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP, and to establish NESHAP for the listed source categories and subcategories. The category of major sources covered by today's proposed NESHAP was on our initial list of HAP emission source categories as published in the **Federal Register** on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit 10 tons/yr or more of any one HAP or 25 tons/yr or more of any combination of HAP.

C. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources. The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the maximum achievable control technology (MACT).

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing 5 sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on consideration of the cost of achieving the emissions reductions, any health and environmental impacts, and energy requirements.

D. What Are the Potential Health Effects Associated With HAP Emitted From OLD Operations?

The type of adverse health effects associated with HAP emitted by this source category can range from mild to severe. The extent and degree to which health effects may be experienced is dependent upon: (1) The ambient concentrations observed in the area; (2) duration and frequency of exposures; and (3) characteristics of exposed individuals (*e.g.*, genetics, age, preexisting health conditions, and lifestyle) which vary greatly within the population. Some of these factors are also influenced by source-specific characteristics (*e.g.*, emission rates, release heights, and local weather conditions) as well as pollutant-specific characteristics such as toxicity. The following is a summary of the potential health effects associated with exposure to some of the primary HAP emitted from OLD operations.

Benzene. Acute (short-term) inhalation exposure of humans to benzene may cause drowsiness, dizziness, and headaches, as well as eye, skin, and respiratory tract irritation, and, at high levels, unconsciousness. Chronic (long-term) inhalation exposure has caused various disorders in the blood, including reduced numbers of red blood cells and aplastic anemia, in occupational settings. Reproductive effects have been reported for women exposed by inhalation to high levels, and adverse effects on the developing fetus have been observed in animal tests. Increased incidence of leukemia (cancer of the tissues that form white blood cells) has been observed in humans occupationally exposed to benzene. The EPA has classified benzene as a Group A, known human carcinogen.

Ethylbenzene. Acute exposure to ethylbenzene in humans results in respiratory effects such as throat irritation and chest constriction, irritation of the eyes, and neurological effects such as dizziness. Chronic exposure to ethylbenzene by inhalation in humans has shown conflicting results regarding its effects on the blood. Animal studies have reported effects on the blood, liver, and kidneys from chronic inhalation exposures. No information is available on the developmental or reproductive effects of ethylbenzene in humans, but animal

studies have reported developmental effects, including birth defects in animals exposed via inhalation. The EPA has classified ethylbenzene in Group D, not classifiable as to human carcinogenicity.

Toluene. Humans exposed to toluene for short periods may experience irregular heartbeat and effects on the central nervous system (CNS) such as fatigue, sleepiness, headaches, and nausea. Repeated exposure to high concentrations may induce loss of coordination, tremors, decreased brain size, and involuntary eye movements, and may impair speech, hearing, and vision. Chronic exposure to toluene in humans has also been indicated to irritate the skin, eyes, and respiratory tract, and to cause dizziness, headaches, and difficulty with sleep. Children exposed to toluene before birth may suffer CNS dysfunction, attention deficits, and minor face and limb defects. Inhalation of toluene by pregnant women may increase the risk of spontaneous abortion. The EPA has developed a reference concentration of 0.4 milligrams per cubic meters (mg/m^3) for toluene. Inhalation of this concentration or less over a lifetime would be unlikely to result in adverse noncancer effects. No data exist that suggest toluene is carcinogenic. The EPA has classified toluene in Group D, not classifiable as to human carcinogenicity.

Vinyl chloride. Acute exposure to high levels of vinyl chloride in air has resulted in CNS effects such as dizziness, drowsiness, and headaches in humans. Chronic exposure to vinyl chloride through inhalation and oral exposure in humans has resulted in liver damage. Human and animal studies show adverse effects which raise a concern about potential reproductive and developmental hazards to humans from exposure to vinyl chloride. Cancer is a major concern from exposure to vinyl chloride via inhalation, as vinyl chloride exposure has been shown to increase the risk of a rare form of liver cancer in humans. The EPA has classified vinyl chloride as a Group A, known human carcinogen.

Xylenes. Short-term inhalation of mixed xylenes (a mixture of three closely related compounds) in humans may cause irritation of the nose and throat, nausea, vomiting, gastric irritation, mild transient eye irritation, and neurological effects. Long-term inhalation of xylenes in humans may result in CNS effects such as headaches, dizziness, fatigue, tremors, and incoordination. Other reported effects include labored breathing, heart palpitation, severe chest pain, abnormal electrocardiograms, and possible effects on the blood and kidneys. Developmental effects have been indicated from xylene exposure via inhalation in animals. Not enough information exists to determine the carcinogenic potential of mixed xylenes. The EPA has classified xylenes in Group D, not classifiable as to human carcinogenicity.

Implementation of the OLD NESHAP would reduce nationwide organic HAP emissions significantly from current levels. Thus, the proposed standards have the potential for providing both cancer and noncancer related health benefits.

By requiring facilities to reduce organic HAP emitted from OLD operations, the proposed standards would also reduce emissions of volatile organic compounds (VOC). Many VOC react photochemically with nitrogen oxides in the atmosphere to form tropospheric (low-level) ozone. A number of factors affect the degree to which VOC emission reductions will reduce ambient ozone concentrations.

Human laboratory and community studies have shown that exposure to ozone levels that exceed the national ambient air quality standards (NAAQS) can result in various adverse health impacts such as alterations in lung capacity and aggravation of existing respiratory disease. Animal studies have shown increased susceptibility to respiratory infection and lung structure changes. The VOC emissions reductions resulting from these proposed NESHAP will reduce low-level ozone and have a positive impact toward minimizing these health effects.

Among the welfare impacts from exposure to air that exceeds the ozone NAAQS are damage to some types of commercial timber and economic losses for commercially valuable crops such as soybeans and cotton. Studies have shown that exposure to excessive ozone can disrupt carbohydrate production and distribution in plants. This can lead in turn to reduced root growth, reduced biomass or yield, reduced plant vigor (which can cause increased susceptibility to attack from insects and disease and damage from cold), and diminished ability to successfully compete with more tolerant species. In addition, excessive ozone levels may disrupt the structure and function of forested ecosystems.

II. Summary of the Proposed Rule

A. What Source Category Would Be Affected by the Proposed NESHAP?

The proposed NESHAP would affect organic liquids distribution activities which, taken together, are considered to be a facility, or OLD operations. The regulated liquids consist of organic liquids that contain 5 percent by weight or more of the organic HAP compounds in Table 1 of the proposed subpart EEEE, and all crude oil except black oil. The activities in this category occur either at individual distribution facilities or on manufacturing plant sites that consume or produce the organic liquids regulated by the proposed standards. Only those OLD operations at major source facilities or plant sites would be regulated.

B. What Are the Primary Sources of Emissions and What Are the Emissions?

The emission of organic HAP vapors results from storing and transferring HAP-containing liquids. Fixed-roof tanks undergo losses due to atmospheric changes and changes in the liquid level in the tank. Floating roof tanks experience standing storage and liquid withdrawal losses and also losses from fittings on the floating deck.

As organic liquids are loaded into cargo tanks (tank trucks and railcars) at transfer racks, vapors are emitted to the atmosphere as the rising liquid displaces vapors formed above the liquid. To control these vapor emissions, the parked cargo tank may be connected to a closed vent vapor collection system and control device. Even in these controlled transfer systems, vapors may leak to the atmosphere from hatch covers, relief valves, or other parts of the system.

The equipment components used to convey organic liquids between tanks or pipelines can also be a source of vapor leakage. At OLD operations, the equipment of concern are pumps, valves, and sampling connection systems.

The volatile constituents of organic liquids, many of which are HAP, escape in the vapors emitted from these sources. Our 1998 survey of the OLD industry indicates that essentially all of the organic HAP listed in the CAA are present in the liquids distributed in these operations. Based on that survey and other information, we have estimated the total current HAP emissions from OLD operations to be 70,200 Mg/yr (77,300 tons/yr).

C. What Would Be the Affected Source?

The affected source would be the combination of all regulated OLD activities and equipment at a single OLD operation. The following regulated activities are typically performed within OLD operations and are part of the affected source:

- Transfer of organic liquids into, and storage in, fixed-roof or floating roof storage tanks;
- Transfer of organic liquids into cargo tanks (tank trucks or railcars) at transfer racks; and
- Transfer of organic liquids through pumps, piping, valves, and other equipment that may potentially leak.

Only those OLD operations facilities with an organic liquids throughput greater than 27.6 million liters (7.29 million gallons) per year (either into or out of the facility) would be subject to the proposed standards. Also, only those transfer rack loading positions with an organic liquids throughput of 11.8 million liters (3.12 million gallons) per year or greater would be required to install the specified emission controls on those activities.

D. What Would Be the Emission Limits, Operating Limits, and Other Standards?

The proposed NESHAP have various formats for the different activities and equipment being regulated. For affected storage tanks, you would have two options for control. First, you could install a closed vent system and control device with at least a 95 percent control efficiency for organic HAP or total organic compounds (TOC). As an option, combustion devices may meet an exhaust concentration limit of 20 parts per million by volume (ppmv) of organic HAP or TOC. An operating parameter of the control device would have to be continuously monitored and maintained within the established operating limits. Second, you could meet a work practice standard by installing a properly constructed floating roof in the affected tank. The tank size and vapor pressure cutoffs defining affected tanks would be different for existing and new tanks.

For affected organic liquids transfer racks, you would have to install a vapor collection system and a control device that achieves 95 percent control efficiency or 20 ppmv exhaust concentration for combustion devices, and you would have to continuously monitor the device. A work practice standard would apply to cargo tanks loading at these controlled racks. Each tank equipped with vapor collection equipment would have to be tested annually for vapor tightness using EPA Method 27. Cargo tanks not equipped with vapor collection equipment would have to be tested using the Department of Transportation (DOT) standard test procedures at DOT's required frequency. For cargo tanks that you do not own, you would have to ensure that each tank loading at affected loading positions is certified for vapor tightness. These proposed standards would be the same for existing or new transfer racks.

A work practice standard would also apply to equipment (pumps, valves, and sampling connection systems) that is in organic liquids service for at least 300 hours per year. This form of control involves regular instrument monitoring for leaks, and repair of leaking equipment. Owners and operators would have the option of applying the provisions of either subpart TT or UU of 40 CFR part 63. This leak detection and repair (LDAR) standard is being proposed for both existing and new equipment.

E. What Would Be the Testing and Initial Compliance Requirements?

Affected OLD operations would need to determine which of their distributed liquids qualify as an organic liquid as defined in the proposed standards. The specified test method for this is EPA Method 18 in 40 CFR part 60, appendix A, and you would have the option of suggesting alternative approaches for the Administrator's approval.

Control devices used for storage tanks or transfer racks would be subject to performance testing using EPA Method 18, 25, or 25A of 40 CFR part 60, appendix A, or Method 316 of 40 CFR part 63, appendix A, depending on the constituents of the gas stream being controlled and the format of the standard (organic HAP or TOC) the facility selects for its compliance demonstration. Floating roof tanks would be subject to visual and seal gap inspections to determine initial compliance with the tank work practice standards. The EPA Method 21 of 40 CFR part 60, appendix A, is specified for the equipment LDAR program.y

All cargo tanks equipped with vapor collection equipment that are used to distribute organic liquids from affected transfer rack loading positions would have to be tested annually for vapor tightness using EPA Method 27 of 40 CFR part 60, appendix A. For cargo tanks that are not so equipped, the current approved DOT methods would continue to be used.

Initial compliance with the emission limits for storage tanks and transfer racks would consist of demonstrating that the control device achieves 95 percent control efficiency for organic HAP or TOC, or 20 ppmv exhaust concentration for combustion devices. Note that all organic HAP are considered in this emission limit, not just the HAP listed in Table 1 of this proposed subpart. During the same initial performance test (or during a design evaluation of the device), you would establish the reference value or range for the appropriate operating parameter of the control device.

Work practice standards are being proposed for storage tanks, transfer racks, and equipment. For floating roof storage tanks, you would have to visually inspect each internal floating roof tank before the initial filling. For external floating roof tanks, you must perform a seal gap inspection of the primary and secondary deck seals within 90 days after filling.

For affected transfer rack loading positions, you would have to maintain documentation showing that cargo tanks that will load at those positions are certified as vapor-tight.

If you implement an LDAR program for your OLD equipment, you would have to provide us with written specifications of the program as part of your initial compliance demonstration.

F. What Would Be the Continuous Compliance Provisions?

To demonstrate continuous compliance with the emission limitation for control devices controlling storage tanks or transfer racks, you would have to continuously monitor the appropriate operating parameter and keep a record of the monitoring data. Compliance would be demonstrated by maintaining the parameter value within the limits established during the initial compliance demonstration.

There are different proposed means of demonstrating continuous compliance with the work practice standards, depending on the emission source. For floating roof storage tanks, you would have to visually inspect the tanks on a periodic basis and keep records of the inspections. For external floating roof tanks, seal gap measurements must be performed on the secondary seal once per year and on the primary seal every 5 years. Any conditions causing inspection failures would need to be repaired and records of the repairs kept.

The owner or operator would need to perform vapor tightness testing on cargo tanks and keep vapor tightness records of all cargo tanks loading at regulated rack loading positions, and also would have to take steps to ensure that only cargo tanks with vapor tightness certification are loaded at these positions. Examples of these steps are contacting cargo tank owners to explain the vapor tightness requirements and posting reminder signs summarizing the requirements at the affected loading positions.

G. What Would Be the Notification, Recordkeeping, and Reporting Requirements?

The proposed OLD NESHAP would require you to keep records and file reports consistent with the notification, recordkeeping, and reporting requirements of the General Provisions of 40 CFR part 63, subpart A. Two basic types of reports would be required: initial notification and semiannual compliance reports. The initial notification report would apprise the regulatory authority of applicability for existing sources or of construction for new sources.

The initial compliance report would demonstrate that compliance had been achieved. This report would contain the results of the initial performance test, which include the determination of the reference operating parameter value or range and a list of the organic liquids and equipment subject to the standards. Subsequent compliance reports would describe any deviations of monitored parameters from reference values; failures to comply with the startup, shutdown, and malfunction plan (SSMP) for control devices; and results of LDAR monitoring and storage tank inspections. These reports are also used to notify the regulatory authority of any changes in the organic liquids handled or changes in the OLD equipment or operations.

