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Presidential Documents

Title 3—

The President

Presidential Determination No. 2002–12 of April 1, 2002

U.S. Contribution to the Korean Peninsula Energy Development Organization (KEDO): Determination Regarding Funds Under the Heading ''Nonproliferation, Anti-terrorism, Demining and Related Programs'' in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115)

Memorandum for the Secretary of State

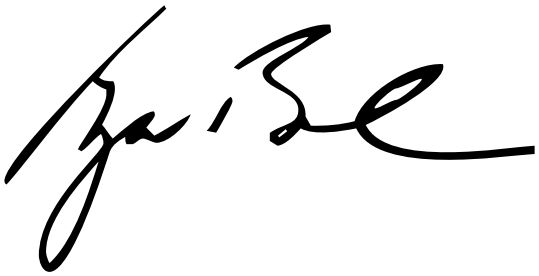
Pursuant to the authority vested in me by section 565(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115) (the ''Act''), I hereby determine that it is vital to the national security interests of the United States to furnish up to $95 million in funds made available under the heading ''Nonproliferation, Anti-terrorism, Demining and Related Programs'' of that Act, for assistance to KEDO, and, therefore, I hereby waive the requirement in section 565(b) to certify that:

(1) The parties to the Agreed Framework have taken and continue to take demonstrable steps to implement the Joint Declaration on Denuclearization of the Korean Peninsula;

(2) North Korea is complying with all provisions of the Agreed Framework; and

(3) The United States is continuing to make significant progress on eliminating the North Korean ballistic missile threat, including further missile tests and its ballistic missile exports.

You are hereby authorized and directed to report this determination and the accompanying Memorandum of Justification to the Congress, and to arrange for publication of this determination in the **Federal Register**.



THE WHITE HOUSE,
Washington, April 1, 2002.

[FR Doc. 02–9355
Filed 04–15–02; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
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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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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300, 301, 318, 319, and 353

[Docket No. 01–050–2]

Steam Treatment of Golden Nematode-Infested Farm Equipment, Construction Equipment, and Containers

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On February 25, 2002, we published a direct final rule in the **Federal Register** (See 67 FR 8461–8466.) The direct final rule notified the public of our intention to amend the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the Code of Federal Regulations, to allow containers, construction equipment without cabs, and farm equipment without cabs used in golden nematode-infested areas to be treated with steam heat before being moved interstate from any regulated area. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as April 26, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Vedpal Malik, Agriculturist, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231; (301) 734–6774.

Authority: 7 U.S.C. 166, 450, 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

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

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–9211 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–079–3]

Citrus Canker Quarantined Areas; Technical Amendment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: In a final rule effective February 25, 2002, and published in the **Federal Register** on March 1, 2002, we amended the citrus canker regulations by removing a portion of Manatee County, FL, from the list of quarantined areas. We removed a portion of Manatee County, FL, from the list of quarantined areas that should not have been removed. Therefore, we are amending the citrus canker regulations so that they accurately reflect the boundaries of the quarantined areas in Manatee County, FL.

EFFECTIVE DATE: February 25, 2002.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737; (301) 734–8899.

SUPPLEMENTARY INFORMATION:

Background

In a final rule effective February 25, 2002, and published in the **Federal Register** on March 1, 2002 (67 FR 9389–9390, Docket No. 01–079–2), we amended the citrus canker regulations in 7 CFR 301.75–4(a) by removing a portion of Manatee County, FL, from the list of quarantined areas. As described in the final rule and in the proposed rule that preceded it (66 FR 59175–59176, Docket No. 01–079–1, published November 27, 2001), we intended to remove a 15-square-mile area in the northern part of the quarantined area in Manatee County, FL, that had been free of citrus canker since February 1999 and had thus met the requirement for a declaration of eradication, as set forth in § 301.75–4(c) of the regulations.

In § 301.75–4(a), the description of the quarantined area in Manatee County, FL, is divided into two paragraphs. In order to remove the 15-square-mile area described in the proposed and final rules, we should have revised the first of those two paragraphs. However, due to a miscommunication, we revised the second paragraph instead and inadvertently removed the description of a 41-square-mile area in the eastern part of the county.

Therefore, in this document, we are correcting that error by revising the first paragraph of the entry for Manatee County, FL, in § 301.75–4(a) to reflect the removal of the 15-square-mile area in the northern part of the county, and we are restoring the description of the 41-square-mile area in the eastern part of the county. This action ensures that the citrus canker regulations will accurately reflect the boundaries of the quarantined areas in Manatee County, FL.

List of Subjects in 7 CFR Part 301

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

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.75–4, paragraph (a), the entry for Manatee County is revised to read as follows:

§ 301.75–4 Quarantined areas.

(a) * * *

Florida

* * * * *

Manatee County. That portion of the county bounded by a line drawn as follows:

Beginning at the northwest corner of sec. 24, T. 33 S., R. 17 E.; then east along the northern boundary of sec. 24, T. 33. S., R. 17 E. (Bishop Harbor Road) until it becomes SR 683 (Moccasin Wallow Road); then east on SR 683 to the northeast boundary of sec. 22, T. 33 S., R. 18 E., then south along the eastern boundary of sec. 22, T. 33 S., R. 18 E. to 69th Street East; then east on 69th Street East to Erie Road; then south on Erie Road to U.S. Highway 301; then south on U.S. Highway 301 to Interstate 75; then south on Interstate 75 to the southern boundary of sec. 24, T. 35 S., R. 18 E.; then west along the southern boundaries of secs. 24, 23, and 22 to where the southern boundary of sec. 22 meets Whitfield Avenue; then west on Whitfield Avenue to U.S. Highway 301; then north on U.S. Highway 301 to SR 70; then west on SR 70 to U.S. Highway 41; then north on U.S. Highway 41 to where it becomes 14th Street West; then north on 14th Street West to 1st Avenue West; then east on 1st Avenue West to 9th Street West; then north on 9th Street West to the north bank of the Manatee River; then west along the north bank of the Manatee River to Terra Ceia Bay; then north along the western boundaries of secs. 25 and 24 to the point of the beginning.

That portion of the county bounded by a line drawn as follows: Beginning at the northwest corner of sec. 8, 9, 10, 11, and 12, T. 33 S., R. 21 E.; then east along sec. 8, 9, 10, 11, and 12, T. 33 S., R. 21 E., to sec. 12, T. 33 S., R. 21 E.; then south along sec. 12, T. 33 S., R. 21 E., to sec. 18, 19, 30, and 31, T. 33 S., R. 22 E.; then east along sec. 18, 19, 30, and 31, T. 33 S., R. 22 E., to sec. 6, T. 34 S., R. 22 E.; then south along sec. 6, T. 34 S., R. 22 E., to sec. 7, T. 34 S., R. 22 E.; then west along sec. 7, T. 34 S., R. 22 E., to sec. 12, 11, 10, and 9, T. 34 S., R. 21 E.; then south along sec. 12, 11, 10, and 9, T. 34 S., R. 21 E., to sec. 8 and 5, T. 34 S., R. 21 E.; then north along sec. 8 and 5, T. 34 S., R. 21 E., to sec. 31, 29, 20, 17, and 8, T. 33 S., R. 21 E.; then north along sec. 31, 29, 20, 17, and 8, T. 33 S., R. 12 E., to the point of beginning.

* * * * *

Done in Washington, DC, this 10th day of April 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–9208 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 01–049–2]

Gypsy Moth Generally Infested Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the regulations by adding counties in Illinois, Indiana, Michigan, Ohio, West Virginia, and Wisconsin to the list of generally infested areas. As a result of the interim rule, the interstate movement of certain articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the gypsy moth to noninfested States.

EFFECTIVE DATE: The interim rule became effective on July 17, 2001.

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

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a destructive pest of forest and shade trees. The gypsy moth regulations (contained in 7 CFR 301.45 through 301.45–12 and referred to below as the regulations) restrict the interstate movement of certain articles from generally infested areas in the quarantined States to prevent the artificial spread of the gypsy moth.

In an interim rule effective and published in the **Federal Register** on July 17, 2001 (66 FR 37113–37114, Docket No. 01–049–1), we amended the regulations in § 301.45–3 by adding counties in Illinois, Indiana, Michigan, Ohio, West Virginia, and Wisconsin to the list of generally infested areas. We also made nonsubstantive amendments in the entries for Maine, Virginia, West Virginia, and Wisconsin to address inconsistencies in the county listings and to correct misspellings.

Comments on the interim rule were required to be received on or before September 17, 2001. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

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

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

Regulatory Flexibility Act

This rule affirms an interim rule that amended the regulations by adding counties in Illinois, Indiana, Michigan, Ohio, West Virginia, and Wisconsin to the list of generally infested areas. As a result of the interim rule, the interstate movement of certain articles from those areas is restricted. The interim rule was necessary to prevent the artificial spread of the gypsy moth to noninfested States.

The following analysis addresses the economic effect of the interim rule on small entities, as required by the Regulatory Flexibility Act.

The interim rule placed restrictions on the interstate movement of regulated articles and outdoor household articles (OHA's) from and through those areas in Illinois, Indiana, Michigan, Ohio, West Virginia, and Wisconsin that were designated as generally infested areas. These restrictions will have their primary effect on persons moving OHA's, nursery stock, Christmas trees, logs and wood chips, and mobile homes interstate from a generally infested area into or through any area that is not generally infested.

Under the regulations, OHA's may not be moved interstate from a generally infested area into or through a noninfested area unless they are accompanied by either a certificate issued by an inspector or an OHA document issued by the owner of the articles, attesting to the absence of all life stages of the gypsy moth. Most individual homeowners moving their own articles who comply with the regulations choose to self-inspect and issue an OHA document. This takes a few minutes and involves no monetary cost. Individuals may also have State-certified pesticide applicators, trained by the State or U.S. Department of Agriculture (USDA), inspect and issue certificates.

Generally, regulated articles (such as logs, pulpwood, wood chips, mobile homes, nursery stock, and Christmas trees) may only be moved interstate from a generally infested area if they are accompanied by a certificate or limited permit issued by an inspector. However, logs, wood chips, and pulpwood may be moved without a certificate or limited permit if the person moving the articles attaches a statement to the waybill stating that he or she has inspected the articles and has found them free of all

life stages of the gypsy moth. This exception minimizes the costs of moving logs, pulpwood, and wood chips interstate. Regulated articles may also be moved interstate from a generally infested area without a certificate if they are moved by the USDA for experimental or scientific purposes and they are accompanied by a permit issued by the Administrator of the Animal and Plant Health Inspection Service (APHIS).

Persons moving regulated articles interstate from a generally infested area may obtain a certificate or limited permit from an inspector or a qualified certified applicator. Inspectors will issue these documents at no charge, but costs may result from delaying the movement of commercial articles while waiting for the inspection. Certificates for interstate movement of mobile homes from a generally infested area may also be obtained from qualified certified applicators.

When inspection of regulated articles or OHA's reveals the presence of gypsy moth, treatment is often necessary. The preferred treatment, scraping egg masses and spraying caterpillars, costs $10 to $30 per shipment on average. Fumigation is another alternative, but it is more expensive, at $75 to $100 per shipment, and it may damage the shipment. Treatment is done by qualified certified applicators, most of which are small businesses. These businesses might experience a slight increase in income as a result of the interim rule.

Nurseries and Christmas tree growers that move a substantial number of shipments interstate from the generally infested areas would be able to minimize treatment costs by treating their premises for gypsy moths under a compliance agreement with USDA. These treatments cost businesses between $10 and $20 per acre. This alternative enables nurseries and Christmas tree growers to issue their own certificates for interstate shipments and is less costly than treating individual shipments. The entities that would be most likely to choose this alternative are nurseries that move a substantial number of shipments interstate from the generally infested areas and that treat their premises for other pests in addition to the gypsy moth. Producers that do not operate under a compliance agreement with APHIS, but that treat their premises under this option, would receive certification for each shipment from an inspector.

There are approximately 178 newly regulated nurseries and Christmas tree growers that will incur costs from the interim rule. According to the size standards established by the Small Business Administration, the vast majority of these businesses are small entities.

The economic impact will vary by the size of the entities regulated, the levels of infestation, and the size and number of shipments to noninfested areas. There are 13 newly regulated Christmas tree growers in Illinois and 3 newly regulated Christmas tree growers in Indiana. Only about 10 percent of the shipments leave the regulated area from these establishments. Approximately 5 percent of the shipments from these establishments would require treatment at a cost of about $45 per shipment. The cost of a small number of treatments would be small relative to the value of sales at these establishments. For example, the average farm selling cut Christmas trees in Indiana had sales of $16,332 in 1997, according to the 1997 Census of Agriculture.

There are five newly regulated Christmas tree growers in Michigan. There were 830 commercial Christmas tree growers in 1999 with at least 5 acres of trees. The five newly regulated establishments represent 0.6 percent of the total Christmas tree growers in Michigan. Approximately 66 percent of Michigan Christmas trees are sent out of State, although not all of these shipments would be to destinations outside the regulated area. It is not known what percentage of shipments from the five newly regulated establishments would be to destinations outside the regulated area. None of the six affected counties have large Christmas tree operations. Treatment costs would be similar to the costs incurred in other States, about $45 per shipment. The cost of any additional treatments needed would be small relative to the value of sales at these establishments. Christmas tree sales in Michigan were valued at $41.0 million (wholesale value) in 1999, an average of $49,397 per operation. Because inspections will still be needed on shipments leaving the regulated area, time, salary, and recordkeeping costs for self-inspections under compliance agreements will still be incurred. In addition, nurseries and Christmas tree growers will incur a $30 per acre inspection fee specifically for inspections, which are a State licensing requirement. This inspection fee represents about 1.5 percent of the average per-acre dollar value of sales of harvested cut Christmas trees in Michigan in 1997.

There are 66 newly regulated Christmas tree growers in Ohio. While the number of shipments that will require treatment is unknown, any treatments that do occur will likely cost around $50 per shipment. The average farm selling cut Christmas trees in Ohio had sales of $22,505 in 1997, according to the 1997 Census of Agriculture.

There are 38 newly regulated establishments in West Virginia (7 nurseries and 31 Christmas tree growers). Both nurseries and cut Christmas tree farms in West Virginia had average sales of less than $20,000 in 1997.

There are 53 newly regulated establishments in Wisconsin (28 nurseries and 25 Christmas tree growers). It is estimated that these establishments make 34 shipments of nursery stock and 12 shipments of Christmas trees annually. However, few, if any, of these shipments leave the regulated area. Therefore, there should be no additional costs for these establishments as a result of the interim rule.

The regulatory requirements imposed by the interim rule are expected to cause a slight increase in costs for the affected entities. The relative negative impact that may result from the interim rule is very small when compared with the potential for harm to related industry and the U.S. economy as a whole that would result from the further spread of the pest. Since the total value of the regulated articles moved from infested areas to noninfested areas is a small fraction of the national total, the effect on national prices is expected to be very small. Additionally, since the rule is not prohibitive, articles that meet the requirements of the regulations would continue to enter the market. Thus, the overall impact upon price and competitiveness is expected to be relatively insignificant.

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

List of Subjects in 7 CFR Part 301

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

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 66 FR 37113–37114 on July 17, 2001.

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

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

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–9210 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 72

[Docket No. 01–110–1]

Texas (Splenetic) Fever in Cattle; Incorporation by Reference

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Texas (splenetic) fever in cattle regulations by updating the incorporation by reference of the Texas Animal Health Commission's regulations that contain the description of the areas in Texas quarantined because of ticks. This action is necessary to update the incorporation by reference to reflect the effective date of the current Texas Animal Health Commission's regulations that describe the quarantined area.

DATES: This interim rule is effective April 16, 2002. The incorporation by reference provided for by this rule is approved by the Director of the Federal Register as of April 16, 2002. We will consider all comments we receive that are postmarked, delivered, or e-mailed by June 17, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–110–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–110–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 01–110–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Dave Wilson, Senior Staff Entomologist, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231; (301) 734–8073.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 72, Texas (Splenetic) Fever in Cattle (referred to below as the regulations), restrict the interstate movement of cattle from areas quarantined because of ticks that are vectors of bovine babesiosis. This disease is referred to in the regulations as splenetic or tick fever. Splenetic or tick fever is a contagious, infectious, and communicable disease of cattle that causes cattle to become weak and dehydrated and can cause death.

Section 72.3 quarantines Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. Previously, § 72.5 specifically described the area in Texas that was quarantined because of ticks. However, in a final rule published in the **Federal Register** on July 30, 1999 (64 FR 41265–41266, Docket No. 96–067–2), we replaced that description with an incorporation by reference of the Texas Animal Health Commission's (TAHC) regulations in § 41.2 of title 4, part II, Texas Administrative Code (4 TAC 41.2), that describe the quarantined area in Texas. The effective date of the TAHC regulations that we incorporated by reference was July 22, 1994.

On March 30, 2001, the TAHC published a document in the Texas Register (26 TexReg 2534) in which it adopted amendments to the tick quarantine zone described in 4 TAC 41.2. Those amendments became effective on April 8, 2001. Therefore, in order for our regulations to accurately reflect the effective date of the current TAHC regulations in 4 TAC 41.2, we are amending the incorporation by reference in § 72.5 to specify the April 8, 2001, effective date of the current TAHC regulations.

Immediate Action

Immediate action is necessary to update the regulations to ensure that they accurately describe the areas of Texas quarantined because of ticks, which will help prevent the spread of splenetic fever. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see DATES above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The Animal and Plant Health Inspection Service's (APHIS) regulations in 9 CFR part 72 restrict the interstate movement of cattle from areas quarantined because of the presence of ticks that are vectors of bovine babesiosis, also known as splenetic or tick fever. The TAHC's regulations in 4 TAC 41.2 describe the quarantined area in Texas; those TAHC regulations are incorporated by reference in APHIS' regulations in § 72.5.

This rule will update the incorporation by reference in § 72.5 so that it refers to the currently effective TAHC regulations describing the quarantined area in Texas. We do not expect this rule to have an economic effect on any entities, large or small, because the description of Texas' tick eradication areas is defined and established by the TAHC; this rule simply updates our regulations so they refer to the current description of those areas in the TAHC's regulations.

As of September 30, 2001, only 14 premises were quarantined by the TAHC. APHIS' regulations require that cattle from these premises be dipped,

inspected, and certified before they are moved interstate. Costs related to these activities are very small, particularly when compared to benefits to the Nation of the cattle fever tick eradication program in preventing the spread of this disease.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No.10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1994 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 72

Animal diseases, Cattle, Incorporation by reference, Quarantine, Transportation.

Accordingly, we are amending 9 CFR part 72 as follows:

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

1. The authority citation for part 72 continues to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

§ 72.5 [Amended]

2. In § 72.5, the first sentence is amended by removing the date ''July 22, 1994'' and adding the date ''April 8, 2001'' in its place.

Done in Washington, DC, this 10th day of April 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–9209 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–22]

Revision to Class E Surface Area at Marysville Yuba County Airport, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, confirmation of effective date.

SUMMARY: This document confirms the effective data of a direct final rule that revises the Class E Surface Area at Marysville Yuba County Airport, CA.

EFFECTIVE DATE: 0901 UTC April 18, 2002.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Division, Airspace Branch, AWP–520.11, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261; telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on February 4, 2002 (67 FR 5044). The FAA uses the direct final rulemaking procedure for a non-controversial rule when FAA believes that there will be no adverse public comment. This direct final rule advised the public that adverse comments were not anticipated, and that unless written adverse comments or written notice of intent to submit such adverse comments, were received within the comment period, the regulation would become effective on April 18, 2002. No adverse comments were received. Thus, this notice confirms the direct final rule will become effective on that date.

Issued in Los Angeles, California, on March 8, 2002.

Dawna Vicars,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 02–9117 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–27]

Establishment of Class E Airspace: Elkton, MD

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Elkton, MD. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft operating into Cecil County Airport, Elkton, MD under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC August 8, 2002.

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

SUPPLEMENTARY INFORMATION:

History

On January 10, 2002, a document proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward fro 700 feet above the surface within a 6 mile radius of the Cecil County Airport, Elkton, MD was published in the **Federal Register** (67 FR 1322–1323). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before February 11, 2002. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace area designations for airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting IFR operations at the Cecil County Airport, Elkton, MD.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866, (2) is not a ''significant rule'' under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, 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.

AEA MD E5, Elkton, MD [NEW]

Cecil County Airport,
(Lat. 39°34′27″ N., long. 75°52′11″ W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Cecil County Airport, Elkton, MD.

Issued in Jamaica, New York on March 26, 2002.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 02–9124 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 330

[Docket OST–2001–10885]

RIN 2105–AD06

Procedures for Compensation of Air Carriers

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule; request for comments.

SUMMARY: On September 22, 2001, President Bush signed into law the Air Transportation Safety and System Stabilization Act (''the Act''). The Act makes available to the President funds to compensate air carriers, as defined in the Act, for direct losses suffered as a result of any Federal ground stop order and incremental losses beginning September 11, 2001, and ending December 31, 2001, directly resulting from the September 11 terrorist attacks on the United States. On October 29, 2001, and January 2, 2002, the Department published rules to carry out this Act. On the latter date, the Department also requested comments on whether and how to establish a set-aside for certain air carriers. This final rule provides forms and information for air carriers in making third round compensation applications, updates the existing rules, and establishes a set-aside for air taxi, commuter, and regional carriers that reported fewer than 10 million available seat miles for August 2001.

DATES: This rule is effective April 16, 2002. Comments should be submitted by April 30, 2002.

ADDRESSES: Interested persons should send comments to Docket Clerk, Docket OST–2001–10885, Department of Transportation, 400 7th Street, SW., Room PL–401, Washington, DC 20590. Commenters wishing to have their submissions acknowledged should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date stamp the postcard and return it to the commenter. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m., Monday through Friday. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address: *http://dms.dot.gov/*. Commenters who wish to file comments electronically should follow the instructions on the DMS web site. Interested persons can also review comments through this same web site.

FOR FURTHER INFORMATION CONTACT: Steven Hatley, U.S. Department of Transportation, Office of International Aviation, 400 7th Street, SW., Room 6402, Washington, DC 20590. Telephone 202–366–1213.

SUPPLEMENTARY INFORMATION: As a consequence of the terrorist attacks on the United States on September 11, 2001, the U.S. commercial aviation industry suffered severe financial losses. These losses placed the financial survival of many air carriers at risk. Acting rapidly to preserve the continued viability of the U.S. air transportation system, President Bush sought and Congress enacted the Air Transportation Safety and System Stabilization Act (''the Act''), Public Law 107–42.

Under section 101(a)(2)(A–B) of the Act, a total of $5 billion in compensation is provided for ''direct losses incurred beginning on September 11, 2001, by air carriers as a result of any Federal ground stop order issued by the Secretary of Transportation or any subsequent order which continues or renews such stoppage; and the incremental losses incurred beginning September 11, 2001 and ending December 31, 2001, by air carriers as a direct result of such attacks.''

On October 29, 2001 (66 FR 54616), the Department published in the **Federal Register** a final rule and request for comments to establish procedures for air carriers regarding compensation under the Act. The rule covered such subjects as eligibility, deadlines for application, information and forms required of applicants, and audit requirements. On January 2, 2002 (67 FR 250), the Department published a ''second round'' final rule that responded to comments on the October 29 rule. On the same date (67 FR 263), the Department also requested comments concerning whether a set-aside of a portion of the funds authorized by the Act should be established to ensure adequate compensation for certain classes of air carriers.

This ''third round'' final rule addresses the set-aside issue, several issues raised during the Department's consideration of pending claims for compensation, and comments received on other aspects of the compensation program. It also provides forms and information for use by air carriers in applying for third round compensation under the Act.

Set-Aside

Background

As noted in the Department's January 2, 2002, request for comments, a number of carriers had expressed the concern that the Act's available seat mile (ASM)-based formula would not adequately compensate air ambulances and air tour operators, among others, for the losses they suffered as the result of the September 11 attacks. In response to these concerns, Congress, in the Aviation and Transportation Security Act (Public Law 107–71), addressed the situations of air ambulances, air tour

operators and other similarly situated classes of air carriers.

Section 124(d) of this statute amended section 103 of the Air Transportation Safety and System Stabilization Act. The purpose of this amendment, according to the Conference Report (House Report 107–296 at p. 79), is ''to allow for a modified system of providing compensation to air tour operators and air ambulances to better address their needs after industry wide losses.'' The following is the text of this amendment:

(d) COMPENSATION FOR CERTAIN AIR CARRIERS.—

(1) SET-ASIDE.—The President may set aside a portion of the amount of compensation payable to air carriers under section 101(a)(2) to provide compensation to classes of air carriers, such as air tour operators and air ambulances (including hospitals operating air ambulances) for whom application of a distribution formula containing available seat miles as a factor would inadequately reflect their share of direct and incremental losses. The President shall reduce the $4,500,00,000 specified in subsection (b)(2)(A)(i) by the amount set aside under this subsection.

(2) DISTRIBUTION OF AMOUNTS.—The President shall distribute the amount set aside under this subsection proportionally among such air carriers based on an appropriate auditable measure, as determined by the President.

Under the statutory language, use of this set-aside authority is discretionary (''The President may set aside . . . ''). Neither the statute nor the Conference Report provides any guidance concerning the appropriate size of such a set-aside, the methodology for proportionally allocating any funds set aside, or the identity of any other ''classes'' of air carriers that could be included in it, if the President chooses to use the authority. Consequently, in the January 2, 2002, notice, the Department requested comments on these matters.

Comments

The Association of Air Medical Services (AAMS) suggested that air ambulances should be a class of carriers eligible for a set-aside. AAMS recommended compensating air ambulances based on a formula derived from Medicare fee schedule rates. Under this formula, AAMS would compare each carrier's transports in the 30 days ending September 10, 2001, with the number of transports in the 30 days beginning September 11. The Department would provide compensation for each transport not made in the second period according to a base rate plus a mileage fee consistent with Medicare rates. For example, the compensation for each ''lost'' helicopter transport would be $4,256. Over 50 air ambulance carriers supported this proposal, and only one such carrier opposed it.

A number of air taxi and air tour companies generally supported the use of a set-aside, pointing to what they saw as inequities in the compensation for which they would be eligible under the general ASM-based formula. Some of these suggested that the most equitable means of distributing a set-aside would be to ensure that covered carriers received compensation amounting to the percentage of losses that other carriers had received.

One Las Vegas-based company suggested multiplying the number of reported ASMs by the percentage decrease in ASMs compared to an earlier, more normal, period. Another carrier suggested a separate set-aside for Las Vegas-based tour companies, which it said were badly hurt by a sharp reduction in foreign tourists. Compensation for these carriers would be based on their market share of ASMs flown by carriers in the class.

An environmental group, to the contrary, suggested that Las Vegas-based or other air tour companies that provide air tours in the area of the Grand Canyon not receive compensation at all. In this group's view, such operators were providing entertainment, rather than air transportation, and compensation to them would be inappropriate in view of the fact that they disturb the natural quiet of the Grand Canyon.

The National Air Transportation Association (NATA) advocated that we use an ASM-based formula limited to the pool of ASMs from Part 135 air charter carriers. NATA also suggested that participation in the set-aside not be limited to carriers who had applied previously, since some carriers may have been deterred from applying by the likelihood of receiving only very small amounts of compensation.

A New York-based helicopter company suggested multiplying its expected revenue for the September 11–December 31, 2001, period by the percentage of passengers that would have used facilities that were closed because of the terrorist attacks. Another carrier supported a formula involving the average number of seats in the operator's fleet, the speed of the aircraft, and the on-call time per day (normally 24 hours). The Department also received comments from a few fixed wing and helicopter carriers that are primarily or exclusively cargo carriers, requesting that a set-aside be made available to cargo carriers that would correct perceived inequities in the Act's RTM-based formula.

Two indirect air carriers that provide service to Cuba using foreign direct air carriers suggested that public charters be viewed as a class eligible for a set-aside, based on a formula comparing August and September passenger loads multiplied by airfare minus operating expenses. Another public charter indirect air carrier, which specializes in spring break trips for students, also asserted that it should be eligible for a set-aside, with a formula based on lost bookings. A Part 121 on-demand planeload charter passenger carrier said that carriers in its situation were also short-changed by the statutory ASM formula. They suggested substituting a formula based on the ratio of the losses of each carrier compared to the total losses of this class of carriers. A charter-tour operator who sells vacation packages through travel agents suggested a somewhat similar approach.

The Air Transport Association (ATA) generally supported the idea of a set-aside for air ambulances and air tour operators, agreeing that the original statutory formula did not adequately compensate them. ATA said, however, the amount set-aside should come out of the funds remaining after other air carriers had been paid 100 percent of the compensation for which they are eligible. This would avoid reducing compensation for other carriers, ATA noted.

DOT Response

The purpose of the amendment to the Act contained in Pub. L. 107–71 was to give the Department authority to find a way to ensure more adequate and equitable compensation for ''classes'' of air carriers for whom application of the normal ASM-based distribution formula would inadequately reflect their share of direct and incremental losses. It is clear from financial information submitted to the Department during the application process for compensation that there are some significant inequities among classes of carriers. However, for the air taxi, commuter, and regional air carriers with the smallest number of ASMs (no more than an average of 10,000 per day, or 310,000 for the reporting period of August 2001), the average percentage of recovery is about 6 percent of their claimed losses. For such carriers with between 310,000 and 10 million ASMs, the average percentage of recovery is about 14 percent. For remaining carriers, with more than 10 million ASMs, the average percentage of recovery is about 65 percent. For purposes of further defining the scope of the classes, the Department has added a

new definition of a regional air carriers, based on existing Departmental classifications used for other purposes.

The Department, consistent with the intent of Congress and the views of commenters, believes that it is appropriate to use its statutory set-aside authority to redress these inequities. Doing so would help to ensure a fair result to all classes of carriers. The most important questions for the Department to resolve are the identification of the classes of carriers eligible for compensation from the set-aside and the formula used to establish their compensation.

As noted above, there are two groups of carriers whose compensation under the original statutory ASM formula falls well below the compensation for carriers generally. Class I includes those air taxi, commuter, and regional carriers who reported an average of 10,000 ASMs or fewer per day, or 310,000 for the reporting period of August 2001. Class II includes air taxi, commuter, and regional air carriers reporting between 310,000 and 10 million ASMs. All-cargo carriers are not eligible to participate in the set-aside, which, under the statute, applies only to carriers who report ASMs and whose compensation comes from the $4.5 billion portion of the statutory authorization for passenger carriers.

Of the carriers who have applied for compensation to date, there are 143 carriers in the first class and 96 in the second. The Department believes that identifying classes of carriers eligible for a set-aside in these broad terms is more sensible, fair, and easy to administer than dividing carriers into smaller functional or local classes (*e.g.,* air ambulances, air tour operators generally or those based in a particular place, public charters, etc.), each with a separate compensation methodology that may address its own situation but not fit that of others. These broad classes include the vast majority of the carriers in these smaller groupings, including most of the carriers that submitted comments to the docket.

In addition to making the program more complicated to administer than a methodology covering broader classes of carriers, some of the specific methodologies suggested for narrower groups could be problematic. For example, the AAMS recommendation of a formula based on medicare reimbursement rates would make it difficult to distinguish between transportation costs and losses and other costs and losses attributable to non-transportation aspects of air ambulance services, such as the cost of waiting time for medical personnel. It would be difficult to achieve similarly equitable results for carriers in a single market, such as Las Vegas or New York, and carriers elsewhere using the approach suggested by Las Vegas- and New York-based tour operators.

With respect to the commenter that operates spring break charters for students, the Department does not believe that it can base a set-aside class on the experience of a single carrier with respect to loss claims that are subject to adjustment until Spring 2002, well after the September-December 2001 compensation period intended by Congress. Likewise, with respect to the commenter that operates on-demand planeload charters, it is difficult to identify a class of carriers eligible for a set-aside based solely on the situation of one carrier. This particular carrier, in any case, would be eligible for compensation as a Class II carrier under the set-aside in this rule.

The public charter carriers who operate as indirect air carriers and use direct foreign air carriers to provide service to Cuba may be eligible for compensation. As noted below, they should refer to the January 2, 2002 final rule, as amended by this rule, regarding use of the ASMs operated by their direct foreign air carrier partners to support a claim for compensation. The same may be true of the indirect air carrier commenter that operates as a charter-tour operator.

We considered the idea of simply compensating carriers so that each received compensation equivalent to about the same percentage of its losses as the average for all carriers. However, this approach has certain disadvantages. For example, it might not provide an accurate basis for compensation for carriers that are affiliated with larger carriers. It could unfairly reward carriers whose larger-than typical-losses may be attributable to less efficient operation or unfavorable market conditions unrelated to the terrorist attacks. It would result in slower payouts to all carriers eligible for the set-aside, since it would preclude the Department from establishing a standard process for carrier claims, which would make the process unduly laborious.

The approach that the Department has decided to take is conceptually similar to that suggested by some commenters, involving a formula that considers the market share of an individual carrier within a class of carriers. For carriers in Class I and Class II, the Department will calculate the average amount of documented losses per ASM reported. Using current applicants as an example, for Class I carriers, the average loss per ASM is approximately $.82. Thus, for Class I carriers, the Department would project the maximum compensation due by multiplying the number of ASMs for Class I carriers times $.82. Using this methodology, a carrier with 100,000 ASMs would receive no more than $82,000 in total compensation.

For Class II carriers, the method of calculation is somewhat more complex. To avoid disproportionately low compensation being paid to those carriers who fall just above the 310,000 ASM line of demarcation between Class I and Class II, the Department is taking a two-tiered approach. Again, using current applicants as an example, the Department would apply the projected $.82 loss per ASM rate to the first 310,000 ASMs of Class II carriers. For each ASM above 310,000, the carrier would receive an estimated $.19 per ASM, which represents the average loss per ASM for these incremental ASMs. For example, we project that a carrier with 750,000 ASMs would receive no more than $337,800 in total compensation. It should be noted that, depending on the actual losses and ASMs that are validated for set-aside applicants, the ASM rates for both Class I and Class II carriers could change.

The statute calls for a class-based compensation system under the set-aside. No class-based system can provide perfect equality for each individual carrier, and any such system could create some relative ''winners'' and ''losers.'' To preclude inequitably high or low compensation results for specific carriers, the Department has decided to add a minimum and maximum percentage recovery limit for carriers receiving additional compensation under the set-aside program. No Class I or Class II carrier will receive more in compensation than the average percentage of recovery for carriers with more than 10 million ASMs, which, based on current data, is approximately 65 percent of its losses, unless the carrier would have recovered more than 65 percent of its losses under the original ASM formula in which case it will be compensated using that rate. The Department will use its most current data in establishing a final ''cap,'' meaning that the cap percentage may need to be adjusted. Further, no Class I or Class II carrier will receive less than 25 percent of its verified eligible transportation-related losses. The 25 percent ''floor'' will ensure, in the interest of fairness, that all classes of carriers will be in the position of receiving at least that amount of compensation, in accordance with the statutory direction to provide compensation that adequately reflects their share of direct and incremental

losses. In these latter cases, the carrier will be required to satisfy the Department that its claimed losses are valid, eligible, and transportation-related.

Application of this system will ensure the result intended by Congress: the projected median recovery for Class I, Class II, and other carriers as a class will all be about the same percentage of losses. We project that current applicants would receive $27.5 million under this approach, as opposed to the $6.4 million they are projected to receive under the original statutory formula. In addition to this $27.5 million, the Department is setting aside an additional $7.5 million to cover potential payments to new applicants. As suggested by commenters, the final rule will permit carriers in Class I and Class II who have not previously applied to do so. We believe that this is fair because the low amounts of compensation under the original statutory formula may well have discouraged some carriers from applying in the past. Therefore, the total set-aside will be up to $35 million. As the Air Transport Association (ATA) requested, the Department expects that this amount will not diminish the recovery of other carriers.

To begin disbursement of compensation promptly, the Department plans to use a two-phase compensation process for eligible air carriers under the set-aside program. In the first phase, commencing upon publication of this rule, the Department will review those applications that already have been filed by such eligible air carriers, and, assuming no disqualifying issues arise, provide initial payment of a partial amount. In order to protect against potential overpayments, for Class I carriers this partial payment will be the lesser of (A) no more than 30 percent of validated losses, or (B) $0.35 per ASM. Similarly, for Class II carriers, the partial payment will be the lesser of (A) no more than 30 percent of validated losses, or (B) $0.35 per ASM for the first 310,000 ASMs and $0.08 per ASM for each ASM above 310,000. For both Class I and Class II carriers, the partial payment will be reduced by any amounts that have previously been paid in compensation.

The second phase of set-aside payments will be processed as part of the final round of payments for all carriers. At that time, payments will be made to set-aside air carriers who had received first-phase partial compensation for the balance that the Department determines is outstanding. Set-aside applicants that file new applications will also have their applications processed by the final round of the compensation process.

The Federal Aviation Administration (FAA) recently completed a lengthy and complex rulemaking to determine the appropriate routes and volume of air tour flights over the Grand Canyon. This rulemaking involved extensive consultation with air tour operators, environmental groups, Indian tribes, and other concerned government agencies. In the Department's view, air tour operations over the Grand Canyon that comply with the FAA rule are no less eligible for compensation than any other air carrier operations subject to the Stabilization Act. While we recognize that there may be continuing argument about the merits of such flights, this compensation rule is not the place to resolve them.

Impairments and Other Extraordinary or Nonrecurring Items

The Airline Stabilization Act provides compensation for direct losses incurred by carriers beginning on September 11 as the result of Federal ground stop orders, and for ''incremental losses incurred beginning September 11, 2001, and ending December 31, 2001'' as a direct result of the terrorist attacks.

By this language, Congress required that compensable losses be limited to the September 11–December 31 period, meaning that compensable losses must actually be incurred in the September 11–December 31 period. Losses experienced before September 11 or after December 31 are not eligible for compensation. A number of applications included as claimed losses items that, while they may have been reported for purposes of generally accepted accounting principles (GAAP) as being ''incurred'' within the September 11 to December 31 period, nevertheless would actually be experienced over a much longer period. One example of such an item is the devaluation of aircraft (impairment) or other assets, based on an expectation of their diminished value due, in many cases, to a perceived decrease in the asset's ability to generate revenue after the terrorist attacks. Because the Department considered that such charges should be excluded from compensable losses, we required carriers (through a December 4, 2001, letter and a supplemental certification form) to clarify whether their applications included any extraordinary, non-recurring, or unusual adjustments that were not included in their pre-September 11 forecasts, and to specify the amounts involved. In processing applications for second round payments, we generally excluded these amounts as ineligible for compensation.

Thereafter, the Department received a number of comments objecting to these exclusions. In some cases, carriers returned the Supplemental Certification Form with a statement that such charges should be compensable and that they were not waiving their right to claim them. In a letter dated December 10, 2001, to the Department, the Air Transport Association and Regional Airline Association asserted that impairment charges had ''real-world'' impacts on air carrier finances, because credit is based on independently appraised asset values. Thus, as assets dropped in value, many carriers claimed to have lost valuable sources of liquidity. The associations stated their belief that Congress intended such losses to be compensated. Moreover, they argued that impairment charges, and similar writedowns, including lease buyouts, are recognized as losses under GAAP, and the Financial Standards Accounting Board (FASB) has recognized that impairment losses can result from the September 11 events. Thereafter, in comments addressed to Docket OST–2001–10885, the Air Transport Association reiterated the view that the inclusion of these losses is consistent with the Stabilization Act, GAAP, and the standards for financial statements set by the Securities and Exchange Commission (SEC). It further argued that impairment charges, like severance expenses and other non-recurring charges that DOT has disallowed, result in ''real'' accounting and economic losses, and ''real'' foregone liquidity.

DOT Response

The Department does not disagree that impairment and similar charges may be proper for purposes of GAAP. Nor do we take issue with arguments that the reporting of such losses may be consistent with FASB or SEC procedures. However, because they may be proper under or consistent with such procedures does not mean that they are necessarily within the scope of losses that Congress intended to be eligible for compensation under the Act.

We note that including asset devaluation charges within the September 11 to December 31 period would potentially allow a carrier to receive full compensation for what is typically a very large expense item, even though most of the associated cost to that carrier would be experienced over time. In effect, this would be similar to a front-end loading of depreciation or lease expenses, shifting costs that will occur in the future into the period for

which compensation is to be provided. That result, we continue to believe, is inconsistent with the direction to compensate carriers only for losses actually incurred through December 31. Further, where impairment charges or other writedowns reflect a temporary grounding of aircraft or suspension of use of other assets, we do not have the practical ability to monitor the accounting for those assets in the future to ensure that they recapture excess compensation if they are returned to service earlier than expected.

Moreover, the theoretical basis for an impairment charge is an expected decline in asset value that reflects an expected permanently reduced demand and reduced ability to generate revenue. However, since we are already compensating carriers for the actual decline in revenue they are experiencing through the end of the year, there is an inherent duplication in also compensating them for the associated asset devaluation costs. As to the carriers' concern regarding loss in liquidity due to asset writedowns, the compensation payments provide a direct source of funds to replace lost liquidity.

This is not to suggest that the Department considers that all extraordinary or non-recurring losses must be disallowed. Where an applicant can show, apart from conformity to GAAP requirements, that the actual costs of a loss were the direct result of the terrorist attacks of September 11 (and not, for example, the result of a general economic slowdown), were fully borne within the September 11 to December 31 period and are permanent, and that compensation for those costs would not be duplicative, the Department will consider such claims on a case-by-case basis. The forms for the third round application process include a section addressing the treatment of extraordinary or non-recurring losses, and section 330.39 of the rule has been amended to require information about such losses.

Adjustment for Losses Not the Direct Result of the Events of September 11

Section 101(a)(2) of the Act provides that the President shall compensate air carriers for direct losses incurred beginning on September 11 as the result of any Federal ground stop orders, and their incremental losses incurred beginning September 11, 2001 and ending December 31 ''as a direct result of'' the terrorist attacks. Section 107(3) of the Act further specifies that the term ''incremental loss'' does not include any loss that the President determines would have been incurred if the terrorist attacks on the United States that occurred on September 11, 2001 had not occurred. The application forms for third round compensation payments have been revised to include a section addressing certain types of revenues and expenses, in order to further implement this ''direct result'' requirement and incremental loss definition.

In the previously-issued rules and guidance concerning payment of compensation in the first and second rounds, the Department required carriers to supply pre-September 11 forecast financial data including revenue, expenses, operating income, nonoperating expenses, and net income. Updated forecasts after September 11 for the period October 1 through December 31, 2001, and later, actual results, were also to be supplied. Carriers were required to certify such data as true and accurate under penalty of law.

The Department used, as a starting point for its compensation determinations, the difference between pre-September 11 forecasts and the updated forecasts or actual results. During their reviews, Department staff scrutinized applications for actual and forecasted revenues and expenses that did not appear to be directly impacted by the terrorist attacks, and incremental losses that might have been incurred even if the attacks had not taken place. Revenues and expenses of this sort were questioned, and where appropriate, disallowed.

For example, we disallowed as expenses certain supplemental employee compensation payments that were not related to the events of September 11. Also, we disallowed certain maintenance expenses that were accelerated into the September 11 to December 31 period, but would have been incurred normally after January 1, 2002. With the experience gained from these case-by-case determinations, the Department believes that it may be helpful to clearly state the standards and procedures that govern in these areas, consistent with the requirements of the Act. These standards and procedures have been incorporated in the third round application Forms, as well as into the core requirements for the agreed-upon procedures for review of the carriers' financial data. This will permit both applicants and reviewers to focus on revenue and expense items that may be subject to exclusion as not related to September 11, and prevent any misunderstanding of how such items will be treated. It will also facilitate the administrative review process, as applicants will be presenting their financial information in a manner that permits more expeditious review, expediting also their third round and final payments. Applicants are to be guided by the following principles in applying for the third round of direct compensation:

1. Use Form 330 (Final) to show forecasted and actual net income/losses for the period September 11, 2001 to December 31, 2001. These must be updated from previous Forms to reflect actual results through December 31, 2001, using the most current information available showing final financial results.

2. To be compensable under the Stabilization Act, incremental losses must have been actually incurred ''as a direct result'' of the terrorist acts of September 11, 2001. Also, any loss that would have been incurred if the terrorist attacks on the United States that occurred on September 11, 2001, had not occurred is not eligible for compensation under the statute.

3. Based on its experience in reviewing claims received to date, the Department believes that, in most instances, it is extremely difficult if not impossible to distinguish, on a line line item by line item basis, individual revenue and expense items that were affected directly by the terrorist attacks from those that were affected indirectly, or those that were partially affected, or not affected at all. That conclusion is confirmed by findings of the Emerging Issues Task Force of the Financial Accounting Standards Board, in its Discussion of Agenda Technical Issues, Issue No. 01–10, addressing Accounting for the Impacts of the Terrorist Attacks of September 11, 2001:

> The Task Force noted that it would be impossible to isolate and therefore distinguish (in a consistent way) the effects of the September 11 events in any single line item on companies' financial statements because of the inability to separate losses that are directly attributable to the September 11 events from those that are not. For example, impairment of long-lived assets as a result of the September 11 events would in many cases be impossible to measure separately from impairment due to the general economic slowdown that was generally acknowledged to be under way. (The September 11 events probably contributed to the speed and depth of that economic slowdown, but determining the portion of the slowdown directly attributable to the September 11 events would be extremely subjective and difficult, if not impossible.)

The Department believes that, in most cases, the comparison between pre-September 11, 2001 forecasts and actual results provides an approximation of the incremental losses that are a direct result of the attacks, and that approximation, without more, gives effect to the language of the statute.

However, to give further effect to the statutory language, the Department is providing rules and guidance for the third round and final payments. To avoid burdening applicants, reviewers and auditors with a potentially subjective and inherently imprecise line item by line item analysis, we are employing various measures designed to highlight items that may not be within the scope of compensable losses, while establishing a presumption that other items were impacted by the attacks so as to warrant inclusion within the formula. Notwithstanding these presumptions, to ensure fairness, applicants may bring specific matters to our attention as described below.

4. The Department expects that some items, potentially of significant relative financial impact, that would not be identified through the forecast/actual analysis but yet were not directly the result of the terrorist attacks would be ones that were extraordinary or non-recurring. For example, suppose that a claim for incremental losses includes a post-September 11 unfavorable judgment of $1 million in a lawsuit, the operative facts of which all occurred prior to September 11. That $1 million liability is not a loss incurred as a direct result of the terrorist attacks, and would have been incurred had the attacks not taken place. Accordingly, it must be excluded from net losses.

To permit the Department to take them properly into account, applicants must separately identify all extraordinary and non-recurring revenue and expense items on pages 2 and 3 of Form 330 (Final). For these purposes, ''extraordinary items'' are events and transactions that are unusual in nature and infrequent in occurrence. ''Non-recurring items'' are either unusual or infrequent, but not both. Applicants shall describe and explain such items, and address, with supporting documents, whether each such item is attributable to the terrorist attacks or not.

5. On pages 2 and 3 of Form 330 (Final), applicants must also report any revenue or expense items that would normally have been reported in a time period other than September 11 through December 31, 2001, but were reported in and claimed for the September 11 through December 31, 2001 period. For example, an applicant has reported an amount in a Provision for Bad Debts in the October 1 through December 31 period that normally would have been reported in the first calendar quarter of 2002. This must be identified in Form 330 (Final) so as to allow the amount of net income to be adjusted. To the extent a loss claim included such an expense item, it would represent a loss that would have been incurred had the terrorist attacks not taken place. Applicants are advised that the reviewing staff will give careful attention to any prepaid or accelerated expense items in this regard.

6. Applicants should carefully scrutinize their applications for other situations, not addressed specifically above, in which losses have been or could be reported that were not directly the result of the terrorist acts, or that would have been incurred in any event, including items that, while not literally extraordinary or non-recurring, were nonetheless identifiable as falling into the above categories. Applicants may wish to utilize monthly profit and loss statements, which section 330.21(g) of the revised regulation requires be submitted with each application, to identify prospective items of such character. Applicants shall report such items on Form 330 (Final), as appropriate.

7. The Department expects that many applicants have experienced, by their own initiatives, a reduction in actual versus forecast expenses, giving rise to a question as to whether any such reductions may be excluded from the calculations of losses on the ground that they are unrelated to the terrorist attacks. As a general rule, for the reasons stated below, the Department will treat such variances for all categories of expenses as being attributable to the terrorist attacks. First, we would expect that cost reduction plans not related to the terrorist attacks would have been reflected in an applicant's pre-September 11 forecasted financials. Second, we believe it highly likely that expense reduction efforts undertaken after September 11 were attributable, implicitly if not explicitly, to changed expectations regarding revenues after the attacks. Third, we note that Congress provided that we compensate air carriers for ''losses incurred.'' Cost savings that are achieved in fact reduce an air carrier's losses, and the calculations required under our regulations may not be manipulated to exclude actual reductions in expenses, thereby generating a basis for increased compensation. Moreover, we interpret Congress' language here as indicating an intent that carriers not receive increased compensation for achieving savings in costs, which they have an independent obligation to their managements and shareholders to achieve, and which it is reasonable to expect them to undertake to mitigate the need for compensation under the Act. If there are specific instances of cost savings that an applicant believes are unrelated to the events of September 11 and believes should be excluded with the effect of increasing compensation, and the applicant can provide pre-existing documentary support for its position, the Department will consider the request. Otherwise, such items are not allowable and should not be claimed.

8. Section 103(a) of the Stabilization Act is clear that the amount of compensation payable may not exceed the amount of losses that the air carrier *demonstrates to the satisfaction* of the President, using sworn financial statements or other appropriate data, that the air carrier *incurred.* The Department expects that application of the foregoing requirements will result in many compensation claims effectively being reduced. Where claimed losses are increased, the Department can be expected to give careful attention to the justifications offered in support of such increases. Applicants are advised that, under the Stabilization Act, the burden remains on them to demonstrate to the Department's satisfaction that all claimed losses have been incurred and are otherwise eligible for compensation.

Other Issues

Overcompensation Issues. As the Department processes applications and receives updated data from carriers, and the Inspector General's office or the General Accounting Office reviews them, there may be instances in which we determine that we have remitted more in compensation than current financial or operating data support. In this event, as provided in revised § 330.9(b), the carrier will be notified of the situation and is required to return the difference to the Department immediately. The revision makes clear that the Department need not wait until a third round or final payment has been made, or an audit has been conducted, before requiring the return of funds that it believes represents an overpayment.

Timing of Compensation. In the interest of the prudent administration of funds under this program, the Department has determined that it will distribute up to 95 percent of the compensation for which an air carrier is eligible as part of this third round. Temporarily retaining the remaining five percent will permit the Department to determine with greater certainty the total amount of compensation for which all carriers are eligible, since we will have had the chance to review everyone's Form 330 (Final) and AUP or simplified procedures reports. This approach will also help us to avoid any possibility of exceeding authorized amounts, as well as enabling the

Department to finalize the compensation amounts based on receipt of all claims.. The Department will pay remaining compensation to carriers subsequently. We do not anticipate that carriers will have to make any additional claim submissions to receive the remaining compensation.

Offsetting Losses Against Profits or Gains. A question has arisen as to whether an air carrier is entitled to be compensated for its direct losses as a result of the Federal ground stop order regardless of its profits or gains during the period of September 11 to December 31, 2001. After reviewing the matter, the Department has concluded that air carriers seeking compensation under Section 101(a)(2) of the Act cannot isolate their direct losses incurred during the period of the Federal ground stop order from their actual results for the overall period of September 11 to December 31, 2001. Where, for example, a carrier experienced better-than-forecasted total results for that period, the actual results for the period after the Federal ground stop order was lifted, September 14, 2001 to December 31, 2001, must be offset against direct losses incurred during the period of the Federal ground stop order. Such an offset is necessary to implement the requirement of the Act that air carriers only receive compensation for losses actually incurred. A loss has been incurred only if that loss has not been fully offset by better-than-forecasted results. This result is consistent with the structure and language of the Act regarding direct and incremental losses. We believe such an offset is consistent with the overall congressional intent of the Act, to stabilize the air carrier industry by compensating for actual losses rather than enhancing profits during the September 11 to December 31, 2001, period.

Wet Lease Arrangements and Indirect Air Carriers. In further response to comments concerning the methodology for determining compensation in situations in which a direct and an indirect air carrier, or a wet lessor and a wet lessee, are both involved in an operation, the Department has decided to delete two provisions of its January 2, 2002 final rule: §§ 330.31(d)(1)(iv) and 330.31(d)(2)(iv). These provisions required wet lessor and indirect air carrier applicants to document that lessees or direct air carriers are either ineligible for compensation or voluntarily will not or have not claimed compensation with respect to the operations in question.

The Department believes that removing these provisions will permit more equitable treatment for wet lessors and indirect air carriers without impinging on the interests of wet lessees and direct air carriers. Doing so will make it more likely that affected carriers will receive adequate compensation for the effects of the September 11, 2001 attacks than would otherwise be the case. By removing administrative barriers, the Department's approach will create a level playing field on which different types of carriers can apply for compensation eligibility. Wet lessors and indirect air carriers therefore may apply for compensation, as long as they meet other requirements of the rule (e.g., the remaining four requirements of § 330.31(d)(1) and (2)).

This approach will also help to alleviate the concern that the deleted provisions might create an incentive for manipulation of the compensation system (e.g., transfers of ASMs or RTMs to other parties in ways that would artificially inflate the overall amount of compensation paid). We anticipate that the Department can implement this approach without reducing the compensation available to other eligible carriers, since some carriers are being paid on the basis of losses, which in these cases are less than the full formula amount.

Accordingly, the rule provides that wet lessors and indirect air carriers who have not already applied to the Department for compensation because of their inability to meet the requirements of former § 330.31(d)(1)(iv) and (d)(2)(iv) are permitted to submit applications in the third round. Applications must be received within 30 days.

With respect to the issue of wet lease arrangements and indirect air carriers, ATA requested that compensation be limited to U.S. citizens. In particular, ATA asked the Department to require that, in the case of indirect carriers and wet leases, both the applicant and the operator must be U.S. citizens. In ATA's view, a U.S. indirect air carrier should not be compensated for RTMs operated on its behalf by a non-U.S. direct air carrier. On the other hand, two indirect air carriers that operate charter flights via foreign direct air carriers took the opposite view.

Under the statute and the rule, only U.S. carriers can receive compensation. No foreign carrier can receive funds under the Act. We do not see a compelling reason to treat the U.S. indirect air carrier's eligibility for compensation differently depending on the nationality of the direct air carrier involved. Indeed, some commenters whose views were reflected in the Department's decisions set forth in the January 2 rule are indirect carriers who made extensive use of foreign direct air carriers.

We do not believe that these provisions of the rule will cause significant delays in processing claims for compensation. Consequently, consistent with the January 2 final rule, we will continue to regard U.S. indirect air carriers as eligible for compensation based on ASMs or RTMs flown for them by foreign direct air carriers.

Independent Public Accountant's Review. Under 49 CFR 330.37, to be eligible to receive payment from the third round or final installment of compensation under the Air Transportation Safety and System Stabilization Act (the Act), the applicant must submit an independent public accountant's (IPA) report based on the performance of agreed-upon procedures (AUP) satisfactory to the Department with respect to the carrier's forecasts and actual results. The IPA's engagement must be performed in accordance with generally accepted professional standards applicable to AUP engagements. The applicant must submit the results of the AUP engagement to the Department with its application for payment of the third round or final installment. Section 330.37 has been expanded to specify the core requirements to be covered by these procedures.

In order to reduce the application burden on smaller air carriers, the Department has approved simplified procedures for (1) passenger-only and passenger/cargo carriers with fewer than 10 million available seat miles (ASM) in August 2001 and (2) cargo-only air carriers with fewer than two million revenue ton miles (RTM) for the quarter ending June 30, 2001.

Model agreed-upon procedures (AUPs) were submitted to the Department by the American Institute of Certified Public Accountants (AICPA) and the Air Transport Association (ATA), and we have modified those procedures in certain respects to be more consistent with our needs. Model AUPs will be made available on the Department's web site, www.dot.gov, along with the simplified procedures, or can be obtained from the DOT contact noted above under **FOR FURTHER INFORMATION CONTACT.** These model AUPs are provided solely as an aid to applicants in meeting the requirements of the Act and these rules, and the use of the model AUPs, or any other procedures, does not diminish or affect in any way the Department's right to examine fully and audit all aspects of all claims for compensation.

Regulatory Analyses and Notices

Executive Order 12866

These amendments do not constitute an economically significant rule under Executive Order 12866, but they are significant under the Executive Order and the Department's Regulatory Policies and Procedures, because they affect important sectors of the air transportation industry and are of general policy interest.

The Department has determined that these amendments are being issued in an emergency situation, within the meaning of Section 6(a)(3)(D) of Executive Order 12866. However, their impact is expected to be a favorable one: making these funds available to air carriers to compensate them for losses resulting from the terrorist attacks of September 11. In particular, the impact will be favorable on the carriers eligible for the set-aside, since they otherwise would have received, individually and as a class, considerably less compensation. In accordance with Section 6(a)(3)(D), this rule was submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

While we did request comment on the set-aside issue, there was no notice of proposed rulemaking. Consequently, we are not required to prepare a regulatory flexibility analysis under 5 U.S.C. 604. However, we do note that this rule may have a significant economic effect on a substantial number of small entities. In analyzing small entity impact of the amendments, we believe that, to the extent that the rule impacts small air carriers, the impact will be a favorable one, since it will consist of receiving more compensation under the set-aside than these carriers would have received otherwise. The Department has also concluded that this rule does not have sufficient federalism implications to warrant the consultation requirements of Executive Order 13132.

Paperwork Reduction Act

This rule contains information collection requirements subject to the Paperwork Reduction Act (PRA), specifically the application documents that air carriers must submit to the Department to obtain compensation and information collections concerning the review of carriers' financial and operational information. The title, description, and respondent description of the information collections are shown below as well as an estimate of the reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Procedures and Forms for Compensation of Air Carriers

Need for Information: The information is required to administer the requirements of the Act.

Use of Information: The Department of Transportation would use the data submitted by the air carriers to determine each carrier's compensation for direct losses suffered as a result of any Federal ground stop order and incremental losses beginning September 11, 2001, and ending December 31, 2001, resulting from the September 11, 2001, terrorist attacks on the United States as defined in the Act.

Frequency: For this final rule, the Department will collect the information once, with air carriers reporting on Form 330 (Final). In addition, some air carriers must report to the Department concerning agreed-upon procedures engagements with independent public accountants. Other carriers will have to report on the basis of simplified procedures. These are also one-time submissions.

Respondents: All applicants will have to submit a Form 330 (Final). This includes 435 existing applicants and an estimated 150 new applicants, for a total of 585 carriers. We estimate that it will take carriers 6 hours for this task, for a total of 3510 hours.

In addition, about 97 of these carriers will have to report on the basis of an agreed-upon procedures (AUP) engagement with an independent public accountant (IPA). These carriers are those who report more than 10 million ASMs or two million RTMs. We estimate that filling out the schedules associated with the AUP process will take 20 hours, with another 360 hours representing the time of IPA and carrier staff working on the AUP process. Consequently, we estimate 36,860 hours for the AUP requirement.

Smaller carriers will report on the basis of simplified procedures. There are two tiers of these carriers; the first tier consists of carriers with 310,000—10 million ASMs or 200,000—two million RTMs, and the second tier consists of carriers with less than 310,000 ASMs or 200,000 RTMs. We estimate that 190 carriers will be in the first tier and 298 in the second. We believe that the first tier procedures will take 10 hours and that the second tier (even more simplified) procedures will take three hours. Consequently, the two tiers' estimated burden hour totals would be 1900 hours and 894 hours, respectively, for a total of 2794 hours.

Burden Estimate: Based on the above assumptions, we project a total of 43,164 hours. In dollar terms, we estimate the cost for these tasks to be $1,184,420, based on an average cost per hour of $27.44.

Form(s): The data would be collected on Form 330 (Final), found in the Appendix to this rule.

Average Burden Hours per Respondent: For larger carriers, 386 hours; for smaller carriers, 16 hours for first tier and 9 hours for second tier carriers; for new applicants, 12.5 hours.

The Office of Management and Budget has approved this information collection on an emergency basis, with Control Number 2105–0548.

Administrative Procedure Act Findings

We are making this rule effective immediately, without additional opportunity for public notice and comment. Because of the need to move quickly to provide compensation to air carriers for the purpose of maintaining a safe, efficient, and viable commercial aviation system in the wake of the events of September 11, 2001, prior notice and comment would be impractical, unnecessary, and contrary to the public interest. Consequently, prior notice and comment under 5 U.S.C. 553 and delay of the effective date under 5 U.S.C. 801, *et seq.*, are not being provided. On the same basis, we have determined that there is good cause to make the rule effective immediately, rather than in 30 days. We are providing for a 14-day comment period following publication of the rule, however. While the Department will begin implementing this rule immediately, we will respond subsequently to comments we receive.

List of Subjects in 14 CFR Part 330

Air carriers, Grant programs—transportation, Reporting and recordkeeping requirements.

Issued This 11th Day of April, 2002, at Washington, DC.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

For the reasons set forth in the preamble, the Department amends 14 CFR Part 330 as follows:

PART 330—PROCEDURES FOR COMPENSATION OF AIR CARRIERS

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

Authority: Pub. L. 107–42, 115 Stat. 230 (49 U.S.C. 40101 note); sec. 124(d), Pub. L. 107–71, 155 Stat. 631 (49 U.S.C. 40101 note).

2. Amend § 330.3 by adding a new definition of ''Regional air carrier'' in alphabetical order to read as follows:

§ 330.3 What do the terms used in this part mean?

* * * * *

Regional air carrier means an air carrier that operates at least one large aircraft and has annual operating revenues of less than $100 million.

* * * * *

3. Revise § 330.5 to read as follows:

§ 330.5 What funds will the Department distribute under this part?

Under subpart C of this part, the Department will distribute up to the amount of the set-aside provided for in subpart C of this part to air carriers eligible for it. Under subparts A and B of this part, the Department will distribute compensation to other eligible air carriers up to 95 percent of the total remaining funds available, cumulatively with funds distributed previously.

4. Revise § 330.7 to read as follows:

§ 330.7 How much of an eligible air carrier's compensation will be distributed under this part?

(a) If you are an eligible air carrier that has not previously received compensation under the Act, you will receive compensation not to exceed 95 percent of the compensation for which you demonstrate to the satisfaction of the Department that you are eligible under the Act.

(b) If you are an air carrier that has previously received compensation under the Act, you will receive compensation not to exceed 95 percent of the compensation for which you demonstrate to the satisfaction of the Department that you are eligible under the Act, less the amount of compensation that you previously received. For example, suppose that you previously received 85 percent of the compensation for which the Department ultimately determines you are eligible. You would then receive up to an additional 10 percent of the compensation for which you are eligible under the Act.

(c) The provisions of paragraphs (a) and (b) of this section apply in the same way to air carriers eligible for the set-aside provisions of subpart C of this part as they do for other air carriers. When the Department determines the amount of compensation for which an air carrier is eligible under the set-aside provisions of Subpart C of this part, the Department will distribute to the air carrier either up to 95 percent of the compensation for which it is eligible (if it has not previously received any compensation) or up to 95 percent of the compensation for which it is eligible less the amount of compensation it has already received. The Department may distribute these funds in one or more increments.

(d) The Department will pay the remaining amount of compensation to the carrier (i.e., up to 100 percent of the compensation for which a carrier is eligible) after the Department completes a review of third round adjustments under this part, without further application by the carrier. However, the Department may require additional information to support payments to individual carriers in connection with this final payment.

5. Amend § 330.9 by revising paragraph (b) to read as follows:

§ 330.9 What are the limits on compensation to air carriers?

* * * * *

(b) If at any time we determine that a past payment is greater than the amount justified by the provisions of this part and the documentation you submit, you must repay immediately the excess amount to the Department. This requirement applies to you with respect to all stages of the compensation process. For example, if the Department determines that a carrier's estimated losses for the September 11—December 31, 2001 period, which were used in determining the first and second round payments, are higher than actual losses once actual results have become available in 2002, the Department will require that you repay the compensation overage immediately, without prejudice to the determination of the amount of the third round or final payment. In this event, you must repay the overage to the Department at the time we request it, without waiting for a final payment or completion of an audit of the total amount of compensation to which you are entitled.

6. Amend § 330.21 by adding new paragraphs (f) through (h), to read as follows:

§ 330.21 When must air carriers apply for compensation?

* * * * *

(f) Notwithstanding any other provision of this section, if you are a carrier eligible for funds under the set-aside provided under Subpart C of this part, and you did not previously submit an application or wish to amend your application, you may do so by May 16, 2002. The Department may extend this deadline for a reasonable time, if the applicant demonstrates to the satisfaction of the Department that there is good cause for an extension.

(g)(1) Notwithstanding any other provision of this section, if you are a carrier that did not previously submit an application for compensation because of the provisions of § 330.31(d)(1)(iv) or (d)(2)(iv) in effect prior to April 16, 2002. (*See* 14 CFR 330.31 as revised in the **Federal Register** of January 2, 2002), or you wish to amend your application because of the removal of these provisions, you must submit or amend your application by May 16, 2002. The Department may extend this deadline for a reasonable time, if the applicant demonstrates to the satisfaction of the Department that there is good cause for an extension.

(2) To be eligible for compensation, such an application must demonstrate, to the satisfaction of the Department, that you meet all applicable requirements of this part.

(h) If you are an air carrier that has received compensation under the Act or submitted a claim for compensation prior to April 16, 2002, you must submit a ''third round'' application, including the report of the agreed-upon procedures engagement required by § 330.37(c) or the simplified procedures report required by § 330.37(d), as applicable. You must also submit copies of monthly profit and loss statements for the months July 2001 through January 2002, each of which must include the imputed price per gallon average of the fuel used for all aircraft during that month. These statements must be certified to be true and accurate (see § 330.33). You must submit this application and all required supporting materials by May 16, 2002. The Department may extend this deadline for a reasonable time, if the applicant demonstrates to the satisfaction of the Department that there is good cause for an extension.

§ 330.31 [Amended]

7. Amend § 330.31 as follows:

a. Add the word ''and'' following the semicolon in paragraph (d)(1)(iii); remove paragraph (d)(1)(iv); and redesignate paragraph (d)(1)(v) as paragraph (d)(1)(iv).

b. Add the word ''and'' following the semicolon in paragraph (d)(2)(iii); remove paragraph (d)(2)(iv); and redesignate paragraph (d)(2)(v) as paragraph (d)(2)(iv).