Records required under the proposed standards would have to be kept for 5 years, with at least 2 of these years being on the facility premises. These records would include copies of all reports that you have submitted; an up-to-date record of your organic liquids and affected equipment; and a listing of all cargo tanks that transfer organic liquids at affected rack loading positions, including their vapor tightness certification. Monitoring data from control devices would have to be kept to ensure that operating limits are being maintained. Records from the LDAR program and storage vessel inspections, and records of startups, shutdowns, and malfunctions of each control device are needed to ensure that the controls in place are continuing to be effective.

III. Rationale for Selecting the Proposed Standards

A. How Did We Select the Source Category?

Organic liquids distribution operations were included as a source category on our initial list of HAP source categories. Since liquid distribution is often carried out at SOCMI, refinery, or other manufacturing plant sites, there is the potential for overlapping control requirements in those cases where OLD activities are already regulated by other NESHAP. To avoid the situation where an emission source could be subject to multiple NESHAP, we are defining the OLD source category to exclude emission sources already covered by other NESHAP from control under these proposed standards.

The proposed Organic Liquids Distribution (non-Gasoline) NESHAP would apply to organic liquids distribution activities at sites that are determined to be ''major sources'' as defined in section 112(a)(1) of the CAA. This means those plants or facilities where the stationary sources located within a contiguous area and under common control emit or have the potential to emit, considering controls, a total of 10 tpy or more of any single HAP or 25 tpy or more of any combination of HAP.

Under the EPA's 1995 Potential to Emit Transition Policy, State and local air regulators have the option of treating the following types of sources as nonmajor under section 112 and permit programs under title V of the CAA: (1) sources that maintain adequate records to demonstrate that their actual emissions are less than 50 percent of the applicable major source threshold and have continued to operate at less than 50 percent of the threshold since January 1994; and (2) sources with actual emissions between 50 and 100 percent of the threshold, but which hold State-enforceable limits that are enforceable as a practical matter. During the EPA's rulemaking related to the potential to emit (PTE) requirements in the General Provisions (40 CFR part 63, subpart A) and the title V operating permits program, we have issued three extensions to the original transition policy, the latest memorandum dated December 20, 1999 and entitled, ''Third Extension of January 25, 1995 Potential to Emit Transition Policy.'' Sources that comply with either of the two criteria listed above will not be considered a major source under the OLD NESHAP. However, sources will be required to comply with the applicable provisions of the final PTE rule as of the effective date of that rule.

Organic liquids distribution operations that do not meet the criteria for a major source under the PTE transition policy are not being regulated at this time. We may consider area sources for regulation at a future date as part of the area source strategy authorized under section 112(k) of the CAA.

The source category covered by the proposed standards is not a single established ''industry'' in the usual sense, but involves a number of traditional industry segments. The purpose of the proposed standards is to enact controls on major source OLD operations wherever they occur, and this includes a variety of traditional industries. While these industry segments are distinct from one another (for example, they are described by several different SIC/NAICS codes), they are related to each other because they handle similar types of liquids which are inputs or outputs of the other segments. As an example, a particular organic liquids produced by a chemical manufacturing facility may be handled by a for-hire storage terminal, and then enter another manufacturing plant to be used in the making of a product.

We believe the OLD source category is best explained through a description of the organic liquids and distribution activities that are affected, and the types of facilities where the OLD activities occur.

The organic liquids affected by the proposed standards are those liquids that contain 5 percent by weight or more of the 69 organic HAP listed in Table 1 of the proposed subpart. These liquids include pure HAP chemicals (straight toluene, for example), petroleum liquids, and many blended mixtures and solutions of organic HAP chemicals that are stored and transported in bulk throughout the economy. The proposed rule would also affect all crude oil, with the exception of black oil, that has undergone custody transfer out of production facilities, even though individual crudes may have a total HAP content either above or below 5 percent by weight. Note that gasoline (including aviation gasoline) distribution is excluded from the proposed OLD NESHAP because these operations are already covered by the Gasoline Distribution NESHAP, 40 CFR part 63, subpart R.

The OLD activities and equipment that would be subject to the proposed control requirements are: (a) Storage of organic liquids in stationary storage tanks; (b) organic liquids transfer into cargo tanks (tank trucks or railcars) at transfer racks; and (c) the equipment components used in organic liquids transfer activities (pumps, valves, and sampling connection systems). Note that distribution under the proposed standards consists of those activities involved in storing organic liquids and transferring them either onto or off a major source plant site.

Organic liquids distribution is carried out at three primary categories of operations. First is the stand-alone bulk terminal, which typically receives,

stores, and sends out liquids owned by other companies (''for-hire'' facilities). These facilities are not collocated with a manufacturing site and will be affected if they meet the major source criteria based on their OLD activities. Some chemical companies own stand-alone terminals to distribute their own liquids, and they may also lease storage space at these terminals to other companies. The second category consists of OLD operations that are contiguous and under common control with a manufacturing (e.g., SOCMI facility or petroleum refinery) plant site. The OLD operations that satisfy the annual throughput cutoff at plant sites that constitute a major source of HAP will be subject to the proposed standards. There may also be additional types of manufacturing facilities that have affected OLD operations. The third facility type is pipeline stations, typically handling crude oil, that have breakout storage tanks used to absorb surges in the pipeline flow or to serve as distribution points for other modes (marine vessels, etc.) outside of the pipeline.

Section 112(d)(1) of the CAA requires us to promulgate NESHAP for ''each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation * * *'' Subcategorization of a source category is sometimes appropriate for NESHAP when industrial segments within the category have different types of processes or emission characteristics or require the use of different types of control techniques. As we developed the proposed OLD NESHAP, we considered whether we should develop different control requirements for the various OLD industry segments.

A review of the OLD data base and the information gathered during our site visits to OLD facilities showed that, despite the extreme operating conditions that occur in the process units at SOCMI facilities and refineries, the liquid distribution operations at the various types of facilities are carried out under conditions at or close to ambient. Furthermore, common organic HAP control technologies (such as thermal oxidizers and flares) are applicable to and in use for the activities performed at all of the facility types. Thus, based on these factors, we concluded that designation of separate subcategories for the purpose of developing different emission standards in the OLD NESHAP was not warranted.

B. How Did We Select the Proposed Pollutants To Be Regulated?

The data base of results from our 1998 survey of OLD operations indicates the presence of about 93 different HAP in all of the reported liquids, which is most of the organic compounds or groups of compounds listed as HAP under section 112(b) of the CAA. The variety of HAP is so large because the OLD industry represents the sum total of the chemical and petroleum liquids handled throughout industry (except gasoline). Yet, there may be additional organic HAP in liquids that are not in the EPA's OLD data base.

We considered whether it would be reasonable to select all organic HAP listed under section 112(b) for regulation in the OLD NESHAP. Some organic HAP have a very low potential to be emitted to the atmosphere from OLD operations because of their low volatilities (vapor pressure value). We do not consider it reasonable for facilities that may have a significant part of their OLD operations dedicated to handling low-volatility HAP liquids to apply controls representing MACT to those activities.

As a result, we decided it would be appropriate to develop a list of the specific organic HAP to be regulated by the proposed standards. We first made a listing of all of the HAP believed to exist in OLD operations, ranked in order of decreasing vapor pressure (at 25 degrees C). We then selected a vapor pressure cutoff of 0.1 pound per square inch absolute (psia) (about 0.7 kilopascal) to exclude the compounds with the lowest volatilities from the bottom of the table. This cutoff point was selected and was agreed to by industry reviewers as a reasonable level below which the emission potential would be minimal. The 0.7 kilopascal vapor pressure cutoff is recommended by the fact that the HON (in Table 6 of 40 CFR part 63, appendix to subpart G) requires the application of controls for new storage vessels with a capacity of 151 cubic meters or greater and storing liquids with a vapor pressure of 0.7 kilopascal or greater. The proposed applicability cutoffs for OLD storage tanks are similar to the cutoffs in the HON (for example, new OLD tanks larger than 151 cubic meters storing any liquid with a vapor pressure greater than 0.7 kilopascal would be covered). If we choose a cutoff higher than 0.7 kilopascal, which would leave even fewer HAP subject to control, there would be an inconsistency between the HAP table and the proposed storage tank applicability cutoffs. Therefore, on the basis of these considerations, we used a cutoff of 0.7 kilopascal to derive the specific organic HAP listed in Table 1 of the proposed standards.

The proposed standards would affect OLD activities involving two categories of organic liquids: (1) Those liquids containing at least 5 percent by weight of the HAP listed in Table 1 of the proposed subpart; and (2) all crude oils except black oil. As with the 0.7 kilopascal cutoff used to determine which HAP would be in Table 1, the intent of the 5 percent HAP cutoff is to exclude the lowest emitting organic liquids from the control requirements. The 5 percent HAP cutoff also has precedent in existing part 63 subparts. In the HON, 40 CFR part 63, subpart H and the NESHAP for Polycarbonate Production (40 CFR 63.1103(d), subpart YY), the equipment leak provisions affect only equipment containing or contacting a fluid that is at least 5 percent by weight of total organic HAP, on an annual average basis.

Our analysis of 17 different crude oil profiles indicated an average HAP weight percentage in the emitted vapors of about 6.0 percent. However, about half of these samples had a HAP percentage below 5 percent. Under the 5 percent HAP cutoff defining a regulated organic liquid, this would exempt from control a large amount of the crude oil as it enters and leaves distribution facilities.

Despite its relatively low HAP content, crude oil had a significant vapor pressure that was as high as 8 psia and averaged about 3.5 psia for all of the profile data we examined. Also, crude oil is estimated to make up approximately 68 percent of the volume of organic liquids in the distribution system, and 84 percent of the volume for liquids with a HAP content below 10 percent. Since the potential emissions from crude oil are a significant fraction of the total OLD emissions, we believe that the potential reductions from controlling crude oil would be significant and are a compelling reason to regulate all distributed crude oil except for the specific variety discussed below.

Black oil is a form of crude oil that we determined in the final NESHAP for Oil and Gas Production, 40 CFR part 63, subpart HH, to have a very low potential to produce flash emissions from storage tanks. Furthermore, tanks containing black oil are not considered to be affected sources under subpart HH. We are including a similar exemption for black oil in the OLD NESHAP because we do not consider storage or transfer of black oil to constitute a significant emission source. The definition of black oil is being altered from that used in subpart HH. In subpart HH it is the ''initial producing'' gas-to-oil ratio and API (American Petroleum Institute) gravity that are used to define some crude oils as black oil. For this proposed

subpart, we are using the gas-to-oil ratio and API gravity of the crude oil at the point of entry to the distribution system to define the crude oil as black oil.

C. How Did We Select the Proposed Affected Source?

The affected source would be the combination of all regulated emission sources at an OLD operations facility. The regulated emission sources at an OLD operations facility are:

- Storage tanks;
- Transfer racks; and
- Equipment in organic liquids service.

We have chosen a broad source definition which allows a storage tank, transfer rack, or single piece of equipment to be replaced or upgraded without its replacement being designated as a new source. The broad source definition was chosen for this source category because a more narrow source definition would mean that a change to an individual regulated emission source at a facility could cause that individual emission source to be designated as new. The designation as new would mean that the individual emission source (such as a single storage tank) would be required to observe the emission or operating limits in the proposed subpart for new sources. It also means that the emission source would need to be permitted separately, and its recordkeeping and reporting requirements could fall on intervals different from the rest of the facility. We looked at the emissions reductions that could possibly be gained through a narrow definition of affected source and decided that, on balance, a broad definition is the better choice.

D. How Did We Determine the Basis and Level of the Proposed Standards for Existing and New Sources?

1. MACT Floor Determination

We determined separate MACT floors for each of the emission sources that exist at OLD operations. We received data through questionnaire responses from 247 facilities owned or operated by 77 companies. These facilities reflected the various major industry segments involved in organic liquids distribution. However, due to the pervasive nature of distribution operations throughout the economy, we believe that our survey only captured about 40 percent of all of the large OLD operations in the country. Additional detailed information was obtained from site visits to nine OLD facilities. The data collected represent a complete range of the large facilities that would be affected by the proposed standard. Therefore, we believe the data are representative of OLD operations throughout the country.

We determined MACT floors for existing sources based on the arithmetic average of the lowest-emitting 12 percent where this approach made sense and produced a result that corresponded to use of a specific control technology. For the remaining cases, we used the median (middle) value to represent the MACT floor. For storage tanks and transfer racks, floors were determined for each subgroup (size and vapor pressure range for tanks, vapor pressure range for loading positions). For the several storage tank subgroups with fewer than 30 sources, we used the median of the five lowest-emitting tanks (the third tank).

Using the storage tank data collected from OLD operations, we determined the relative emissions from 1,175 reported tanks and listed these tanks from lowest to highest emitting within several tank size and liquid vapor pressure ranges. For transfer racks, we listed individual loading positions from lowest to highest emitting, starting with those with a control device, followed by those using bottom or submerged loading, and finally those using splash fill (considered the baseline, uncontrolled case). For equipment leaks, the facilities with a Federal LDAR program were listed first, followed by those with a State or local program, and then those with no program.

The best controlled storage tanks at OLD facilities in our data base use either a closed vent system and control device or a well-designed internal or external floating roof. These controls represent the maximum level of control available for storage tanks. The existing source MACT floor for tanks was determined to be a choice of control device or a floating roof with effective emission seals. The specific tank sizes and organic liquids to which the MACT floor applies are essentially the same as those in the HON.

The best controlled transfer racks at the OLD operations facilities in our survey data base are equipped with a vapor collection system and control device to reduce organic HAP emissions. Control efficiencies for these devices were reported as ranging from below 90 percent to over 99 percent, but no test data were provided to support these control efficiencies. The MACT floor for existing transfer racks was determined to be the use of a control device, without identifying any specific control efficiencies that constitute the floor. However, based on the types of devices in use and the liquids being controlled, we believe that a control efficiency of 95 percent is appropriate for this floor.

The best controlled OLD equipment is subject to an instrument-based LDAR program, and we found that an LDAR program similar to the HON program represents the existing source MACT floor.

For new sources, the CAA requires the MACT floor to be based on the degree of emissions reductions achieved in practice by the best-controlled similar source. The MACT floor for new sources and existing sources is the same in the case of transfer racks (use of a control device) and equipment leaks (an instrument LDAR program). For storage tanks, the control technologies in the MACT floors for existing and new sources are also the same. However, in the new source floor, these controls are applied to smaller tanks and to less volatile liquids when they are stored in larger tanks.