8. Amend § 330.37 as follows:

a. In paragraph (b), remove the word ''Before'' at the beginning of the first sentence and add the words ''Except as provided in paragraph (c) of this section, before'' in its place.

b. Add new paragraphs (c) and (d), to read as follows:

§ 330.37 Are carriers which participate in this program subject to audit?

* * * * *

(c) The following are the core requirements for the independent public accountant's review:

(1) Determine that the earnings forecast presented to the Department was inclusive of the entity's full operations as an air carrier and was the most current forecast prepared prior to September 11, 2001;

(2) Determine that, if forecasts presented to the Department for prior periods had material variances from actual results, the carrier provided explanations to account for such variances;

(3) Determine that the methodology for allocating revenue and expenses to the periods September 1–10 and September 11–30, from the forecasted and actual September results, was in accordance with air carrier records and analyses;

(4) Determine that the actual expenses and revenues presented to the Department are in accordance with the official accounting records of the carrier or the financial statements included in the carrier's Securities and Exchange Commission Form 10-Q, and consistent with Generally Accepted Accounting Principles (GAAP), except to the extent that GAAP would require or allow treatment that would be inconsistent with the Act or this part;

(5) Verify that the carrier provided explanations supporting the allocation methodology used if the forecasted and/or actual results for the September 11—30 period was different from allocating 66.7 percent of the total amounts for September;

(6) Determine that the carrier provided full explanations for all material differences between forecast and actual results for the September 11—30, 2001 period and the October 1—December 31, 2001 period;

(7) Determine that the amounts included in management's explanations for such material differences were in accordance with the carrier's analysis of such fluctuations, and the amounts and explanations were traceable to supporting general ledger accounting records or analyses prepared by the carrier;

(8) Determine that the amounts presented to the Department in Form 330 (Final), pages 2–3, in appendix A of this part that the carrier identified as adjustments to the difference between the pre-September 11 forecast and actual results for the period September 11 through December 31, 2001, were in accordance with the official accounting records of the carrier or the financial statements included in the carrier's Securities and Exchange Commission Form 10–Q, and consistent with GAAP, except to the extent that GAAP would require or allow treatment that would be inconsistent with the Act or this part;

(9) Determine that the insurance recoveries and government payments reported by the air carrier and offsetting income were in accordance with the air carrier's general ledger accounting records;

(10) Determine that the information presented in the air carrier's Supplemental Certification were in accordance with the air carrier's general ledger accounting records;

(11) Include in the auditor's report full documentation for each exception taken by the auditor; and

(12) Identify air carrier reports and records utilized in performing the procedures in paragraphs (c)(1) through (11) of this section.

(d) If you are a carrier that reported fewer than 10 million ASMs for the month of August 2001 or fewer than two million RTMs for the quarter ending June 30, 2001, you are not required to report to the Department on the basis of an agreed-upon procedures engagement by an independent public accountant. Instead, you may report on the basis of simplified procedures approved by the Department.

9. Add a new § 330.39 to subpart B, to read as follows:

§ 330.39 What are examples of types of losses that the Department does not allow?

(a)(1) The Department generally does not allow air carriers to include in their calculations aircraft impairment charges, charges or expenses attributable to lease buyouts, or other losses that are not actually and fully realized in the period between September 11, 2001 and December 31, 2001.

(2) The Department will consider requests to accept adjustments for extraordinary or non-recurring expenses or revenues on a case-by-case basis. If, as a carrier, you make such a request, you must demonstrate the following to the satisfaction of the Department:

(i) That the expense or revenue was (or was not, as appropriate) the direct result of the terrorist attacks of September 11, 2001;

(ii) That the revenue or expense was reported in accordance with Generally Accepted Accounting Principles (GAAP), except to the extent that that the GAAP would require or allow treatment that would be inconsistent with the Act or this part;

(iii) That an expense was fully borne within the September 11—December 31, 2001, period and is permanent; and

(iv) That the resulting additional compensation would not be duplicative of other allowances for compensation.

(b) The Department generally does not accept claims by air carriers that cost savings should be excluded from the calculation of incurred losses. Consequently, the Department will not allow such claims to be used in a way that has the effect of increasing the compensation for which an air carrier is eligible.

10. Add a new Subpart C, to read as follows:

Subpart C—Set-Aside for Certain Carriers

Sec.
330.41 What funds is the Department setting aside for eligible classes of air carriers?
330.43 What classes of air carriers are eligible under the set-aside?
330.45 What is the basis on which air carriers will be compensated under the set-aside?

Subpart C—Set-Aside for Certain Carriers

§ 330.41 What funds is the Department setting aside for eligible classes of air carriers?

The Department is setting aside a sum of up to $35 million to compensate eligible classes of air carriers, for which application of a distribution formula containing ASMs as a factor, as set forth in section 103(b)(2) of the Act, would inadequately reflect their share of direct and incremental losses.

§ 330.43 What classes of air carriers are eligible under the set-aside?

There are two classes of eligible air carriers:

(a) You are a Class I air carrier if you are an air taxi, regional, or commuter air carrier and you reported 310,000 or fewer ASMs to the Department for the month of August 2001 (10,000 ASMs per day).

(b) You are a Class II air carrier if you are an air taxi, regional, or commuter air carrier and you reported between 310,001 and 10 million ASMs to the Department for the month of August 2001.

§ 330.45 What is the basis on which air carriers will be compensated under the set-aside?

(a) Except as provided in paragraph (c) of this section, as an air carrier eligible for compensation through the set-aside, you will be compensated for an amount calculated as provided in paragraph (b) of this section.

(b)(1) As a Class I carrier, your compensation will be calculated using a

fixed ASM rate equivalent to the mean losses per ASM for all Class I carriers applying for compensation.

(2) As a Class II carrier, your compensation will be calculated using a graduated ASM rate equivalent to—

(i) The mean loss per ASM for all Class I carriers applying for compensation, for each of the first 310,000 ASMs reported; and

(ii) The mean loss per ASM for all Class II carriers applying for compensation for each ASM in excess of 310,000.

(3) For purposes of this paragraph (b), ASMs are those verified by the Department for August 2001.

(4) Any compensation payments previously made to air carriers eligible for the set-aside will be deducted from the amount calculated as the carrier's total compensation under the set-aside formula.

(c) If you are an air carrier whose compensation is calculated using an ASM rate as provided in paragraph (b) of this section, your compensation will not be less than an amount equivalent to 25 percent of the direct and incremental transportation-related losses you have demonstrated to the satisfaction of the Department were incurred as a direct result of the terrorist attacks of September 11, 2001. Your compensation will not be more than an amount equivalent to the mean percentage of compensation for losses received by passenger and combination air carriers that are not eligible for the set-aside funds, unless you would have been compensated for more than that percentage of losses under the formula set forth in section 103(b)(2) of the Act, in which case you will be compensated under that formula.

11. Revise Appendix A to Part 330, to read as follows:

BILLING CODE 4910–62–P

Appendix A to Part 330—Forms for New and Third Round Applications

FORM 330 (Final)
Page 1 of 6
(for completion by all carriers)

AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT APPLICATION FOR COMPENSATION

NAME, ADDRESS, AND TELEPHONE NUMBER OF AIR CARRIER	
TYPE OF DOT ECONOMIC AUTHORITY HELD	
COMPENSATION AMOUNT RECEIVED TO DATE UNDER SECTION 101(A)(2) OF THE ACT	

Forecasted and Actual Losses for the Period September 11, 2001 to December 31, 2001

	Column A	Column B	Column C
Passenger Carrier Financial Data	Pre 9/11/01 Forecast for the Period 9/11/01 thru 12/31/01	Actual Results for the Period 9/11/01 thru 12/31/01	Difference Between the Pre 9/11/01 Forecast & Actual Results for 9/11/01 thru 12/31/01 (A-B)
1. Total Operating Revenue			
2. Total Operating Expenses			
3. Total Operating Income (1-2)			
4. Non-Operating Revenue			
5. Non-Operating Expenses			
6. Income Before Taxes (3 + 4 –5)			

Fuel Price Used in Forecast: Average price per gallon of aircraft fuel used in the pre-September 11 forecast for the period from September 11, 2001 through December 31, 2001: _____.

Monthly Profit and Loss Statements: Per section 330.21(h), you must also submit copies of monthly profit and loss statements for the months July 2001 through January 2002, each of which must include the imputed price per gallon average of the fuel used for all aircraft during that month.

FORM 330 (Final)
Page 2 of 6
(for completion by all carriers)

NAME OF AIR CARRIER	

Identification and Explanation of Out-of-Period, Extraordinary or Non-Recurring Revenues and Expenses, and Adjustments to Revenues and Expenses Stemming from Changes Not Directly Related to the Terrorist Events of September 11, 2001

(Note: For definitions and background information in completing this Form, see the sections on "Impairments and Other Extraordinary or Nonrecurring Items" and "Adjustment for Losses Not the Direct Result of the Events of September 11" in the preamble section. See especially the discussion of impairment of assets, lease buyouts, and limitations on treatment of cost reductions below forecast. The three blank lines in each table indicate the format, rather than the expected number of entries.)

In Table 1 below, separately identify and explain any and all out-of-period revenues, extraordinary or non-recurring revenues, and adjustments to actual revenues not directly related to the terrorist events of September 11, 2001 that were **included** in Column B (Boxes B-1 and B-4 on page 1 of this form) but not in Column A, the forecasted revenues. You should use a separate sheet to provide a complete explanation.

Table 1. Adjustments in Included Revenues

Included Revenue Items	Dollar Amount	Explanation (on separate sheet)

In Table 2 below, separately identify and explain any and all out-of-period revenues, extraordinary or non-recurring revenues, and adjustments to actual revenues not directly related to the terrorist events of September 11, 2001 that were **excluded from** Column B (Boxes B-1 and B-4 on page 1 of this form) but not from Column A, the forecasted revenues. You should use a separate sheet if necessary to provide a complete explanation.

Table 2. Adjustments in Excluded Revenues

Excluded Revenue Items	Dollar Amount	Explanation (on separate sheet)

In Table 3 below, separately identify and explain any and all out-of-period expenses, extraordinary or non-recurring expenses, and adjustments to actual expenses not directly related to the terrorist events of September 11, 2001 that were **included** in Column B (Boxes B-2 and B-5 on page 1 of this form) but not in Column A, the forecasted expenses. You should use a separate sheet to provide a complete explanation.

Table 3. Adjustments in Included Expenses

Included Expense Item	Dollar Amount	Explanation (on separate sheet)

In Table 4 below, separately identify and explain any and all out-of-period expenses, extraordinary or non-recurring expenses, and adjustments to actual expenses not directly related to the terrorist events of September 11, 2001 that were **excluded from** Column B (Boxes B-2 and B-5 on page 1 of this form) but not from Column A, the forecasted expenses. You should use a separate sheet to provide a complete explanation.

Table 4. Adjustments in Excluded Expenses

Excluded Expense Item	Dollar Amount	Explanation

FORM 330 (Final)
Page 4 of 6
(to be completed by all-cargo carriers)

NAME OF AIR CARRIER	

ALL-CARGO OPERATIONAL DATA

Cargo Carrier Operating Data	Pre 9-11-01 Forecast for the Period 9-11-01 through 12-31-01	Actual Data for the Period 9-11-01 through 12-31-01	Difference Between the Pre 9-11-01 Forecast and Actual Loss for the Period 9-11-01 thru 12-31-01
Revenue Tons Enplaned			
Revenue Ton Miles (RTMs)			
Available Ton Miles (ATMs)			
Load Factor (%)			
Departures Performed			
Cargo Revenue Yield per RTM			

FORM 330 (Final)
Page 5 of 6
(to be completed by passenger and combination carriers)

NAME OF AIR CARRIER	

PASSENGER AND COMBINATION CARRIER OPERATIONAL DATA

Passenger Carrier Operating Data	Pre 9-11-01 Forecast for the Period 9-11-01 thru 12-31-01	Actual Data for the Period 9-11-01 thru 12-31-01	Difference Between the Pre 9-11-01 Forecast and Actual Loss for the Period 9-11-01 thru 12-31-01
Revenue Passengers Carried			
Revenue Passenger Miles (RPMs)			
Available Seat Miles (ASMs)			
Load Factor (%)			
Breakeven Load Factor (%)			
Average Length of Passenger Haul			
Departures Performed			
Average Passenger Fare ($)			
Passenger Revenue Yield per RPM (cents)			
Operating Revenue per ASM (cents)			
Operating Expense per ASM (cents)			

FORM 330 (Final)
Page 6 of 6

NAME, ADDRESS AND TELEPHONE NUMBER OF AIR CARRIER	

Compensation payments will be made via Electronic Funds Transfer. The Department of Transportation can process this type of payment only if air carrier applicants submit the following banking information with their request:

Air Carrier Bank Routing Number	_ _ _ _ _ _ _ _ _ (9 positions)
Air Carrier Bank Account Number	
Name on Account	
Type of Account (*e.g.*, checking, savings)	
Taxpayer ID Number	

I CERTIFY THAT THE INFORMATION ON FORM 330 (FINAL) AND THE MONTHLY PROFIT AND LOSS STATEMENTS SUBMITED AS PART OF THE APPLICATION ARE TRUE AND ACCURATE UNDER PENALTY OF LAW. FALSIFICATION OF A CLAIM FOR COMPENSATION/PAYMENTS UNDER PUB. L. 107-42 MAY RESULT IN CRIMINAL PROSECUTION RESULTING IN FINE AND/OR IMPRISONMENT.

_____ _____

CERTIFYING OFFICER (CEO, CFO or COO) **DATE**

Print Name_____ Telephone Number _____

Title: _____

[FR Doc. 02–9243 Filed 4–12–02; 10:38 am]
BILLING CODE 4910–62–C

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Procedural Rules; Correction

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final regulations which were published in the **Federal Register** of Wednesday, September 8, 1999 (64 FR 48707). Those regulations amended the procedural rules of the Federal Mine Safety and Health Review Commission.

DATES: Effective April 16, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas A. Stock, Acting General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 1730 K Street, NW, 6th Floor, Washington, DC 20006, telephone 202–653–5610 (202–566–2673 for TDD Relay). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 1999 (64 FR 48707), the Federal Mine Safety and Health Review Commission published in the **Federal Register** as final rules various amendments to its procedural rules. With respect to § 2700.76, the Commission's procedural rule relating to interlocutory review, the Commission intended to revise only the introductory text of paragraph (a), and to leave unchanged paragraphs (a)(1) and(a)(2), as well as paragraphs (b) through (d). As published, paragraphs (a)(1) and (a)(2) were inadvertently omitted from § 2700.76.

Need for Correction

As published, § 2700.76(a) does not contain paragraphs (a)(1) and (a)(2), which were intended to be included in the rule. This document corrects that omission and restores those paragraphs which were inadvertently omitted.

List of Subjects in 29 CFR Part 2700

Administrative practice and procedure, Ex parte communications, Lawyers, Penalties.

Accordingly, 29 CFR part 2700 is corrected by making the following correcting amendment:

PART 2700—PROCEDURAL RULES

1. The authority citation for part 2700 continues to read as follows:

Authority: 30 U.S.C. 815, 820 and 823.

2. Revise paragraph (a) of § 2700.76 to read as follows:

§ 2700.76 Interlocutory review.

(a) *Procedure.* Interlocutory review by the Commission shall not be a matter of right but of the sound discretion of the Commission. Procedures governing petitions for review of temporary reinstatement orders are found at § 2700.45(f).

(1) Review cannot be granted unless:

(i) The judge has certified, upon his own motion or the motion of a party, that his interlocutory ruling involves a controlling question of law and that in his opinion immediate review will materially advance the final disposition of the proceeding; or

(ii) The Judge has denied a party's motion for certification of the interlocutory ruling to the Commission, and the party files with the Commission a petition for interlocutory review within 30 days of the Judge's denial of such motion for certification.

(2) In the case of either paragraph (a)(1)(i) or (ii) of this section, the Commission, by a majority vote of the full Commission or a majority vote of a duly constituted panel of the Commission, may grant interlocutory review upon a determination that the Judge's interlocutory ruling involves a controlling question of law and that immediate review may materially advance the final disposition of the proceeding. Interlocutory review by the Commission shall not operate to suspend the hearing unless otherwise ordered by the Commission. Any grant or denial of interlocutory review shall be by written order of the Commission.

* * * * *

Dated: April 9, 2002.

Theodore F. Verheggen,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 02–9143 Filed 4–15–02; 8:45 am]

BILLING CODE 6735–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS MCCAMPBELL (DDG 85) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: November 20, 2001.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS MCCAMPBELL (DDG 85) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions, Annex I paragraph 2(f)(ii) pertaining to the vertical placement of the task lights, Annex I paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights, and Annex I paragraph 3(c) pertaining to the horizontal placement of the task lights. The Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS MCCAMPBELL:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * *	*	*
USS MCCAMPBELL	DDG 85	1.85 meters.
* * *	*	*

3. Table Four, Paragraph 16 of § 706.2 is amended by adding, in numerical order, the following entry for USS MCCAMPBELL:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * *	*	*
USS MCCAMPBELL	DDG 85	108.61 thru 112.50°
* * *	*	*

4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS MCCAMPBELL:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS MCCAMPBELL	DDG 85	X	X	X	14.6
* *	*	*	*	*	*

Dated: November 20, 2001.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 02–9171 Filed 4–15–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS HIGGINS (DDG 76) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 10, 2001.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS HIGGINS (DDG 76) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provision of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 16 of § 706.2 is amended by revising the entry for USS HIGGINS to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* *	*	* *
USS HIGGINS ..	DDG 76	108.60 thru 112.50°
* *	*	* *

3. Table Five of § 706.2 is amended by revising the entry for USS HIGGINS to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	
USS HIGGINS	DDG 76	X	X	X	14.8
* *	*	*	*	*	

Dated: October 10, 2001.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 02–9170 Filed 4–15–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972 Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS IWO JIMA (LHD 7) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 3, 2002.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS IWO JIMA (LHD 7) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as an amphibious assault ship. The Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by revising the following entry for USS IWO JIMA:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
USS IWO JIMA	LHD 7	.....	X	X	41.5

Dated: April 3, 2002.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 02–9169 Filed 4–15–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS LASSEN (DDG 82) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: November 8, 2001.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS LASSEN (DDG 82) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions, and Annex I paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 16 of § 706.2 is amended by revising the following entry for USS LASSEN:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
*	*	*	*	*
USS LASSEN.	DDG 82	109.11 thru 112.50°
*	*	*	*	*

3. Table Five of § 706.2 is amended by revising the following entry for USS LASSEN:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masterhead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*	*
USS LASSEN	DDG 82	X	X	X	14.5
*	*	*	*	*	*	*

Dated: November 8, 2001.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

Dated: April 9, 2002.

T.J. Welsh,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 02–9167 Filed 4–15–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS SHOUP (DDG 86) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: November 20, 2001.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS SHOUP (DDG 86) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions, Annex I paragraph 2(f)(ii) pertaining to the vertical placement of the task lights, Annex I paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights, and Annex I paragraph 3(c) pertaining to the horizontal placement of the task lights. The Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS SHOUP:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * * * *		
USS SHOUP	DDG 86	1.90 meters.
* * * * *		

3. Table Four, Paragraph 16 of § 706.2 is amended by including, in numerical order, the following entry for USS SHOUP:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

Vessel	Number	Obstruction angle relative ship's headings
* * * * *		
USS SHOUP	DDG 86	190.46 thru 112.50°.
* * * * *		

4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS SHOUP:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS SHOUP	DDG 86	X	X	X	14.6
* *	*	*	*	*	*

Dated: November 20, 2001.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 02–9166 Filed 4–15–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS COLE (DDG 67) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 4, 2002.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS COLE (DDG 67) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, section 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and, Annex I, section 2(f)(ii) pertaining to vertical placement of task lights. The Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by revising the following entry for USS COLE:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS COLE	DDG 67	X	X	X	14.0
* *	*	*	*	*	*

Dated: April 4, 2002.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 02–9165 Filed 4–15–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS FITZGERALD (DDG 62) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: December 6, 2001.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law),

Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS FITZGERALD (DDG 62) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; and Annex I paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 16 of § 706.2 is amended by revising the following entry for USS FITZGERALD:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
*	*	*
USS FITZGERALD.	DDG 62	108.30 thru 112.50°
*	*	*

3. Table Five of § 706.2 is amended by revising the following entry for USS FITZGERALD:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS FITZGERALD	DDG 62	X	X	X	21.2
*	*	*	*	*	*

Dated: December 6, 2001.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 02–9164 Filed 4–15–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) of the Navy has determined that USS DONALD COOK (DDG 75) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February 13, 2002.

FOR FURTHER INFORMATION CONTACT: Captain Richard T. Evans, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, DC 20374–5066, Telephone number: (202) 685–5040.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS DONALD COOK (DDG 75) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; and Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead

lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 16 of § 706.2 is amended by revising the following entry for USS DONALD COOK:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
*	*	*
USS DONALD COOK.	DDG 75	108.78 thru 112.50°
*	*	*

3. Table Five of § 706.2 is amended by revising the following entry for USS DONALD COOK:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
*	*	*	*	*	*
USS DONALD COOK	DDG 75	X	X	X	14.8
*	*	*	*	*	*

Dated: February 13, 2002.

Richard T. Evans,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

Dated: April 9, 2002.

T.J. Welsh,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 02–9168 Filed 4–15–02; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–02–042]

Drawbridge Operation Regulations: Taunton River, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Brightman Street Bridge, mile 1.8, across the Taunton River between Somerset and Fall River, Massachusetts. This deviation from the regulations, effective from 9 p.m. on April 12, 2002 through 4 p.m. on April 26, 2002, allows the bridge to remain in the closed position for vessel traffic to facilitate scheduled maintenance at the bridge.

DATES: This deviation is effective from April 12, 2002 through April 26, 2002.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, at (617) 223–8364.

SUPPLEMENTARY INFORMATION: The bridge owner, Massachusetts Highway Department, requested a temporary deviation from the drawbridge operating regulations on February 11, 2002, to facilitate necessary structural repairs at the bridge, replacement of the main floor beam, from 9 p.m. on April 5, 2002 through 4 p.m. on April 19, 2002.

The Coast Guard published a temporary deviation (CGD01–02–035) on March 27, 2002, to facilitate the above scheduled bridge maintenance. The Coast Guard received a revised request from the owner of the bridge changing the effective period for this scheduled bridge maintenance to 9 p.m. on April 12, 2002 through 4 p.m. on April 26, 2002, as a result of a late response from an upstream facility expecting a ship delivery that would be in conflict with the original effective period.

As a result of the above information, this deviation to the operating regulations, cancels the temporary deviation (CGD01–02–035) published on March 27, 2002, and allows the Brightman Street Bridge to remain in the closed position for vessel traffic from 9 p.m. on April 12, 2002 through 4 p.m. on April 26, 2002.

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

Dated: April 3, 2002.

G.N. Naccara,

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

[FR Doc. 02–9132 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 140

[USCG–2001–9045]

RIN 2115–AG14

Inspection Under, and Enforcement of, Coast Guard Regulations for Fixed Facilities on the Outer Continental Shelf by the Minerals Management Service

AGENCY: Coast Guard, DOT.

ACTION: Final rule; announcement of effective date.

SUMMARY: Coast Guard is announcing the approval of a collection-of-information requirement allowing the owners or operators of fixed Outer Continental Shelf facilities to retain the forms on which they record their annual inspections, rather than to submit them to the Coast Guard. This will allow the forms to be kept locally and made available to Coast Guard and Minerals Management Service inspectors upon request.

DATES: 33 CFR 140.103(c), as published February 7, 2002 (67 FR 5916), is effective June 7, 2002.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call James M. Magill, Vessel and Facility Operating Standards Division (G–MSO–2), telephone 202–267–1082 or fax 202–267–4570. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on February 7, 2002, at 67 FR 5912 was to become effective on June 7, 2002, except for revised paragraph (c) of 33 CFR 140.103. Revised paragraph (c) contained a collection-of-information requirement allowing forms CG–5432 (the annual self-inspection reports for fixed Outer Continental Shelf facilities) to be kept locally, rather than to be submitted to the Coast Guard Officer in Charge, Marine Inspection. This paragraph could not become effective until its collection-of-information requirement was approved by the Office of Management and Budget (OMB). This paragraph was approved by OMB in control no. 2115–0569 on March 12, 2002, and is effective on June 7, 2002, the effective date of the final rule.

Dated: April 8, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security, and Environmental Protection.

[FR Doc. 02–9110 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NH–046b; A–1–FRL–7171–9]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Post-1996 Rate of Progress Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes post-1996 rate of progress (ROP) emission reduction plans for the Portsmouth-Dover-Rochester serious ozone nonattainment area, and the New Hampshire portion of the Boston-Lawrence-Worcester serious area. The intended effect of this action is to approve this SIP revision as meeting the requirements of the Clean Air Act.

DATES: This direct final rule is effective on June 17, 2002 without further notice, unless EPA receives adverse comment by May 16, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, 11th floor, Boston, MA, and at the Air Resources Division, New Hampshire Department of Environmental Services, 6 Hazen Drive, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Robert McConnell, (617) 918–1046.

SUPPLEMENTARY INFORMATION: On September 27, 1996, the State of New Hampshire submitted a formal revision to its SIP. The SIP revision consisted of post-1996 rate-of-progress (ROP) plans for the Portsmouth-Dover-Rochester and the New Hampshire portion of the Boston-Lawrence-Worcester serious areas.

This **SUPPLEMENTARY INFORMATION** section is organized as follows:

A. What action is EPA taking today?
B. Why was New Hampshire required to reduce emissions of ozone forming pollutants?
C. Which specific air pollutants are targeted by this emission reduction plan?
D. What are the sources of these pollutants?
E. What harmful effects can these pollutants produce?
F. Should I be concerned if I live near an industry that emits a significant amount of these pollutants?
G. To what degree does New Hampshire's plan reduce emissions?
H. How will New Hampshire achieve these emission reductions?
I. Have these emission reductions improved air quality in New Hampshire?
J. Has New Hampshire met its contingency measure obligation?
K. Are conformity budgets contained in the plan?

A. What action Is EPA Taking Today?

EPA is approving post-1996 ROP emission reduction plans submitted by the State of New Hampshire for the Portsmouth-Dover-Rochester area, and the state's portion of the Boston-Lawrence-Worcester (Boston area) as a revision to the state's SIP. New Hampshire did not enter into an agreement with Massachusetts to do a multi-state ROP plan, and therefore submitted a plan to reduce emissions only in the New Hampshire portion of the Boston area. EPA is taking action today only on the New Hampshire portion of the Boston area post-1996 plan.

The post-1996 ROP plans document how New Hampshire complied with the provisions of section 182 (c)(2)(B) of the Federal Clean Air Act (the Act). 42 U.S.C. 7511a(c)(2)(B). This section of the Act requires states containing certain ozone nonattainment areas to develop strategies that reduce emissions of the pollutants that react to form ground level ozone.

B. Why Was New Hampshire Required To Reduce Emissions of Ozone Forming Pollutants?

New Hampshire was required to develop plans to reduce ozone precursor emissions because it contains ozone nonattainment areas. A final rule published by EPA on November 6, 1991 (56 FR 56694) designated portions of the state as nonattainment for ozone, and classified two of these areas as serious.

Section 182 (c)(2)(B) of the Act requires that serious ozone nonattainment areas develop ROP plans to reduce ozone forming pollutant emissions by 3 percent a year, averaged over each consecutive 3 year period beginning in 1996, until the area reaches its attainment date. The first set of emission reductions are required to occur between November 1996 and November 1999, and are referred to as post-1996 ROP plan reductions, which will yield an overall reduction of nine percent of the combined 1990 VOC and NO_X emission levels. Although these areas attained the one hour ozone national ambient air quality standard for the period from 1998 through 2000, monitoring data for the summer of 2001 indicate that the Boston area once again has violated the standard. Therefore, the Act continues to require a ROP plan for this area.

C. Which Specific Air Pollutants Are Targeted by This Emission Reduction Plan?

The state's post-1996 plans are geared towards reducing emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X). These compounds react in the presence of heat and sunlight to form ozone, which is a primary ingredient of smog.

D. What Are the Sources of These Pollutants?

VOCs are emitted from a variety of sources, including motor vehicles, a variety of consumer and commercial products such as paints and solvents, chemical plants, gasoline stations, and other industrial sources. NO_X is emitted from motor vehicles, power plants, and other sources that burn fossil fuels.

E. What Harmful Effects Can These Pollutants Produce?

VOCs and NO_X react in the atmosphere to form ozone, the prime ingredient of smog in our cities and many rural areas of the country. Though ozone occurs naturally high in our atmosphere, at ground level it is harmful to health. When inhaled, even at very low levels, ozone can:

Cause acute respiratory problems;

Aggravate asthma;

Cause significant temporary decreases in lung capacity in some healthy adults;

Cause inflammation of lung tissue;

Lead to hospital admissions and emergency room visits; and

Impair the body's immune system defenses.

F. Should I Be Concerned If I Live Near an Industry That Emits a Significant Amount of These Pollutants?

Industrial facilities that emit large amounts of these pollutants are monitored by the state's environmental agency, the Department of Environmental Services (NH-DES). Many facilities are required to emit air pollutants through stacks to ensure that high concentrations of pollutants do not exist at ground level. Permits issued to these facilities include information on which pollutants are being released, how much may be released, and what steps the source's owner or operator is taking to reduce pollution. The NH-DES makes permit applications and permits readily available to the public for review. You can contact the NH-DES for more information about air pollution emitted by industrial facilities in your neighborhood.

G. To What Degree Does New Hampshire's Plan Reduce Emissions?

By 1999, New Hampshire's ROP plans will reduce VOC emissions by 31 percent and NO_X emissions by 28 percent compared to 1990 emission levels. This reduction is attributable to the control strategy outlined in the state's post-1996 plans, and in New Hampshire's ROP plans for the years 1990 to 1996 that achieved a 15 percent reduction in VOC emissions. The reduction is also partly attributable to the Federal Motor Vehicle Control Program (FMVCP). Not all emission reductions from the FMVCP program are creditable towards ROP emission reductions, and New Hampshire's ROP plans accurately account for this. EPA approved New Hampshire's 15 percent ROP plans on December 7, 1998 (63 FR 67405).

New Hampshire used the appropriate EPA guidance to calculate the 1999 VOC and NO_X emission target levels, and the amount of reductions needed to achieve its emission target levels. Under section 182(c)(2)(C) of the Act, NO_X reductions can be used to meet this emission reduction obligation in some circumstances. Available modeling indicates that NO_X emission reductions are clearly beneficial in New Hampshire, and so as outlined in EPA's NO_X substitution guidance dated December 15, 1993, use of NO_X emission reductions to meet post-96 emission reduction obligations is appropriate in the state.

The manner in which states are to determine the required level of emission reductions is described in an EPA guidance document entitled, ''Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment Demonstration'' (EPA 452–93–015.) The calculation procedure is similar to the one used to determine the 15 percent emission reduction obligation. Table 1 below illustrates the steps New Hampshire used to derive its 1999 emission target levels for VOC and NO_X. The ROP plan indicates that 1999 projected, controlled emissions are below the target levels for the state's two serious nonattainment areas. The analysis presented in Table 1 for the Boston-Lawrence-Worcester area includes substitution of NO_X emissions from outside of that nonattainment area, and is further discussed later in this document. Additionally, Table 1 contains an evaluation of the effect that removal of acetone would have on the state's ROP demonstration, which is also discussed further in this document. Emissions in parenthesis reflect subtraction of acetone from the base year VOC inventory, and are the values we are approving today.

TABLE 1

[Units are tons per summer day]

Description	Por-Dov-Roc VOC	Por-Dov-Roc NO_X	Bos-Law-Wor VOC	Bos-Law-Wor NO_X
Step 1—Calculate 1990 Base Year Inventory	76.0	46.5	91.9	59.7 (includes 26.3 from a source outside the area)
Step 2—Develop Rate-of Progress Inventory (by subtracting biogenics and non-reactives).	Bio: −35.0 Acet: −0.3 = 41.0 (40.7)	46.5	Bio: −36.1 Acet: −0.5 = 55.9 (55.4)	59.7

TABLE 1—Continued

[Units are tons per summer day]

Description	Por-Dov-Roc VOC	Por-Dov-Roc NO_X	Bos-Law-Wor VOC	Bos-Law-Wor NO_X
Step 3—Develop Adjusted Base Year Inventory by subtracting non-creditable FMVCP/RVP rdxns. between 1990–1999.	−6.5 =34.5 (34.2)	−4.0 =42.5	−9.4 =46.5 (46.0)	−5.5 =54.2
Step 4—Calculate Required Reduction {state added the 3% contingency obligation to the ROP reductions calculation, so total required is 12% reduction}.	3.0% =1.0 (1.0)	9.0% =3.8	0.9% =0.4 (0.4)	11.1% =6.0
Step 5—Calculate total expected reduction: For VOC, sum of steps 3 and 4, +15% VOC reduction from 1990 to 1996, which was 5.3 tpsd for Por-Dov-Roc area, and 7.2 tpsd for Bos-Law-Wor area.	6.5+ 1.0+ 5.3= 12.8	4.0+ 3.8= 7.8	9.4+ 0.4+ 7.2= 17.0	5.5+ 6.0 11.5
Step 6—Set Target Level for 1999: Step 2—Step 5	28.2 (27.9)	38.7	38.9 (38.4)	48.2
Step 7—Project Emissions to 1999	37.7 (37.4)	45.4	53.3 (52.8)	58.9
Step 8—Projected, Controlled 1999 Emissions	28.1 (27.9)	36.1	38.7 (38.4)	40.0

New Hampshire projected its base year stationary and non-road mobile source emissions to 1999 by using the Economic Growth and Analysis System, which contains growth assumptions for specific geographic areas in the U.S. that are based on forecasts of economic activity. Estimates of growth in VMT were obtained from the New Hampshire Department of Transportation.

On June 16, 1995, EPA published a final rule in the **Federal Register** that added acetone to the federal list of compounds with negligible photochemical reactivity (60 FR 31633). As a result of that action, states could no longer consider acetone a VOC, and so emission reductions of acetone are not creditable towards ROP plan reductions. The state's post-96 ROP plan does not indicate that acetone was removed from the New Hampshire 1990 base year inventory prior to calculation of the emission target levels. Therefore, we performed an analysis to remove acetone from the base year emission estimates of two area source categories whose emissions contained significant amounts of acetone: the surface coatings category and the graphic arts category. The details of our analysis are available in the technical support document included in the docket supporting this action; the results of that analysis are shown in parenthesis in Table 1.

Table 1 indicates that sufficient VOC and NO_X emission reductions exist in the Portsmouth-Dover-Rochester area to meet that area's ROP obligation through 1999. Information presented in the state's ROP submittal indicates that this is not the case for the New Hampshire portion of the Boston-Lawrence-Worcester area. Therefore, as shown in Table I, baseline and projected, controlled NO_X emissions from a source outside of the Boston-Lawrence-Worcester area were added to that area's ROP analysis so that the substantial emission reductions achieved by the source could be credited towards the area's ROP emission reduction obligation.

EPA believes this substitution is appropriate. The state's ROP plan documents that the emissions from the substituted source, the Public Service Company of New Hampshire's Merrimack Station electric generating plant in Bow, impacts the New Hampshire portion of the Boston-Lawrence-Worcester area, and therefore emission reductions from this facility should help improve air quality in New Hampshire's portion of the Boston-Lawrence-Worcester area. A December 1997 memorandum from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation to the Regional Administrators contains a policy recommendation that substitution of emission reduction credits from outside of a nonattainment area for ROP purposes be allowed if certain criteria are met. Two central components of that policy are that a source lending NO_X emission reductions be no more than 200 kilometers from the recipient nonattainment area, and the lending source's emissions must be included in the recipient area's baseline and ROP emission calculations. New Hampshire's proposed emission reduction substitution meets the criteria outlined in the December 1997 memorandum.

H. How Will New Hampshire Achieve These Emission Reductions?

New Hampshire's post-1996 control strategy matches the control strategy described in the EPA's December 7, 1998 approval of the state's 15 percent plan, and also includes additional emission reductions from regulations limiting NO_X emissions from stationary point sources described below.

NO_X RACT

The Act requires that states develop Reasonably Available Control Technology (RACT) regulations for all major stationary sources of NO_X in areas which have been classified as ''moderate,'' ''serious,'' ''severe,'' and ''extreme'' ozone nonattainment areas, and in all areas of the Ozone Transport Region (OTR). EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. New Hampshire submitted its NO_X RACT regulation in various pieces between 1992 and 1995 as a revision to the state's SIP. On April 9, 1997, EPA approved the state's NO_X RACT rule through a direct final action in the **Federal Register** (62 FR 17087.)

Ozone Transport Commission (OTC) Phase II NO_X Requirements

On July 27, 1998, New Hampshire submitted a request to revise its SIP by adding Chapter Env-A 3200, ''NO_X Budget Trading Program'' and Final RACT Order, ARD–98–001. The state's submittal contains emission limits consistent with both Phase II and Phase III requirements of the OTC NO_X MOU. Facilities covered by the rule needed to comply by the 1999 ozone season. Additionally, Final RACT Order ARD–98–001 contains emission limits for unit # 2 at Merrimack Station, with a May 31, 1999 effective date. EPA approved both of these submittals in a direct final

action published in the **Federal Register** on November 14, 2000 (65 FR 68078).

New Hampshire projects that in 1999 NO_X emissions from point sources in the two serious nonattainment areas, combined with the emissions added from Merrimack Station, will be 25 tons per day lower than 1990 emission levels due to the above two NO_X control measures.

The New Hampshire post-1996 ROP plan demonstrates that the VOC and NO_X emission reductions from the control strategy will achieve sufficient emission reductions to lower 1999 emission levels below the target levels calculated for each pollutant.

I. Have These Emission Reductions Improved Air Quality in New Hampshire?

Ozone levels have decreased in New Hampshire during the 1990's, due in part to emission reductions achieved by the state's plans. Pollution control measures implemented by states upwind of New Hampshire have also helped ozone levels decline in the state.

J. Has New Hampshire Met Its Contingency Measure Obligation?

Ozone nonattainment areas classified as serious or above must submit to the EPA, pursuant to section 182(c)(9) of the Act, contingency measures to be implemented if an area misses an ozone SIP milestone. New Hampshire's contingency plan consists of surplus NO_X emission reductions generated by the control programs in its ROP plans. New Hampshire incorporated the 3% contingency reduction obligation in its derivation of 1999 emission target levels. Table I illustrates that the 1999 emission target levels are met for both pollutants in both areas, thereby demonstrating that the 3% contingency obligation has been met. We are approving the state's demonstration that it meets the contingency measure requirement of section 182(c)(9) of the Act.

K. Are Conformity Budgets Contained in the Plan?

Section 176(c) of the Act, and 40 CFR 51.452(b) of the federal transportation conformity rule require states to establish motor vehicle emissions budgets in any control strategy SIP that is submitted for attainment and maintenance of the NAAQS. New Hampshire will use such budgets to determine whether proposed projects that attract traffic will ''conform'' to the emissions assumptions in the SIP.

New Hampshire's post-1996 plans include motor vehicle emission budgets for 1999. However, New Hampshire submitted an ozone attainment demonstration SIP revision to EPA on June 30, 1998. The ozone attainment demonstration establishes the VOC and NO_X emission budgets for 2003 shown in Table 2.

TABLE 2.—2003 EMISSION BUDGETS FOR ON-ROAD MOBILE SOURCES (TPSD)

Area	2003 VOC budget	2003 NO_X budget
NH portion of Bos-Law-Wor area	10.72	21.37
Por-Dov-Roc area	6.97	13.68

By letter dated August 19, 1998, we informed New Hampshire that the motor vehicle budgets contained within the state's ozone attainment demonstration were adequate for conformity purposes. The 2003 VOC and NO_X budgets established by the New Hampshire ozone attainment demonstration are currently the controlling budgets for conformity determinations for 2003 and later years.

II. Final Action

EPA is approving the New Hampshire post-1996 rate-of-progress emission reduction plans and contingency plan as a revision to the state's SIP. The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective June 17, 2002 without further notice unless the Agency receives relevant adverse comments by May 16, 2002.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Only parties interested in commenting on the proposed rule should do so at this time. If EPA receives no such comments, the Agency advises the public that this rule will be effective on June 17, 2002 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

In reviewing SIP submissions, EPA's role is to approve state choices,

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 17, 2002. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: April 4, 2002.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

PART 52—[AMENDED]

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

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

Subpart EE—New Hampshire

2. Section 52.1534 is added to subpart EE to read as follows:

§ 52.1534 Control strategy: Ozone.

(a) Revisions to the State Implementation Plan submitted by the New Hampshire Department of Environmental Services on September 27, 1996. These revisions are for the purpose of satisfying the rate of progress requirement of section 182(c)(2)(B), and the contingency measure requirements of section 182(c)(9) of the Clean Air Act, for the Portsmouth-Dover-Rochester serious area, and the New Hampshire portion of the Boston-Lawrence-Worcester serious area.

[FR Doc. 02–9066 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH118–2; FRL–7171–1]

Approval and Promulgation of Implementation Plans; Ohio; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

SUMMARY: Due to adverse comments, the EPA is withdrawing the direct final rule approving the State Implementation Plan (SIP) for New Source Review (NSR) provisions for nonattainment areas for the Ohio Environmental Protection Agency (OEPA). In the direct final rule published on February 21, 2002 (67 FR 7954), EPA stated that if EPA receives adverse comment by March 25, 2002, the rule would be withdrawn and not take effect. EPA subsequently received adverse comment. EPA will address the comments received in a subsequent final action based upon the proposed action also published on February 21, 2002 (67 FR 7996). EPA will not institute a second comment period on this action.

EFFECTIVE DATE: The direct final rule is withdrawn as of April 16, 2002.

FOR FURTHER INFORMATION CONTACT: Kaushal Gupta or Jorge Acevedo, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6803, (312) 886–2263.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur dioxide, Volatile organic compounds.

Dated: April 4, 2002.

David A. Ullrich,

Acting Regional Administrator, Region 5.

PART 52—[AMENDED]

Accordingly, the addition of 40 CFR 52.1870(c)(126) is withdrawn as of April 16, 2002.

[FR Doc. 02–9068 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 151–1151; FRL–7170–6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Clean Air Act (CAA), EPA is approving the State Implementation Plan (SIP) revisions submitted by the state of Missouri for the Doe Run primary lead smelters in Herculaneum and Glover, Missouri. A notice of proposed rulemaking was published on this action on December 5, 2001. EPA received adverse comments on this proposal and will respond to these comments in this rulemaking.

The SIP submitted by the state satisfies the applicable requirements under the CAA and demonstrates attainment of the National Ambient Air Quality Standards (NAAQS) for lead for the Doe Run-Herculaneum area. Approval of this revision will ensure that the Federally-approved requirements are current and consistent with state regulations and requirements. The revision for Doe Run-Glover merely reflects a change in ownership of the smelter.

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

FOR FURTHER INFORMATION CONTACT: James Hirtz at (913) 551–7472, or E-mail him at *hirtz.james@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

Table of Contents

Background and Submittal Information
What is a SIP?
What is the background for Doe Run-Herculaneum?
What is the Federal approval process for a SIP?
What does Federal approval of a state regulation mean to me?
EPA's Final Action
What comments were received on the December 5, 2001, proposal and what is EPA's response?
What action is EPA taking?

Background and Submittal Information

What Is a SIP?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP. Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Background for Doe Run-Herculaneum?

A notice of proposed rulemaking was published on this action on December 5, 2001 (66 FR 63204). EPA received adverse comments on this proposal and will respond to these comments in this rulemaking.

On June 3, 1986, EPA issued a call for a revision to the Missouri SIP in response to violations of the NAAQS for lead in the vicinity of the Doe Run primary lead smelter in Herculaneum, Missouri. Doe Run-Herculaneum is the largest primary lead smelter in the United States with a production capacity of 250,000 tons of refined lead per year. The NAAQS for lead is 1.5 micrograms (μg) of lead per cubic meter (m^3) of air averaged over a calendar quarter. The state submitted a SIP revision on September 6, 1990, and EPA granted limited approval for Missouri's 1990 SIP revision on March 6, 1992 (57 FR 8076), pending submission of a supplemental SIP revision meeting the applicable requirements (Part D of Title I of the CAA as amended in 1990).

A revised SIP meeting the part D requirements was subsequently submitted in 1994. The plan established June 30, 1995, as the date by which the Herculaneum area was to have attained compliance with the lead standard. However, the plan did not result in attainment of the standard and observed lead concentrations in the Herculaneum area continued to show violations of the standard. Therefore, on August 15, 1997, after taking and responding to public comments, EPA published a notice in the **Federal Register** finding that the Herculaneum nonattainment area had failed to attain the lead standard by the June 30, 1995, deadline (62 FR 43647).

On January 10, 2001, Missouri submitted a revised SIP to EPA for the Doe Run-Herculaneum area. The SIP revision was found complete on January 12, 2001. The SIP establishes August 14, 2002, as the attainment date for the area and satisfies the part D requirements of the CAA. The revised plan also contains a control strategy to address the violations of the NAAQS which occur after implementation of the control measures in the 1995 SIP revision. EPA believes that the dispersion and receptor modeling demonstrate that the selected control measures will result in attainment of the NAAQS for lead. For further information, the reader should consult the proposed rulemaking published on December 5, 2001, and the technical support document which is part of this docket.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

EPA's Final Action

What Comments Were Received on the December 5, 2001, Proposal and What Is EPA's Response?

EPA received two written comments of a general nature relating to the Doe Run facility. One comment supported the facility operating in Herculaneum, and the other comment described the adverse health effects of lead emissions, particularly on children. With respect to the latter comment, EPA notes that the lead standard is set at a level to protect public health, including the health of children, and that EPA's approval of the SIP means that the control strategy designed by the state to bring about attainment of the standard will now be enforceable by EPA as well as the state.

EPA also received adverse comments on behalf of an environmental organization (Missouri Coalition for the Environment—the ''Coalition'') specifically directed to the Proposed Rulemaking published on December 5, 2001 (66 FR 63204). The adverse comments focused on concerns regarding: (1) The ambient monitoring network and monitoring schedules, and collection of samples; (2) enforcement; (3) modeling at the slag pile; and (4) editorial comments.

EPA sets forth below in this section a summary of the Coalition's comments and our responses.

Issue 1: Comments on Monitoring Schedules and Collection of Samples

Comment 1: The commenter states that there are ''anecdotal reports'' that Doe Run alters the facility's operating schedule on days that ambient monitoring is being conducted (i.e., every sixth day) to lower emissions during days on which monitoring samples are collected. The commenter implies that the SIP is inadequate because it does not address mechanisms to ensure that monitored data represents emissions during normal source operations.

Response to Comment 1: In general, EPA notes that the attainment demonstration and control strategy approved in today's action are based on dispersion modeling and receptor modeling. The analysis is discussed in more detail in the December 5, 2001, proposal (66 FR at 63206). The analysis used monitored data to evaluate the accuracy of the predictions from the dispersion model, to ''fingerprint'' the emission units contributing to the monitors, and to confirm the adequacy of the control strategy. However, the monitoring was done in accordance with specific protocols developed for the attainment demonstration (including the requirement that only the highest monitored values would be used) and was not dependent on the routine ambient monitoring referenced by the commenter. In addition, the attainment demonstration relied on emission rates based on stack testing performed at a production rate of at least 90 percent of maximum capacity. Therefore, the attainment demonstration was based on ''worst-case'' source operations and would not be impacted by the reported alteration of operating schedules described by the commenter.

Although the representativeness of the ongoing ambient monitoring is not relevant to the attainment demonstration and control strategy which is the subject of today's action, we note that ambient monitoring will be used to determine whether the area has attained the lead standard after the control strategy is implemented. Therefore, EPA is concerned that accurate and representative ambient air data is collected. EPA and the Missouri Department of Natural Resources (MDNR) will continue to compare production levels and process operational data to reported ambient levels. EPA and MDNR will use this information to assist in the evaluation of whether the area has attained the standard by the attainment date and in the evaluation of the monitoring strategy. In addition, any request for redesignation to attainment after implementation of the control strategy would require a showing that air quality improvements are due to permanent and enforceable emission reductions (section 107(d)(3)(E)(iii) of the CAA), so that temporary and voluntary cut-backs in production (if any have occurred) could not be considered in determining whether this requirement has been met.

Comment 2: The statement in the proposal that air quality has improved in the Herculaneum area is not supported because of the inadequacies in the monitoring conducted by Doe Run.

Response to Comment 2: In the technical support document for the proposal, EPA stated that historical monitoring data show improvements in air quality in the area. This information was only included to provide a brief background of the Herculaneum area and is not part of the rationale for approval of the SIP. As stated in the response to the previous comment, EPA's basis for approval is that the SIP modeling and the control strategy based on the modeling show attainment of the standard and meet the applicable requirements of the CAA (the applicable requirements and EPA's analysis of how the SIP meets those requirements are set forth in the December 5, 2001, proposal at 66 FR 63206–63208). Ambient monitors located some distance from the plant show that air quality has generally improved over the years. However, the air does not meet Federal standards and the air emission controls required at the Herculaneum facility by the SIP will help further improve the air quality in the Herculaneum area. The modeling shows that the controls in the SIP will be adequate to achieve the lead standard.

Comment 3: The commenter stated that the Herculaneum community has a ''healthy skepticism'' of the current monitoring network because 7 of the 8 lead network monitors are operated by the Doe Run company.

Response to Comment 3: For the reasons explained in the response to comment 1, the operation of the ambient monitoring network is not relevant to the development of the control strategy and attainment demonstration. However, EPA notes that Missouri currently operates collocated monitors at four of the eight monitoring sites, including the ''Broad Street'' site, which has recently been recording the highest ambient lead values in the area. To ensure that the data generated by all monitoring stations are accurate, the data generated by Doe Run is quality assured by MDNR. In addition, Doe Run was required to submit a monitoring plan and quality assurance plan that was approved by MDNR. MDNR conducts quarterly audits of the monitoring performed by Doe Run. MDNR and EPA have no reason to believe that Doe Run is improperly operating the monitors or performing invalid laboratory analyses.

MDNR and EPA are currently re-evaluating the lead monitoring strategy for the Herculaneum area based upon existing monitoring data and modeling analyses. EPA and MDNR intend to fully evaluate the accuracy of the monitoring data prior to any determination on whether the area has attained the standard as of the attainment date.

Comment 4: The commenter notes that the consent judgment allows Doe Run to reduce the number of monitors from seven to three, and states that the use of three monitors is inappropriate to determine attainment.

Response to Comment 4: The consent judgment requires that Doe Run operate a minimum of three monitors on a long-term basis. EPA notes, however, that the consent judgment requires that the company continue to operate the monitors which historically have been the most critical monitors (i.e., the monitors which have consistently monitored violations of the standards) including the ''Broad Street'' monitor. In addition, Missouri will continue to operate the collocated monitors as described above.

EPA also notes that the attainment determination to be made after the attainment date will involve a separate rulemaking, and that commenters will have an opportunity to review the data and comment on the adequacy of the data which will be used by EPA in support of its determination.

Issue 2: Enforcement

Comment 5: The commenter states that the consent judgment does not provide sufficient penalties (stipulated penalties of $100.00 a day to $500.00 a day) to establish a financial incentive for Doe Run to comply.

Response to Comment 5: EPA is not a party to the consent judgment and is not constrained by state law (or the limits in the consent judgment on the state's ability to collect penalties for noncompliance) with respect to enforcement of the control strategies contained in the consent judgment and the state regulations applicable to the Doe Run facility. Our approval of the consent judgement relates only to the controls therein. The consent

judgment's penalty provisions constrain Missouri concerning the amount of penalties it may collect (for example, stating that Missouri may not collect penalties in certain instances in which a penalty has been assessed by EPA) but nothing in the consent judgment constrains EPA's enforcement authority. Once the control requirements in the consent judgment become applicable requirements of the SIP, EPA may enforce them under the CAA. For example, if Doe Run were to violate a control requirement, Doe Run would be subject, under section 113 of the CAA, to penalties of up to $25,000 per day per violation (as adjusted for inflation pursuant to other authority).

Comment 6: The commenter states that the consent judgement does not contain reporting requirements for Doe Run or provisions for compliance inspections and audits.

Response to Comment 6: The recordkeeping provisions in the consent judgement are located in Section B: (Enforcement Measures), part (6a–c). Doe Run is required to maintain the following records for a minimum of 5 years following the recording of information:

a. Maintain a quarterly file for: (1) Sinter Machine throughput; (2) Blast Furnace throughput; and (3) Refined lead produced;

b. Baghouse inspection findings as required in the Work Practice Manual; and

c. Upset operating incidents or material spills that affect lead emissions.

MDNR and EPA have separate authorities to obtain these required records and conduct inspections and audits of the facility (e.g., section 114 of the CAA) and the fact that the consent judgement does not include these provisions does not limit our ability to obtain the information necessary to determine compliance.

Issue 3: Emission Sources Used in Modeling

Comment 7: The commenter states that the dispersion models used as a basis for SIP approval do not include the slag pile as an emission source and that the SIP does not document the rationale for exclusion. The commenter states that all potential emissions sources should have been considered in evaluating the control strategy.

Response to Comment 7: A review of the emission source inventory used for the dispersion modeling identified the slag stockpiles as an emission source. Emission factors for both handling and wind erosion were developed based upon EPA-approved AP–42 factors. Therefore, the emissions from these sources were considered in evaluating the attainment strategy. As a result of the inventory and modeling efforts conducted by EPA and MDNR, these sources were not identified as contributing significantly to the ambient air lead levels in Herculaneum. The control strategy does not include restrictions on air emissions from the slag piles because they were not shown by the modeling, on which the attainment demonstration and control strategy is based, to have a significant impact on attainment.

Issue 4: Editorial Comments

Comment 8: The commenter stated that in the proposal EPA incorrectly described the contingency measures in the SIP, and that they should be correctly identified before taking final action on the SIP.

Response to Comment 8: The commenter did not take issue with our proposed approval of the contingency measures, but only with our description of them. As the commenter points out, the proposal (66 FR 63207) incorrectly stated that one contingency measure requires a twenty percent production cut *and* an additional curtailment by a specified formula. In fact, the contingency measures relating to curtailment state that production must be cut either by 20 percent *or* by a specified formula.

What Action Is EPA Taking?

EPA is finalizing the Doe Run-Herculaneum nonattainment area SIP submitted by Missouri on January 10, 2001. The SIP meets the requirements of section 110, and part D of the CAA and 40 CFR part 51. EPA is also approving the Doe Run-Glover SIP submission which merely reflects a change in ownership of the smelter. This action terminates EPA's obligation to promulgate a Federal plan for the area under Section 110(c) of the CAA.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the 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).

In reviewing SIP submissions, 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 a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 17, 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 29, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

2. Section 52.1320 is amended:

a. In the table to paragraph (c) under Chapter 6 by revising the entry for ''10–6.120''.

b. In the table to paragraph (d) by removing the center heading ''St. Louis City Incinerator Permits'' and adding entries at the end of the table.

c. In the table to paragraph (e) by adding entries at the end of the table.

The revision and additions read as follows:

§ 52.1320 Identification of Plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* *	* *	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* *	* *	*	*	*
10–6.120	Restriction of Emissions of Lead From Specific Lead smelter-Refinery Installations.	03/30/01	April 16, 2002 and 67 FR 18501.	
* *	* *	*	*	*

(d) * * *

EPA-APPROVED STATE SOURCE-SPECIFIC PERMITS AND ORDERS

Name of source	Order/permit number	State effective date	EPA approval date	Explanation
* *	* *	*	*	*
Asarco, Glover, MO	Modification of Consent Decree, CV596–98CC.	07/31/00	April 16, 2002 and 67 FR 18501.	
Doe Run, Herculaneum, MO	Consent Judgement, CV301–0052C-J1, with Work Practice Manual and S.O.P. for Control of Lead Emissions (Rev 2000).	01/05/01	April 16, 2002 and 67 FR 18501.	

(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment Area	State submittal date	EPA approval date	Explanation
* *	* *	*	*	*
Doe Run Resources Corporation Primary Lead Smelter, 2000 Revision of Lead SIP.	Herculaneum, MO	01/09/01	April 16, 2002 and 67 FR 18502.	The SIP was reviewed and approved by EPA on 1/11/01.
Doe Run Resources Corporation Primary Lead Smelter, 2000 Revision of Lead SIP.	Glover, MO	06/15/01	April 16, 2002 and 67 FR 18502.	The SIP was reviewed and approved by EPA on 6/26/01.

[FR Doc. 02–8950 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–P]

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 01–66; FCC 02–64]

Emergency Alert System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends part 11 of the rules to revise the technical and operational requirements for the Emergency Alert System (EAS). Many of the amendments are intended to enhance the capabilities and performance of the EAS during state and local emergencies, which will promote public safety. This document also amends the EAS rules to make compliance with the EAS requirements less burdensome for broadcast stations, cable systems and wireless cable systems and to eliminate rules which are obsolete or no longer needed.

DATES: Effective May 16, 2002.

FOR FURTHER INFORMATION CONTACT: Kathy Berthot, Enforcement Bureau, Technical and Public Safety Division, at (202) 418–7454.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O), FCC 02–64, in EB Docket No. 01–66, adopted on February 22, 2002, and released on February 26, 2002. The complete text of this R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC, and may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC, (202) 863–2893. The complete text may also be downloaded from the Commission's Internet site at *http://www.fcc.gov.*

I. Synopsis of the Report and Order

1. In this R&O, the Commission amends part 11 of the rules to revise the technical and operational requirements for the EAS. Specifically, we amend part 11 to (1) add new state and local event codes and new location codes; (2) permit broadcast stations and cable systems to program their EAS equipment to selectively display and log state and local EAS messages; (3) increase the period within which broadcast stations and cable systems must retransmit Required Monthly Tests (RMTs) from 15 to 60 minutes from the time of receipt of the RMT; (4) revise the minimum required modulation level of EAS codes; (5) permit broadcast stations to air the audio of a presidential EAS message from a non-EAS source; (6) eliminate references to the now-defunct Emergency Action Notification (EAN) network; (7) eliminate the requirements that international High Frequency (HF) broadcast stations purchase and install EAS equipment and cease broadcasting immediately upon receipt of a national-level EAS message; (8) exempt satellite/repeater broadcast stations which rebroadcast 100% of the programming of their hub station from the requirement to install EAS equipment; (9) authorize cable systems serving fewer than 5,000 subscribers to meet the October 1, 2002 deadline by installing FCC-certified EAS decoders, to the extent that such decoders may become available, rather than both encoders and decoders; and (10) provide that low power FM stations need not install FCC-certified EAS decoders until one year after any such decoders are certified by the Commission.

2. In March 2001, the Commission issued a Notice of Proposed Rulemaking (NPRM), 66 FR 16897, March 28, 2001, to seek comment on various revisions to technical and operational EAS requirements requested in petitions for rulemaking filed by the NOAA National Weather Service (NWS) and the Society of Broadcast Engineers. The NPRM also proposed to revise the EAS rules to eliminate obsolete references to the EAN network and its participants and to delete the requirement that international HF broadcast stations purchase and install EAS equipment.

EAS Codes

3. The R&O amends the part 11 rules to add new state and local event codes for emergency conditions not covered by the existing rules and to add new marine area location codes. We agree with commenters that adding the new event codes and location codes will improve and expand the capabilities of EAS and thereby promote public safety. However, we will not require broadcast stations and cable systems to upgrade their existing EAS equipment to incorporate the new codes. Rather, we will permit broadcast stations and cable systems to upgrade their existing EAS equipment to add the new event codes on a voluntary basis until it is replaced. This approach recognizes that participation in EAS at the state and local levels is voluntary and that imposing additional costs or burdens on broadcast stations and cable systems may have the unintended effect of discouraging voluntary participation in state and local EAS activities.

4. We will require that all existing and new models of EAS equipment manufactured after August 1, 2003 be capable of receiving and transmitting the new event codes and location codes. In addition, broadcast stations and cable systems which replace their EAS equipment after February 1, 2004 will be required to install EAS equipment that is capable of receiving and transmitting the new event codes and location codes. Thus, after February 1, 2004, broadcast stations and cable systems may not replace their existing EAS equipment with used equipment or older models of equipment that has not been upgraded to incorporate the new codes. This will ensure that all

broadcast stations and cable systems have the capability to receive and transmit the new codes when their EAS equipment is replaced.

EAS Equipment

5. The R&O amends part 11 to permit broadcast stations and cable systems to program their EAS equipment to preselect which EAS messages containing state and local event codes they wish to display and log. We agree with commenters that permitting selective logging and displaying of state and local EAS messages will greatly enhance EAS. It will relieve EAS participants from the burden of logging unwanted messages, e.g., messages that do not apply to a participant's service area or messages concerning events which the participant has decided not to transmit. Additionally, it will enable NWS to broadcast non-alerting messages, conduct tests, and perform system administration and control functions without impacting EAS participants which monitor National Weather Radio transmissions.

6. Broadcast stations and cable systems may upgrade their existing EAS equipment to include the selective displaying and logging capability on an optional basis until the equipment is replaced. All existing and new models of EAS equipment manufactured after August 1, 2003 must be capable of selectively displaying and logging messages with state and local event codes. Broadcast stations and cable systems which replace their EAS equipment after February 1, 2004 must install EAS equipment that is capable of selectively displaying and logging EAS messages with state and local event codes. We emphasize that this selective displaying and logging feature applies only to state and local events. EAS equipment must continue to display and log all national EAS messages and all required weekly and monthly tests.

EAS Testing

7. The R&O amends part 11 as proposed in the NPRM to increase the time for retransmitting RMTs from 15 minutes to 60 minutes from the time of receipt of the RMTs. We agree with commenters that a longer relay window will provide EAS participants more flexibility to insert the RMT message into the program schedule without disruption. Moreover, we do not believe that increasing the relay window for RMTs will compromise the ability of the EAS to deliver a real EAS message in a timely manner.

Modulation Level of EAS Codes

8. The R&O amends the part 11 rules to require that the modulation level of EAS codes be at the maximum possible level, but in no case less than 50% of full channel modulation limits. This amendment will bring the part 11 rules into alignment with the actual modulation levels currently obtainable by broadcast stations.

Carriage of Audio of Presidential EAS Messages From Non-EAS Sources

9. The R&O amends the part 11 rules to permit broadcast stations to override the EAS audio feed during a national EAS alert and substitute an audio feed of the President's message from another source. A number of commenters pointed out that the quality of the EAS audio feed is far inferior to the high quality audio network connections available to most broadcast stations and that it may be difficult or impossible for television stations to synchronize the EAS audio feed with their video feeds. We agree with commenters that the public interest will be served by amending part 11 to allow broadcast stations to provide the highest quality audio available to them during a national emergency. Because National Primary broadcast stations will still be required to relay all national EAS messages in accordance with § 11.51 of the rules, this amendment will not compromise the integrity of the EAS system or prevent those broadcast stations that do not have access to alternative audio feeds from transmitting presidential EAS messages to the public. We emphasize, however, that broadcast stations may not delay the transmission of national EAS messages in order to substitute alternative audio feeds. Rather, broadcast stations must continue to transmit all national EAS messages immediately upon receipt.

EAN Network

10. The R&O amends part 11 as proposed in the NPRM to eliminate all references the now-defunct EAN network and its participants. Previously, the EAN network was one of two networks used to distribute national emergency messages from the federal government. FEMA phased out the EAN network in 1995 in accordance with a presidential directive.

International HF Broadcast Stations

11. The R&O amends part 11 as proposed in the NPRM to eliminate the requirement that international HF broadcast stations purchase and install EAS equipment and to remove § 11.54(b)(9), which requires international HF broadcast stations to cease broadcasting immediately upon receipt of a national-level EAS message and remain off the air until they receive an EAS message terminating the activation. In 1996, after concluding that the technical and political concerns which gave rise to the requirements of § 11.54(b)(9) are no longer relevant, Commission staff granted a request by the National Association of Shortwave Broadcasters, Inc., to exempt all FCC licensed international HF broadcast stations from the requirement to purchase and install EAS equipment.

Waiver Requests

12. Several parties filed comments seeking waivers of the EAS rules. The Public Broadcasters, a group of public universities, public broadcasters and government or non-profit entities operating noncommercial educational radio and television stations, requested permanent waivers of the requirement to install EAS equipment for satellite/repeater stations which rebroadcast 100% of the programming of their lead or hub station. The Commission staff has granted permanent waivers of the requirement to install EAS equipment for satellite/repeater stations that rebroadcast 100% of the programming of their hub station and are located in the same local EAS area as the hub station, but has granted only temporary waivers where the satellite/repeater stations are outside the hub station's local EAS area. The Public Broadcasters argued that these temporary waivers should be made permanent because they can comply with the requirements and intent of the EAS rules without incurring the additional costs and burdens of installing EAS equipment at each of the satellite/repeater stations.

13. The R&O amends the part 11 rules to exempt satellite/repeater stations which rebroadcast 100% of the programming of their hub station from the requirement to install EAS equipment. Specifically, we will consider the use of a single set of EAS equipment at a hub station (or common studio/control point where there is no hub station) to satisfy the EAS obligations of the satellite/repeater stations which rebroadcast 100% of the hub station's programming. The satellite/repeater stations will comply with the requirement to transmit all national EAS alerts because all national alerts will be passed through from the hub station. In addition, we acknowledge that it may be unnecessarily burdensome for the governmental and educational institutions operating these satellite/repeater stations to incur the substantial

cost of installing EAS equipment at each such satellite/repeater station for the sole purpose of being able to transmit state and local EAS alerts, which are voluntary under our rules. Furthermore, only a small number of broadcast stations will be eligible for this exemption.

14. Two commenters requested waivers or other relief involving the use of EAS decoders. The National Cable and Telecommunications Association, Telecommunications for the Deaf, Inc. and the National Association for the Deaf jointly requested a waiver which would allow cable systems serving fewer than 5,000 subscribers per headend to comply with the EAS rules by installing a decoder only, rather than both an encoder and a decoder. Cable systems serving fewer than 5,000 subscribers are required to install encoders and decoders by October 1, 2002. Media Access Project requested a temporary blanket waiver of the requirement that LPFM stations install FCC-certified EAS decoders or, alternatively, suggested that the Commission could authorize LPFM stations to install non-FCC-certified decoders or change the certification criteria for EAS decoders. On November 30, 2001, the Commission staff issued a public notice, 66 FR 63544, December 7, 2001, to solicit supplemental comment on these requests. The commenters confirmed that there are currently no FCC-certified decoder-only units available. However, one equipment manufacturer indicated that if the Commission authorizes small cable systems to comply with the EAS rules by installing a decoder only, it plans to submit a decoder-only system for certification in the first quarter of 2002.