A more detailed summary of the MACT floor analysis, including the data and the considerations used to determine the MACT floors for OLD operations, can be found in the technical support document located in the docket.

2. Beyond-the-Floor Levels of Control

Using the MACT floor levels as a starting point, we investigated whether any applicable control approaches were available that were both more stringent than these floors and satisfied the criteria in section 112(d)(2) of the CAA.

The MACT floors for existing and new organic liquids storage tanks consist of a choice between the emission limitation in the HON (closed vent system and control device at 95 percent efficiency) and the floating roof requirements in 40 CFR part 63, subpart WW. These controls represent the maximum level of control available for storage tanks. The tank capacity and liquid vapor pressure cutoffs defining which tanks would be affected are the same as those in the HON. We believe that these cutoffs define all of the storage tanks that it is reasonable to regulate with MACT technology. Therefore, we were not able to identify any reasonable technologies that would create beyond-the-floor control levels for storage tanks.

The best controlled organic liquids transfer racks achieve emissions reductions of 95 percent or greater using a closed vent system and control device. Due to the diversity of liquids handled in the industry and the consequent use of a variety of control devices, we concluded that levels above 95 percent should not be considered as an alternative control level for transfer

racks. Therefore, no beyond-the-floor control levels were deemed achievable for this emission source.

The best controlled OLD equipment is subject to an instrument-based LDAR program, and we found that an LDAR program similar to the HON program represents both the existing and new source MACT floors. We have not identified any beyond-the-floor control approaches that provide better control of leakage emissions from equipment at a reasonable cost.

3. Selection of the Standards

Some OLD operations may involve very low organic liquids throughputs because they operate intermittently, but they would still be defined as a major source if they are on the same plant site as a major source manufacturing operation. We desired a small size cutoff to exempt OLD operations with a very small amount of distribution activity. The survey data did not indicate any specific organic liquids throughput into or out of a facility that would help us in identifying a lower size threshold for the size of OLD operations facility that should be affected by the proposed standards. Therefore, we turned to existing Federal and State organic liquids transfer rules. The cutoff value of 20,000 gallons per day is frequently used to identify affected transfer facilities. This value converts to 27.6 million liters per year, the smallest size facility we are proposing to affect by these standards. This is a reasonable approach as facilities below this size cutoff do not have the volume of organic liquids throughput that would yield emissions warranting control, as identified by other Federal and State rules. If the throughputs into and out of the facility during a calendar year are different, then the larger of the two values would be used to determine whether the operation is affected by these proposed standards.

The proposed standards were selected following the completion of the MACT floor and beyond-the-floor analyses. After we determined that there were no reasonable control measures more stringent than the MACT floors, we used the floors as the basis for the selection of the standards. While some of our survey responses appeared to indicate control levels beyond the levels normally associated with these devices (*i.e.,* many reports at or near 100 percent efficiency), we believed that these values did not represent the continuous performance of the control devices in use. Also, these high efficiency values were not supported by test data. Therefore, a control efficiency of 95 percent is being proposed for control devices used for storage tanks or transfer racks. To be consistent with the results from the test methods allowed for showing compliance, this control efficiency can be demonstrated in terms of either total organic HAP or TOC. In addition, combustion devices have an optional emission limit of 20 ppmv of organic HAP or TOC in the exhaust.

Some transfer racks at OLD facilities are used only on a periodic or intermittent basis and, therefore, have relatively low volume throughputs and low emissions. We do not believe it would be reasonable to install a control system on such low usage racks. However, the survey data did not indicate any specific throughput level below which transfer rack emission controls were not being used in OLD operations.

As the survey data could not provide direction on a throughput cutoff, we searched existing Federal and State air rules to evaluate the cutoffs in use. The provisions of 40 CFR 63.1101, subpart YY (Generic MACT Standards), define a low throughput transfer rack as a rack that transfers less than 11.8 million liters (3.12 million gallons) per year of liquid containing regulated HAP. This cutoff is equivalent to about one tank truck full of liquid per day. No additional cutoffs affecting individual transfer racks were identified. The cutoff used in subpart YY was considered reasonable for the OLD transfer rack control requirement, and, therefore, we are proposing to regulate only those transfer rack positions that load 11.8 million liters per year or more of organic liquid.

A transfer rack may have more than one loading position (i.e., ''parking spot'') for cargo tanks. Since each loading position may receive liquid from a specific storage tank independently of the other positions, each position can be considered an individual emission source during the time that a cargo tank is in place and loading liquid. Therefore, we are proposing to apply both the emission limit and throughput cutoff to each individual loading position. Under this approach, owners and operators would have maximum flexibility in determining the optimum configuration for their loading activities.

At controlled transfer racks (those equipped with a vapor collection system and a control device), fugitive emissions may occur from leaking truck transport tanks or railcars through dome covers, malfunctioning pressure relief vents, or other potential leak sources. Thus, a requirement to control liquid transfer operations using a vapor collection system and control device could be ineffective if the cargo tanks leak vapors to the atmosphere during the loading process. For cargo tanks equipped with vapor collection equipment (which typically includes an integrated vapor valve that is opened to release vapors to the control system during loading), EPA Method 27 in 40 CFR part 60, appendix A, is specified for ensuring the tank's vapor tightness. Tank trucks used for gasoline distribution are routinely equipped for vapor collection and undergo an annual Method 27 test under the NESHAP regulating gasoline distribution. However, tank trucks in organic chemical service typically are not equipped for vapor collection. For these tanks, Method 27 would not be applicable. Instead, the current DOT methods which require periodic leak testing of chemical tank trucks and railcars are in place and effective for organic liquids cargo tanks.

E. How Did We Select the Format of the Proposed Standards?

The format selected for the proposed standards was developed after a comprehensive review of Federal and State rules affecting the same emission sources that occur in similar industries. Our goal was to set an overall format that is compatible with the applicable test methods, reflects the performance of the MACT technologies, and is consistent with the formats used in other NESHAP for similar HAP sources.

The proposed standards for OLD operations consist of a combination of several formats: numerical emission limits and operating limits, equipment standards, and work practice standards. Section 112(h) of the CAA states that ''* * * if it is not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, or operational standard, or combination thereof * * *.'' Section 112(h) further defines the phrase ''not feasible to prescribe or enforce an emission standard'' as any situation in which ''* * * a hazardous air pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, * * * or the application of measurement methodology to a particular class of sources is not practicable * * *.''

Numerical emission limits are feasible for storage tanks and transfer racks outfitted with a closed vent system and a control device. For these control situations, we have proposed a percentage control efficiency for consistency with the HON and the

Refinery NESHAP, which taken together, regulate a great number of the organic liquids handled in OLD operations. To allow flexibility, we are proposing a 95 percent control efficiency limit in terms of either total organic HAP or TOC. For combustion devices, we are proposing an alternate emission limit of 20 ppmv of either organic HAP or TOC. Depending on the test methods chosen, the owner or operator would select the most suitable format.

The proposed 95 percent and 20 ppmv limits apply not to entire transfer racks but to each individual loading position at the racks. We felt that under this format, sources would have more freedom in choosing how to organize the transfer of affected organic liquids. For example, at a rack with two loading positions you might designate and configure one position to be an uncontrolled position, and another position to be a controlled position piped through a vapor collection system to a control device. You could then load affected organic liquids only at the controlled position but could still load unregulated liquids through the same rack at the uncontrolled position.

Equipment and work practice standards affect each of the emission sources being regulated. The following subparagraphs describe the selection of these formats.

Floating Roof Standard for Storage Tanks

You would have the option of installing floating roofs that meet the requirements of 40 CFR part 63, subpart WW, in your affected storage tanks. The floating roof option has been included in most Federal rules affecting storage tanks. Our goal was to be consistent with these other rules and to provide you with flexibility in controlling the storage tanks that contain affected organic liquids.

Vapor Tightness Testing for Cargo Tanks

For the closed vent (vapor collection) system on transfer racks to be effective in conveying all of the displaced HAP vapors to the control device, the cargo tanks must be maintained in a way that minimizes leakage. There is no means available for collecting or measuring these leakage emissions. Therefore, we have proposed a work practice standard consisting of an annual vapor tightness test which involves pressurizing the empty tank and measuring any loss of pressure. The same approach is used for cargo tanks in two of the Federal rules that affect gasoline distribution, the new source performance standards (NSPS) for bulk gasoline terminals (40 CFR part 60, subpart XX), and the Gasoline Distribution NESHAP (40 CFR part 63, subpart R).

Leak Detection and Repair Program for Equipment

The LDAR program has been used for many years as the principal means of locating leaking equipment for repairs to maintain low emission rates on equipment components. In surveying OLD operations nationwide, we found that about 35 percent of the facilities are under a Federal LDAR requirement. Therefore, we decided that this format would be the best approach for the equipment requirements. Owners and operators would have the choice between the LDAR requirements in 40 CFR part 63, subpart TT or UU.

F. How Did We Select the Proposed Testing and Initial Compliance Requirements?

These NESHAP propose to control three different emission points: Storage tanks, transfer racks, and equipment leaks. The control technologies and work practices used to control these emission points would have different testing and initial compliance requirements. The methods proposed for testing and for demonstrating initial compliance with the proposed standards are similar to those in other Federal NESHAP using these same control technologies and work practices. The HON (40 CFR part 63, subpart G) prescribes EPA Method 18 or 25A for determining the control efficiency of a control device. We have added EPA Method 25 to allow additional flexibility. In addition, if a principal component of the inlet gas stream to the control device is formaldehyde, EPA Method 316 of 40 CFR part 63, appendix A, may be used instead of Method 18 to measure the formaldehyde.

The HON also specifies EPA Method 21 for performing LDAR monitoring. The visual and seal gap inspections proposed for determining the initial compliance of floating roof tanks are the methods outlined in subpart WW of 40 CFR part 63. The EPA Method 27 is the method proposed for confirming the vapor tightness of tank trucks and railcars equipped with vapor collection equipment. This is the same approach required for testing cargo tanks in 40 CFR part 63, subpart R, the Gasoline Distribution NESHAP. We have determined while developing other part 63 rules that these methods are appropriate for fulfilling the testing and initial compliance requirements in standards for HAP emissions.

G. How Did We Select the Proposed Continuous Compliance Requirements?

Continuous monitoring is required by the proposed standards so that we can determine whether a source is in compliance on an ongoing basis. When determining appropriate monitoring options, we considered the availability and feasibility of a number of monitoring strategies.

In evaluating the use of continuous emission monitoring systems (CEMS) in these proposed standards, we determined that monitoring of HAP compounds emitted from control devices is feasible and has been implemented in other rules at certain types of facilities. However, the cost of applying monitors that provide a continuous measurement in the units of these proposed standards would be unacceptably high. Similarly, we found that continuous monitoring of a HAP surrogate (such as TOC) would not provide an accurate indication of compliance with the proposed HAP emission limitations because of the many non-HAP organic compounds.

Monitoring of control device operating parameters is considered appropriate for many other emission sources (such as gasoline distribution sources under 40 CFR part 63, subpart R) and, therefore, we have included this as the primary monitoring approach in these proposed standards. Based on information from OLD sources, we selected operating parameters for the following types of control devices that are reliable indicators of control device performance: Thermal and catalytic oxidizers, flares, adsorbers, and condensers. In general, we selected parameters and monitoring provisions that were included in both subpart R and the HON. Sources would monitor these parameters to demonstrate continuous compliance with the emission limits and operating limits.

The proposed NESHAP also requires monitoring for the storage tank work practice standards which consist of periodic inspections of the floating roof seals. We took this approach because there is no device available to continuously monitor the performance of the roof seals.

You may choose an alternative to the monitoring required by these proposed standards. If you do, you would have to request approval for alternative monitoring according to the procedures in § 63.8 of the General Provisions.

H. How Did We Select the Proposed Notification, Recordkeeping, and Reporting Requirements?

The required notifications and other reporting are based on the General

Provisions in subpart A of 40 CFR part 63. The initial notification and the semiannual compliance reports include information on organic liquids and affected OLD activities, and they would require any changes to this information to be reported in subsequent reports. Similarly, records would be required that will enable an inspector to verify the facility's compliance status. Due to the nature of control devices that would be installed on OLD operations and the emissions being controlled, we have determined that control device parameter monitoring is appropriate in this circumstance. The proposed records and reports are necessary to allow the regulatory authority to verify that the source is continuing to comply with the standards.

IV. Summary of Environmental, Energy, and Economic Impacts

As discussed earlier, organic liquids distribution activities are carried out at many different types of facilities. Most of these facilities can be grouped under three general categories: Stand-alone (usually for-hire) storage terminals dedicated to distribution activities; OLD operations collocated with a petroleum refinery, chemical manufacturing, or other manufacturing plant site; and crude oil pipeline pumping or breakout stations (containing crude oil tankage).

We estimate that in 1997, the baseline year for the proposed standards, there were approximately the following numbers of major source OLD facilities: 480 collocated OLD operations, 135 stand-alone terminals, and 35 crude oil pipeline stations, for a total of about 650 existing major source OLD plant sites.

A. What Are the Air Quality Impacts?

On a nationwide basis, the OLD operations at facilities that would be affected by the proposed NESHAP emit an estimated 70,200 Mg/yr (77,300 tons/yr) of HAP. Most of the organic HAP listed in section 112(b)(1) of the CAA are included in these emissions. After the promulgated standards are implemented, HAP emissions will be reduced by approximately 19,700 Mg/yr (21,700 tpy), or 28 percent, from the baseline. Such emissions impacts are likely to reduce the risk of adverse effects of HAP.

Although the proposed OLD NESHAP would not specifically require control of VOC emissions, the organic HAP emission control technologies upon which the proposed standards are based would also significantly reduce VOC emissions from the source category. We estimate that implementation of the promulgated NESHAP would reduce nationwide VOC emissions by about 33,700 Mg/yr (37,100 tpy), or 28 percent, from baseline levels. This will have the effect of reducing ozone-related health and welfare impacts.

B. What Are the Cost Impacts?

The cost of implementing the proposed standards for affected OLD operations would consist of the capital and annualized costs to control storage tanks, transfer racks, and equipment leaks, and the costs of complying with the monitoring, reporting, and recordkeeping requirements.