15. We will amend the part 11 rules to permit cable systems and wireless cable systems serving fewer than 5,000 subscribers to use an FCC-certified decoder, if such a device becomes available by October 1, 2002, in lieu of an encoder/decoder unit. If FCC-certified decoders are not available by the October 1, 2002 compliance deadline, cable systems and wireless cable systems serving fewer than 5,000 subscribers will continue to be required to comply with the EAS rules by installing an encoder/decoder unit. We agree with commenters that authorizing the use of decoder-only units will, to the extent that such decoders may become available at a lower price than encoder/decoder units, benefit the public by reducing costs for small cable systems in meeting the October 1, 2002 compliance deadline. However, we also think that it is important that EAS decoders have the capability to store and forward EAS messages or to automatically pass through EAS messages. Accordingly, we will not relax the certification requirements for EAS decoders. In order to receive FCC certification, EAS decoders will be required to satisfy all of the existing requirements for decoders set forth in § 11.33 of the rules. Small cable systems which opt to install decoder-only units will not be able to originate EAS messages or generate Required Weekly Tests (RWTs), but they will be able to pass through EAS messages and accomplish Required Weekly Testing by forwarding a received RWT. Thus, we do not believe that permitting small cable systems to install decoder-only units will compromise or diminish the EAS system.

16. We will also grant a temporary exemption to LPFM licensees of the requirement to install FCC-certified decoders. Specifically, we will amend the part 11 rules to provide that LPFM stations need not install EAS decoders until one year after the Commission publishes in the **Federal Register** a public notice indicating that at least one EAS decoder has been certified. In the LPFM proceeding, 65 FR 7616, February 15, 2000, the Commission concluded that LPFM stations should be required to participate in EAS by installing EAS decoders only, rather than combined encoder/decoder units. We reasoned that this modified EAS requirement would balance the cost of compliance, the ability of LPFM stations to meet that cost, and the needs of the listening public to be alerted in emergency situations. While we anticipated that FCC-certified decoders would become available for under $1,000 in the near future, we stated that if certified decoder equipment is not available when the first LPFM stations go on the air, we can grant a temporary exemption for LPFM stations until such time as it is reasonably available. Several LPFM stations have recently begun operating. Since certified EAS decoders have not reached the market as quickly as we expected, we find that it is appropriate to grant LPFM licensees a temporary exemption of the requirement to install certified decoders.

II. Administrative Matters

Final Regulatory Flexibility Analysis

17. This is a summary of the Final Regulatory Flexibility Analysis (FRFA) in the R&O. The full text of the FRFA can be found in Appendix C of the R&O.

18. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 601 *et seq.*, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the NPRM in EB Docket No. 01–66. The Commission sought written public comments on the proposals in the NPRM, including comments on the IRFA. No comments were filed in direct response to the IRFA. This FRFA conforms to the RFA.

19. *Need for, and Objectives of, the Report and Order.* This R&O amends the technical and operational requirements for the EAS. Many of the amendments adopted in this R&O are intended to enhance the capabilities and performance of the EAS during state and local emergencies, which will promote public safety. In addition, the R&O amends the EAS rules to make compliance with the EAS requirements less burdensome for broadcast stations, cable systems and wireless cable systems. This R&O also eliminates rules which are obsolete or no longer needed.

20. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* No comments were filed in direct response to the IRFA. The Commission, however, has considered the potential impact of the rules proposed in the NPRM on small entities and has reduced the compliance burden for broadcast stations and cable systems as discussed in the R&O.

21. *Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96

percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities.

22. *Television and radio stations.* The rules adopted in this R&O will apply to television broadcasting licensees and radio broadcasting licensees. The SBA defines a television broadcasting station that has $10.5 million or less in annual receipts as a small business. Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified under another NAICS code. There were 1,509 television stations operating in the nation in 1992. As of September 30, 2001, Commission records indicate that 1,686 television broadcasting stations were operating, approximately 1,298 of which are considered small businesses. For 1992, the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.

23. The SBA defines a radio broadcasting station that has $5 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations, which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS code. The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than $5 million in revenue in 1992. Commission records indicate that 11,334 individual radio stations were operating in 1992. As of September 30, 2001, Commission records indicate that 13,012 radio stations were operating, approximately 12,550 of which are considered small businesses.

24. Thus, the rules may affect approximately 1,686 full power television stations, approximately 1,298 of which are considered small businesses. Additionally, the proposed rules may affect some 13,012 full power radio stations, approximately 12,550 of which are small businesses. These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 2,396 low power television (LPTV) stations. Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

25. *Cable systems.* The rules adopted in this proceeding will also affect small cable entities. The SBA has developed a definition of small entities for ''Cable and Other Program Distribution Services,'' which includes all such companies generating $11 million or less in revenue annually. This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to Census Bureau data from 1992, there were 1,788 total cable and other program distribution services and 1,423 had less than $11 million in revenue.

26. The Commission has developed its own definition of a ''small cable system'' for purposes of the EAS rules. Cable systems serving fewer than 10,000 subscribers per headend are considered small cable systems and are afforded varying degrees of relief from the EAS rules. Based on our most recent information, we estimate that there are 8,552 cable systems that serve fewer than 10,000 subscribers per headend. Consequently, we estimate that there are fewer than 8,552 small cable systems that may be affected by the rules adopted herein.

27. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 67,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 677,000 subscribers or less totals 1,450. We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

28. *Wireless cable systems.* The rules adopted in this R&O will also apply to wireless cable systems, which include Multipoint Distribution Service and Multichannel Multipoint Distribution Service stations (collectively, MDS) and Instructional Television Fixed Service (ITFS) stations. The Commission has defined ''small entity'' for purposes of the auction of MDS frequencies as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of small entity in the context of MDS auctions has been approved by the SBA. The Commission completed its MDS auction in March 1996 for authorizations in 493 basic trading areas. Of 67 winning bidders, 61 qualified as small entities. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees.

29. MDS also includes licensees of stations authorized prior to the auction. As noted, the SBA has developed a definition of small entities for program distribution services, which includes all such companies generating $11 million or less in annual receipts. This definition includes MDS and thus applies to MDS licensees that did not participate in the MDS auction. Information available to us indicates that there are approximately 392 incumbent MDS licensees that do not generate revenue in excess of $11 million annually. Therefore, we find that there are approximately 440 small MDS providers as defined by the SBA and the Commission's auction rules which may be affected by the rules adopted in this proceeding.

30. The SBA definition of small entities for program distribution services also appears to apply to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, we do not collect annual revenue data for ITFS licensees, and are not able to ascertain how many of the 100 non-educational licensees would be

categorized as small under the SBA definition. Thus, we find that at least 1,932 ITFS are small businesses and may be affected by the rules adopted herein.

31. *Description of Reporting, Recordkeeping, and Other Compliance Requirements.* The rules adopted in this R&O impose no new reporting, recordkeeping or compliance requirements on broadcast stations and cable systems, including wireless cable systems. This R&O adopts a number of new EAS event codes and location codes which may be used by broadcast stations and cable systems that participate voluntarily in state and local EAS activities. Broadcast stations and cable systems will not be required to upgrade their existing EAS equipment to add these new event and location codes. Rather, they may upgrade their existing EAS equipment to add these new codes on a voluntary basis until the equipment is replaced. All existing and new models of EAS equipment manufactured after August 1, 2003 will be required to be capable of receiving and transmitting these new codes.

32. The R&O also makes revisions to the EAS rules which will reduce compliance burdens on broadcast stations and cable systems. The revised rules permit broadcast stations and cable systems to modify their existing EAS equipment to selectively display and log EAS messages that contain state and local event codes. This selectively displaying and logging feature will relieve broadcast stations and cable systems from the burden of logging unwanted EAS messages, e.g., messages that do not apply to their service area or messages concerning events which they have decided not to transmit. In addition, the revised rules increase the period within which broadcast stations and cable systems must retransmit the Required Monthly Test (RMT) from 15 minutes to 60 minutes. This revision will provide broadcast stations and cable systems, including smaller stations and systems, more flexibility to insert the RMT message into their program schedules without disrupting programming. Additionally, the rules are revised to require that the modulation level of EAS codes be at the maximum possible level, but in no case less than 50% of full channel modulation limits. This revision brings the EAS rules into alignment with the modulation levels currently obtainable by broadcast stations.

33. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

34. The R&O reduces compliance requirements for small entities by exempting satellite/repeater broadcast stations which rebroadcast 100% of the programming of their hub station from the requirement to install EAS equipment; authorizing cable systems and wireless cable systems serving fewer than 5,000 subscribers to meet the October 1, 2002 compliance deadline by installing certified EAS decoders, if such decoders become available, rather than both encoders and decoders; and delaying the requirement that LPFM stations install certified EAS decoders until one year after the Commission publishes in the **Federal Register** a public notice indicating that at least one decoder has been certified.

35. In adopting new event codes and location codes in this R&O, we took into account concerns raised by commenters that a requirement to update existing EAS equipment to add the new codes could impose a financial burden on some broadcast stations and cable systems, particularly smaller entities. We therefore declined to require broadcast stations and cable systems to upgrade existing EAS equipment to add the new codes. Instead, we opted to permit them to upgrade their existing equipment on a voluntary basis until the equipment is replaced. We believe that this approach promotes public safety by enhancing state and local EAS without imposing additional costs or burdens on broadcast stations and cable systems that may have the undesired effect of reducing voluntary participation in state and local EAS activities. In addition, we declined to adopt several other proposals, including a proposal to revise several existing event codes, due to concerns that they would impose substantial costs on broadcast stations and cable systems.

Final Paperwork Reduction Act Analysis

36. This R&O does not contain any new or modified information collection. Therefore, it is not subject to the requirements for a paperwork reduction analysis, and the Commission has not performed one.

Ordering Clauses

37. Pursuant to the authority contained in sections 1, 4(i) and (o), 303(r), 624(g) and 706 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (o), 303(r), 554(g) and 606, part 11 of the Commission's rules, 47 CFR part 11, is amended.

38. The Commission's Consumer and Government Affairs Bureau, Reference Information Center, shall send a copy of this R&O, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the Regulatory Flexibility Act.

List of Subjects in 47 CFR Part 11

Radio, Television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 11 as follows:

PART 11—EMERGENCY ALERT SYSTEM (EAS)

1. The authority citation for Part 11 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 303(r), 544(g) and 606.

2. Section 11.11 is amended by revising the three tables in paragraph (a) and revising paragraph (b) to read as follows:

§ 11.11 The Emergency Alert System (EAS).

(a) ***

BROADCAST STATIONS

EAS Equipment requirement	AM & FM	TV	FM Class D	LPTV [1]	LPFM [2]	Class A TV
Two-tone encoder [3] [4]	Y	Y	N	N	N	Y
EAS decoder	Y 1/1/97	Y 1/1/97	Y 1/1/97	Y 1/1/97	Y	Y
EAS encoder	Y 1/1/97	Y 1/1/97	N	N	N	Y
Audio message	Y 1/1/97	Y 1/1/97	Y 1/1/97	Y 1/1/97	Y	Y
Video message	N/A	Y 1/1/97	N/A	Y 1/1/97	N/A	Y

[1] LPTV stations that operate as television broadcast translator stations are exempt from the requirement to have EAS equipment.
[2] LPFM stations must install a decoder within one year after the FCC publishes in the **Federal Register** a public notice indicating that at least one decoder has been certified by the FCC.
[3] Effective July 1, 1995, the two-tone signal must be 8–25 seconds.
[4] Effective January 1, 1998, the two-tone signal may only be used to provide audio alerts to audiences before EAS emergency messages and the required monthly tests.

CABLE SYSTEMS

[A. Cable systems serving fewer than 5,000 subscribers from a headend must either provide the National level EAS message on all programmed channels—including the required testing—by October 1, 2002, or comply with the following EAS requirements. All other cable systems must comply with B.]

B. EAS Equipment Requirement	System size and effective dates		
	≥10,000 subscribers	≥5,000 but < 10,000 subscribers	<5,000 subscribers
Two-tone signal from storage device [1]	Y 12/31/98	Y 10/1/02	Y 10/1/02
EAS decoder [3]	Y 12/31/98	Y 10/1/02	Y 10/1/02
EAS encoder [2]	Y 12/31/98	Y 10/1/02	Y 10/1/02
Audio and Video EAS Message on all channels	Y 12/31/98	Y 10/1/02	N
Video interrupt and audio alert message on all channels,[3] Audio and Video EAS message on at least one channel.	N	N	Y 10/1/02

[1] Two-tone signal is only used to provide an audio alert to audience before EAS emergency messages and required monthly test. The two-tone signal must be 8–25 seconds in duration.
[2] Cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message.
Note: Programmed channels do not include channels used for the transmission of data such as interactive games.

WIRELESS CABLE SYSTEMS (MDS/MMS/ITFS STATIONS)

[A. Wireless cable systems serving fewer than 5,000 subscribers from a single transmission site must either provide the National level EAS message on all programmed channels—including the required testing—by October 1, 2002, or comply with the following EAS requirements. All other wireless cable systems must comply with B.]

B. EAS Equipment Requirement	System size and effective dates	
	≥ 5,000 subscribers	< 5,000subscribers
EAS decoder	Y 10/1/02	Y 10/1/02
EAS encoder [1] [2]	Y 10/1/02	Y 10/1/02
Audio and Video EAS Message on all channels	Y 10/1/02	N
Video interrupt and audio alert message on all channels; [3] Audio and Video EAS message on at least one channel.	N	Y 10/1/02

[1] Two-tone signal is only used to provide an audio alert to audience before EAS emergency messages and required monthly test. The two-tone signal must be 8–25 seconds in duration.
[2] Wireless cable systems serving <5,000 subscribers are permitted to operate without an EAS encoder if they install an FCC-certified decoder.
[3] The Video interrupt must cause all channels that carry programming to flash for the duration of the EAS emergency message. The audio alert must give the channel where the EAS messages are carried and be repeated for the duration of the EAS message.
Note: Programmed channels do not include channels used for the transmission of data services such as Internet.

(b) Class D non-commercial educational FM stations as defined in § 73.506, LPFM stations as defined in §§ 73.811 and 73.853, and LPTV stations as defined in § 74.701(f) are not required to comply with § 11.32. LPTV stations that operate as television broadcast translator stations, as defined in § 74.701(b) of this chapter, are not required to comply with the requirements of this part. FM broadcast booster stations as defined in § 74.1201(f) of this chapter and FM translator stations as defined in § 74.1201(a) of this chapter which entirely rebroadcast the programming of other local FM broadcast stations are not required to comply with the requirements of this part. International broadcast stations as defined in § 73.701 of this chapter are not required to comply with the requirements of this part. Broadcast stations that operate as satellites or repeaters of a hub station (or common studio or control point if there is no hub station) and rebroadcast 100% of the programming of the hub station (or common studio or control point) may satisfy the requirements of this part through the use of a single set of EAS equipment at the hub station (or common studio or control point) which complies with §§ 11.32 and 11.33.

* * * * *

3. Revise § 11.14 to read as follows:

§ 11.14 Primary Entry Point (PEP) System.

The PEP system is a nationwide network of broadcast stations and other entities connected with government activation points. It is used to distribute the EAN, EAT and EAS national test messages, and other EAS messages.

4. Section 11.16 is amended by revising the introductory text to read as follows:

§ 11.16 National Control Point Procedures.

The National Control Point Procedures are written instructions issued by the FCC to national level EAS control points. The procedures are divided into sections as follows:

* * * * *

5. Section 11.31 is amended by revising paragraphs (c), (d), (e) and (f) as follows:

§ 11.31 EAS Protocol.

* * * * *

(c) The EAS protocol, including any codes, must not be amended, extended or abridged without FCC authorization. The EAS protocol and message format are specified in the following representation.

Examples are provided in FCC Public Notices.

[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-(one second pause)
[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-(one second pause)
[PREAMBLE]ZCZC-ORG-EEE-PSSCCC+TTTT-JJJHHMM-LLLLLLLL-(at least a one second pause)
(transmission of 8 to 25 seconds of Attention Signal)
(transmission of audio, video or text messages)
(at least a one second pause)
[PREAMBLE]NNNN (one second pause)
[PREAMBLE]NNNN (one second pause)
[PREAMBLE]NNNN (at least one second pause)

[PREAMBLE] This is a consecutive string of bits (sixteen bytes of AB hexadecimal [8 bit byte 10101011]) sent to clear the system, set AGC and set asynchronous decoder clocking cycles. The preamble must be transmitted before each header and End Of Message code.

ZCZC—This is the identifier, sent as ASCII characters ZCZC to indicate the start of ASCII code.

ORG—This is the Originator code and indicates who originally initiated the activation of the EAS. These codes are specified in paragraph (d) of this section.

EEE—This is the Event code and indicates the nature of the EAS activation. The codes are specified in paragraph (e) of this section. The Event codes must be compatible with the codes used by the NWS Weather Radio Specific Area Message Encoder (WRSAME).

PSSCCC—This the Location code and indicates the geographic area affected by the EAS alert. There may be 31 Location codes in an EAS alert. The Location code uses the Federal Information Processing Standard (FIPS) numbers as described by the U.S. Department of Commerce in National Institute of Standards and Technology publication FIPS PUB 6–4. Each state is assigned an SS number as specified in paragraph (f) of this section. Each county and some cities are assigned a CCC number. A CCC number of 000 refers to an entire State or Territory. P defines county subdivisions as follows: 0 = all or an unspecified portion of a county, 1 = Northwest, 2 = North, 3 = Northeast, 4 = West, 5 = Central, 6 = East, 7 = Southwest, 8 = South, 9 = Southeast. Other numbers may be designated later for special applications. The use of county subdivisions will probably be rare and generally for oddly shaped or unusually large counties. Any subdivisions must be defined and agreed to by the local officials prior to use.

+TTTT—This indicates the valid time period of a message in 15 minute segments up to one hour and then in 30 minute segments beyond one hour; i.e., +0015, +0030, +0045, +0100, +0430 and +0600.

JJJHHMM—This is the day in Julian Calendar days (JJJ) of the year and the time in hours and minutes (HHMM) when the message was initially released by the originator using 24 hour Universal Coordinated Time (UTC).

LLLLLLLL—This is the identification of the broadcast station, cable system, MDS/MMDS/ITFS station, NWS office, etc., transmitting or retransmitting the message. These codes will be automatically affixed to all outgoing messages by the EAS encoder.

NNNN—This is the End of Message (EOM) code sent as a string of four ASCII N characters.

(d) The only originator codes are:

Originator	ORG Code
Broadcast station or cable system	EAS
Civil authorities	CIV
National Weather Service	WXR
Primary Entry Point System	PEP

(e) The following Event (EEE) codes are presently authorized:

Nature of Activation	Event Codes
National Codes (Required):	
Emergency Action Notification (National only)	EAN
Emergency Action Termination (National only)	EAT
National Information Center	NIC
National Periodic Test	NPT
Required Monthly Test	RMT
Required Weekly Test	RWT
State and Local Codes (Optional):	
Administrative Message	ADR
Avalanche Warning	AVW[1]
Avalanche Watch	AVA[1]
Blizzard Warning	BZW
Child Abduction Emergency	CAE[1]
Civil Danger Warning	CDW[1]
Civil Emergency Message	CEM

Nature of Activation	Event Codes
Coastal Flood Warning	CFW[1]
Coastal Flood Watch	CFA[1]
Dust Storm Warning	DSW[1]
Earthquake Warning	EQW[1]
Evacuation Immediate	EVI
Fire Warning	FRW[1]
Flash Flood Warning	FFW
Flash Flood Watch	FFA
Flash Flood Statement	FFS
Flood Warning	FLW
Flood Watch	FLA
Flood Statement	FLS
Hazardous Materials Warning	HMW[1]
High Wind Warning	HWW
High Wind Watch	HWA
Hurricane Warning	HUW
Hurricane Watch	HUA
Hurricane Statement	HLS
Law Enforcement Warning	LEW[1]
Local Area Emergency	LAE[1]
Network Message Notification	NMN[1]
911 Telephone Outage Emergency	TOE[1]
Nuclear Power Plant Warning	NUW[1]
Practice/Demo Warning	DMO
Radiological Hazard Warning	RHW[1]
Severe Thunderstorm Warning	SVR
Severe Thunderstorm Watch	SVA
Severe Weather Statement	SVS
Shelter in Place Warning	SPW[1]
Special Marine Warning	SMW[1]
Special Weather Statement	SPS
Tornado Warning	TOR
Tornado Watch	TOA
Tropical Storm Warning	TRW[1]
Tropical Storm Watch	TRA[1]
Tsunami Warning	TSW
Tsunami Watch	TSA
Volcano Warning	VOW[1]
Winter Storm Warning	WSW
Winter Storm Watch	WSA

[1] Effective May 16, 2002, broadcast stations, cable systems and wireless cable systems may upgrade their existing EAS equipment to add these event codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003 must be capable of receiving and transmitting these event codes. Broadcast stations, cable systems and wireless cable systems which replace their EAS equipment after February 1, 2004 must install equipment that is capable of receiving and transmitting these event codes.

(f) The State, Territory and Offshore (Marine Area) FIPS number codes (SS) are as follows. County FIPS numbers (CCC) are contained in the State EAS Mapbook.

Offshore (Marine Areas)[1]	FIPS#
Eastern North Pacific Ocean, and along U.S. West Coast from Canadian border to Mexican border	57
North Pacific Ocean near Alaska, and along Alaska coastline, including the Bering Sea and the Gulf of Alaska	58
Central Pacific Ocean, including Hawaiian waters	59
South Central Pacific Ocean, including American Samoa waters	61
Western Pacific Ocean, including Mariana Island waters	65
Western North Atlantic Ocean, and along U.S. East Coast, from Canadian border south to Currituck Beach Light, N.C.	73
Western North Atlantic Ocean, and along U.S. East Coast, south of Currituck Beach Light, N.C., following the coastline into Gulf of Mexico to Bonita Beach, FL., including the Caribbean	75
Gulf of Mexico, and along the U.S. Gulf Coast from the Mexican border to Bonita Beach, FL.	77
Lake Superior	91
Lake Michigan	92
Lake Huron	93
Lake St. Clair	94
Lake Erie	96
Lake Ontario	97
St. Lawrence River above St. Regis	98

[1] Effective May 16, 2002, broadcast stations, cable systems and wireless cable systems may upgrade their existing EAS equipment to add these marine area location codes on a voluntary basis until the equipment is replaced. All models of EAS equipment manufactured after August 1, 2003 must be capable of receiving and transmitting these marine area location codes. Broadcast stations, cable systems and wireless cable systems which replace their EAS equipment after February 1, 2004 must install equipment that is capable of receiving and transmitting these location codes.

6. Section 11.33 is amended by revising paragraphs (a)(3)(ii) and (a)(4) to read as follows:

§ 11.33 EAS Decoder.

(a) * * *

(3) ***

(ii) Store at least ten preselected event and originator header codes, in addition to the seven mandatory event/originator codes for tests and national activations, and store any preselected location codes for comparison with incoming header codes. A non-preselected header code that is manually transmitted must be stored for comparison with later incoming header codes. The header codes of the last ten received valid messages which still have valid time periods must be stored for comparison with the incoming valid header codes for later messages. These last received header codes will be deleted from storage as their valid time periods expire.

(4) *Display and logging.* A visual message shall be developed from any valid header codes for tests and national activations and any preselected header codes received. The message shall include the Originator, Event, Location, the valid time period of the message and the local time the message was transmitted. The message shall be in the primary language of the broadcast station or cable system and be fully displayed on the decoder and readable in normal light and darkness. All existing and new models of EAS decoders manufactured after August 1, 2003 must provide a means to permit the selective display and logging of EAS messages containing header codes for state and local EAS events. Effective May 16, 2002, broadcast stations, cable systems and wireless cable systems may upgrade their decoders on an optional basis to include a selective display and logging capability for EAS messages containing header codes for state and local events. Broadcast stations, cable systems and wireless cable systems which replace their decoders after February 1, 2004 must install decoders that provide a means to permit the selective display and logging of EAS messages containing header codes for state and local EAS events.

* * * * *

7. Section 11.34 is amended by adding paragraphs (f) and (g) to read as follows:

§ 11.34 Acceptability of the equipment.

* * * * *

(f) Modifications to existing authorized EAS decoders, encoders or combined units necessary to implement the new EAS codes specified in § 11.31 and to implement the selective displaying and logging feature specified in § 11.33(a)(4) will be considered Class I permissive changes that do not require a new application for and grant of equipment certification under part 2, subpart J of this chapter.

(g) All existing and new models of EAS encoders, decoders and combined units manufactured after August 1, 2003 must be capable of generating and detecting the new EAS codes specified in § 11.31 in order to be certified under part 2, subpart J of this chapter. All existing and new models of EAS decoders and combined units manufactured after August 1, 2003 must have the selective displaying and logging capability specified in § 11.33(a)(4) in order to be certified under part 2, subpart J of this chapter.

8. Section 11.42 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 11.42 Participation by communications common carriers.

* * * * *

(c) During a National level EAS Test, common carriers which have facilities in place may, without charge, connect an originating source from the nearest exchange to a selected Test Center and then to any participating radio networks, television networks and cable networks and program suppliers.* * *

* * * * *

9. Section 11.43 is revised to read as follows:

§ 11.43 National level participation.

Entities that wish to voluntarily participate in the national level EAS may submit a written request to the Chief, Technical and Public Safety Division, Enforcement Bureau.

10. Section 11.51 is amended by revising paragraphs (f), (k)(2) and (l) to read as follows:

§ 11.51 EAS code and Attention Signal Transmission requirements.

* * * * *

(f) Broadcast station equipment generating the EAS codes and the Attention Signal shall modulate a broadcast station transmitter so that the signal broadcast to other broadcast stations and cable systems and wireless cable systems alerts them that the EAS is being activated or tested at the National, State or Local Area level. The minimum level of modulation for EAS codes, measured at peak modulation levels using the internal calibration output required in § 11.32(a)(4), shall modulate the transmitter at the maximum possible level, but in no case less than 50% of full channel modulation limits. Measured at peak modulation levels, each of the Attention Signal tones shall be calibrated separately to modulate the transmitter at no less than 40%. These two calibrated modulation levels shall have values that are within 1 dB of each other.

* * * * *

(k) * * *

(2) *Manual* interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code must be transmitted immediately and Monthly EAS test messages within 60 minutes. All actions must be logged and include the minimum information required for EAS video messages.

(l) Broadcast stations and cable systems and wireless cable systems may employ a minimum delay feature, not to exceed 15 minutes, for automatic interruption of EAS codes. However, this may not be used for the EAN event which must be transmitted immediately. The delay time for an RMT message may not exceed 60 minutes.

* * * * *

11. Section 11.52 is amended by revising paragraph (e)(2) to read as follows:

§ 11.52 EAS code and Attention Signal Monitoring requirements.

* * * * *

(e) * * *

(2) *Manual* interrupt of programming and transmission of EAS messages may be used. EAS messages with the EAN Event code must be transmitted immediately and Monthly EAS test messages within 60 minutes. All actions must be logged and recorded. Decoders must be programmed for the EAN and EAT Event header codes for National level emergencies and the RMT and RWT Event header codes for required monthly and weekly tests, with the appropriate accompanying State and State/county location codes.

12. Section 11.53 is amended by revising paragraphs (a) and (c) to read as follows:

§ 11.53 Dissemination of Emergency Action Notification.

* * * * *

(a) National Level. The EAN is issued by the White House. The EAN message is sent from a government origination point to broadcast stations and other entities participating in the PEP system. It is then disseminated via:

(1) Radio and television broadcast stations.

(2) Cable systems and wireless cable systems.

(3) Other entities voluntarily participating in EAS.

* * * * *

(c) Broadcast stations must, prior to commencing routine operation or originating any emissions under program test, equipment test, experimental, or other authorizations, determine whether the EAS has been activated by monitoring the assigned EAS sources.

13. Section 11.54 is amended by revising paragraph (b) and adding paragraph (e) to read as follows:

§ 11.54 EAS operation during a National Level emergency.

* * * * *

(b) Immediately upon receipt of an EAN message, broadcast stations and cable systems and wireless cable systems must:

(1) Monitor the two EAS sources assigned in the State or Local Area plan or FCC Mapbook for any further instructions.

(2) Discontinue normal programming and follow the transmission procedures in the appropriate section of the EAS Operating Handbook. Announcements may be made in the same language as the primary language of the station.

(i) Key EAS sources (National Primary (NP), Local Primary (LP), State Primary (SP), State Relay (SR) and Participating National (PN) sources) follow the transmission procedures and make the announcements in the National Level Instructions of the EAS Operating Handbook.

(ii) Non-participating National (NN) sources follow the transmission procedures and make the sign-off announcement in the EAS Operating Handbook's National Level Instructions section for NN sources. After the sign-off announcement, NN sources are required to remove their carriers from the air and monitor for the Emergency Action Termination message. NN sources using automatic interrupt under § 11.51(k)(1), must transmit the header codes, Attention Signal, sign-off announcement and EOM code after receiving the appropriate EAS header codes for a national emergency.

(3) After completing the above transmission procedures, key EAS and Participating National sources must transmit a common emergency message until receipt of the Emergency Action Termination Message. Message priorities are specified in § 11.44. If LP or SR sources of a Local Area cannot provide an emergency message feed, any source in the Local Area may elect to provide a message feed. This should be done in an organized manner as designated in State and Local Area EAS Plans.

(4) The Standby Script shall be used until emergency messages are available. The text of the Standby Script is in the EAS Operating Handbook's section for Participating sources.

(5) TV broadcast stations shall display an appropriate EAS slide and then transmit all EAS announcements visually and aurally as specified in § 73.1250(h) of this chapter.

(6) Cable systems and wireless cable systems shall transmit all EAS announcements visually and aurally as specified in § 11.51(g) and (h).

(7) Announcements may be made in the same language as the primary language of the station.

(8) Broadcast stations may transmit their call letters and cable systems and wireless cable systems may transmit the names of the communities they serve during an EAS activation. State and Local Area identifications must be given as provided in State and Local Area EAS plans.

(9) All broadcast stations and cable systems and wireless cable systems operating and identified with a particular EAS Local Area must transmit a common national emergency message until receipt of the Emergency Action Termination.

(10) Broadcast stations, except those holding an EAS Non-participating National Authorization letter, are exempt from complying with §§ 73.62 and 73.1560 of this chapter (operating power maintenance) while operating under this part.

(11) National Primary (NP) sources must operate under the procedures in the National Control Point Procedures.

(12) The time of receipt of the EAN and Emergency Action Termination messages shall be entered by broadcast stations in their logs (as specified in §§ 73.1820 and 73.1840 of this chapter), by cable systems in their records (as specified in § 76.305 of this chapter), and by subject wireless cable systems in their records (as specified in § 21.304 of this chapter).

* * * * *

(e) During a national level EAS emergency, broadcast stations may transmit in lieu of the EAS audio feed an audio feed of the President's voice message from an alternative source, such as a broadcast network audio feed.

14. Section 11.55 is amended by revising paragraphs (c)(4) and (c)(7) to read as follows:

§ 11.55 EAS operation during a State or Local Area emergency.

* * * * *

(c) * * *

(4) Broadcast stations, cable systems and wireless cable systems participating in the State or Local Area EAS must discontinue normal programming and follow the procedures in the State and Local Area plans. Television stations must comply with § 11.54(b)(5) and cable systems and wireless cable systems must comply with § 11.54(b)(6). Broadcast stations providing foreign language programming shall comply with § 11.54(b)(7).

* * * * *

(7) The times of the above EAS actions must be entered in the broadcast station, cable system or wireless cable system records as specified in § 11.54(b)(12).

* * * * *

15. Section 11.61 is revised to read as follows:

§ 11.61 Tests of EAS procedures.

(a) Tests shall be made at regular intervals as indicated in paragraphs (a)(1) and (a)(2) of this section. Additional tests may be performed anytime. EAS activations and special tests may be performed in lieu of required tests as specified in paragraph (a)(4) of this section. All tests will conform with the procedures in the EAS Operating Handbook.

(1) Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and EOM code.

(i) Effective January 1, 1997, AM, FM and TV stations.

(ii) Effective October 1, 2002, cable systems with fewer than 5,000 subscribers per headend.

(iii) Effective December 31, 1998, cable systems with 10,000 or more subscribers; and effective October 1, 2002, cable systems serving 5,000 or more, but less than 10,000 subscribers per headend.

(iv) Effective October 1, 2002, all wireless cable systems.

(v) Tests in odd numbered months shall occur between 8:30 a.m. and local sunset. Tests in even numbered months shall occur between local sunset and 8:30 a.m. They will originate from Local or State Primary sources. The time and script content will be developed by State Emergency Communications Committees in cooperation with affected broadcast stations, cable systems, wireless cable systems, and other participants. Script content may be in the primary language of the broadcast station or cable system. These monthly tests must be transmitted within 60 minutes of receipt by broadcast stations and cable systems and wireless cable systems in an EAS Local Area or State. Class D non-commercial educational FM

and LPTV stations are required to transmit only the test script.