Approximately 1,740 storage tanks, or 23 percent of the 7,725 tanks used in OLD operations, would need to be controlled (or further controlled) to meet the proposed control requirements. Depending on the size and configuration of a particular tank, the capital cost would vary from $4,300 to $120,000 per tank. The total capital cost to control all 1,740 tanks is estimated at $84.3 million.

Transfer rack controls would consist of installing a flare or other control device at approximately 200 OLD operations, at an estimated total capital cost of $5.4 million. Since organic liquids cargo tanks are typically not equipped with vapor collection equipment, most of them would continue to undergo the DOT leak tightness testing and not the annual EPA Method 27 testing. The total annual cost for performing Method 27 on the small number of equipped cargo tanks is estimated at about $21,700 per year.

The establishment of an LDAR program for equipment leak control at about 430 existing operations nationwide would involve a capital cost of approximately $3.5 million.

The annual cost for industry to keep records and prepare and send the necessary reports is estimated at about $12.7 million per year.

We have estimated the total nationwide capital cost (in 1997 dollars) of implementing the proposed rule at $94.4 million, and the annual cost at $41.4 million per year. We are soliciting comment from the public on the accuracy of the cost impacts that are summarized above and presented in detail in the TSD.

C. What Are the Economic Impacts?

The economic impact analysis shows that the expected price increase for affected output would be less than 0.01 percent as a result of the proposed standard for petroleum producers, pipeline operators, and petroleum bulk terminals, and less than 0.02 percent for chemical manufacturers. The expected change in production of affected output is a reduction of less than 0.01 percent for petroleum producers, pipeline operators, and petroleum bulk terminals, and less than 0.02 percent for chemical manufacturers. None of the facilities out of the 651 affected are expected to close as a result of incurring costs of the proposed standard. Therefore, it is likely that there is no adverse impact expected to occur for those industries that produce output affected by this proposed rule, such as chemical manufacturers, petroleum refineries, pipeline operators, and petroleum bulk terminal operators.

D. What Are the Nonair Quality Health, Environmental, and Energy Impacts?

Water quality would not be significantly affected by implementation of the proposed standards. The proposed standards do not contain any requirements related to water discharges, wastewater collection, or spill containment, and no additional organic liquids are expected to enter these areas as a result of the proposed OLD NESHAP. A few facilities may select a scrubber (depending on the specific emissions they are controlling) to control emissions from transfer racks or fixed-roof storage tanks. The impact on water quality from the use of scrubbers is not expected to be significant.

We also project that there will be no significant solid waste or noise impact. Neither flares, thermal oxidizers, scrubbers, nor condensers generate any solid waste as a by-product of their operation. When adsorption systems are used, the spent activated carbon or other adsorbent that cannot be further regenerated may be disposed of in a landfill, which would contribute a small amount of solid waste.

We have tested the noise level from control devices and found these levels (usually due to pumps and blowers) to be moderate (less than 70 decibels at 7 meters). Thus, the noise impact would be small.

The control devices used for transfer rack and storage tank control use electric motor-driven blowers, dampers, or pumps, depending on the type of system, in addition to electronic control and monitoring systems. The installation of these devices would have a small negative energy impact. To the extent that some of the controlled organic liquids are non-gasoline fuels, the applied control measures would keep these liquids in the distribution system and thus have a positive impact on this form of energy.

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA 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.

Pursuant to the terms of Executive Order 12866, OMB has notified EPA that it considers this a ''significant regulatory action'' within the meaning of the Executive Order. EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record. Any written comments from OMB and written EPA responses are available in the docket (see **ADDRESSES** section of this preamble).

B. Executive Order 13132, Federalism

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

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

This proposed 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 proposed rule.

C. 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 EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed 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. No tribal governments are believed to own or operate an affected source. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, this proposed rule has been determined not to be ''economically significant'' as defined under Executive Order 12866.

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

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), required EPA to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, and the Office of Management and Budget, for certain actions identified as ''significant energy actions.'' Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1) (i) That is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the

Administrator of the Office of Information and Regulatory Affairs as a significant energy action.'' This proposed rule is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, and use of energy. The basis for this determination follows.

The reduction in petroleum product output, which includes reductions in fuel production, is estimated at only 0.003 percent, or about 137 barrels per day based on 2000 U.S. fuel production nationwide. The reduction in coal, natural gas, and electricity output is expected to be negligible compared to 2000 U.S. output of these products nationwide. The increase in price of petroleum products is estimated to be only 0.003 percent nationwide. While energy distribution services such as pipeline operations will be directly affected by this proposal, energy distribution costs are expected to increase by only 0.36 percent. We estimate that there will be a slight increase of only 0.002 percent of net imports (imports—exports), and no other adverse outcomes are expected to occur with regard to energy supplies. Given the minimal impacts on energy supply, distribution, and use as a whole nationally, no significant adverse energy effects are expected to occur. For more information on these estimated energy effects, please refer to the economic impact analysis for the proposed rule. This analysis is available in the public docket.

Therefore, we conclude that this proposed rule when implemented will not have a significant adverse effect on the supply, distribution, or use of energy.

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, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this proposed 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. The maximum total annual cost of this proposed rule for any year has been estimated to be about $41.4 million. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

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 today's proposed rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,500 employees, depending on size definition for the affected North American Industry Classification System (NAICS) code, or a maximum of $5 million to $18.5 million in revenues; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. It should be noted that companies in 42 NAICS codes are affected by this proposed rule, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration (SBA) size standards (13 CFR 121). For more information on size standards for particular industries, please refer to the economic impact analysis in the docket.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that nineteen small firms in the industries affected by this rule may be affected. Out of the nineteen affected small firms, two firms are estimated to have compliance costs that exceed one percent of their revenues.

In addition, the rule is likely to also increase profits at the many small firms not affected by the rule due to the very slight increase in market prices. Finally, while there is a difference between the median compliance cost to sales estimates for the affected small and large firms (0.26 percent compared to 0.01 percent for the large firms), no small or large firms are expected to close in response to incurring the compliance costs associated with this rule.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, we nonetheless have tried to minimize the impact of this rule on small entities in several ways. First, we chose to set the control requirements at the MACT floor control level and not at a control level more stringent. Thus, the control level specified in the proposed OLD rule is the least stringent allowed by the CAA. Second, we have set facility size, transfer rack throughput, and tank size cutoffs in the rule to minimize the effects on small businesses. Third, we have identified a list of 69 HAP from the list of 188 in the CAA to be considered for regulation. Regulated liquids are organic liquids that contain at least 5

percent by weight of the 69 HAP listed. In addition, we worked with various trade associations during the development of the proposed rule. These actions have reduced the economic impact on small entities from this rule. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

H. Paperwork Reduction Act

We will submit the information collection requirements in this rule for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* We have prepared an Information Collection Request (ICR) document (ICR No. 1963.01) and you may obtain a copy from Sandy Farmer, Office of Environmental Information, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet (WWW) at *http://www.epa.gov/icr.* The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

The proposed rule would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden to affected sources for this collection (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to be 242,900 labor-hours per year, with a total annual cost of $12.7 million per year. These estimates include a one-time performance test and report (with repeat tests where needed), one-time submission of an SSMP with semiannual reports for any event when the procedures in the plan were not followed, semiannual compliance reports, maintenance inspections, notifications, and recordkeeping.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, all Federal agencies are required to use voluntary consensus standards (VCS) in their regulatory and procurement 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, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable VCS.

Consistent with the NTTAA, the EPA conducted searches to identify VCS for use in emissions monitoring. This search is described in a memorandum which is in the docket. The search for emissions monitoring procedures identified 19 VCS that appeared to have possible use in lieu of EPA standard reference methods. However, after reviewing the available VCS, the EPA determined that nine of the candidate VCS identified for measuring emissions of the HAP or surrogates subject to emission standards in the proposed rule would not be practical due to lack of equivalency, documentation, and validation data. Ten of the remaining candidate VCS are under development or under EPA review. The EPA plans to follow, review, and consider adopting these VCS after their development and further review by the EPA is completed.

Two VCS, ASTM D2879–83, Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope; and API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, were already incorporated by reference in 40 CFR 63.14 and are also being used in this proposed rule.

The ASTM D6420–99 is currently under EPA review as an approved alternative to Method 18. The EPA will also compare this final ASTM standard to methods previously approved as alternatives to EPA Method 18 with specific applicability limitations. These methods, designated as ALT–017 and CTM–028, are available through the EPA's Emission Measurement Center internet site at *www.epa.gov/ttn/emc/tmethods.html.* The final ASTM D6420–99 standard is very similar to these approved alternative methods, which may be equally suitable for specific applications. We plan to continue our review of the final standard and will consider adopting the ASTM standard at a later date.

The EPA is requesting comment on the compliance demonstration requirements being proposed in this proposed rule and specifically invites the public to identify potentially-applicable VCS. Commenters should also explain why this proposed rule should adopt these VCS in lieu of the EPA's standards. Emission test methods and performance specifications submitted for evaluation should be accompanied by a basis for the recommendation, including method validation data and the procedure used to validate the candidate method (if a method other than Method 301, 40 CFR part 63, appendix A was used).

Section 63.2406 and Table 5 of the proposed subpart list the EPA testing methods and performance standards included in the proposed rule. Most of the standards have been used by States and industry for more than 10 years. Nevertheless, under § 63.7(f) of subpart A of 40 CFR part 63, the proposal also allows any State or source to apply to the EPA for permission to use an alternative method in place of any of the EPA testing methods or performance standards listed in proposed subpart EEEE.

List of Subjects in 40 CFR Part 63

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

Dated: March 19, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

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

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

2. Section 63.14 is amended by revising paragraphs (b)(3) and (c)(1) to read as follows:

§ 63.14 Incorporation by reference.

* * * * *

(b) * * *

(3) ASTM D2879–83, Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope, IBR approved for § 63.111 of subpart G of this part and for § 63.2406 of subpart EEEE of this part.

(c) * * *

(1) API Publication 2517, Evaporative Loss from External Floating-Roof Tanks, Third Edition, February 1989, IBR approved for § 63.111 of subpart G of this part and for § 63.2406 of subpart EEEE of this part.

* * * * *

3. Part 63 is amended by adding subpart EEEE to read as follows:

Subpart EEEE—National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (non-Gasoline)

Sec.

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What This Subpart Covers

§ 63.2330 What is the purpose of this subpart?

This subpart establishes national emission limitations and work practice standards for hazardous air pollutants (HAP) emitted from organic liquids distribution (OLD)(non-gasoline) operations. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.2334 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an OLD operation that is located at or is part of a major source of hazardous air pollutant emissions.

(b) Your OLD operation must have a total organic liquids throughput of 27.6 million liters (7.29 million gallons) per year or more either into or out of the operation to be subject to the control provisions of this subpart. Organic liquids are all crude oils other than black oil, and those liquids or liquid mixtures, except gasoline, that contain a total of 5 percent by weight or more of the organic HAP listed in Table 1 of this subpart.

(1) An OLD operation is the combination of activities and equipment used to transfer organic liquids into or out of a plant site or to store organic liquids on the plant site. Gasoline, as well as any fuels that are consumed or dispensed on the plant site directly to users (such as fuels used for fleet refueling) are not considered organic liquids in this subpart.

(2) A major source of HAP is a plant site that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year, or any combination of HAP at a rate of 22.68 megagrams (25 tons) or more per year.

(c) This subpart covers:

(1) Organic liquids distribution operations that occupy an entire plant site; and

(2) Organic liquids distribution operations that are collocated with other industrial (e.g., manufacturing) operations at the same plant site.

§ 63.2338 What parts of my plant does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing OLD operation affected source.

(b)(1) The affected source is each entire OLD operation at a plant site in any industrial category, except for those emission sources that are controlled under the provisions of another 40 CFR

part 63 national emission standards for hazardous air pollutants regulation. The main types of plant sites that either are in themselves an OLD operation or contain a collocated OLD operation are:

(i) Liquid terminal facilities that distribute either organic liquids that they own, or organic liquids owned by others on a for-hire basis, or a combination of both;

(ii) Organic chemical manufacturing facilities, petroleum refineries, and other industrial facilities that have a collocated OLD operation; and

(iii) Crude oil pipeline pumping stations and breakout stations.

(2) The following emission sources within OLD operations constitute the affected source: Storage tanks storing organic liquids and meeting the tank size and liquid vapor pressure cutoffs in Table 2 of this subpart; transfer rack loading positions at which organic liquids are loaded into cargo tanks (tank trucks or railcars) at or above the minimum throughput shown in Table 2 of this subpart; and equipment (pumps, valves, etc.) in organic liquids service for at least 300 hours per year. In addition, vapor leakage points on cargo tanks while loading organic liquids at affected transfer racks are considered part of the affected source.

(c) The provisions of this subpart do not apply to research and development facilities, consistent with section 112(b)(7) of the Clean Air Act (CAA).

(d) An affected source is a new affected source if you commenced construction of the affected source after April 2, 2002, and you meet the applicability criteria in § 63.2334 at the time you commenced operation.

(e) An affected source is reconstructed if you meet the criteria for reconstruction as defined in § 63.2.

(f) An affected source is existing if it is not new or reconstructed.

§ 63.2342 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to the guidance in paragraphs (a)(1) and (2) of this section:

(1) If you startup your affected source before [the effective date of this subpart], you must comply with the emission limitations and work practice standards for new and reconstructed sources in this subpart no later than [the effective date of this subpart].

(2) If you startup your affected source after [the effective date of this subpart], you must comply with the emission limitations and work practice standards for new and reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations and work practice standards for existing sources no later than [3 years after the effective date of the final rule].

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, the guidance in paragraphs (c)(1) and (2) of this section applies:

(1) Any portion of the existing facility that is a new affected source or a new reconstructed source must be in compliance with this subpart upon startup.

(2) All other parts of the source must be in compliance with this subpart no later than 3 years after it becomes a major source.

(d) You must meet the notification requirements in § 63.2382(a) according to the schedule in § 63.2382(b), (c), (d), and (e) and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limitations and work practice standards in this subpart.

Emission Limitations and Work Practice Standards

§ 63.2346 What emission limitations and work practice standards must I meet?

(a) You must meet each emission limit in Table 2 of this subpart that applies to you.

(b) You must meet each operating limit in Table 3 of this subpart that applies to you.

(c) You must meet each work practice standard in Table 4 of this subpart that applies to you.

(d) As provided in § 63.6(g), you may request approval from the EPA to use an alternative to the work practice standards in this section. If you apply for permission to use an alternative to the work practice standards in this section, you must submit the information described in § 63.6(g)(2).

General Compliance Requirements

§ 63.2350 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations and work practice standards in this subpart at all times, except during periods of startup, shutdown, or malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

Testing and Initial Compliance Requirements

§ 63.2354 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) For existing sources, you must conduct initial performance tests and other initial compliance demonstrations no later than the compliance date specified in § 63.2342(b).

(b) For new sources, you must conduct initial performance tests and other initial compliance demonstrations according to the provisions in § 63.7(a)(2)(i) and (ii).

§ 63.2358 When must I conduct subsequent performance tests?

(a) For cargo tanks equipped with vapor collection equipment that load organic liquids at affected transfer rack loading positions, you must perform the vapor tightness testing required in Table 5 of this subpart on each cargo tank that you own or operate at least once per year.

(b) For nonflare control devices, you must conduct the performance testing required in Table 5 of this subpart at any time the EPA requests you to in accordance with section 114 of the CAA.

§ 63.2362 What performance tests, design evaluations, and performance evaluations must I conduct?

(a) You must conduct each performance test in Table 5 of this subpart that applies to you.

(b) You must conduct each performance test according to the requirements in § 63.7(e)(1), using the procedures specified in § 63.997(e).

(c) You must conduct three separate test runs for each performance test on a nonflare control device, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(d) In addition to Method 25 or 25A of 40 CFR part 60, appendix A, to determine compliance with the organic HAP or total organic compounds (TOC) emission limit, you may use Method 18 of 40 CFR part 60, appendix A. If you use Method 18 to measure compliance with the percentage efficiency limit, you must first determine which HAP are present in the inlet gas stream (i.e., uncontrolled emissions) using knowledge of the organic liquids or the screening procedure described in Method 18. In conducting the performance test, you must analyze samples collected as specified in

Method 18, simultaneously at the inlet and outlet of the control device. Quantify the emissions for all HAP identified as present in the inlet gas stream for both the inlet and outlet gas streams of the control device.

(e) If you use Method 18 of 40 CFR part 60, appendix A, to measure compliance with the emission concentration limit, you must first determine which HAP are present in the inlet gas stream using knowledge of the organic liquids or the screening procedure described in Method 18. In conducting the performance test, analyze samples collected as specified in Method 18 at the outlet of the control device. Quantify the control device outlet emission concentration for the same HAP identified as present in the inlet or uncontrolled gas stream.

(f) If a principal component of the uncontrolled or inlet gas stream to the control device is formaldehyde, you may use Method 316 of appendix A of this part instead of Method 18 of 40 CFR part 60, appendix A, for measuring the formaldehyde. If formaldehyde is the predominant HAP in the inlet gas stream, you may use Method 316 alone to measure formaldehyde either at the inlet and outlet of the control device using the formaldehyde control efficiency as a surrogate for total organic HAP or TOC efficiency, or at the outlet of a combustion device for determining compliance with the emission concentration limit.

(g) You must conduct each design evaluation of a control device according to the requirements in § 63.985(b)(1)(i).

(h) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(i) You must conduct each continuous monitoring system (CMS) performance evaluation according to the requirements in § 63.8(e).

§ 63.2366 What are my monitoring installation, operation, and maintenance requirements?

(a) You must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the requirements in § 63.996. In addition, you must collect and analyze temperature, flow, pressure, or pH data according to the requirements in paragraphs (a)(1) through (4) of this section:

(1) To calculate a valid hourly value, you must have at least four equally spaced data values (or at least two, if that condition is included to allow for periodic calibration checks) for that hour from a CMS that is not out of control according to the monitoring plan (e.g., one that incorporates elements of appendix F, procedure 1 of 40 CFR part 60, appendix F).

(2) To calculate the average emissions for each averaging period, you must have at least 75 percent of the hourly averages for that period using only block hourly average values that are based on valid data (i.e., not from out-of-control periods).

(3) Determine the hourly average of all recorded readings.

(4) Record the results of each inspection, calibration, and validation check.

(b) For each temperature monitoring device, you must meet the requirements in paragraphs (a)(1) through (4) and paragraphs (b)(1) through (8) of this section:

(1) Locate the temperature sensor in a position that provides a representative temperature.

(2) For a noncryogenic temperature range, use a temperature sensor with a minimum tolerance of 2.2 degrees Celsius or 0.75 percent of the temperature value, whichever is greater.

(3) For a cryogenic temperature range, use a temperature sensor with a minimum tolerance of 2.2 degrees Celsius or 2 percent of the temperature value, whichever is greater.

(4) Shield the temperature sensor system from electromagnetic interference and chemical contaminants.

(5) If a chart recorder is used, it must have a sensitivity in the minor division of at least 20 degrees Fahrenheit.

(6) Perform an electronic calibration at least semiannually according to the procedures in the manufacturer's owner's manual. Following the electronic calibration, you must conduct a temperature sensor validation check in which a second or redundant temperature sensor placed near the process temperature sensor must yield a reading within 16.7 degrees Celsius of the process temperature sensor's reading.

(7) Conduct calibration and validation checks any time the sensor exceeds the manufacturer's specified maximum operating temperature range, or install a new temperature sensor.

(8) At least monthly, inspect all components for integrity and all electrical connections for continuity, oxidation, and galvanic corrosion.

(c) For each flow measurement device, you must meet the requirements in paragraphs (a)(1) through (4) and paragraphs (c)(1) through (5) of this section:

(1) Locate the flow sensor and other necessary equipment such as straightening vanes in a position that provides a representative flow.

(2) Use a flow sensor with a minimum tolerance of 2 percent of the flow rate.

(3) Reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.

(4) Conduct a flow sensor calibration check at least semiannually.

(5) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(d) For each pressure measurement device, you must meet the requirements in paragraphs (a)(1) through (4) and paragraphs (d)(1) through (7) of this section:

(1) Locate the pressure sensor(s) in a position that provides a representative measurement of the pressure.

(2) Minimize or eliminate pulsating pressure, vibration, and internal and external corrosion.

(3) Use a gauge with a minimum tolerance of 0.5 inch of water or a transducer with a minimum tolerance of 1 percent of the pressure range.

(4) Check for pressure tap pluggage daily.

(5) Using a manometer, check gauge calibration quarterly and transducer calibration monthly.

(6) Conduct calibration checks any time the sensor exceeds the manufacturer's specified maximum operating pressure range, or install a new pressure sensor.

(7) At least monthly, inspect all components for integrity, all electrical connections for continuity, and all mechanical connections for leakage.

(e) For each pH measurement device, you must meet the requirements in paragraphs (a)(1) through (4) and paragraphs (e)(1) through (4) of this section:

(1) Locate the pH sensor in a position that provides a representative measurement of pH.

(2) Ensure that the sample is properly mixed and representative of the fluid to be measured.

(3) Check the pH meter's calibration on at least two points every 8 hours of process operation.

(4) At least monthly, inspect all components for integrity and all electrical connections for continuity.

§ 63.2370 How do I demonstrate initial compliance with the emission limitations and work practice standards?

(a) You must demonstrate initial compliance with each emission limit and work practice standard that applies to you according to Tables 6 and 7 of this subpart.

(b) You must establish each site-specific operating limit in Table 3 of

this subpart that applies to you according to the requirements in § 63.2362 and Table 5 of this subpart.

(c) You must submit the Notification of Compliance Status containing the results of the initial compliance demonstration according to the requirements in § 63.2382(e).

Continuous Compliance Requirements

§ 63.2374 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, or required quality assurance or control activities in data averages and calculations used to report emission or operating levels, nor may such data be used in fulfilling a minimum data availability requirement, if applicable. You must use all of the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.2378 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

(a) You must demonstrate continuous compliance with each emission limitation and work practice standard in Tables 2 through 4 of this subpart that applies to you according to the methods specified in Tables 8, 9, and 10 of this subpart.

(b) You must report each instance in which you did not meet any emission limit or operating limit in Tables 8 and 9 of this subpart that applies to you. This includes periods of startup, shutdown, or malfunction. You must also report each instance in which you did not meet the requirements in Table 10 of this subpart that apply to you. These instances are deviations from the emission limitations and work practice standards in this subpart. These deviations must be reported according to the requirements in § 63.2386.

(c) During periods of startup, shutdown, or malfunction, you must operate in accordance with your SSMP.

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you make an adequate demonstration that you were operating in accordance with the SSMP. We will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.2382 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.7(b) and (c), 63.8(e), (f)(4) and (6), and 63.9(b) through (h) that apply to you.

(b) As specified in § 63.9(b)(2), if you startup your affected source before [the effective date of this subpart], you must submit an Initial Notification no later than 120 calendar days after [the effective date of this subpart].

(c) As specified in § 63.9(b)(3), if you startup your new or reconstructed affected source on or after [the effective date], you must submit an Initial Notification no later than 120 days after initial startup.

(d) If you are required to conduct a performance test, you must submit a notification of intent to conduct the test at least 60 calendar days before it is scheduled to begin as required in § 63.7(b)(1).

(e) If you are required to conduct a performance test or other initial compliance demonstration as specified in Table 5, 6, or 7 of this subpart, you must submit a Notification of Compliance Status according to § 63.9(h)(2)(ii).

(1) For each initial compliance demonstration required in Table 5, 6, or 7 of this subpart that does not include a performance test, you must submit the Notification of Compliance Status before the close of business on the 30th calendar day following the completion of the initial compliance demonstration.

(2) For each initial compliance demonstration required in Table 5, 6, or 7 of this subpart that includes a performance test conducted according to the requirements in Table 5 of this subpart, you must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test according to § 63.10(d)(2).

§ 63.2386 What reports must I submit and when?

(a) You must submit each report in Table 11 of this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 11 of this subpart and according to the requirements in paragraphs (b)(1) through (5) of this section:

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.2342 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.2342.

(2) The first compliance report must be postmarked no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.2342.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 71, if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(3)(iii)(A) or 71.6(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information in paragraphs (c)(1) through (7) of this section:

(1) Company name and address.

(2) Statement by a responsible official, including the official's name, title, and signature, certifying that, based on information and belief formed after reasonable inquiry, the statements and information in the report are true, accurate, and complete.

(3) Date of report and beginning and ending dates of the reporting period.

(4) Any changes to the information listed in paragraph (d) of this section that have occurred since the last report.

(5) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information described in § 63.10(d)(5)(i).

(6) If there are no deviations from any emission limitation (emission limit or operating limit) that applies to you and there are no deviations from the requirements for work practice

standards in Table 10 of this subpart, a statement that there were no deviations from the emission limitations or work practice standards during the reporting period.

(7) If there were no periods during which the CMS was out of control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS was out of control during the reporting period.

(d) The first compliance report must contain the information in paragraphs (c)(1) through (7) of this section and also the information in paragraphs (d)(1) through (5) of this section:

(1) A listing of the organic liquids stored or transferred at the facility during the previous 6 months, including for each liquid the information in paragraphs (d)(1)(i) through (iv) of this section:

(i) Liquid name;

(ii) Total weight percentage of the organic HAP in Table 1 of this subpart;

(iii) Annual average true vapor pressure; and

(iv) Total throughput into and out of the facility.

(2) An inventory of all storage tanks at the facility that stored organic liquids during the previous 6 months, including for each tank the information in paragraphs (d)(2)(i) through (iv) of this section:

(i) Tank ID code and capacity;

(ii) Tank roof configuration, rim seal type(s), and description of floating deck fittings, as applicable;

(iii) Name of organic liquid(s) stored in the tank; and

(iv) Control device in use for each fixed-roof tank, where applicable.

(3) A listing of all transfer rack loading positions that transferred organic liquids into cargo tanks during the previous 6 months, including for each loading position the information in paragraphs (d)(3)(i) through (iii) of this section:

(i) ID code;

(ii) Organic liquids name(s) and throughput(s); and

(iii) Control device in use at each position, where applicable.

(4) A listing of all cargo tanks (tank trucks and railcars) that loaded organic liquids at affected transfer rack loading positions during the previous 6 months, including the type of cargo tank, owner, ID number, and date and test method for the most recent vapor tightness test.

(5) A listing of all equipment in organic liquids service during the previous 6 months, including for each component the information in paragraphs (d)(5)(i) through (iv) of this section:

(i) ID code;

(ii) Facility plan drawing showing the equipment location;

(iii) An estimate of the number of hours that the component operated in organic liquids service during the reporting period; and

(iv) Method of compliance with the standard (e.g., ''leak detection and repair monitoring'' or ''equipped with dual mechanical seals''), if applicable.

(e) For each deviation from an emission limitation (emission limit or operating limit) occurring at an affected source where you are using a CMS to comply with an emission limitation in this subpart, you must include the information in paragraphs (c)(1) through (4) and paragraphs (e)(1) through (12) of this section. This includes periods of startup, shutdown, or malfunction.

(1) The date and time that each malfunction started and stopped.

(2) The date and time that each CMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time, and duration that each CMS was out of control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction, or during another period.

(5) A summary of the total duration of the deviations during the reporting period and the total duration as a percentage of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CMS downtime during the reporting period and the total duration of CMS downtime as a percentage of the total source operating time during that reporting period.

(8) An identification of each HAP that was potentially emitted during the deviation.

(9) A brief description of the process at which the CMS deviation occurred.

(10) A brief description of the CMS.

(11) The date of the latest CMS certification or audit.

(12) A description of any changes in CMS, processes, or controls since the last reporting period.

(f) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 11 of this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit or work practice standard) requirement in this subpart, we will consider submission of the compliance report as satisfying any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report will not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

§ 63.2390 What records must I keep?

(a) You must keep records as described in paragraphs (a)(1) through (3) of this section:

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(1) and (2)(xiv).

(2) The records in §§ 63.6(e)(3)(iii) through (v) and 63.10(b)(2)(i)(v) related to startups, shutdowns, and malfunctions.

(3) Results of performance tests.

(b) For each CMS, you must keep records as described in paragraphs (b)(1) and (2) of this section:

(1) Records described in § 63.10(b)(2)(vi) through (xi) that apply to your CMS.

(2) Performance evaluation plans, including previous (i.e., superseded) versions of the plan as required in § 63.8(d)(3).

(c) You must keep the records required in Tables 8, 9, and 10 of this subpart to show continuous compliance with each emission limitation and work practice standard that applies to you.