(2) Required Weekly Tests:

(i) EAS Header Codes and EOM Codes:

(A) Effective January 1, 1997, AM, FM and TV stations must conduct tests of the EAS header and EOM codes at least once a week at random days and times.

(B) Effective December 31, 1998, cable systems with 10,000 or more subscribers per headend must conduct tests of the EAS header and EOM codes at least once a week at random days and times on all programmed channels:

(C) Effective October 1, 2002, cable systems serving fewer than 5,000 subscribers per headend must conduct tests of the EAS header and EOM codes at least once a week at random days and times on at least one programmed channel.

(D) Effective October 1, 2002, the following cable systems and wireless cable systems must conduct tests of the EAS header and EOM codes at least once a week at random days and times on all programmed channels:

(*1*) Cable systems serving 5,000 or more, but less than 10,000 subscribers per headend; and,

(*2*) Wireless cable systems with 5,000 or more subscribers.

(E) Effective October 1, 2002, the following cable systems and wireless cable systems must conduct tests of the EAS header and EOM codes at least once a week at random days and times on at least one programmed channel:

(*1*) Cable systems with fewer than 5,000 subscribers per headend; and,

(*2*) Wireless cable systems with fewer than 5,000 subscribers.

(ii) Class D non-commercial educational FM and LPTV stations are not required to transmit this test but must log receipt.

(iii) The EAS weekly test is not required during the week that a monthly test is conducted.

(iv) TV stations, cable television systems and wireless cable systems are not required to transmit a video message when transmitting the required weekly test.

(3) Periodic National Tests. National Primary (NP) sources shall participate in tests as appropriate. The FCC may request a report of these tests.

(4) EAS activations and special tests. The EAS may be activated for emergencies or special tests at the State or Local Area level by a broadcast station, cable system or wireless cable system instead of the monthly or weekly tests required by this section. To substitute for a monthly test, activation must include transmission of the EAS header codes, Attention Signal, emergency message and EOM code and comply with the visual message requirements in § 11.51. To substitute for the weekly test of the EAS header codes and EOM codes in paragraph (2)(i) of this section, activation must include transmission of the EAS header and EOM codes. Television stations and cable systems and wireless cable systems shall comply with the aural and visual message requirements in § 11.51. Special EAS tests at the State and Local Area levels may be conducted on daily basis following procedures in State and Local Area EAS plans.

(b) Entries shall be made in broadcast station and cable system and wireless cable system records as specified in § 11.54(b)(12).

§ 11.62 [Removed]

16. Remove § 11.62.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010712174–2072–02; I.D. 062701D]

Eligibility Criteria and Application Process for the Western Pacific Community Development Program and Western Pacific Demonstration Projects

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

ACTION: Final rule; solicitation for demonstration project proposals.

SUMMARY: NMFS issues this final rule to publish definitions, developed with the Council, for certain terms appearing in the criteria used to determine which western Pacific communities may participate in western Pacific community development programs and western Pacific demonstration projects (Projects). NMFS also publishes criteria developed by the Council to determine which western Pacific communities will be eligible to participate in western Pacific community development programs and Projects under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Finally, NMFS and the Council solicit pre-application proposals for Projects from communities in the western Pacific region to foster and promote the involvement of such communities in Projects related to western Pacific fisheries.

DATES: This final rule is effective May 16, 2002. Proposals for Projects must be received by 5 p.m. Hawaii Standard Time on June 17, 2002.

ADDRESSES: Proposals should be sent to: Western Pacific Demonstration Projects, Pacific Islands Area Office, National Marine Fisheries Service, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, Hawaii 96814. Proposals should include a cover letter signed by a responsible party representing the respective western Pacific community.

FOR FURTHER INFORMATION CONTACT: Kelvin Char (NMFS), phone 808–973–2937, e-mail *Kelvin.Char@noaa.gov*; or Charles Ka'ai'ai (Council), 808–522–8220 or by e-mail at *Charles.Kaaiai@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available through the NMFS Pacific Island Area Office (PIAO) Home Page at: *http://swr.nmfs.noaa.gov/piao/index.htm*, the Council's Home Page at: *http://www.wpcouncil.org*, and the Grants information page at: *http://www.rdc.noaa.gov/grants*.

I. Background

This final rule publishes eligibility criteria that will be used for both Community Development Programs and submission of Project proposals. This document solicits Project proposals only. The solicitation of Community Development Plans will be a separate announcement in accordance with a program to be developed by the Council.

Under the authority of section 305(i)(2) of the Magnuson-Stevens Act, 16 U.S.C. 1855(i)(2), the Council and the Secretary of Commerce (Secretary) may establish western Pacific community development programs for any fishery under the authority of the Council to provide access to such fishery for western Pacific communities. Section 305(i)(2)(B) specifies that to be eligible to participate in western Pacific community development programs, a community must:

1. Be located within the Western Pacific Regional Fishery Management Area;

2. Meet criteria developed by the Council, approved by the Secretary and published in the **Federal Register**;

3. Consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing

practices in the waters of the Western Pacific region;

4. Not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

5. Develop and submit a Community Development Plan to the Council and the Secretary. For purposes of eligibility to receive a Project grant, only, a Project proposal submitted under section 305 note of the Magnuson-Stevens Act (Section 111(b) of the Sustainable Fisheries Act, Pub. L. 104–297) will be deemed to be a Community Development Plan.

Section 305(i)(2)(D) of the Magnuson-Stevens Act defines the ''Western Pacific Regional Fishery Management Area'' as the area under the jurisdiction of the Council or an island within such area.

Under section 305 note of the Magnuson-Stevens Act (Section 111(b) of the Sustainable Fisheries Act, Pub. L. 104–297) western Pacific communities eligible to participate in western Pacific community development programs are eligible to apply for and receive grants for related Projects. Such communities must submit a proposal to NMFS for Projects that foster and promote the use of traditional indigenous fishing practices of western Pacific communities found on American Samoa, Guam, Hawaii or the Northern Mariana Islands. A Project may identify and apply traditional indigenous fishing practices; develop or enhance western Pacific community-based fishing opportunities; and involve research, community education, or the acquisition of materials and equipment necessary to carry out any such Project.

The Council developed criteria, which were approved by NMFS, to determine which communities are eligible to participate in western Pacific community development programs. NMFS and the Council also developed definitions for certain terms used in the criteria for community development programs and Projects. Both the criteria and definitions were published for comment in a proposed rule at 66 FR 39131 (July 27, 2001).

A proposal for a Project must be submitted by a responsible party representing non-transient people descended from the aboriginal people indigenous to the area. A responsible party must be an organization of indigenous peoples or organization representing indigenous peoples including but not limited to Institutions of Higher Education, non-profit organizations, commercial organizations, state, local or indigenous community governments. The responsible party must reside in the Western Pacific Regional Fishery Management Area. The request must address the requirements of section 305 (i)(2)(B) outlined in section I. Background.

II. Comments and Responses

NMFS received one letter containing five comments on the proposed rule for the western Pacific community development program and Projects eligibility criteria and definitions (66 FR 39131, July 27, 2001).

Comment 1: The traditional indigenous fishing practices of ancient Hawaiian people utilized both paddle and sail canoes, navigation by stars, woven fishing lines and hooks made out of marine mammal bones. Based on the qualification criteria ''To be eligible for funding, a Project must foster and promote the use of traditional indigenous fishing practices of western Pacific communities found on American Samoa, Guam, Hawaii or the Northern Mariana Islands'' please clarify if the use of modern marine boats, fishing equipment and electronic technology would qualify under the eligibility criteria.

Response: Yes, modern equipment such as motors, manufactured boats, steel hooks or compasses can be used as long as they foster and promote traditional indigenous fishing practices.

Comment 2: The traditional indigenous fishing practices of ancient Hawaiian people did not utilize ice to prolong the shelf life of hooked fish. Would the construction of a modern ice manufacturing plant to provide ice to indigenous fishermen qualify under the eligibility criteria?

Response: Yes, construction of facilities that enhance traditional indigenous fishing practices would qualify, provided the proposed facility, its siting, and its construction meet all the requirements and conditions set out by other Federal or state laws and regulations.

Comment 3: Did the aboriginal indigenous people conduct ''commercial fishing'' as defined in today's society?

Response: We cannot answer this question, which is why the criterion states ''commercial or subsistence''. Historically communities that fished were probably either doing so for commercial purposes or subsistence, therefore, this criterion will probably not exclude any traditional fishing communities.

Comment 4: Would a modern fishing business owned by indigenous aboriginal people qualify to participate in the Community Development Program?

Response: A modern fishing business owned by people descended from the aboriginal people indigenous to the area and employing traditional fishing methods would be eligible to participate in a Community Development Program provided it meets all of the eligibility criteria.

Comment 5: Does the definition of ''community'' (Community–Means a population of non-transient people descended from the aboriginal people indigenous to the area who share a common history based on social, cultural and economic interactions and a functional relationship sustained by participation in fishing and fishing related activities) mean that all facets of accomplishing the traditional fishing must be conducted solely by indigenous aboriginal people? For example, can non-aboriginal people be used to provide services necessary to maintain the aboriginal fishing?

Response: A community may consist of people from different ancestries, however, the responsible party for a Community Development Program or grant recipient for a Project must represent non-transient people descended from the aboriginal people indigenous to the area. Anyone can provide services to maintain a Project.

III. Definitions and Eligibility Criteria

A. Definitions

The following definitions developed by NMFS and the Council will apply to terms used in the eligibility criteria recommended by the Council and to the terms used in requirements found at section 305(i)(2)(B) of the Magnuson-Stevens Act.

Community means a population of non-transient people descended from the aboriginal people indigenous to the area who share a common history based on social, cultural and economic interactions and a functional relationship sustained by participation in fishing and fishing related activities.

Economic barriers means barriers which add to the difficulty and cost of participation in a fishery by descendants of the aboriginal people of each area. They include, but are not limited to, the degradation of marine habitat, localized depletion of harvested stocks, and loss of access to long-fished grounds because of closure and/or lack of access to capital and expertise to compete for marine resources.

Subsistence fishing means harvesting of marine resources for personal, family or community use or for gifts of food to

extended family members and friends that perpetuate community relationships and identities.

Traditional fishing practices and traditional indigenous fishing practices means methods of fishing and fishery utilization developed from aboriginal customary and traditional uses and practices that can be conducted within existing regulations.

The cultural and social framework relevant to the fishery, means for each community, the accumulation and perpetuation of ancestral knowledge and participation that have resulted from historical dependence on marine resources as a principal source of food for the aboriginal people indigenous to the area.

B. Eligibility Criteria

The following criteria will be used for determining which communities may participate in Projects. They incorporate all of the eligibility criteria set forth in section 305(i)(2)(B) of the Magnuson-Stevens Act. Any community meeting these criteria is also eligible to participate in a western Pacific community development program and submit a Project proposal.

1. Be located in American Samoa, the Northern Mariana Islands, Guam or Hawaii (Western Pacific Area);
2. Consist of community residents descended from aboriginal people indigenous to the western Pacific area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the western Pacific;
3. Consist of community residents who reside in their ancestral homeland;
4. Have knowledge of customary practices relevant to fisheries of the western Pacific;
5. Have a traditional dependence on fisheries of the western Pacific;
6. Experience economic or other barriers that have prevented full participation in the western Pacific fisheries and, in recent years, have not had harvesting, processing or marketing capability sufficient to support substantial participation in fisheries in the area; and
7. Develop and submit a Community Development Plan to the Western Pacific Council and the National Marine Fisheries Service.

III. Western Pacific Demonstration Projects

Funding

NMFS is now soliciting proposals for Projects. However, NMFS cannot guarantee that sufficient funds will be available to make awards for all proposals submitted for this program. The total U.S. dollar amount of grants awarded through this solicitation will not exceed $500,000 for 3 to 5 Projects. Another solicitation may occur in calendar year 2002.

The Advisory Panel, through the Councils designee, will recommend to NMFS proposals to be considered for Federal funding. The authority for approving a grant award for Projects rests solely with NOAA, based upon its review and evaluation of a western Pacific community's Application for Federal Assistance, a review of the Advisory Panel's ranking and the Council designee's official submission.

The Advisory Panel, Council and NMFS will adhere to the principles of fair and open competition in the selection of proposals and the distribution of available funds under this authority.

Duration and Terms

Grants will be awarded for a maximum period of 2 years. The award period depends upon the duration of the funding requested in the application and the pre-award review of the application by NOAA and Department of Commerce officials. Normally, each Project budget period is 12 months in duration. If an application is approved for funding, the Secretary has no obligation to provide any additional funding in connection with that award in subsequent years. After an award is made by NOAA, any subsequent application to continue work on an existing Project must be submitted for consideration as a new proposal and will not receive preferential treatment in the Advisory Panel's selection process or by NOAA in its review of a new grant application. Renewal of an award to increase funding or to extend the period of performance is at NOAA's discretion.

III. Catalogue of Federal Domestic Assistance

The Western Pacific Demonstration Projects are covered in the ''Catalog of Federal Domestic Assistance'' under number 11.452, Unallied Industries Projects.

IV. Project Proposal and Grants Application Information

The process for the selection and Federal funding for Projects is comprised of two steps:

(A) Responsible parties (organizations of indigenous peoples or organizations representing indigenous peoples including Institutions of higher education, non-profit organizations, commercial organizations, state, local or indigenous community governments) desiring to participate in Projects should submit a proposal to NMFS PIAO (see **ADDRESSES**).

All pages must be double-spaced, in a minimum 12-point font size and printed on 8-1/2″ x 11″ paper. Proposals may not exceed 20 pages and all information needed for review of the proposal should be included in the main text; no appendices are permitted. NMFS will strictly enforce the 20–page limit.

Proposals shall include the following information in this order:

A. Name of Responsible Party.
B. Address.
C. Telephone number.
D. Fax number if available.
E. E-mail address, if available.
F. Introduction or Background section– explain the purpose and need for the Project.
G. Project Description–describe the Project, its goals and who will be managing the Project.
H. Methods section–provide a detailed description of all methods and equipment that will be used or tested.
I. Anticipated Benefits–describe the anticipated benefits and the relation to traditional indigenous fishing practices.
J. Proposed Budget–include relevant budget items and justification for each item. Proposals must contain cost estimates showing total Project costs. Cost-sharing is not required. However, if cost-sharing occurs it must be indicated as Federal and non-Federal shares, divided into cash and in-kind contributions. Direct costs, including the information regarding the rate of and total compensation received by Project personnel must be specified in categories to the extent practicable. This accounting also needs to itemize the costs and rate of compensation received for services that will be provided by people not descended from the aboriginal people indigenous to the area. Indirect costs are anticipated and should be identified. (If the applicant has not previously established an indirect cost rate with a Federal agency and their proposal is recommended for funding, the negotiation and approval of a rate will be subject to the procedures in the application cost principles and section B.5. of the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917).) Fees or profits are not allowable categories.

Any one individual may participate in more than one Project. However, the cumulative time by an individual in all Projects shall not exceed 100 percent of what is considered a normal work day

in the community. These situations will be dealt with on a case-by-case basis depending on the complexity of the Projects.

NMFS' PIAO will conduct an initial review for completeness and compliance with the information described above. Copies of proposals that pass the initial review will be provided to the Council's designee for Advisory Panel merit review and technical evaluation. Proposals not following the format or not including the information described above will be returned to the applicant.

An Advisory Panel, consisting of no more than eight individuals who are knowledgeable or experienced in traditional indigenous fishery practices of western Pacific communities and who are not members or employees of the Council, will review and rank the proposals. (Magnuson-Stevens Act, section 305 note, Section 111(b)(3)(A) of the Sustainable Fisheries Act, Pub. L. 104–297).

After the Advisory Panel has evaluated and ranked the proposals on technical merit, the Advisory Panel will develop recommendations for the fair and equitable allocation of available funding based on geographic distribution or diversity of the Projects. The Advisory Panel will submit these rankings and recommendations to the Council's designee. The Council's designee shall, within 45 days of receipt, officially forward the Advisory Panel's rankings and recommended project proposals to the PIAO Federal Program Officer for action. Proposals that the Advisory panel has not recommended for consideration for Federal funding will also be transmitted to the Federal Program Officer with an explanation of why the proposal was not recommended, for the record related to this solicitation. Proposals not recommended for funding will be retained by the PIAO for at least 24 months and a letter with a brief explanation as to why the proposal was not recommended for funding will be sent to the Responsible Party.

(B) If a proposal is recommended by the Advisory Panel, through the Council's designee, for consideration for Federal funding, the selected party will be required to submit, to NMFS PIAO, a grant application with all the required documentation necessary to complete the NOAA grants process. Copies of appropriate forms will be provided to the responsible parties whose Projects are recommended for consideration for Federal funding.

However, please note that, as discussed below, this is not the end of the review process. Therefore, projects should not be initiated in expectation of Federal funding until receipt of an award duly executed by the Grants Officer.

If applicants incur any costs prior to an award being made, they do so at the risk of not being reimbursed by the Federal Government. Notwithstanding any verbal or written assurance, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

If the Assistant Administrator for Fisheries accepts a proposal and/or a grant application for a Project not in accordance with the rank given to such Project or the recommendation of the Advisory Panel, NMFS will consult with the Council's designee and provide a detailed written explanation of the reasons for the action based on geographical distribution or diversity in the nature of the Projects.

V. Obligation of Responsible Parties

A responsible party must provide information necessary for the evaluation of the Project and accompanying grant application. The application must include one signed original and two copies of the signed application. The responsible party must also be available, upon request, to respond to questions during all phases of review and evaluation of applications.

VI. Project Evaluation Standards

Evaluation of Project proposals - The Advisory Panel will review the merits of and rank proposals. The Advisory Panel can assign a maximum of 40 points to any one proposal based on the following selection standards.

1. Benefit to the community - Proposals will be evaluated on the short-term and long-term goal(s) addressed by the Project and how they address the Funding Priorities (section VII). (10 points)

2. Project design and approach - Proposals will be evaluated on the strengths and/or weaknesses of the Project design relative to the degree of involvement by the indigenous community members and to securing productive results. The design and approach should be appropriate to the aims of the Project. (10 points)

3. Experience and qualifications of personnel - The merits of each proposal will also be based on past activities and accomplishments of the responsible party in relation to the proposed Project as well as their technical, managerial and organizational skills. (5 points)

4. Project evaluation - The effectiveness of the proposed procedures and criteria to monitor and evaluate the success or failure of the Project in terms of meeting its objectives will be examined. (5 points)

5. Project budget - Allocation and justification of the budget will be evaluated. Costs should be reasonable and commensurate with the proposed statement of work. (10 points)

VII. Funding Priorities

Responsible parties should ensure that their proposals address one or more of the following priorities, which are listed alphabetically with no one area carrying a higher priority than any other. If more than one priority is selected, the responsible party should list first the priority that most closely reflects the objectives of the proposed Project.

A. Promote Economic Growth and Stability in Indigenous Communities–Maintain lifestyles within communities by promoting fisheries-related activities that increase employment and household income and/or enhance economic self-sufficiency through reduced dependency on a cash economy.

B. Promote Fishery Resource Stewardship by Indigenous Communities–Encourage responsible and sustainable use of the marine environment by indigenous communities through revitalization or preservation of traditional marine resource use values, knowledge and practices appropriate for contemporary fisheries management.

C. Promote Self-Determination in Indigenous Communities–Improve opportunities for economic self-determination by indigenous communities through training and vocational education in fish harvesting, storage, processing, distribution and marketing.

D. Promote Solidarity in Indigenous Communities–Develop approaches to strengthening cultural identity and enhancing cooperation and cohesiveness in indigenous communities through utilization and management of fishery resources.

VIII. Obligations of Successful Responsible Parties

A recipient (successful responsible party) of a grant award must: (1) manage the day-to-day operations of the Project, take responsibility for the performance of all activities for which the funds are granted, and take responsibility for all administrative and managerial conditions of the award; (2) keep records sufficient to document any costs incurred under the award and make them available for audit and examination by the Secretary, the Comptroller General of the United

States, or their authorized representatives; (3) submit Project status reports on the use of funds and progress of the Project to NOAA within 30 days after the end of each 6-month period, (these reports will be submitted to the office specified in the grant award); and (4) submit a final report within 90 days of completion of the Project or the end of the grant period to NOAA. The final report must describe the Project, provide an evaluation of the work performed, including the results and benefits of the Project at a sufficient level of detail to enable NOAA to determine the overall success of the completed Project. Reports should be submitted in electronic format, if possible, so they can be distributed in a timely fashion to as wide an audience as possible.

The responsible party has the obligation of obtaining any necessary permits or authorizations required to carry out the Project as proposed. The release of funds for certain tasks may be conditioned to a grant recipient's meeting specific performance standards established in a grant's Special Award Conditions.

The Department of Commerce Pre-Award Notification of Requirements for Grants and Cooperative Agreements contained in the *Federal Register* notice of October 1, 2001 (66 FR 49917), are applicable to this solicitation. However, please note that the Department of Commerce will not implement the requirements of Executive Order 13202 (66 FR 49921), pursuant to guidance issued by the Office of Management and Budget in light of a court opinion which found that the Executive Order was not legally authorized. See *Building and Construction Trades Department* v. *Allbaugh*, 172 F. Supp. 2d 138 (D.D.C. 2001). This decision is currently on appeal. When the case is finally resolved, the Department of Commerce will provide further information on implementation of Executive Order 13202. To obtain a copy of this notice and the Executive Orders either go to the ''Federal Register Online via GPO Access'' at: *http://www.access.gpo.gov/su—docs/aces/aces140.html* or contact either party in **FOR FURTHER INFORMATION CONTACT**.

Classification

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this final rule will not have a significant economic impact on a substantial number of small entities. No comments were received regarding the economic impact of this action. As a result, a Regulatory Flexibility Analysis was not prepared. This action is anticipated to lead to economic and social benefits for qualifying communities. This action will allow the distribution of funds through grants to eligible communities to establish Projects. It is anticipated that the economic and social benefits of approved Projects will outweigh their associated costs.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

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

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

This notice refers to collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, and SF-LLL have been approved by the Office of Management and Budget under the respective control numbers 0348–0043,0348–0044, and 0348–0046.

A solicitation for applications will also appear in the ''Commerce Business Daily.''

Dated: April 10, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–9202 Filed 4–15–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 73
Tuesday, April 16, 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 920

[Docket No. FV02–920–2]

Kiwifruit Grown in California; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among eligible growers of Californian kiwifruit to determine whether they favor continuance of the marketing order regulating the handling of kiwifruit grown in the production area.

DATES: The referendum will be conducted from June 3, through June 21, 2002. To vote in this referendum, growers must have been producing California kiwifruit during the period August 1, 2000, through July 31, 2001.

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

FOR FURTHER INFORMATION CONTACT: Rose M. Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, at 2202 Monterey Street, Suite 102 B, Fresno, California, 93721; telephone (559) 487–5901; or Melissa Schmaedick, Marketing Order Administration Branch, Fruit & Vegetable Programs, AMS, USDA, Stop 0237, 1400 Independence Ave SW, Washington, DC 20250–0237; telephone (202) 720–2491.

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 920 (7 CFR Part 920), hereinafter referred to as the ''order'' and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by growers. The referendum shall be conducted during the period June 3, through June 21, 2002, among California kiwifruit growers in the production area. Only growers that were engaged in the production of California kiwifruit during the period of August 1, 2000, through July 31, 2001, may participate in the continuance referendum.

The USDA has determined that continuance referenda are an effective means for ascertaining whether growers favor continuation of marketing order programs. The USDA would consider termination of the order if less than two-thirds of the growers voting in the referendum and growers of less than two-thirds of the volume of Californian kiwifruit represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the USDA will consider the results of the referendum and other relevant information regarding operation of the order. The USDA will evaluate the order's relative benefits and disadvantages to growers, handlers, and consumers to determine whether continuing the order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballot materials used in the referendum herein ordered have been submitted to and approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0189 for California kiwifruit. It has been estimated that it will take an average of 20 minutes for each of the approximately 330 growers of California kiwifruit to cast a ballot. Participation is voluntary. Ballots postmarked after June 21, 2002, will not be included in the vote tabulation.

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

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

List of Subjects in 7 CFR Part 928

Kiwifruit, Marketing agreements, Reporting and Recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: April 11, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02–9213 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–AEA–02]

Establishment of Class E Airspace; Aberdeen Fields, Smithfield, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Aberdeen Field (K31VA), Smithfield, VA. The development of a Standard Instrument Approach Procedure (SIAP) to serve flights operating into Aberdeen Field under Instrument Flight Rules (IFR) makes this action necessary. Controlled airspace extending upward from 700 feet above Ground Level (AGL) is needed to contain aircraft executing the approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before May 16, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 02–AEA–02, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809; telephone: (718) 553–4521.

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, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–AEA–02''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, FAA Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at Smithfield, VA. The development of a SIAP to serve flights operating IFR into the airport makes this action necessary. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for 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 designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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 would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

AEA VA E5, Smithfield [NEW]

Aberdeen Field
(Lat. 37°01′88″ N., long 76°35′15″ W.)

That airspace extending upward from 700 feet above the surface within a 5.0 mile radius of Aberdeen Field, Smithfield, VA.

Issued in Jamaica, New York on March 26, 2002.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 02–9123 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–136–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Pennsylvania regulatory program (the ''Pennsylvania program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Pennsylvania proposes revisions to rules regarding criteria for permit approval or denial and for performance standards for retention of roads following completion of surface mining activities. Pennsylvania intends to revise its program to be consistent with the corresponding Federal regulations and SMCRA and to clarify ambiguities.

This document gives the times and locations that the Pennsylvania program and proposed amendments to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m.,e.d.t., May 16, 2002. If requested, we will hold a public hearing on the amendment on May 13, 2002. We will

accept requests to speak at a hearing until 4:00 p.m., e.s.t. on May 1, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Beverly Brock, Acting Director, Harrisburg Field Office at the address listed below.

You may review copies of the Pennsylvania program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Harrisburg Field Office.

Beverly Brock, Acting Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036, Email: *bbrock@osmre.gov*

J. Scott Roberts, Director, Bureau of Mining and Reclamation, Pennsylvania Department of Environmental Protection, Rachel Carson State Office Building, P.O. Box 8461, Harrisburg, Pennsylvania 17105–8461, Telephone: (717) 787–5103.

FOR FURTHER INFORMATION CONTACT: Beverly Brock, Telephone: (717) 782–4036. Email: bbrock@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Pennsylvania Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Pennsylvania program in the July 30, 1982, **Federal Register** (47 FR 33050). You can also find later actions concerning Pennsylvania program and program amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Description of the Proposed Amendment

By letter dated February 25, 2002, Pennsylvania sent us a proposed amendment to its program (administrative record No. PA 889.00) under SMCRA (30 U.S.C. 1201 *et seq.*). Pennsylvania sent the amendment in response to the required program amendment at 30 CFR 938.16(gggg) and to include changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

Specifically, Pennsylvania proposes to remove the phrase, ''The proposed permit area * * *,'' from 25 Pa. Code 86.37(a)(5) and replace it with, ''The area covered by the operator's bond and upon which the operator proposes to conduct surface mining activities within the boundary of the proposed surface or coal mining activities permit * * *.'' 25 Pa. Code 86.37(a) requires that a permit or revised permit application will not be approved unless Pennsylvania makes a written finding that certain conditions exist. Section (a)(5) now reads:

(5) The area covered by the operator's bond and upon which the operator proposes to conduct surface mining activities within the boundary of the proposed surface or coal mining activities permit is not one of the following:

(i) Included within an area designated unsuitable for mining under Subchapter D (relating to areas unsuitable for mining).

(ii) Within an area which has been included in a petition for designation under § 86.124(a)(6) (relating to procedures: initial processing, recordkeeping and notification requirements).

(iii) On lands subject to the prohibitions or limitations of Subchapter D.

(iv) Within 100 feet (30.48 meters) of the outside right-of-way line of any public road, except as provided for in Subchapter D.

(v) Within 300 feet (91.44 meters) from any occupied dwelling, except as provided for in Subchapter D.

(vi) Within 100 feet (30.48 meters) of a stream, except as provided for in § 86.102 (relating to areas where mining is prohibited or limited).

Additionally, Pennsylvania is making a change regarding performance standards for haul roads and access roads to its regulations at 25 Pa. Code Sections 87.160(a), 88.138(a), 88.231(a), 88.335(a), and 90.134(a). In these sections Pennsylvania has removed the requirement that a haul road or an access road's maintenance plan must be approved as part of the postmining land use before a road can be retained at the conclusion of mining activities. Specifically, the phrase, ''* * * and its maintenance plan * * *'' is removed from these sections.

In addition, in 25 Pa. Code 90.134(a), Pennsylvania has added the requirement that haul roads and access roads must be designed, constructed and maintained to control or prevent erosion, among other things. This was accomplished by adding the phrase, ''erosion and'' prior to the existing phrase, ''contributions of sediment to streams or runoff outside the affected area.'' This section was revised to respond to the required amendment at 30 CFR 938.16(gggg).

Finally, minor grammatical changes were made to 25 Pa. Code 87.160(a) and 90.134(a).

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written comments or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Harrisburg Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. PA–136–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Harrisburg Field Office at (717) 782–4036.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t. on May 1, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact

that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 8, 2002.

Vann Weaver,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 02–9233 Filed 4–15–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–02–035]

RIN 2115–AE47

Drawbridge Operation Regulation Change, St. Croix River, MN

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the regulations governing four drawbridges across the St. Croix River by adding a notice requirement for openings during the winter season. This proposed rule would allow the owners of the drawbridges to reduce the number of hours drawtenders are required to be on site between midnight and 7 a.m. from mid-October to mid-December, when there are few requests for openings.

DATES: Comments must reach the Coast Guard on or before June 17, 2002.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD08–02–035 and are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, at the address listed above or telephone (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–02–035), 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 if it 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 Eighth Coast Guard District, Bridge 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 draws of the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, the U.S. 16–61 Bridge, Mile 0.3, at Prescott, and the Union Pacific Railroad Bridge, Mile 17.3, at Hudson, open on signal; except that, from December 15 through March 31, the draws open on signal if at least 24-hours notice is given. Until the 1980s, the St. Croix River was extensively used for commercial navigation; however, over the past 20 years, the character of navigation on the river has changed from commercial towboats to mainly recreational and excursion boats. Except for its headwaters, the entire St. Croix River is included in the National Wild and Scenic River system. The Lower St. Croix River (between Taylor Falls and its confluence with the Upper Mississippi River at Prescott, WI) is within the ''recreational'' designated area of the river. The demise of commercial barge markets and the push for preserving the scenic qualities of the St. Croix River have changed the type of navigation from commercial to recreation. Recreational traffic is heaviest during the summer months but falls off drastically with the seasonal change to fall. Recreational boating usually ceases by mid-October. Due to the high cost of bridge operations and the decrease of recreational boating in the fall, the Wisconsin Department of Transportation requested the Coast Guard change the regulation for the U.S. 16–61 bridge, Mile 0.3, at Prescott, to require 24-hour advance notice for opening from October 16 to March 31. Subsequently, due to the lack of bridge openings that have been requested from 11 p.m. to 7 a.m., the Burlington Northern Santa Fe Railroad requested a change to the regulation for the Burlington Northern Santa Fe Bridge, Mile 0.2, to open on signal from 7 a.m. to 11 p.m. and to open between midnight and 7 a.m., if the bridge was notified prior to 11 p.m. Due to the proximity of all St. Croix River drawbridges and the short length of the river, a review of the general drawbridge regulations for the St. Croix River was deemed appropriate.

An investigation was conducted for two separate actions; one for the 60-day extension of the 24-hour notification requirement from December 15 to October 15, and the other for restricting drawbridge openings between the hours of midnight and 7 a.m. Although the request was submitted by only one drawbridge owner, the approval would impact all drawbridges across the St. Croix River below Stillwater. Therefore the proposal was expanded to include the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, the U.S. 16–61 Bridge, Mile 0.3, at Prescott, and the Union Pacific Railroad Bridge, Mile 17.3, at Hudson. The S36 Bridge, mile 23.4, at Stillwater, regulation was also reviewed, but that regulation already contained a 24-hour advance notice requirement for openings beginning on October 16. Data from the three bridges showed an overall 73 percent decrease in the number of requested bridge openings after October 15 due to the onset of wintry conditions and recreational boaters stowing their boats for the winter. The character of vessel activity on the Lower St. Croix River has changed from commercial navigation to recreational boating. This resulted in an 87 percent reduction in requests for drawbridge openings between the hours of midnight and 7 a.m. for the period April 1 to December 14.

The purpose of this proposed rulemaking would be to allow drawbridge owners to reduce the number of hour drawbridge tenders are on site. Since the number of requests for bridge openings from October 16 to March 31 and during 11 p.m. to 7 a.m. from April 1 to October 15 has drastically reduced over the recent past, the need for drawtenders to be on site during these times has also drastically reduced.