§ 63.2394 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious inspection and review according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep your files of all information (including all reports and notifications) for at least 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each

occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.2398 What parts of the General Provisions apply to me?

Table 12 of this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.2402 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the EPA or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency, as well as the EPA, has the authority to implement and enforce this subpart. You should contact your EPA Regional Office (see list in § 63.13) to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority for this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator of the EPA and are not delegated to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are described in paragraphs (c)(1) through (4) of this section:

(1) Approval of alternatives to the nonopacity emission limitations and work practice standards in § 63.2346(a) through (c) under § 63.6(g).

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.2406 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in § 63.2, and in this section. If the same term is defined in another subpart and in this section, it will have the meaning given in this section for purposes of this subpart.

Annual average true vapor pressure, as used in this subpart, means the total vapor pressure exerted by a stored or transferred organic liquid at the temperature equal to the annual average of the local (nearest) average monthly temperatures reported by the National Weather Service. This temperature is the arithmetic average of the 12 monthly average temperatures for each calendar year at each affected source and is recalculated at the end of each year. The vapor pressure value is determined:

(1) In accordance with methods described in American Petroleum Institute Publication 2517, Evaporative Loss from External Floating-Roof Tanks (incorporated by reference as specified in § 63.14);

(2) Using standard reference texts;

(3) By the American Society for Testing and Materials Method D2879–83 (incorporated by reference as specified in § 63.14); or

(4) Using any other method that the EPA approves.

API gravity means the weight per unit volume of hydrocarbon liquids as measured by a system recommended by the American Petroleum Institute (API) and is expressed in degrees.

Black oil means hydrocarbon (petroleum) liquid with a gas-to-oil ratio less than 0.31 cubic meters per liter (41.4 cubic feet per gallon) and an API gravity less than 40 degrees, measured at the point of entry to the distribution system.

Capacity means the volume of liquid that is capable of being stored in a storage tank, determined by multiplying the tank's internal cross-sectional area by the internal height of the shell.

Cargo tank means a tank truck or railcar into which organic liquids are loaded at an OLD operation transfer rack.

Closed vent system means a system that is not open to the atmosphere and is composed of piping, ductwork, connections, and, if necessary, flow-inducing devices that transport gas or vapors from an emission point to a control device. This system does not include the vapor collection system that is part of some tank trucks and railcars or the loading arm or hose that is used for vapor return. For transfer racks, the closed vent system begins at, and includes, the first block valve on the downstream side of the loading arm or hose used to convey displaced vapors.

Combustion device means an individual unit of equipment, such as a flare, incinerator, process heater, or boiler, used for the combustion of organic emissions.

Control device, as used in this subpart, means any combustion device, recovery device, recapture device, or any combination of these devices used to comply with this subpart. Such equipment or devices include, but are not limited to, absorbers, adsorbers, condensers, incinerators, flares, boilers, and process heaters. Primary condensers, steam strippers, or fuel gas systems are not considered control devices.

Crude oil, as used in this subpart, means any of the naturally occurring liquids commonly referred to as crude oil, other than black oil, regardless of specific physical properties.

Crude oil pipeline breakout station plant site means a facility along a pipeline containing storage tanks and equipment used to temporarily store crude oil from the pipeline. Breakout stations may also contain booster pumps used to move the crude oil along the pipeline. These facilities are downstream of the point of custody transfer.

Crude oil pipeline pumping station plant site means a facility along a pipeline containing equipment (i.e., booster pumps, etc.) used to sustain the movement of crude oil through the pipeline. Pumping stations may also contain crude oil breakout storage tanks. These facilities are downstream of the point of custody transfer.

Custody transfer means the transfer of hydrocarbon liquids, after processing and/or treatment in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

Design evaluation means a procedure for evaluating control devices that complies with the requirements in § 63.985(b)(1)(i).

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart, and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Emission limitation means an emission limit, opacity limit, operating limit, or visible emission limit.

Equipment means each pump, valve, and sampling connection system used in organic liquids service at an OLD operation.

Gasoline means any petroleum distillate or petroleum distillate/alcohol

blend having a Reid vapor pressure of 27.6 kilopascals (4.0 psia) or greater which is used as a fuel for internal combustion engines. Aviation gasoline is included in this definition.

Gas-to-oil ratio means the number of standard cubic meters of gas produced per liter of crude oil or other hydrocarbon liquid.

In organic liquids service means that a piece of equipment contains or contacts organic liquids having 5 percent by weight or greater of the organic HAP listed in Table 1 of this subpart.

Organic liquid, as used in this subpart, means:

(1) Crude oil; or

(2) Any liquid or liquid mixture that contains a total of 5 percent by weight or more of the organic HAP listed in Table 1 of this subpart, as determined using Method 18 of 40 CFR part 60, appendix A, or any other method approved by the Administrator. Any fuels consumed or dispensed directly to users on the plant site and all gasoline are excluded from the definition.

Organic liquids distribution (OLD) operation means the activities and equipment used to transfer organic liquids into or out of a plant site. It also includes storage of distributed organic liquids on the site. The OLD operation can be those activities performed at a dedicated distribution plant site, or it may be collocated in a plant site at which manufacturing operations are carried out.

Permitting authority means one of the following:

(1) The State air pollution control agency, local agency, or other agency authorized by the EPA Administrator to carry out a permit program under part 70 of this chapter; or

(2) The EPA Administrator, in the case of EPA-implemented permit programs under title V of the CAA (42 U.S.C. 7661) and part 71 of this chapter.

Plant site, as used in this subpart, means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination.

Research and development facility means laboratory and pilot plant operations whose primary purpose is to conduct research and development into new processes and products, where the operations are under the close supervision of technically trained personnel, and which are not engaged in the manufacture of products for commercial sale, except in a *de minimis* manner.

Responsible official means responsible official as defined in 40 CFR 70.2.

Shutdown means the cessation of operation of a regulated source and equipment required or used to comply with this subpart, or the emptying and degassing of a storage tank. Shutdown as defined in this section includes, but is not limited to, events that result from periodic maintenance, replacement of equipment, or repair.

Storage tank, as used in this subpart, means a stationary unit that is constructed primarily of nonearthen materials (such as wood, concrete, steel, or reinforced plastic) that provide structural support and is designed to hold a bulk quantity of liquid. Storage tanks do not include:

(1) Vessels permanently attached to conveyances such as trucks, railcars, barges, or ships;

(2) Bottoms receiver tanks;

(3) Surge control vessels;

(4) Vessels storing wastewater; or

(5) Reactor vessels associated with a manufacturing process unit.

Transfer rack means a single system used to load organic liquids into bulk cargo tanks mounted on or in a truck, truck trailer, or railcar. It includes all loading arms, pumps, meters, shutoff valves, relief valves, and other piping and equipment necessary for the transfer operation. Transfer equipment and operations that are physically separate (*i.e.,* do not share common piping, valves, and other equipment) are considered to be separate transfer racks.

Transfer rack loading position means an individual tank truck or railcar parking spot at a transfer rack. An affected loading position is one at which 11.8 million liters (3.12 million gallons) per year or more of organic liquids are transferred into a combination of tank trucks and railcars.

Vapor-tight cargo tank means a cargo tank liquid delivery tank that has been demonstrated to be vapor-tight. To be considered vapor-tight, a cargo tank equipped with vapor collection equipment must undergo a pressure change of no more than 250 pascals (1 inch of water) within 5 minutes after it is pressurized to 4,500 pascals (18 inches of water). This capability must be demonstrated annually using the procedures specified in Method 27 of 40 CFR part 60, appendix A. For all other cargo tanks, vapor tightness is demonstrated by performing the U.S. Department of Transportation pressure test procedures for tank cars and cargo tanks.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the CAA.

Tables to Subpart EEEE of Part 63

TABLE 1 TO SUBPART EEEE OF PART 63—ORGANIC HAZARDOUS AIR POLLUTANTS

[As stated in § 63.2334(b), you must use the information listed in the following table to determine if the liquids handled at your facility contain at least 5 percent by weight of these HAP]

Compound name	CAS No.[a]
Acetaldehyde	75–07–0
Acetonitrile	75–05–8
Acrolein	107–02–8
Acrylic acid	79–10–7
Acrylonitrile	107–13–1
Allyl chloride	107–05–1
Benzene	71–43–2
Bis (chloromethyl) ether	542–88–1
Bromoform	75–25–2
Butadiene (1,3-)	106–99–0
Carbon disulfide	75–15–0
Carbon tetrachloride	56–23–5
Chlorobenzene	108–90–7
2-Chloro-1,3-butadiene (Chloroprene)	126–99–8
Chloroform	67–66–3
Cumene	98–82–8

TABLE 1 TO SUBPART EEEE OF PART 63—ORGANIC HAZARDOUS AIR POLLUTANTS—Continued

[As stated in § 63.2334(b), you must use the information listed in the following table to determine if the liquids handled at your facility contain at least 5 percent by weight of these HAP]

Compound name	CAS No.[a]
Dichloroethane (1,2-) (Ethylene dichloride) (EDC)	107–06–2
Dichloroethylether (Bis(2-chloroethyl)ether)	111–44–4
Dichloropropene (1,3-)	542–75–6
Diethylene glycol monobutyl ether	112–34–5
Diethylene glycol monomethyl ether	111–77–3
Dimethylhydrazine (1,1-)	57–14–7
Dioxane (1,4-) (1,4-Diethyleneoxide)	123–91–1
Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106–89–8
Epoxybutane (1,2-)	106–88–7
Ethyl acrylate	140–88–5
Ethylbenzene	100–41–4
Ethyl chloride (Chloroethane)	75–00–3
Ethylene dibromide (Dibromomethane)	106–93–4
Ethylene glycol dimethyl ether	110–71–4
Ethylene glycol monomethyl ether	109–86–4
Ethylene glycol monomethyl ether acetate	110–49–6
Ethylene glycol monophenyl ether	122–99–6
Ethylene oxide	75–21–8
Ethylidene dichloride (1,1-Dichloroethane)	75–34–3
Formaldehyde	50–00–0
Hexane	110–54–3
Hydrazine	302–01–2
Methanol	67–56–1
Methyl bromide (Bromomethane)	74–83–9
Methyl chloride (Chloromethane)	74–87–3
Methylene chloride (Dichloromethane)	75–09–2
Methyl ethyl ketone (2-Butanone) (MEK)	78–93–3
Methyl hydrazine	60–34–4
Methyl isobutyl ketone (Hexone) (MIBK)	108–10–1
Methyl isocyanate	624–83–9
Methyl methacrylate	80–62–6
Methyl tert-butyl ether (MTBE)	1634–04–4
Nitropropane (2-)	79–46–9
Phosgene	75–44–5
Propionaldehyde	123–38–6
Propylene dichloride (1,2-Dichloropropane)	78–87–5
Propylene oxide	75–56–9
Styrene	100–42–5
Tetrachloroethane (1,1,2,2-)	79–34–5
Tetrachloroethylene (Perchloroethylene)	127–18–4
Toluene	108–88–3
Trichloroethane (1,1,1-) (Methyl chloroform)	71–55–6
Trichloroethane (1,1,2-) (Vinyl trichloride)	79–00–5
Trichloroethylene	79–01–6
Triethylamine	121–44–8
Trimethylpentane (2,2,4-)	540–84–1
Vinyl acetate	108–05–4
Vinyl chloride (Chloroethylene)	75–01–4
Vinylidene chloride (1,1-Dichloroethylene)	75–35–4
Xylene (m-)	108–38–3
Xylene (o-)	95–47–6
Xylene (p-)	106–42–3
Xylenes (isomers and mixtures)	1330–20–7

[a] CAS numbers refer to the Chemical Abstracts Services registry number assigned to specific compounds, isomers, or mixtures of compounds.

TABLE 2 TO SUBPART EEEE OF PART 63—EMISSION LIMITS

[As stated in §§ 63.2338(b)(2) and 63.2346(a), you must comply with the emission limits for organic liquid distribution affected sources in the following table]

If you own or operate * * *	And if * * *	Then you must * * *
1. A storage tank at an existing affected source with a capacity ≥75 cubic meters (20,000 gallons) and <151 cubic meters (40,000 gallons).	a. The annual average true vapor pressure of the stored organic liquid is ≥13.1 kilopascals (1.9 psia) and <76.6 kilopascals (11.1 psia).	i. Reduce emissions of total organic HAP or TOC by 95 weight-percent (or, for combustion devices, to an exhaust concentration of 20 parts per million by volume, on a dry basis, corrected to 3% oxygen) by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in §§ 63.982(a)(1) and (f), 63.983, 63.984, 63.985, 63.987, 63.988, 63.990, and 63.995; or ii. Comply with the work practice standards specified in Table 4, item 1 of this subpart.
2. A storage tank at an existing affected source with a capacity ≥151 cubic meters (40,000 gallons).	The annual average true vapor pressure of the stored organic liquid is ≥5.2 kilopascals (0.75 psia).	Same as item 1 of Table 2 of this subpart.
3. A storage tank at a new affected source with a capacity ≥38 cubic meters (10,000 gallons) and <151 cubic meters (40,000 gallons).	The annual average true vapor pressure of the stored organic liquid is ≥13.1 kilopascals (1.9 psia) and <76.6 kilopascals (11.1 psia).	Same as item 1 of Table 2 of this subpart.
4. A storage tank at a new affected source with a capacity ≥151 cubic meters (40,000 gallons).	The annual average true vapor pressure of the stored organic liquid is ≥0.7 kilopascals (0.1 psia).	Same as item 1 of Table 2 of this subpart.
5. A transfer rack	a. The transfer rack loads at any loading position ≥11.8 million liters (3.12 million gallons) per year of organic liquids into a combination of tank trucks and railcars.	i. Reduce emissions of total organic HAP or TOC at each affected loading position by 95 weight-percent (or, for combustion devices, to an exhaust concentration less than or equal to 20 parts per million by volume, on a dry basis, corrected to 3% oxygen) by venting emissions through a closed vent system to any combination of control devices meeting the requirements of subpart SS of this part, as specified in §§ 63.982(a)(3)(ii) and (f), 63.983, 63.984, 63.987, 63.988, 63.990, 63.995, and 63.997; and ii. Comply with the work practice standards specified in Table 4, item 2 of this subpart.