Discussion of Proposed Rule

This proposed rulemaking would change the regulations governing the St. Croix River drawbridge operating requirements. The bridges that would be affected are the Burlington Northern Santa Fe Railroad Bridge, mile 0.2, the U.S. 16–61 bridge, mile 0.3, at Prescott, and the Union Pacific railroad bridge, mile 17.3, at Hudson. Currently these bridges open on signal from April 1 to December 14 and upon 24-hours advance notice from December 15 to March 31. This proposed change would require the bridges to operate as follows from April 1 to October 15: (1) 7 a.m. to midnight, open on signal and (2) midnight to 7 a.m., open on signal, if notification is given prior to 11 p.m. It would also extend the current period during which 24-hours advance notice is required by an additional 60 days. This advance notice is now required during the period of October 16 to March 31.

New subparagraph (3) for the S36 Bridge, mile 23.4, at Stillwater, would be added to existing paragraph (b) of 33 CFR 117.667 to require bridge openings as follows: (3) From October 16 through May 14, if at least 24 hours notice is given. The river is frozen during the winter months negating the necessity for an emergency provision during that time frame. The subparagraphs would add a section previously omitted and would provide an operating schedule for this bridge for the entire year.

The bridges are being renamed from the existing names of the Burlington Northern Santa Fe Railroad Bridge, Mile 0.2, the U.S. 16–61 bridge, Mile 0.3, at Prescott, the Union Pacific railroad bridge, Mile 17.3, at Hudson, and the S36 Bridge, Mile 23.4, at Stillwater to the Burlington Northern Railroad Drawbridge, Mile 0.2, Prescott Highway Drawbridge, Mile 0.3, and the Hudson Railroad Drawbridge, Mile 17.3, and the Stillwater Highway Bridge, Mile 23.4, respectively. The reason for this change is to have the regulation reflect how the local bridge users actually refer to these bridges.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of the Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Implementing the proposed regulation would allow the owners of drawbridges the ability to reduce the number of hours drawtenders are required to be on site due to the infrequency of requests to open drawbridges between midnight and 7 a.m. and from mid-October to mid-December. Previous requests were authorized for drawbridges to remain closed to navigation to facilitate maintenance. This occurred without complaints from commercial or recreational vessel operators. The Stillwater Highway Drawbridge, Mile 23.4, requires 24-hour advance notification to open starting on October 16. This has been the operating schedule for many years and has not generated complaints from the waterway users despite the heavy recreational use in the area.

The proposed regulation change would not affect the present safe operation of bridges.

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.

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 offer to assist small entities in understanding the proposed rule so that they could better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or believes he or she qualifies as a small entity and requires assistance with the provisions of this proposed rule may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 378.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern 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. 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

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

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. Sec. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.667, paragraph (a) and paragraph (b), introductory text, are revised and a new paragraph (b)(3) is added to read as follows:

§ 117.667 St. Croix River.

(a) The draws of the Burlington Northern Railroad Drawbridge, mile 0.2, Prescott Highway Drawbridge, mile 0.3, and the Hudson Railroad Drawbridge, mile 17.3, shall operate as follows:

(1) From April 1 to October 15:

(i) 7 a.m. to midnight, the draws shall open on signal;

(ii) Midnight to 7 a.m., the draws shall open on signal if notification is made prior to 11 p.m.,

(2) From October 16 through March 31, the draw shall open on signal if at least 24 hours notice is given.

(b) The draw of the Stillwater Highway Bridge, mile 23.4, shall open on signal as follows:

* * * * *

(3) From October 16 through May 14, if at least 24 hours notice is given.

* * * * *

Dated: April 2, 2002.

Roy J. Casto,

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

[FR Doc. 02–9108 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 02–003]

RIN 2115–AA97

Safety Zone; Carquinez Strait, Vallejo and Crockett, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in the navigable waters of the Carquinez Strait surrounding the construction site of the new U.S. Interstate 80 bridge (Alfred Zampa Memorial Bridge) over a 30-day period for approximately 6-hours per day. The purpose of this safety zone is to protect persons and vessels from hazards associated with bridge construction activities; specifically, those hazards associated with stringing cables across the Strait. The safety zone will temporarily prohibit usage of the Carquinez Strait waters surrounding the Alfred Zampa Memorial Bridge; specifically, no vessels will be permitted to pass beneath the bridge.

DATES: Comments and related material must reach the Coast Guard on or before May 16, 2002.

ADDRESSES: You may mail comments and related material to the Waterways Management Branch at the U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Building 14, Alameda, California 94501–5100, or deliver them to room 108 at the same address between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Waterways Management Branch of Marine Safety Office San Francisco Bay 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 U.S. Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Building 14, Room 108, Alameda, California 94501–5100 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Ross Sargent, Chief, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP San Francisco Bay 02–003), 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.

In our final rule, we will include a concise general statement of the comments received and identify any changes from the proposed rule based on the comments. If as we expect, we make the final rule effective less than 30 days after publication in the **Federal Register**, we will explain our good cause for doing so as required by 5 U.S.C. 553(d)(3).

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 Management Branch 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 State of California Department of Transportation (CALTRANS) has determined that the original bridge spanning Carquinez Strait must be replaced. CALTRANS has begun construction on the new bridge (Alfred Zampa Memorial Bridge) and is nearing a phase that will involve stringing steel cables across the Strait. More specifically, the cable stringing process will involve attaching an approximately 1.5-inch diameter steel cable at the bridge's southern terminus and deploying the cable from a reel-equipped barge as it is towed northward. The cable itself will be partially submerged in the Strait until it is connected to the northern terminus, winched upward and secured approximately 150 feet above the Strait. The deployment phase will take approximately 6 hours for each cable.

In February 2002, CALTRANS advised the Coast Guard Captain of the Port that a series of channel closures would be necessary in order to accomplish the cable stringing. The Coast Guard, along with CALTRANS, the contractor, a joint venture of FCI Constructors, Inc./Cleveland Bridge California, Inc. (FCI/CB), and the San Francisco Bar Pilots, have been planning the logistics for the closures in order to ensure minimal impacts on involved and potentially involved entities.

The purpose of this proposed safety zone is to protect persons and vessels from hazards, injury and damage associated with the bridge construction activities, and cable stringing in particular. One of the dangers during the cable deployment phase is the partially submerged cable that could inflict serious injury or death to mariners, as well as cause major damage to the hull, propeller and rudder of vessels, attempting to pass over it. Similarly, the cable deployment barge, its towing vessel and towing line all pose significant collision dangers to vessels transiting the area. In addition, when the heavy 1.5-inch steel cable is being winched to approximately 150 feet above the Strait, it may part or break loose and fall upon vessels below.

This proposed temporary safety zone in the navigable waters of the Carquinez Strait surrounding the construction site of the Alfred Zampa Memorial Bridge would be in effect during the course of a 30-day period, but would only be enforced for approximately six hours in a given day. The times would be different for each day based on factors that will be explained in detail in the Discussion section. In addition, this safety zone would not be enforced everyday during the 30-day period.

Discussion of Proposed Rule

The Coast Guard proposes to establish a safety zone that would be enforced for approximately 6 hours per day on certain days between June 17, 2002 and July 16, 2002. The proposed safety zone is necessary to protect persons and vessels from hazards, injury and damage associated with the bridge construction activities, and cable stringing in particular.

The proposed safety zone would encompass the navigable waters, from the surface to the bottom, within two lines; one line drawn from the westernmost pier at Crockett Marina [38°03′28″ N, 122°13′42″ W] extending due north to the opposite shore [38°03′56″ N, 122°13′42″ W], and the other line drawn from the western end of the C & H Sugar facility [38°03′28″ N, 122°13′26″ W] extending due north to the opposite shore [38°03′54″ N, 122°13′26″ W]. [Datum: NAD 83].

The proposed dates and approximate enforcement times are based on certain factors that were considered by the U.S. Coast Guard, San Francisco Bar Pilots, and the contractor, FCI/CB. These factors included working with favorable tides and currents; and minimizing closures during darkness, and the Fourth of July holiday. The proposed safety zone would be enforced for approximately 6 hours at a time. On some days the proposed safety zone may be enforced for less than 6 hours. The approximate period of 6 hours is based on the time required to string each of the cables from the bridge's southern terminus to its northern terminus. Although the approximate times that are being proposed here are for a duration of approximately 5.5 hours in length, more precise times will be known during the first few days that the safety zone will be enforced.

CALTRANS has proposed times that provide adequate safety to construction crews and vessels transiting the area, while minimizing the impact on vessels transiting through the Strait. As with other construction projects, there are certain unknown factors, such as weather conditions and possible unforeseen problems that will only be known on a particular day during the cable stringing process. Therefore, the proposed safety zone enforcement periods are approximate times only. During the days of construction, when further information becomes available about the exact times that the proposed safety zone would be enforced, the Captain of the Port would advise the public in several ways. Mariners that would or could be effected by the channel closures, would be advised to monitor for broadcast notice to mariners alerts on VHF–FM marine channel 16 or contact the Captain of the Port representative on scene via VHF–FM marine channel 22. Vessel Movement Reporting System users (VMRS users) would be similarly advised by Coast Guard Vessel Traffic Service San Francisco via VHF–FM marine channel 14. The proposed safety zone dates and approximate enforcement times are as follows:

Date	Safety zone in effect	Safety zone expires
June 17, 2002	7:30 a.m.	1 p.m.
June 18, 2002	9 a.m.	2:30 p.m.
June 19, 2002	10 a.m.	3:30 p.m.
June 20, 2002	11:30 a.m.	5 p.m.
June 21, 2002	1 p.m.	6:30 p.m.
June 22, 2002	8 a.m.	1:30 p.m.
June 23, 2002	9 a.m.	2:30 p.m.
June 24, 2002	9:30 a.m.	3 p.m.
June 25, 2002	10 a.m.	3:30 p.m.
June 26, 2002	10:30 a.m.	4 p.m.
June 27, 2002	4 a.m.	9:30 a.m.
June 28, 2002	4:30 a.m.	10 a.m.
June 29, 2002	5:30 a.m.	11 a.m.
June 30, 2002	6:30 a.m.	12 (noon)
July 1, 2002	7:30 a.m.	1 p.m.
July 2, 2002	8:30 a.m.	2 p.m.
July 3, 2002	5 a.m.	10:30 a.m.
July 4, 2002	No safety zone enforced	
July 5, 2002	No safety zone enforced	
July 6, 2002	No safety zone enforced	
July 7, 2002	No safety zone enforced	
July 8, 2002	8:30 a.m.	2 p.m.
July 9, 2002	9:30 a.m.	3 p.m.
July 10, 2002	10 a.m.	3:30 p.m.
July 11, 2002	10:30 a.m.	4 p.m.
July 12, 2002	4 a.m.	9:30 a.m.
July 13, 2002	5 a.m.	10:30 a.m.
July 14, 2002	5:30 a.m.	11 a.m.
July 15, 2002	7 a.m.	12:30 p.m.
July 16, 2002	7:30 a.m.	12:30 p.m.

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, l979).

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 effect of this regulation would not be significant for several reasons. The San Francisco Bar Pilots, responsible for guiding all deep draft commercial vessels in the area of the safety zone, have been working closely with CALTRANS, the contractor, and the U.S. Coast Guard in order to ensure minimal impact to deep draft commercial vessel traffic. The safety zone would be enforced for approximately 6 hours per day, taking into account tides, currents, daylight and vessel traffic patterns. In addition, we have attempted to minimize impacts on the regional commercial and sport fishing industries. Finally, advance notifications of the channel closures would be made to the local maritime community by broadcast notice to mariner alerts over marine band radio, on-scene Captain of the Port representatives and Coast Guard Vessel Traffic Service radio communications.

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 commercial shrimp or charter fishing vessels intending to transit through the Alfred Zampa Memorial Bridge construction area during safety zone enforcement periods (temporary channel closures). Additionally, since recreational sport fishing vessels would not be able to transit the channel during temporary channel closures, and thus possibly divert to fish at other places and times, local bait and tackle businesses may be impacted.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone would apply to the entire width of the Strait, the rule would normally be enforced for six hours usually early in the day, during the height of the day's first tidal cycle. Such predictability would enable fishing vessels to schedule transits through the safety zone area before or after the 6-hour safety zone enforcement periods. Before and during the enforcement periods, Captain of the Port representatives in patrol vessels would assume their stations to the east and west of the safety zone to provide notice and enforcement of the zone. The Coast Guard would also issue broadcast notice to mariners alerts via VHF-FM marine channel 16 before the safety zone is enforced.

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 Ross Sargent, U.S. Coast Guard Marine Safety Office San Francisco Bay at (510) 437–3073.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

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.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), 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. Add new § 165.T11–078 to read as follows:

§ 165.T11–078 Safety Zone: Carquinez Strait, Vallejo and Crockett, CA.

(a) *Location.* The safety zone encompasses the navigable waters, from the surface to the bottom, within two lines; one line drawn from the westernmost pier at Crockett Marina [38°03′28″ N, 122°13′42″ W] extending due north to the opposite shore [38°03′56″ N, 122°13′42″ W], and the other line drawn from the western end of the C & H Sugar facility [38°03′28″ N, 122°13′26″ W] extending due north to the opposite shore [38°03′54″ N, 122°13′26″ W]. [Datum: NAD 83].

(b) *Effective period.* This safety zone is effective from 7:30 a.m., June 17, 2002 to 12:30 p.m., July 16, 2002.

(c) *Enforcement periods.* The Coast Guard will notify the maritime public of the precise times for enforcement of the safety zone via broadcast notice to mariners, Vessel Traffic Service radio communications, and Captain of the Port representatives on scene. If the safety zone is no longer needed prior to the scheduled termination times, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via broadcast notice to mariners. The safety zone dates and times are as follows:

Date	Safety zone in effect	Safety zone expires
June 17, 2002	7:30 a.m	1 p.m.
June 18, 2002	9 a.m	2:30 p.m.
June 19, 2002	10 a.m	3:30 p.m.
June 20, 2002	11:30 a.m	5 p.m.

Date	Safety zone in effect	Safety zone expires
June 21, 2002	1 p.m	6:30 p.m.
June 22, 2002	8 a.m	1:30 p.m.
June 23, 2002	9 a.m	2:30 p.m.
June 24, 2002	9:30 a.m	3 p.m.
June 25, 2002	10 a.m	3:30 p.m.
June 26, 2002	10:30 a.m	4 p.m.
June 27, 2002	4 a.m	9:30 a.m.
June 28, 2002	4:30 a.m	10 a.m.
June 29, 2002	5:30 a.m	11 a.m.
June 30, 2002	6:30 a.m	12 (noon)
July 1, 2002	7:30 a.m	1 p.m.
July 2, 2002	8:30 a.m	2 p.m.
July 3, 2002	5 a.m	10:30 a.m.
July 4, 2002	No safety zone enforced.	
July 5, 2002	No safety zone enforced.	
July 6, 2002	No safety zone enforced.	
July 7, 2002	No safety zone enforced.	
July 8, 2002	8:30 a.m	2 p.m.
July 9, 2002	9:30 a.m	3 p.m.
July 10, 2002	10 a.m	3:30 p.m.
July 11, 2002	10:30 a.m	4 p.m.
July 12, 2002	4 a.m	9:30 a.m.
July 13, 2002	5 a.m	10:30 a.m.
July 14, 2002	5:30 a.m	11 a.m.
July 15, 2002	7 a.m	12:30 p.m.
July 16, 2002	7:30 a.m	12:30 p.m.

(d) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter, transit through, or anchor within this safety zone unless authorized by the Captain of the Port, or his designated representative.

Dated: April 5, 2002.

L.L. Hereth,

Captain, Coast Guard, Captain of the Port, San Francisco Bay.

[FR Doc. 02–9131 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 167

[USCG–2001–11201]

Port Access Routes Study; Along the Sea Coast and in the Approaches to the Cape Fear River and Beaufort Inlet, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Notice of study; reopening of comment period.

SUMMARY: The Coast Guard announced in the **Federal Register** that we were conducting a Port Access Routes Study (PARS) to evaluate the need for vessel-routing or other vessel-traffic-management measures along the sea coast of North Carolina and in the approaches to the Cape Fear River and Beaufort Inlet. We understand that government agencies as well as private entities did not receive notification of the PARS until late in the original comment period, which ended March 19, 2002. Therefore, we're reopening the comment period through May 19, 2002, to allow more time for public comment.

DATES: Comments and related material must reach the Docket Management Facility on or before May 19, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–11201), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this document. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice of study, call Tom Flynn, Project Officer, Aids to Navigation and Waterways Management Branch, Fifth Coast Guard District, telephone 757–398–6229, e-mail *TWflynn@lantd5.uscg.mil;* or George Detweiler, Office of Vessel Traffic Management, Coast Guard, telephone 202–267–0574, e-mail *Gdetweiler@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this study by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this notice of study (USCG–2001–11201), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you

submit them by mail or delivery, submit them in an unbound format, no larger than 81/2 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this study, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On January 18, 2002, the Coast Guard published a notice in the **Federal Register** entitled ''Port Access Routes Study; Along the Sea Coast and in the Approaches to the Cape Fear River and Beaufort Inlet, North Carolina'' (67 FR 2616). The purpose of the study is to evaluate the need for vessel-routing or other vessel-traffic-management measures along the sea coast of North Carolina and in the approaches to the Cape Fear River and Beaufort Inlet.

The goal of the study is to help reduce the risk of marine casualties and increase the efficiency of management of vessel traffic in the study area. The recommendations of the study may lead to future rulemaking or to appropriate international agreements.

Dated: April 9, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 02–9109 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 261, 262, 264, 265, and 270

[FRL –7170–8]

RIN 2090–AA28

New Jersey Gold Track Program Under Project XL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing to modify the regulations under the Resource Conservation and Recovery Act (RCRA) and the Clean Air Act (CAA) to enable the implementation of the New Jersey Department of Environmental Protection (NJDEP) Gold Track Program (Gold Track), which has been developed under EPA's Project eXcellence and Leadership (Project XL) Program. Project XL is a national pilot program that allows state and local governments, businesses and federal facilities to develop with EPA innovative strategies to test better or more cost-effective ways of achieving environmental and public health protection. In exchange, EPA will issue regulatory, program, policy, or procedural flexibilities to conduct the pilot experiments.

In today's proposed rule, EPA is providing high performing companies in New Jersey with the regulatory flexibility to test environmental management strategies that produce increased, measurable results. NJDEP has expressed an interest in Project XL to test new pilot ideas with a select group of facilities that focus resources on activities NJDEP believes would provide progressively greater environmental benefits than are achievable through compliance with current regulatory requirements. This proposed rule is intended to provide the multimedia regulatory flexibility that will enable these test projects to move forward.

Under the proposed CAA rule modifications, participating Gold Track facilities would be able to obtain a Plantwide Applicability Limit (PAL) based on past actual emissions. As long as a Gold Track facility did not exceed the emission level identified in its PAL for a particular pollutant, it would be exempted from major New Source Review (NSR) for that pollutant. Also, this proposed rule encourages the development of Combined Heat and Power (CHP) technologies in New Jersey by allowing a CHP facility participating in Gold Track to obtain a PAL using its own past actual emissions plus the offset emissions derived from the shutting down or curtailment of boilers at the off-site facility.

Under today's proposed modifications under RCRA for Gold Track participants, secondary materials destined for recycling that would otherwise be considered solid wastes would be excluded from the definition of solid waste, provided certain conditions are met. Participating facilities would also be allowed up to 180 days (or 270 days as applicable) to accumulate hazardous waste without a permit as long as specified conditions are met.

DATES: Public Comments: All public comments on the proposed rule must be received on or before May 16, 2002, unless a public hearing is requestesd, in which case comments must be received no later than 30 days following the hearing. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Eastern time) May 16, 2002, unless a public hearing is requested, in which case they must be received by 11:59 p.m. (Eastern time) on the date 30 days following the hearing.

Public Hearing: Commenters may request a public hearing by April 30, 2002, during the public comment period. Commenters requesting a public hearing should specify the basis for their request. If a hearing is requested based on a relevant issue, it will be held by May 7, 2002, during the last week of the public comment period. Requests for a public hearing should be submitted to the address below. If a public hearing is scheduled, the date, time, and location will be available through a **Federal Register** announcement or by contacting Mr. Stan Siegel at the U.S. EPA Region 2 office.

ADDRESSES: Comments: Written comments should be mailed to the RCRA Information Center Docket Clerk (5305W), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460. Please send an original and two copies of all comments, and refer to Docket Number F–2001–NJGP–FFFFF.

Request for a Hearing: Requests for a hearing should be mailed to the RCRA Information Center Docket Clerk (5305G), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460. Please send an original and two copies of all comments, and refer to Docket Number F–2001–NJGP–FFFFF. A copy should also be sent to Mr. Stan Siegel at the U.S. EPA Region 2 office. Mr. Siegel may be contacted at the following address: U.S. Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, NY 10007, (212) 637–3701.

Viewing Project Materials: A docket containing the proposed rule, Final Project Agreement, supporting materials, and public comments is available for public inspection and copying at the RCRA Information Center (RIC), located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9 am to 4 pm Monday through Friday, excluding Federal holidays. The public is encouraged to phone in

advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA docket number F–2001–NJGP–FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page. Project materials are also available for review for today's action on the World Wide Web at *http://www.epa.gov/projectxl/*.

A duplicate copy of the docket is available for inspection and copying at the U.S. EPA Region 2 Library, 290 Broadway, 16th Floor, New York, NY 10007, during normal business hours. Persons wishing to view the duplicate docket at the New York location are encouraged to contact Mr. Siegel in advance, by telephoning (212) 637–3701.

FOR FURTHER INFORMATION CONTACT: Mr. Siegel, or Mr. David Beck, (919) 541–5421 or Mr. Chad Carbone, (202) 564–1017, U.S. EPA, Room 1027WT (1807), 1200 Pennsylvania Ave., NW, Washington, DC 20460. Further information on today's action may also be viewed on the World Wide Web at *http://www.epa.gov/projectxl/*. For additional information on the applicant process see supplementary information.

SUPPLEMENTARY INFORMATION: The Gold Track Program (Gold Track) is part of NJDEP's efforts to create a State-run tiered performance-based program. Currently, facilities may join NJDEP's Silver Track Program, which is a lower-level tier that provides recognition for commitments to a certain level of environmental enhancement. Gold Track expands upon these environmental commitments, and offers proportionally greater recognition, as well as actual federal regulatory flexibility to participating facilities. NJDEP is partnering with EPA in the Gold Track effort under the XL program, so as to be able to offer federal regulatory flexibility to Gold Track participants.

NJDEP will require that facilities participating in Gold Track commit to: community outreach; a demonstrated Environmental Management System; declining facility-wide air emissions caps based on past actual emissions; conversion of all non-de minimis air sources to State-of-the-Art controls over 15 years; procurement of advanced technology/alternative fuel vehicles; commitment to procure cleaner energy; greenhouse gas reductions of a minimum of 3.5% below 1990 baseline levels within five years of executing a Gold Track covenant with NJDEP; and enhanced pollution prevention.

Gold Track will be limited to nine participants who must pass a rigorous screening and application process. Upon acceptance into Gold Track, NJDEP will enter into a covenant agreement with each participating facility that will detail all aspects of Gold Track participation, monitoring, and reporting. Facility covenant terms and performance standards will be made enforceable through a combination of federal and state rule changes, as well as changes to individual facility permits.

The terms of the overall Gold Track XL project are contained in a Final Project Agreement (FPA) which was the subject of a Notice of Availability published in the **Federal Register** on December 20, 2000 (65 FR 79854) and which was signed by EPA and NJDEP on January 19, 2001. The Final Project Agreement (FPA) is available to the public at the EPA Docket in Washington, DC, in the U.S. EPA Region 2 Library, and on the World Wide Web at *http://www.epa.gov/projectxl/*.

The rules proposed for revision under the CAA are being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made other than those areas cited in this document, EPA will publish a final rulemaking on the revisions. The state proposed rules cited in this proposed rulemaking can be obtained from the NJDEP by contacting Mr. Walter Brown (609–292–0716) at its Office of Legal Affairs, 401 E. State Street, Trenton, New Jersey. This is also available through the NJDEP Web site, *www.state.nj.us/dep/opppc*. The proposed state rules can also be viewed as part of the docket for this proposed rule at the locations listed under **ADDRESSES** above. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New Jersey and submitted formally to EPA for incorporation into the SIP.

Outline of Today's Proposed Rule

The information presented in this preamble is organized as follows:

I. Authority
II. Background
A. What is Project XL?
B. What is EPA Announcing?
C. How Have Stakeholders Been Involved in this Project?
D. What are the Goals of Gold Track?
E. What Regulatory Changes Will Be Necessary to Implement this Project?
F. Why is EPA Considering Allowing Gold Track?
G. What Are the Environmental Benefits Anticipated through Gold Track?
H. What Are the Provisions for Enforcing the Terms of Gold Track?
I. How Long Will this Project Last and When Will It Be Completed?
J. Project Expectations.
K. Gold Track Implementation Procedures.
L. Early Termination/Withdrawal Procedures for EPA or NJDEP.
III. Summary of Proposed Rule Changes under the Clean Air Act
A. Summary of Regulatory Requirements for the Gold Track.
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1. Changes to the Definition of ''Major Modification.''
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IV. Summary of the Proposed Rule Conditions under the Resource Conservation and Recovery Act
A. Exclusion from the Definition of Solid Waste for Materials Destined for Recycling.
1. Purpose and Context of Proposed Rule
2. Rationale for Allowing an Exclusion from the Definition of Solid Waste
3. Applicability of the Exclusion from the Definition of Solid Waste
4. Criteria for Obtaining a Solid Waste Exclusion from NJDEP
5. Protection of Human Health and the Environment
6. Summary of Applicable Management Standards for Excluded Solid Waste
(i) Types of Hazardous Waste not Eligible for Exclusion under Gold Track
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(v) Labeling Storage Containers
(vi) Monitoring and Record Keeping
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B. 180-Day Accumulation Period for Hazardous Waste Generated by Gold Track Participants
1. Purpose and Context of Proposed Rule
2. Rationale for Allowing Gold Track Facilities 180 Days (or 270 Days) to Accumulate Waste
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4. Additional Accumulation Time for Transport over 200 Miles
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(i) Accumulation Units
(ii) Measures to Ensure Wastes are not Accumulated for More Than 180 (or 270) Days
(iii) Labeling and Marking Accumulation Units

(iv) Preparedness and Prevention
(v) Contingency Plan and Emergency Procedures
(vi) Personnel Training
6. Special Conditions for Gold Track Generators Accumulating Hazardous Waste for up to 180 (or 270) Days
C. State Authority—Applicability of Rules in Authorized States
V. Additional Information
A. Executive Order 12866
B. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
C. Paperwork Reduction Act
D. Unfunded Mandates Reform Act
E. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Tribal Governments
H. National Technology Transfer and Advancement Act
I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

I. Authority

These regulations are proposed under the authority of sections 101(b)(1), 110, 161–169, 172–173, and 301(a)(1) of the Clean Air Act (CAA); and under the authority of sections 2002 and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6912 and 6922.

II. Background

A. What Is Project XL?

Project XL, which stands for ''eXcellence and Leadership,'' is a national pilot program that tests innovative ways of achieving better and more cost-effective public health and environmental protection through site-specific agreements with project sponsors. Project XL was announced on March 16, 1995 (see 60 FR 27282 (May 23, 1995) and 60 FR 55569 (November 1, 1995). The intent of Project XL is to allow EPA, States, and regulated entities to experiment with pragmatic, potentially promising regulatory approaches, both to assess whether they provide superior environmental performance and other benefits at the specific facility affected, and also whether they should be considered for wider application. Today's proposed regulation would enable implementation of Gold Track. These pilot efforts are crucial to EPA's ability to test new strategies that reduce the regulatory burden and promote economic growth while achieving better environmental and public health protection.

B. What Is EPA Announcing?

On September 30, 1999, NJDEP submitted a proposal for a pilot project under the Project XL Program to EPA. The process for reviewing and accepting the pilot project included gathering input from industry representatives, non-governmental organizations, State and EPA officials, as well as providing opportunity for public participation. As discussed in more detail below, the proposal has advanced to the final steps of the Project XL process. In today's proposed rule, EPA announces revisions to the national Air regulations at 40 CFR 51.165 and 52.1603 that will allow Gold Track to be implemented. However, NJDEP will need to revise its own regulations to authorize the pilot program, submit a SIP revision to EPA for approval and issue modified permits to participating companies before this rule can be implemented.

EPA is also proposing revisions to regulations for the management of hazardous waste including 40 CFR parts 261, 262, 264, 265, and 270 that would enable NJDEP to implement the portions of this project requiring RCRA regulatory changes. These changes to the RCRA regulations would not take effect in New Jersey until the changes are codified as state law.

C. How Have Stakeholders Been Involved in This Project?

Gold Track is the culmination of joint public and private sector discussions conducted over the past several years. Starting in 1996, the New Jersey Chemical Industry Project (NJICP) identified and evaluated opportunities to implement creative solutions for more efficient and effective environmental performance. The stakeholders participating in the NJCIP included representatives from the batch chemical industry, trade associations, community, academic and environmental groups, USEPA and the NJDEP. A subset of this group and additional experts and non-governmental organizations (NGOs) formed the Flexible Track Team, which developed the framework and many of the details which NJDEP adopted for the Silver and Gold Track Program. The establishment of Gold Track is the direct outgrowth of proposals identified by these stakeholders. NJDEP invited all stakeholders including environmental groups, NGOs, industry representatives, and other interested parties to participate in the development of Gold Track.

To further encourage input during the Gold Track Final Project Agreement (FPA) development process, NJDEP provided public notice of the meeting schedule for the February 15, March 2, and March 16, 2000 Gold Track stakeholder meetings. The announcement was published in the Star Ledger, the Courier Post, and the Asbury Park Press, on or about the 11th of February. NJDEP also posted a legal advertisement for the March 16, 2000 meeting in the March 6, 2000 New Jersey Register. Additional stakeholder meetings were completed by the end of June 2000. All Gold Track Stakeholder meeting schedules were posted on NJDEP's Web site at *http://www.state.nj.us/dep/opppc/.*

Stakeholders will also have formal opportunities to comment on provisions of any state rules that may be proposed to implement the program. In addition, under the CAA, stakeholders will have formal opportunities to comment on any modified permits and other legal implementing mechanisms under the procedures established at 40 CFR 51.165 and 52.1603 and this rule. We invite interested stakeholders to submit comments on this proposed rule to the contacts listed in the **ADDRESSES** section above.

NJDEP will require that participants accepted into Gold Track conduct quarterly meetings with a local community outreach citizen advisory panel as part of their community outreach program. These meetings are envisioned as an extension of the State-level stakeholder process.

D. What Are the Goals of Gold Track?

Gold Track is part of NJDEP's efforts to create a State-run tiered performance-based program. Currently, facilities may join NJDEP's Silver Track Program, which is a lower-level tier that provides recognition for commitments to a certain level of environmental enhancement. Gold Track expands upon these environmental commitments, and offers proportionally greater recognition, as well as federal regulatory flexibility to participating facilities. NJDEP is partnering with EPA in the Gold Track effort under the XL program, so as to be able to offer federal regulatory flexibility to Gold Track participants.

Gold Track, once implemented, would be the top performance tier of NJDEP's Silver and Gold Program for Environmental Performance. New Jersey's goal in creating this tiered system is to encourage environmentally progressive companies to commit to further reductions in emissions and to adopt environmentally sustainable practices beyond those currently

required by Federal or State law. In initiating the Gold Track Program, NJDEP is pursuing reductions in criteria and hazardous air pollutants, carbon dioxide and other greenhouse gases, encouraging enhanced hazardous waste management, promoting procurement of renewable energy, fostering facilities' use of environmental management systems, and increasing companies' accountability to and communication with the general public and local communities. In return for meeting the stringent entry requirements and environmental commitments of Gold Track, participating facilities will receive certain CAA and RCRA regulatory flexibilities which are described in greater detail in Sections III and IV below.

As part of the application process, facilities wishing to participate in Gold Track must certify that they are currently in compliance with all environmental obligations and confirm participation in programs that promote responsible environmental practices, as defined further in the FPA. Gold Track applicants must demonstrate a ''historically good environmental record,'' which means that an applicant must have no criminal or significant civil violations and must maintain up-to-date facility or institutional environmental plans. NJDEP will conduct a 5-year review of the enforcement history of each Gold Track applicant, in conjunction with the applicant's self-certification of compliance with all environmental regulations. The review will include any informal and formal enforcement actions taken against the applicant, patterns of recurring minor violations, ongoing investigations, and pending court actions. In addition, NJDEP will coordinate with EPA to review the applicant's compliance status with federal laws and regulations using the EPA's Project XL compliance screening guidance (available on the EPA Web site, *http://www.epa.gov/ProjectXL*). Further details regarding the compliance screening of Gold Track applicants may be found in the Gold Track FPA.

Finally, it should be noted that EPA sees this project as an opportunity to gather information about recycling of some materials that might otherwise be classified as hazardous wastes and hazardous waste generator accumulation requirements (*see* Section IV).

Table 1 presents the commitments required and incentives provided to Gold Track participants.