TABLE 3 TO SUBPART EEEE OF PART 63—OPERATING LIMITS

[As stated in §§ 63.2346(b) and 63.2370(b), you must comply with the operating limits for organic liquid distribution affected sources in the following table]

For * * *	You must * * *
1. Each existing and each new affected source using a thermal oxidizer to comply with an emission limit in Table 2 of this subpart.	Maintain the hourly average firebox temperature greater than or equal to the reference temperature established during the design evaluation or performance test.
2. Each existing and each new affected source using a catalytic oxidizer to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing catalyst bed with a bed that meets the replacement specifications established during the design evaluation or performance test before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test; and b. Maintain the hourly average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test; and c. Maintain the hourly average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test.
3. Each existing and each new affected source using a condenser to comply with an emission limit in Table 2 of this subpart.	Maintain the hourly average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test.
4. Each existing and each new affected source using an adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test; and b. Maintain the frequency of regeneration greater than or equal to the reference frequency established during the design evaluation or performance test; and c. Maintain the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test; and d. Maintain the temperature of the adsorption bed during regeneration (except during the cooling cycle) greater than or equal to the reference temperature established during the design evaluation or performance test; and

TABLE 3 TO SUBPART EEEE OF PART 63—OPERATING LIMITS—Continued

[As stated in §§ 63.2346(b) and 63.2370(b), you must comply with the operating limits for organic liquid distribution affected sources in the following table]

For * * *	You must * * *
	e. Maintain the temperature of the adsorption bed after regeneration (and within 15 minutes after completing any cooling cycle) less than or equal to the reference temperature established during the design evaluation or performance test.
5. Each existing and each new affected source using an adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test; and b. Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test.
6. Each existing and each new affected source using a flare to comply with an emission limit in Table 2 of this subpart.	a. Comply with the equipment and operating requirements in § 63.987(a); and b. Conduct an initial flare compliance assessment in accordance with § 63.987(b); and c. Install and operate monitoring equipment as specified in § 63.987(c).

TABLE 4 TO SUBPART EEEE OF PART 63—WORK PRACTICE STANDARDS

[As stated in § 63.2346(c), you must comply with the work practice standards for organic liquid distribution affected sources in the following table]

For each * * *	You must * * *
1. Storage tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1–4 of this subpart.	As an alternative to the emission limit in Table 2 of this subpart, comply with the requirements of subpart WW (control level 2) of this part.
2. Transfer rack affected loading position at an existing or new affected source that meets the throughput cutoff specified in Table 2, item 5 of this subpart.	a. For cargo tanks equipped with vapor collection equipment, ensure that organic liquids are loaded only into cargo tanks that have been demonstrated, using EPA Method 27, 40 CFR part 60, appendix A within the last 12 months, to be vapor-tight (i.e., will undergo a pressure change of not more than 250 pascals (1 inch of water) within 5 minutes after being pressurized to 4,500 pascals (18 inches of water)). Follow the steps outlined in 40 CFR 60.502(e) for these equipped cargo tanks. The required vapor tightness documentation is described in 40 CFR 60.505(b); and b. For cargo tanks without vapor collection equipment, ensure that organic liquids are loaded only into cargo tanks that have a current certification in accordance with the U.S. DOT pressure test requirements; and c. Comply with the provisions in 40 CFR 60.502(d), (f), (g), (h), and (i) for the equipped cargo tanks described in item 2.a in Table 4 of this subpart.
3. Piece of equipment, as defined under 63.2406, of this subpart, that operates in organic liquids service ≥ 300 hours per year.	Comply with the requirement of subpart TT (control level 1) or subpart UU (control level 2) of this part.

TABLE 5 TO SUBPART EEEE OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS

[As stated in §§ 63.2358 and 63.2362(a), you must comply with the requirements for performance tests for existing or new affected sources in the following table]

For * * *	You must conduct a performance test * * *	Using * * *	To determine * * *	According to the following requirements * * *
1. Each existing and each new affected source using a nonflare control device to comply with an emission limit in Table 2 of this subpart.	a. To determine the organic HAP or TOC control efficiency of each nonflare control device, or the exhaust concentration of each combustion device.	i. Method 1 or 1A in appendix A of 40 CFR part 60, as appropriate.	(1) Sampling port locations and the required number of traverse points.	(A) Sampling sites must be located at the inlet and outlet of each control device and prior to any releases to the atmosphere; and (B) Sampling sites must be located at the outlet of each control device and prior to any releases to the atmosphere.
		ii. Method 2, 2A, 2C, 2D, 2F, or 2G in appendix A of 40 CFR part 60, as appropriate.	Stack gas velocity and volumetric flow rate..	See the requirement in item 1.a.i.(1)(A) and (B) of this table.
		iii. Method 3 or 3B in appendix A of 40 CFR part 60, as appropriate.	Concentration of CO_2 and O_2 and dry molecular weight of the stack gas.	See the requirement in item 1.a.i.(1)(A) and (B) of this table.
		iv. Method 4 in appendix A of 40 CFR part 60.	Moisture content of the stack gas.	See the requirement in item 1.a.i.(1)(A) and (B) of this table.

TABLE 5 TO SUBPART EEEE OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS—Continued

[As stated in §§ 63.2358 and 63.2362(a), you must comply with the requirements for performance tests for existing or new affected sources in the following table]

For * * *	You must conduct a performance test * * *	Using * * *	To determine * * *	According to the following requirements * * *
		v. Method 18, 25, or 25A in appendix A of 40 CFR part 60, as appropriate, or Method 316 in appendix A of 40 CFR part 63 for measuring formaldehyde.	(1) Total organic HAP or TOC, or formaldehyde emissions.	(A) The organic HAP used for the calibration gas for Method 25A must be the single organic HAP representing the largest percent by volume of emissions; and (B) during the performance test or a design evaluation, you must establish the operating parameter limits within which total organic HAP or TOC emissions are reduced by at least 95 weight-percent or to 20 ppmv exhaust concentration
2. Each cargo tank that you own that loads at an existing or new affected transfer rack loading position and equipped with vapor collection equipment.	To determine the vapor tightness of the tank and repair as needed until it passes the test.	Method 27 in appendix A of 40 CFR part 60.	Vapor tightness	The pressure change in the tank must be no more than 250 pascals (1 inch of water) in 5 minutes after it is pressurized to 4,500 pascals (18 inches of water).

TABLE 6 TO SUBPART EEEE OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITS

[As stated in §§ 63.2370(a) and 63.2382(e), you must show initial compliance with the emission limits for existing or new affected sources according to the following table]

For each * * *	For the following emission limit * * *	You have demonstrated initial compliance if * * *	By * * *
1. Storage tank at an existing affected source meeting either set of capacity and vapor pressure limits specified in Table 2, items 1 and 2 of this subpart.	a. Reduce total organic HAP or TOC emissions by at least 95 weight-percent, or to an exhaust concentration of ≤20 ppmv.	i. Total organic HAP or TOC emissions, based on the results of the performance testing specified in Table 5 of this subpart, are reduced by at least 95 weight-percent or to an exhaust concentration of ≤20 ppmv.	3 years after [publication date of final rule in the FR].
2. Storage tank at a new affected source meeting either set of capacity and vapor pressure limits specified in Table 2, items 3 and 4 of this subpart.	See the emission limit in item 1.a. of this table.	See the compliance demonstration in item 1.a.i. of this table.	The initial startup date for the affected source.
3. Transfer rack loading position at an existing affected source meeting the throughput level for organic liquids specified in Table 2, item 5 of this subpart.	See the emission limit in item 1.a.i.(1)(A) and (B) of this table.	See the compliance demonstration in item 1.a.i.(1)(A) and (B) of this table.	3 years after [publication date of final rule in the FR].
4. Transfer rack loading position at a new affected source meeting the throughput level for organic liquids specified in Table 2, item 5 of this subpart.	See the emission limit in item 1.a.i.(1)(A) and (B) of this table.	See the compliance demonstration item 1.a.i.(1)(A) and (B) of this table.	The initial startup date for the affected source.

TABLE 7 TO SUBPART EEEE OF PART 63—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS

[As stated in §§ 63.2370(a) and 63.2382(e), you must show initial compliance with the work practice standards for existing or new affected sources according to the following table]

For each * * *	For the following standard * * *	You have demonstrated initial compliance if * * *	By * * *
1. Storage tank at an existing affected source meeting either set of capacity and vapor pressure specified in Table 2, items 1 and 2 of this subpart.	Install a floating roof or equivalent control that meets the requirements in Table 4, item 1 of this subpart.	You visually inspect each internal floating roof before the initial filling of the storage tank, and perform seal gap inspections of the primary and secondary rim seals of each external floating roof within 90 days after the initial filling of the storage tank.	3 years after [publication date of final rule in the FR].
2. Storage tank at a new affected source meeting either set of capacity and vapor pressure limits specified in Table 2, items 3 and 4 of this subpart.	See the standard in item 1. of this table.	See the compliance demonstration in item 1. of this table.	The initial startup date for the affected source.
3. Transfer rack loading position at an existing affected source that meets the throughput cutoff in Table 2, item 5 of this subpart.	Load organic liquids only into cargo tanks having current vapor tightness certification as described in Table 4, item 2 of this subpart.	You take steps to ensure that only vapor-tight cargo tanks load at affected loading positions.	3 years after [publication date of final rule in the FR].
4. Transfer rack loading position at a new affected source that meets the throughput cutoff in Table 2, item 5 of this subpart.	See the standard in item 3. of this table.	See the compliance demonstration in item 3. of this table.	The initial startup date for the affected source.
5. Piece of equipment at an existing affected source, as defined under § 63.2410 that operates in organic liquids service ≥ 300 hours per year.	Carry out a leak detection and repair program or equivalent control according to one of the subparts listed in Table 4, item 3 of this subpart.	You make available written specifications for the leak detection and repair program or equivalent control approach.	3 years after [publication date of final rule in the FR].
6. Piece of equipment at a new affected source, as defined under § 63.2410 that operates in organic liquids service ≥ 300 hours per year.	See the standard in item 5. of this table.	See the compliance demonstration in item 5. of this table.	The initial startup date for the affected source.

TABLE 8 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITS

[As stated in §§ 63.2378(a) and (b) and 63.2390(c), you must show continuous compliance with the emission limits for existing or new affected sources according to the following table]

For * * *	For the following emission limit * * *	You must demonstrate continuous compliance by * * *
1. Each storage tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1 through 4 of this subpart.	a. Reduction of total organic HAP or TOC emissions from the closed vent system and control device must be 95 weight-percent or greater, or 20 ppmv of organic HAP or TOC in the exhaust of combustion devices.	i. Performing CMS monitoring and collecting data according to §§ 63.2366, 63.2374, and 63.2378; and ii. Maintaining the site-specific operating limits within the ranges established during the design evaluation or performance test.
2. Each transfer rack loading position at an existing or new affected source meeting the throughput cutoff for organic liquids specified in Table 2, item 5 of this subpart.	See the emission limit in item 1.a. of this table	See the compliance demonstration in item 1.a.i. and ii. of this table.

TABLE 9 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS

[As stated in §§ 63.2378(a) and (b) and 63.2390(c), you must show continuous compliance with the operating limits for existing or new affected sources according to the following table]

For each existing and each new * * *	For the following operating limit * * *	You must demonstrate continuous compliance by * * *
1. Affected source using a thermal oxidizer to comply with an emission limit in Table 2 of this subpart.	a. Maintain the hourly average firebox temperature greater than or equal to the reference temperature established during the design evaluation or performance test.	i. Continuously monitoring and recording firebox temperature every 15 minutes and maintaining the hourly average firebox temperature greater than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.

TABLE 9 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

[As stated in §§ 63.2378(a) and (b) and 63.2390(c), you must show continuous compliance with the operating limits for existing or new affected sources according to the following table]

For each existing and each new * * *	For the following operating limit * * *	You must demonstrate continuous compliance by * * *
2. Affected source using a catalytic oxidizer to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing catalyst bed with a catalyst bed that meets the replacement specifications established during the design evaluation or performance test before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test.	i. Replacing the existing catalyst bed with a catalyst bed that meets the replacement specifications established during the design evaluation or performance test before the age of the bed exceeds the maximum allowable age established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	b. Maintain the hourly average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test.	i. Continuously monitoring and recording the temperature at the inlet of the catalyst bed at least every 15 minutes and maintaining the hourly average temperature at the inlet of the catalyst bed greater than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	c. Maintain the hourly average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test.	i. Continuously monitoring and recording the temperature at the outlet of the catalyst bed every 15 minutes and maintaining the hourly average temperature difference across the catalyst bed greater than or equal to the minimum temperature difference established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
3. Affected source using a condenser to comply with an emission limit in Table 2 of this subpart.	a. Maintain the hourly average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test.	i. Continuously monitoring and recording the temperature at the exit of the condenser at least every 15 minutes and maintaining the hourly average condenser exit temperature less than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
4. Affected source using an adsorption system with adsorbent regeneration to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test.	i. Replacing the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	b. Maintain the frequency of regeneration greater than or equal to the reference frequency established during the design evaluation or performance test.	i. Maintaining the frequency of regeneration greater than or equal to the reference frequency established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	c. Maintain the regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test.	i. Maintaining the total regeneration stream mass flow during the adsorption bed regeneration cycle greater than or equal to the reference stream mass flow established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.

TABLE 9 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH OPERATING LIMITS—Continued

[As stated in §§ 63.2378(a) and (b) and 63.2390(c), you must show continuous compliance with the operating limits for existing or new affected sources according to the following table]

For each existing and each new * * *	For the following operating limit * * *	You must demonstrate continuous compliance by * * *
	d. Maintain the temperature of the adsorption bed during regeneration (except during the cooling cycle) greater than or equal to the reference temperature established during the design evaluation or performance test.	i. Maintaining the temperature of the adsorption bed during regeneration (except during the cooling cycle) greater than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	e. maintain the temperature of the adsorption bed after regeneration (and within 15 minutes after completing any cooling cycle) less than or equal to the reference temperature established during the design evaluation or performance test.	i. Maintaining the temperature of the adsorption bed after regeneration (and within 15 minutes after completing any cooling cycle) less than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
5. Affected source using an adsorption system without adsorbent regeneration to comply with an emission limit in Table 2 of this subpart.	a. Replace the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test.	i. Replacing the existing adsorbent in each segment of the bed with an adsorbent that meets the replacement specifications established during the design evaluation or performance test before the age of the adsorbent exceeds the maximum allowable age established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
	b. Maintain the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test.	i. Maintaining the temperature of the adsorption bed less than or equal to the reference temperature established during the design evaluation or performance test; and ii. Keeping the applicable records required in § 63.998.
6. Affected source using a flare to comply with an emission limit in Table 2 of this subpart.	a. Maintain a pilot flame present in the flare at all times that vapors are not being vented to the flare (§ 63.11(b)(5)).	i. Continuously operating a device that detects the presence of the pilot flame; and ii. Keeping the applicable records required in § 63.998.
	b. Maintain a flare flame at all times that vapors are being vented from the emission source (§ 63.11(b)(5)).	i. Maintaining a flare flame at all times that vapors are being vented from the emission source; and ii. Keeping the applicable records required in § 63.998.
	c. Operate the flare with no visible emissions, except for up to 5 minutes in any 2 consecutive hours (§ 63.11(b)(4)).	i. Operating the flare with no visible emissions exceeding the amount allowed; and ii. Keeping the applicable records required in § 63.998.
	d. Operate the flare with an exit velocity that is within the applicable limits in § 63.11(b)(6), (7), and (8).	i. Operating the flare within the applicable exit velocity limits; and ii. Keeping the applicable records required in § 63.998.
	e. Operate the flare with a net heating value of the gas being combusted greater than the applicable minimum value in § 63.11(b)(6)(ii).	i. Operating the flare with the gas net heating value within the applicable limit; and ii. Keeping the applicable records required in § 63.998.

TABLE 10 TO SUBPART EEEE OF PART 63—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS

[As stated in §§ 63.2378(a) and (b) and 63.2386(c)(6), you must show continuous compliance with the work practice standards for existing or new affected sources according to the following table]

For* * *	For the following standard* * *	You must demonstrate continuous compliance by* * *
1. Each internal floating roof (IFR) storage tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1 through 4 of this subpart.	a. Install a floating roof designed and operated according to the applicable specifications in § 63.1063(a) and (b).	i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each IFR: once per year, and each time the storage tank is completely emptied and degassed, or every 10 years, whichever occurs first (§ 63.1063(c)(1), (d), and (e)); and ii. Keeping the tank records required in § 63.1065.
2. Each external floating roof (EFR) storage tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1 through 4 of this subpart.	a. See the standard in item 1.a. of this table ..	i. Visually inspecting the floating roof deck, deck fittings, and rim seals of each EFR each time the storage tank is completely emptied and degassed, or every 10 years, whichever occurs first (§ 63.1063(c)(2), (d), and (e)); and ii. Performing seal gap measurements on the secondary seal of each EFR at least once every year, and on the primary seal of each EFR at least every 5 years (§ 63.1063(c)(2), (d), and (e)); and iii. Keeping the tank records required in § 63.1065.
3. Each IFR or EFR tank at an existing or new affected source meeting any set of capacity and vapor pressure limits specified in Table 2, items 1 through 4 of this subpart.	a. Repair the conditions causing storage tank inspection failures (§ 63.1063(e)).	i. Repairing conditions causing inspection failures: before refilling the storage tank with liquid, or within 45 days (or up to 105 days with extensions) for a tank containing liquid; and ii. keeping the tank records required in § 63.1065(b).

TABLE 11 TO SUBPART EEEE OF PART 63—REQUIREMENTS FOR REPORTS

[As stated in § 63.2386(b) and (f), you must submit a compliance or startup, shutdown, and malfunction report according to the following table]

You must submit a (n) * * *	The report must contain * * *	You must submit the report * * *
1. Compliance report	a. A statement that there were no deviations from the standards during the reporting period; or if you have a deviation from any standard during the reporting period, the report must contain the information in § 63.2386(e).	i. Semiannually, and report. it must be postmarked within 30 days after the end of each calendar half (§ 63.10(e)(3)(v)).
	b. If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your SSMP, the compliance report must include the information in § 63.10(d)(5)(i).	See the submission in item 1.a.i. of this table.
2. Immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your SSMP.	a. Actions taken for the event	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(ii)	By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority (§ 63.10(d)(5)(ii)).

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.1	Applicability	Initial applicability determination; Applicability after standard established; Permit requirements; Extensions, Notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities and Circumvention.	Prohibited activities; Circumvention, Severability	Yes.

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.5	Construction/Reconstruction	Applicability; Applications; Approvals	Yes.
§ 63.6(a)	Compliance with Standards/ O&M–Applicability.	GP apply unless compliance extension; GP apply to area sources that become major.	Yes.
§ 63.6(b)	Compliance Dates for New and Reconstructed Sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for section 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved]		
§ 63.6(b)	Compliance Dates for New and Reconstructed Area Sources that Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources.	Comply according to date in subpart, which must be no later than 3 years after effective date; for section 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes.
§ 63.6(c)(3)–(4)	[Reserved]		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources that Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (e.g., 3 years).	Yes.
§ 63.6(d)	[Reserved]		
§ 63.6(e)(1)–(2)	Operation & Maintenance	Operate to minimize emissions at all times; correct malfunctions as soon as practicable; and operation and maintenance requirements independently enforceable; information Administrator will use to determine if operation and maintenance requirements were met.	Yes.
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction (SSM) Plan.	Requirement for SSM plan; content of SSM plan	Yes.
§ 63.6(f)(1)	Compliance except During SSM	You must comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance.	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)	Opacity/Visible Emission (VE) Standards.	Requirements for opacity and visible emission standards	No. The subpart does not have opacity/VE standards.
§ 63.6(h)(1)	Compliance with opacity/VE Standards.	You must comply with opacity/VE standards at all times except during SSM.	No.
§ 63.6(h)(2)(i)	Determining Compliance with Opacity/VE Standards.	If standard does not state test method, use Method 9 for opacity and Method 22 for VE.	No.
§ 63.6(h)(2)(ii)	[Reserved]		
§ 63.6(h)(2)(iii)	Using Previous Tests to Demonstrate Compliance with Opacity/VE Standards.	Criteria for when previous opacity/VE testing can be used to show compliance with this subpart.	No.
§ 63.6(h)(3)	[Reserved]		
§ 63.6(h)(4)	Notification of Opacity/VE Observation Date.	Must notify Administrator of anticipated date of observation	No.
§ 63.6(h)(5)(i), (iii)–(v).	Conducting Opacity/VE Observations.	Dates and schedule for conducting opacity/VE observations	No.
§ 63.6(h)(5)(ii)	Opacity Test Duration and Averaging Times.	Must have at least 3 hours of observation with thirty 6-minute averages.	No.
§ 63.6(h)(6)	Records of Conditions During Opacity/VE Observations.	Must keep records available and allow Administration to inspect.	No.
§ 63.6(h)(7)(i)	Report COMS Monitoring Data from Performance Test.	Must submit COMS data with other performance test data	No.
§ 63.6(h)(7)(ii)	Using COMS instead of Method 9.	Can submit COMS data instead of Method 9 results even if rule requires Method 9, but must notify Administrator before performance test.	No.
§ 63.6(h)(7)(iii)	Averaging Time for COMS during Performance Test.	To determine compliance, must reduce COMS data to 6-minute averages.	No.
§ 63.6(h)(7)(iv)	COMS Requirements	Owner/operator must demonstrate that COMS performance evaluations are conducted according to § 63.8(e); COMS are properly maintained and operated according to § 63.8(c) and data quality as § 63.8(d).	No.

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.6(h)(7)(v)	Determining Compliance with Opacity/VE Standards.	COMS is probable but not conclusive evidence of compliance with opacity standard, even if Method 9 observation shows otherwise. Requirements for COMS to be probable evidence-proper maintenance, meeting PS 1, and data have not been altered.	No.
§ 63.6(h)(8)	Determining Compliance with Opacity/VE Standards.	Administrator will use all COMS, Method 9, and Method 22 results, as well as information about operation and maintenance to determine compliance.	Yes.
§ 63.6(h)(9)	Adjusted Opacity Standard	Procedures for Administrator to adjust an opacity standard	Yes.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption.	President may exempt any source from requirement to comply with subpart.	Yes.
§ 63.7(a)(1)–(2)	Performance Test Dates	Dates for conducting initial performance testing and other dates are compliance demonstrations; must contained in conduct 180 days after first subject to subpart.	No. These dates are contained in § 63.2354.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	If have to reschedule performance test, must notify Administrator of rescheduled date 5 days before scheduled date.	Yes.
§ 63.7(c)	Quality Assurance/Test Plan	Requirement to submit site-specific 60 days before the test or on date Administrator agrees with; test plan approval procedures; performance audit requirements; internal and external QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for testing facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	Performance test must be conducted under representative conditions; cannot conduct performance tests during SSM; not a violation to exceed standard during SSM.	Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to subpart and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	Must have three test runs of at least one hour each; compliance is based on arithmetic mean of three runs; conditions when data from an additional test run can be used.	Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	Must include raw data in performance test report; must submit performance test data 60 days after end of test with the notification of compliance status; keep data for 5 years.	Yes
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements.	Subject to all monitoring requirements in standard	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of 40 CFR part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved]		
§ 63.8(a)(4)	Monitoring with Flares	Unless this subpart says otherwise, the requirements for flares in § 63.11 apply.	Yes.
§ 63.8(b)(1)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	Specific requirements for installing monitoring systems; must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; if more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM	Follow the SSM plan for routine repairs; keep parts for routine repairs readily available; reporting requirements for SSM when action is described in SSM plan.	Yes.
§ 63.8(c)(1)(ii)	SSM not in SSM plan	Reporting requirements for SSM when action is not described in SSM plan.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	How Administrator determines if source complying with operation and maintenance requirements; review of source O&M procedures, records, manufacturer's recommendations; inspections.	Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	Must install to get representative emission or parameter measurements; must verify operational status before or at performance test.	Yes.

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.8(c)(4)	CMS Requirements	CMS must be operating except during breakdown, out-of control, repair, maintenance, and high-level calibration drifts; COMS must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period; CEMS must have a minimum of one cycle of operation for each successive 15-minute period.	Yes. However, CEMS/COMS are not applicable.
§ 63.8(c)(5)	COMS Minimum Procedures	COMS minimum procedures	No.
§ 63.8(c)(6)–(8)	CMS Requirements	Zero and high level calibration check requirements Out-of-control periods.	Yes.
§ 63.8(d)	CMS Quality Control	Requirements for CMS quality control, including calibration, etc.; must keep quality control plan on record for 5 years; keep old versions for 5 years after revisions.	Yes.
§ 63.8(e)	CMS Performance Evaluation	Notification, performance evaluation test plan, reports	Yes.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test.	Procedures for Administrator to approve alternative relative accuracy tests for CEMS.	No.
§ 63.8(g)	Data Reduction	COMS 6-minute averages calculated over at least 36 evenly spaced data points; CEMS 1 hour averages computed over at least 4 equally spaced data points; data that cannot be used in average.	Yes. However, CEMS/COMS are not applicable.
§ 63.9(a)	Notification Requirements	Applicability and State delegation	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	Submit notification within 120 days after effective date; notification of intent to construct/reconstruct, Notification of commencement of construction/reconstruction, Notification of startup; contents of each.	Yes.
§ 63.9(c)	Request for Compliance Extension.	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Sources.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	No.
§ 63.9(g)	Additional Notifications When Using CMS.	Notification of performance evaluation; notification about use of COMS data; Notification that exceeded criterion for relative accuracy alternative.	Yes. However, there are no opacity/VE standards.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	Contents; due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after; when to submit to Federal vs. State authority.	Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines.	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	Applies to all, unless compliance extension; when to submit to Federal vs. State authority; procedures for owners of more than 1 source.	Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	General requirements; keep all records readily available; keep for 5 years.	Yes.
§ 63.10(b)(2)(i)–(iv)	Records Related to Startup, Shutdown, and Malfunction.	Occurrence of each for operations (process equipment); occurrence of each malfunction of air pollution control equipment; maintenance on air pollution control equipment; actions during startups, shutdowns, and malfunctions.	Yes.
§ 63.10(b)(2)(vi)–(xi)	CMS Records	Malfunctions, inoperative, out-of-control periods	Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting initial notification and notification of compliance status.	Yes.
§ 63.10(b)(3)	Records	Applicability determinations	Yes.
§ 63.10(c)	Records	Additional records for CMS	Yes.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results.	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations.	What to report and when	Yes.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Contents and submission	Yes.

TABLE 12 TO SUBPART EEEE OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEE—Continued

[As stated in § 63.2398, you must comply with the applicable General Provisions requirements according to the following table]:

Citation	Subject	Brief description	Applies to subpart EEEE
§ 63.10(e)(1)–(2)	Additional CMS Reports	Must report results for each CEMS on a unit; written copy of CMS performance evaluation; 2–3 copies of COMS performance evaluation.	Yes. However, CEMS/COMS are not applicable.
§ 63.10(e)(3)(i)–(iii)	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	Yes. However, note that the title of the report is the compliance report. Deviations are excess emissions or parameter exceedances.
§ 63.10(e)(3)(iv)–(v)	Excess Emissions Reports	Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedances (now defined as deviations); provision to request semi-annual reporting after compliance for 1 year; submit report by 30th day following end of quarter or calendar half; if there has not been an exceedance or excess emissions (now defined as deviations), report contents in a statement that there have been no deviations; must submit report containing all of the information in §§ 63.8(c)(7)–(8) and 63.10(c)(5)–(13).	Yes.
§ 63.10(e)(3)(vi)–(viii).	Excess Emissions Report and Summary Report.	Requirements for reporting excess emissions for CMS (now called deviations); requires all of the information in §§ 63.10(c)(5)–(13) and 63.8(c)(7)–(8).	Yes.
§ 63.10(e)(4)	Reporting COMS data	Must submit COMS data with performance test data	N/A.
§ 63.10(f)	Waiver for Recordkeeping/Reporting.	Procedures for Administrator to waive	Yes.
§ 63.11	Flares	Requirements for flares	Yes.
§ 63.12	Delegation	State authority to enforce standards	Yes.
§ 63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§ 63.14	Incorporation by Reference	Test methods incorporated by reference	Yes.
§ 63.15	Availability of Information	Public and confidential information	Yes.

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Eurocopter France; comments due by 4-12-02; published 2-11-02 [FR 02-02424]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 3986/P.L. 107–154

To extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001. (Mar. 25, 2002; 116 Stat. 80)

Last List March 21, 2002

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