TABLE 1.—NJDEP GOLD TRACK COMMITMENTS AND INCENTIVES

Commitments

- State of the Art Control of non de minimis sources phased in over 15 years.
- Community Outreach; Implement a community outreach policy, provide summary of facility operations, hold quarterly meetings with Citizens Advisory Panel, hold an annual public meeting.
- Environmental Management System (EMS): Demonstrate an established standard EMS, with third-party and self audit review component, or ISO14000 certification.
- Enhanced pollution prevention.
- Procurement of Advanced Technology/ Alternative Fuel Vehicles for company fleet.
- Procurement of cleaner energy where reasonable.
- Greenhouse gas reductions of a minimum of 3.5% below 1990 baseline levels by the year 2005.
- Declining air emissions caps and air quality modeling.
- Participation in the ozone action partnership, watershed partnership.
- Monitoring and tracking of 5 sustainable State indicators. (NJ Sustainability indicators may be found at *http://www.state.nj.us/dep/dsr/sustainable-state/*

Incentives

- Recognition as a Gold Track facility.
- Single point of contact within NJDEP for permitting purposes.
- Expedited permitting.
- Electronic reporting for State-only measures.
- Research and Development flexibility (state-only).
- Facility-wide air pollution caps, with no preconstruction review for de minimis modifications if total cap levels are not exceeded.
- Special incentive offered for combined heat and power facilities. (see Section III for more details).
- Opportunities to apply for exemptions from the definition of solid waste for materials destined for recycling (*see* Section IV for more details)
- 180 days for generators to accumulate hazardous waste without having to obtain a RCRA permit. (see Section IV for more details)

E. What Regulatory Changes Will Be Necessary to Implement this Project?

Changes to existing regulations under both the Clean Air Act (CAA) and Resource Recovery and Conservation Act (RCRA) will be needed to implement some portions of Gold Track. Adoption of revisions through this proposed rulemaking does not signal EPA's willingness to adopt those revisions or amendments as a general matter. The scope of Gold Track will be limited to no more than nine carefully screened New Jersey facilities, that have achieved the status of Gold Track participants as determined by NJDEP (entrance criteria and screening processes including performance commitments and demonstrations of environmental performance and compliance, are described in detail in the Gold Track FPA). Nothing in these regulatory changes shall be construed to allow violation or circumvention of provisions of the CAA and/or RCRA.

In order to implement the portion of the project that involves facility-wide air emissions caps under the CAA, EPA is proposing to create Gold Track-specific changes to the definition of ''major modification'' in 40 CFR 51.165 and corresponding changes to 40 CFR 52.1603. For the portion of the project that encourages the use of combined heat and power (CHP), EPA is proposing Gold Track-specific changes to the definition of ''building, structure, facility, or installation'' in 40 CFR 51.165 and corresponding changes to 40 CFR 52.1603.

EPA is proposing to amend RCRA regulations found at 40 CFR 261.4 to authorize facilities to apply for an exemption from NJDEP from the definition of a solid waste for materials destined for recycling. In addition, EPA is proposing to amend 40 CFR 262.120 to allow generators to accumulate hazardous waste for up to 180 days (270 days in some cases) as opposed to 90

days without a RCRA permit subject to certain conditions. In addition, minor changes to Parts 264, 265 and 270 are being proposed as discussed below. Refer to Sections III and IV below for further details on these proposed CAA and RCRA rule revisions and amendments.

F. Why Is EPA Considering Allowing Gold Track?

The XL program is intended to allow EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Pilot projects such as Gold Track allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. As part of this experimentation, EPA may try out approaches or legal interpretations that depart from or are even inconsistent with longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting statutes that it implements. EPA may also modify rules that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, project-specific basis and in connection with carefully selected pilot projects such as Gold Track, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory provisions, such as sections 101(b) and 103 of the CAA and RCRA section 8001.

G. What Are the Environmental Benefits Anticipated Through Gold Track?

This XL project is expected to achieve superior environmental performance beyond that which is required under the current RCRA and CAA regulatory system by allowing NJDEP and companies participating in Gold Track to focus on priority environmental goals identified by NJDEP, EPA and other Gold Track stakeholders in exchange for regulatory flexibility. In general, this project is expected to produce additional benefits by:

• Reducing pollutant loadings to the environment beyond the reductions currently achieved through the existing state and federal regulatory programs. (The amount of reduction in pollutant loading will be calculated from facility-specific environmental performance data and data related to environmental impacts, in order to allow EPA and NJDEP to quantify the environmental benefit derived from Gold Track), and

• Providing EPA and NJDEP with information on how the current regulatory programs might be better oriented towards the achievement of higher levels of environmental performance.

EPA's intent is to enable NJDEP to administer Gold Track in a way to best further those objectives. Some of the specific environmental benefits that will be realized through Gold Track include:

• *Environmental benefits from greater community involvement:* NJDEP will require Gold Track facilities to implement a community outreach program, provide community stakeholders with a summary of facility operations, hold quarterly meetings with a locally organized Citizens Advisory Panel, and to hold an annual public meeting for all interested stakeholders. Because these commitments to community outreach go beyond those required by current regulation, communities will have access to more information about the performance of local facilities. This public scrutiny will also provide an incentive for participating facilities to maintain a high level of environmental performance. All permits and significant modifications implementing the Gold Track provisions will be subject to public review and comment.

Research indicates that public disclosure is a powerful incentive for facilities to reduce their releases of pollutants into the environment. The Toxics Release Inventory (TRI) and the ''33/50'' Program are two examples of EPA programs that demonstrate this effect. EPA summarized much of this research in an assessment of the incentives created by public disclosure supporting regulations published August 4, 2000 (65 FR 48107). Further, because participation in Gold Track is entirely voluntary, EPA believes that facilities that make the choice to apply and to demonstrate their commitments to environmental improvements in the public spotlight will be imposing upon themselves an increased level of transparency and incentive to deliver this heightened level of performance.

• *Environmental benefits from participants using an EMS:* All Gold Track participants must, prior to acceptance into the program, demonstrate to NJDEP that they are either ISO 14000 certified or have an established Environmental Management System (EMS) in place that has an independent third party and self audit review component. EMSs integrate environmental considerations into routine decision-making at facilities, establish work practices that consistently reduce environmental risks and releases, evaluate environmental performance, and set management priorities based on the environmental impacts of individual facilities. Because they organize and consolidate information on a facility's environmental obligations and potential weaknesses for management, EMSs often improve the facility's compliance record and reduce accidents. Many EMS frameworks address unregulated environmental impacts as well as regulated impacts. Thus, an EMS provides a facility with the ability to assess and mitigate impacts that are most significant for the facility or that pose the most risk to the ecosystem and the community surrounding the facility. An EMS helps enable a facility to take additional environmental mitigation actions that are highly effective and appropriate, potentially providing better environmental results than the existing regulatory structure alone.

EPA believes that EMSs hold the potential for improving the overall environmental performance of private and public entities. Gold Track will serve to further promote and encourage responsible environmental management by requiring all participants to develop, apply and maintain comprehensive EMSs as a condition of their acceptance into the program.

• *Environmental benefits from commitments to reduce greenhouse gases (GHGs), purchase of Alternative Fuel Vehicles, and procurement of cleaner energy:* NJDEP will require Gold Track facilities to commit to a variety of measures aimed at reducing overall air pollution loadings. These provisions are explained more fully in the Gold Track FPA (65 FR 79854).

• *Environmental benefits from facility-wide declining air emissions caps:* As explained in more detail in Section III., NJDEP will require each Gold Track facility to have a facility-wide declining actual emissions cap that will be lowered by 5% every five years. This Gold Track provision will provide net air quality improvements that would otherwise not be required under the current regulatory system.

• *Environmental benefits from an increase in the recycling and re-use of hazardous waste:* Increased levels of recycling and reuse of hazardous waste have a number of environmental and

health benefits including: (1) A decrease in reliance on limited natural resources; (2) a decrease in the energy necessary to produce the raw hazardous material; (3) a decrease in the potential for accidental spills or releases during handling and transportation of a hazardous waste; (4) an increase in production efficiency; and (5) the elimination of releases and emissions from the treatment and disposal of hazardous waste.

H. What Are the Provisions for Enforcing the Terms of Gold Track?

All XL Projects must include a legally enforceable mechanism to ensure accountability and superior environmental performance. Gold Track will be administered by the State, with individual voluntary covenant agreements drawn up between participating facilities and NJDEP, and attendant enforceable Gold Track permits and compliance plans. As described in the FPA, NJDEP and EPA may enforce the terms of permits, regulations, or other legal implementing mechanisms as provided under applicable law. NJDEP has indicated that its enforcement response would vary depending upon the actual performance of a participating Gold Track facility, as well as the severity of any violation. As stated in the FPA, a facility's participation in Gold Track is not relevant to any issue of law or fact in any legal proceeding for violations of environmental regulations.

If the Project is terminated, or the participation of a Gold Track facility is terminated, either because the Program term has ended or because of an early withdrawal or termination, the procedures set forth in the FPA will be followed, to ensure an orderly return to compliance with otherwise applicable regulations. Gold Track facilities are expected to anticipate and plan for all activities to return to compliance with applicable regulations in advance of the end of the Program term. In situations of early withdrawal or termination, interim compliance periods may be negotiated, but Gold Track facilities must plan to be in compliance with all applicable Federal, State and local requirements as soon as is practicable, but no later than six months from the date of termination or withdrawal.

I. How Long Will This Project Last and When Will It Be Completed?

The federal rulemaking for this project is proposed to remain in effect for eighteen years from the date that the federal final rulemaking becomes effective, unless it is terminated earlier by either EPA or NJDEP, or extended by both EPA and NJDEP (if the FPA and final rule making is extended, EPA will seek comments and input of stakeholders and will publish a **Federal Register** notice). Either EPA or NJDEP may terminate its participation in this project at any time in accordance with the procedures set forth in the FPA. Those procedures require EPA to provide written notice to NJDEP at least 60 days before the termination. The proposed regulatory changes that enable the implementation of this XL project contain a sunset provision that will effectively terminate the regulations automatically after eighteen years, unless further action is taken to extend the XL project (or end it sooner). Covenants negotiated between NJDEP and participating facilities will have a maximum implementation length of fifteen years.

Should on-going evaluation during the course of the XL project indicate that the project is not successful, EPA and NJDEP will promulgate a rule to remove these regulations prior to the eighteen-year sunset provision. However, EPA may promulgate a rule to withdraw these regulations at any time, subject to the procedures agreed to in the FPA, for any reason including, but not limited to, a substantial failure on the part of NJDEP or Gold Track participants to comply with the terms and conditions of the FPA or if Gold Track becomes inconsistent with future statutory requirements.

J. Project Expectations

Although the Gold Track FPA is not legally binding, and NJDEP, EPA or a participating facility may withdraw from Gold Track at any time, it is the desire of EPA and NJDEP that the Gold Track Program should remain in effect throughout the expected duration of eighteen years, and be implemented as fully as possible unless one of the following conditions below occurs:

(1) Failure of EPA and/or NJDEP to disclose material facts during the development of the FPA.

(2) Failure of Gold Track to provide superior environmental performance consistent with the provisions of the FPA.

(3) Enactment or promulgation of any environmental, health or safety law or regulation after execution of the FPA, which renders Gold Track legally, technically or economically impracticable.

K. Gold Track Implementation Procedures

The FPA sets out detailed implementation procedures that the State has agreed to incorporate into its regulations. EPA is not incorporating these procedures into federal rules under RCRA or the CAA because it will not be the implementing agency for this project. Rather, it is authorizing New Jersey to review applications, select participating facilities, and otherwise carry out the program. EPA, however, is relying on many of these implementation procedures as part of the basis for its finding that the Gold Track Program will continue to protect human health and the environment while relaxing certain existing regulatory requirements. Some of the most important State implementation requirements are:

(1) An entity who wishes to participate in Gold Track will be required to submit a Gold Track application to NJDEP. Once a complete application is received, NJDEP will determine if the application satisfies the eligibility criteria outlined below. NJDEP will review all plans, permits, registrations, approvals and any other documents that the applicant is required to have and maintain by State and federal environmental statutes, rules and regulations to determine if they are up to date, accurate and approved. NJDEP will select the nine best eligible candidates.

If NJDEP determines that a Gold Track application is incomplete, NJDEP will issue a Notice of Deficiency (NOD) identifying the incomplete items and advising what is needed to complete the Gold Track application. Facilities will have 30 days after receiving a Notice of Deficiency to submit missing items. If the application remains incomplete after thirty days, the application will be rejected, and the applicant would be required to wait six months before reapplying.

(2) In order to participate in Gold Track, an applicant must demonstrate that it complies with the following criteria:

(i) The applicant has no significant violations or non-minor violations, as designated in EPA and NJDEP regulatory requirements. Any significant or non-minor violation in any media within five consecutive years of applying to Gold Track shall result in an automatic exclusion from Gold Track;

(ii) The applicant has submitted any plan required by statute, regulation or permit to NJDEP or EPA as required, in a timely manner (i.e., a Discharge Prevention, Control and Countermeasures Plan under N.J.A.C. 7:1E; or an Operations and Maintenance Plan as required by a solid waste facility permit);

(iii) The applicant has complied with any executed site remediation Memorandum of Understanding or other

directive issued by or executed with NJDEP for the performance of any regulated activity;

(iv) The applicant has no ongoing State or federal environmental investigations or pending court actions; and,

(v) The applicant has no State or federal criminal violations.

(3) In determining an applicant's eligibility to participate in Gold Track, NJDEP will:

(i) Review on a case-by-case basis any minor violations committed by the Gold Track applicant during the five-year period preceding the filing of its application. In conducting this review NJDEP will consider:

- The number and type of minor violations committed by the applicant;
- Whether those violations were entitled to a grace period under N.J.S.A. 13:1D–125 *et seq.*;
- Whether the violations occurred at a source that had a continuous emissions monitor installed; and, if so, whether the violations have occurred more recently with decreasing frequency (*i.e.,* there is a downward trend in the frequency of the occurrence of these violations); and;
- The corrective steps, if any, that the applicant has taken to avoid future violations; and
- The size and scope of the facility.

(ii) Consider the conduct of the applicant in responding to violations. In cases where the applicant has entered into an Administrative Consent Order (ACO), NJDEP, at a minimum, expects there to be compliance with all milestones, terms and conditions that are contained in the ACO. An entity that is accepted into Gold Track will continue to have a duty to comply with the milestones, terms and conditions of a valid ACO, if applicable.

(4) To be eligible to participate in the Gold Track Program, an applicant will show that it:

(i) Has implemented an Environmental Management System (EMS) which consists of the following minimum components:

- An environmental policy with commitment from top management;
- A commitment to continuous environmental improvement;
- Community outreach/ communication with components set forth below;
- Monitoring and measurement;
- Self audit; and;
- An independent third party audit.

(ii) Has implemented a Community Outreach Program, which shall consist of the following minimum components:

- A written policy that articulates a commitment to two-way, open communication with employees and the community;
- A ''Plain English'' summary of what the facility does (operations), the environmental impacts of these operations, and how the facility maintains compliance with all applicable environmental laws;
- Establishment of a Community Outreach Advisory Panel (COPAC), with a minimum of quarterly meetings conducted each calendar year;
- Clearly articulated objectives and goals for interacting with the community;
- Distribution of an annual report to the COPAC on the facility's environmental performance;
- Conduct an annual public meeting where changes in facility operations and environmental compliance issues are discussed; and;
- A process to continually evaluate the effectiveness and relevancy of the community outreach program.

(5) Once NJDEP approves an application for a facility to enter Gold Track, and prior to the participating entity being granted regulatory flexibility, NJDEP and the participating entity will develop a Gold Track Covenant, which will have a term of 15 consecutive years and will become effective upon execution by both the participating entity's responsible official and the Commissioner, or duly authorized representative of the NJDEP. EPA is allowing the New Jersey Gold Track rule to be in effect for a time period totaling eighteen years. NJDEP will have a period of three years from the date of final rule promulgation to get the Gold Track Program up and running and an additional 15 years in which to implement covenants with Gold Track facilities under the rule.

(6) When the NJDEP modifies the Gold Track facilities' permits to incorporate the proposed flexibility, it must include a provision that requires the facilities to return to compliance with current regulatory requirements at the expiration or termination of the FPA, including an interim compliance period as described in Section XI. of the FPA.

Gold Track facilities that are RCRA hazardous waste generators would also need to return to compliance with current generator requirements at the expiration or termination of the project.

At the end of the interim compliance period, the Gold Track facility shall comply with all applicable requirements and regulations that exist at the time of program termination. The interim compliance period cannot extend beyond six months from the date of withdrawal or termination.

Additional details are available in the FPA. EPA is also proposing to codify these requirements under its RCRA regulations.

L. Early Termination/Withdrawal Procedures for EPA or NJDEP

EPA and NJDEP agree that the following procedures will be used to withdraw from or terminate their participation in Gold Track before expiration of the Gold Track term.

(1) If EPA and/or NJDEP want to terminate or withdraw from Gold Track, EPA and/or NJDEP will provide written notice to the other party at least sixty (60) days before the withdrawal or termination and comply with the procedures identified in Section IX of the FPA.

(2) The procedures described in Section IX of the FPA apply only to the decision to withdraw or terminate participation in Gold Track by EPA or NJDEP. Procedures to be used in modifying or rescinding any regulations, permits or other legal implementing mechanisms will be governed by applicable law.

III. Summary of Proposed Rule Changes Under the Clean Air Act

A. Summary of Regulatory Requirements for Gold Track

Implementation of Gold Track requires limited federal regulatory changes. NJDEP plans to offer participants certain types of regulatory flexibility at the State level. Specifically, NJDEP will not require Gold Track facilities to obtain air pollution control pre-construction approvals for any new or modified equipment, that is in compliance with all applicable requirements, provided that the potential to emit (after control) for each of the specified pollutants is below New Jersey's State-of-the-Art (SOTA) threshold levels for criteria pollutants and hazardous air pollutants (HAPS), and the new or modified equipment is the same as that already covered under an approved Gold Track Compliance Plan. New Jersey's SOTA threshold level is 5 tons per year for all criteria pollutants with the exception of lead. The SOTA threshold for lead is 20 pounds per year pursuant to N.J.A.C. 7:27–8, Appendix 1. Individual SOTA thresholds, contained at N.J.A.C. 7:27–22 have been set for HAPs, and are mostly less than 5 tons/year. Any new or modified equipment with a potential to emit (after control) between the SOTA threshold level and EPA's ''significant emission levels'' for criteria pollutants would not (except as described below at 2) undergo pre-

construction approval if the new equipment installs SOTA as defined in a New Jersey SOTA manual, and the new or modified equipment is the same as that already covered under an approved Gold Track Compliance Plan. The following notification provisions will be in effect for new and modified equipment with a PTE below significant emission levels:

(1) Gold Track participants would be required to notify the NJDEP within 120 days of the installation or modification of equipment considered to be an insignificant source. For Gold Track facilities NJDEP will define ''Gold Track Insignificant Source'' to be equipment with air emissions below the New Jersey SOTA de minimis levels, (*i.e.*, less than 5 tons per year for most criteria pollutants, and less than 20 pounds per year for lead).

(2) For the installation or modification of equipment with a potential to emit between the SOTA de minimis levels and EPA significant levels, for example between 5 and 25 tons per year for VOCs and NO_X, New Jersey will not use the quarterly reporting procedure for Gold Track facilities. NJDEP will use the 7-day advance notice procedure referenced in section 502 (b) (10) of the Clean Air Act (if no allowable emissions would be exceeded) or the minor modification procedure referenced in N.J.A.C. 727–22.23 (if an allowable emissions would be exceeded).

Any new equipment that exceeded EPA's ''significant emission levels'' for criteria pollutants would have to install BACT.

Gold Track facilities would be required to obtain plantwide applicability limits (PALs), referred to as emissions caps in the FPA. The PALs or emissions caps would establish a ceiling for actual emissions of specified pollutants in tons per year as described in the proposed New Jersey State rule. In general, a Gold Track facility would have PALs for the air pollutants regulated under major New Source Review (NSR) that it emitted.

The PALs would last for 15 years. As long as a Gold Track facility did not exceed the emission levels identified in its PAL for a particular pollutant, it would be exempted from major NSR for that pollutant (which includes both the prevention of significant deterioration (PSD) and nonattainment NSR Programs).

If a major expansion would require a higher facility-wide emission cap, the major preconstruction permit process (major New Source Review) would be used.

Today's rule also encourages the use and expansion of Combined Heat and Power (CHP) technologies in New Jersey. The CHP incentive of the NJ Gold Track Program would encourage facilities to shut down their boilers and receive their electricity, heating and/or cooling from an off-site CHP facility. In exchange for providing this energy to off-site facilities, the CHP facility would be allowed to obtain a PAL using its own past actual emissions plus the past actual emission reductions derived from the shutting down or curtailment of boilers at the off-site facilities.

B. Prevention of Significant Deterioration of Air Quality (PSD) Regulations

Because this proposed rule modifies certain requirements of the PSD Program applicable in New Jersey for sources participating in Gold Track, a brief description of the PSD requirements may be useful. The PSD and major nonattainment NSR Programs are preconstruction review and permitting programs applicable to new or modified major stationary sources of air pollutants. Major nonattainment NSR is discussed in the following section.

In attainment areas [*i.e.*, areas meeting the National Ambient Air Quality Standards (''NAAQS'')] and unclassifiable areas, the requirements for the PSD Program found in part C of Title I of the CAA apply for the attainment pollutants. The PSD provisions are a combination of air quality planning and air pollution control technology program requirements. Each State Implementation Plan (SIP) is required to contain a preconstruction review program for the construction and modification of major stationary sources of air pollution to assure that the NAAQS are achieved and maintained; to protect areas with existing clean air; to protect Air Quality Related Values (AQRVs) (including visibility) in national parks and other natural areas of concern; to assure appropriate emission controls are applied; to ensure opportunities for economic development consistent with the preservation of clean air resources; and to ensure that any decision to increase air pollution is made only after full public consideration of all the consequences of such a decision. *See* sections 101(b)(1), 110(a)(2)(C) and 160 of the CAA. For purposes of major NSR permitting, New Jersey is in an area that meets the NAAQS for all criteria pollutants except for ozone (statewide), carbon monoxide (CO) (northeast portion of the state), and sulfur dioxide (portions of Warren County). Therefore, in New Jersey the PSD Program under part C of Title I of the CAA applies to those criteria air pollutants for which the area is in attainment or unclassifiable. As discussed below in C., the major nonattainment NSR Program under part D of Title I of the CAA applies to certain areas in New Jersey.

Because the SIP for the State of New Jersey did not include the PSD requirements of sections 160–165 of the CAA, EPA promulgated a PSD Program for the State by incorporating by reference the provisions of 40 CFR 52.21(b) through (w) into the state plan for the State of New Jersey (*see* 40 CFR 52.1603). In addition, EPA delegated authority to the NJDEP as the PSD permitting authority in New Jersey. This delegation of the PSD Program will continue in New Jersey for sources needing major NSR permits. For Gold Track sources the NJDEP will draft, accept public comment on, and issue Gold Track permits, subject to EPA review and the procedural requirements in 40 CFR 52.21 and 40 CFR part 124.

C. Major Nonattainment NSR

Because New Jersey is in the Northeast Ozone Transport Region the nonattainment NSR requirements apply across the entire state for VOCs and NO_X, which are precursors to the formation of ozone. In addition, some parts of New Jersey are in nonattainment for carbon monoxide (CO) or for sulfur dioxide (SO_2). Some Gold Track facilities may emit, or have the potential to emit, air pollutants of nonattainment concern in major amounts and are otherwise subject to the major nonattainment NSR provisions of Part D of Title I of the CAA. The State of New Jersey has rules implementing the Part D requirements that include both technology and emissions offset requirements. EPA has partially approved this portion of the New Jersey SIP. The State of New Jersey plans to submit a revised SIP that will contain Gold Track-specific changes to its major nonattainment NSR rules. In anticipation of this SIP submittal, this proposed rule contains Gold Track-specific changes to the general requirements in 40 CFR 51.165.

D. Proposed Regulatory Changes

1. Changes to the Definition of ''Major Modification''

To implement today's rule, we are proposing Gold Track-specific changes to the definition of ''major modification'' found in 40 CFR 51.165 (a)(1)(v)(A) and corresponding changes to 40 CFR 52.1603, which sets forth the PSD requirements for New Jersey. These changes would allow a Gold Track

facility to be exempted from major nonattainment NSR/PSD for new and modified sources as long as the facility's PAL for the pollutant in question was not exceeded.

2. Duration of Plantwide Applicability Limits (PALs)

The proposed duration of the PALs will be 15 years. Absent this rule, currently applicable NSR requirements could limit the effectiveness of Gold Track PALs to 5 years. In order to implement Gold Track, we are proposing to modify the NSR requirements for Gold Track facilities to ensure that the PAL may remain effective for 15 years. For Gold Track, alterations to existing emissions units or the addition of new emissions units would not significantly increase net emissions above the actual emissions baseline used in setting the PAL provided the stationary source continues to meet its PAL emissions limit. Therefore, such alterations or additions would not trigger major NSR. Nothing in these regulatory changes shall be construed to allow violation or circumvention of provisions of the Clean Air Act.

Under present regulations, a source that adds or modifies a unit that would result in a significant emissions increase may ''net'' that particular change out of review if the new emission increase plus the sum of all other contemporaneous creditable increases and decreases at the source is less than significant. The current regulatory requirement regarding contemporaneity derives from the interpretation of the CAA's provisions governing modifications set forth in *Alabama Power Co.* v. *Costle, 636 F.2d 323 (DC Cir. 1979).* Among other things, the court interpreted the statute as allowing emissions increases to be offset by decreases at the same source, but stated that, ''any offset changes claimed by industry must be substantially contemporaneous.'' Id. At 402. The court explained that EPA retains discretion to define ''substantially contemporaneous.'' Thereafter, EPA codified contemporaneity as a regulatory requirement. See 45 FR 52676, 52700–52702 (August 7, 1980).

Absent the changes proposed today, the Federal PSD requirements in 40 CFR 52.21(b)(3)(ii)(a) limit the period within which the changes may be considered contemporaneous to 5 years. States implementing a PSD Program or nonattainment NSR Program under an EPA-approved SIP may define a reasonable contemporaneous period. Without deciding whether the contemporaneity principle applies to PALs, EPA is proposing a 15-year contemporaneous period for sources in Gold Track that corresponds to the 15-year duration of the NJ Gold Track covenant. EPA recognizes that Gold Track facilities would make important commitments which would result in superior environmental performance as described in the Final Project Agreement Air Addenda. In addition, all other currently applicable requirements would continue to apply to a Gold Track facility, including, but not limited to: Reasonably Available Control Technology (RACT), Maximum Achievable Control Technology (MACT), State-of-the-Art (SOTA), Best Available Control Technology (BACT), Lowest Achievable Emission Rate (LAER) and New Source Performance Standards (NSPS). Under these circumstances EPA believes that a 15-year contemporaneous period for the Gold Track PALs is appropriate.

3. Changes to the Definition of ''Building, Structure, Facility, and Installation'' for Combined Heat and Power (CHP) Facilities

In order to encourage greater energy efficiency and reduced levels of air pollution, the State of New Jersey is promoting the expansion of the Combined Heat and Power (CHP) industry in their state. In the emerging energy market under utility deregulation, owners/operators and developers of CHP projects seek to minimize their financial risk in order to employ CHP technology successfully. To do this they are finding it desirable to locate CHP facilities at the same sites as existing industrial or commercial users of steam and electricity. An existing user facility, such as a chemical manufacturing plant, becomes the customer, or ''host,'' of the CHP facility and provides a steady stream of revenue. The existing user, which formerly managed its own steam production operations to support its main line of business, can then divest itself of the day-to-day business of heat and power production and obtain long-term access to favorably priced steam and electricity.

Typically, a CHP project developer, a separately-owned and operated entity from the host facility's owner/operator, purchases the existing steam (and sometimes electricity)-producing equipment from the host facility (generally boilers and turbines) and then retires it and replaces it with CHP technology, or upgrades it to incorporate CHP technology. The new, separately owned and operated CHP facility then contracts with the host facility to provide that facility's steam and some or all of its electricity. Once the CHP facility can access the local utility grid, it can sell excess electricity to the grid. In addition, the same CHP facility may enter similar contracts with other nearby, but not necessarily contiguously located, customers of steam and/or electricity, either at the inception of the CHP project or over time.

Under Gold Track, CHP facilities which supply electricity and heating and/or cooling could obtain an emissions cap or PAL based on the facility's actual emissions, plus the avoided actual emissions at the off-site buildings being supplied with heat and/or cooling, provided that the avoided emission reductions are not claimed by the owner or operator of the off-site buildings. There would have to be a contractual agreement between the CHP facility and the off-site CHP user which stated that the emission reductions from heating/cooling energy equipment shutdown or curtailment at the CHP energy user are to be credited to the CHP facility, rather than the CHP energy user. When used for the CHP facility emission cap, the off-site emission reductions could not be used for other purposes, including but not limited to, emission offsets, netting, or discrete emission reduction credits. The cap additive from off-site facility emission reductions would have to be the lesser of actual emissions before the supply of heat/cooling by the CHP facility or SOTA emissions for the amount of energy supplied by the CHP facility. The cap additive would have to be based on off-site actual emission reductions during the same 5-year timeframe, used to determine baseline actual emissions. Third party independent verifications of the reductions would be required. The resultant cap would be subject to the same air quality modeling requirements as the caps at other Gold Track facilities. Addition of new units at the CHP facility would be subject to the same flexibilities if below de minimis, and the same permitting, SOTA, and BACT requirements if above de minimis, as other Gold Track facilities. Enforceable operating restrictions would be required on the off-site equipment being replaced or curtailed by the CHP facility.

The Gold Track CHP proposal reflects the interests and concerns which the EPA has regarding the development and expansion of CHP sources. The EPA recognizes the potential for reducing fuel consumption and air pollution as a result of CHP technologies, and we are actively seeking to promote CHP as an alternative to conventional ways of supplying industrial, commercial, and institutional users with heat and power. EPA encourages the greater use of CHP

because typically it: (1) Generates energy efficient power; (2) is an additional source of power; (3) decreases the need for transmission over distances; and (4) provides clean energy.

As summarized in section III.D.2, Gold Track facilities would voluntarily make several important commitments which would result in superior environmental performance. Under these circumstances, and because we are seeking to encourage the greater use of CHP, EPA believes the flexibility outlined above for Gold Track CHP facilities is appropriate. EPA is proposing to implement the Gold Track CHP incentive through Gold Track-specific changes to the definition of ''building, structure, facility, and installation'' in 40 CFR 51.165(a)(1)(i) and corresponding changes to 40 CFR 52.1603.

IV. Summary of the Proposed Rule Conditions Under the Resource Conservation and Recovery Act

Today's proposal would modify 40 CFR 261.4(a), 262, 264.1, 265.1 and 270.1 to provide NJDEP with the regulatory flexibility needed to implement the RCRA-specific portions of Gold Track. The proposed RCRA modifications described below are expected to promote greater levels of recycling, provide EPA with information about generator accumulation times, and provide valuable incentives for companies to participate in Gold Track while maintaining rigorous standards of environmental protection.

Incentives play a crucial role in maximizing the environmental benefits of any voluntary program such as Gold Track. Facilities must perceive a benefit to themselves that is at least equal to their perceived costs of participation in a voluntary program, including administrative burdens associated with participation as well as any costs incurred in meeting the substantive requirements of the program.

The incentives relating to hazardous waste management that would be provided under the Gold Track Program include (a) allowing Gold Track facilities to apply to NJDEP for an exclusion from the definition of solid waste for some types of materials destined for recycling, and (b) allowing up to 180 days (270 days, if applicable) for hazardous waste generators to accumulate hazardous waste without having to obtain a RCRA permit. These regulatory flexibilities should provide incentives for companies to participate in the Gold Track Program while maintaining necessary environmental protections.

EPA and NJDEP have agreed upon a combination of environmental protections including requiring prospective participants to pass a rigorous screening process during which NJDEP, in consultation with EPA, would screen candidates based on several factors including past compliance history, current commitment to environmental improvement, and the legitimacy of future recycling activities. Facilities would be required to also meet specific conditions to minimize the possibility that their activities would threaten human health and the environment as a result of this program.

A. Exclusion From the Definition of Solid Waste for Materials Destined for Recycling

1. Purpose and Context of Proposed Rule

Section 3002 of the Resource Conservation and Recovery Act (RCRA) directs EPA to promulgate standards for generators of hazardous waste as necessary to protect human health and the environment. Similarly, Section 3004 of RCRA directs EPA to promulgate standards for facilities that treat, store or dispose of hazardous wastes. Section 1003 of RCRA establishes a national objective of ''minimizing the generation of hazardous waste and the land disposal of hazardous waste by encouraging process substitutions, materials recovery, properly conducted recycling and reuse, and treatment.''

The primary intent of the current RCRA regulatory structure governing hazardous waste recycling is to ensure that such recycling practices are done safely including ensuring that waste materials are managed protectively prior to recycling and that the resulting products are legitimate products and do not contain potentially harmful ''toxics along for the ride.'' Industry has asserted that certain RCRA hazardous waste recycling regulations can in some cases discourage generators from exploring recycling options for their wastes. Today's proposed rule is intended to remove many of these regulatory requirements in order to promote recycling of hazardous and solid waste for Gold Track participants. Moreover, the regulations would impose conditions on the management of hazardous waste that would minimize the likelihood that the activities of participating facilities would threaten human health and the environment as a result of this program. Specifically, today's proposed rule is responsive to the desire to direct suitable wastestreams towards recycling and reuse by allowing Gold Track facilities to apply to NJDEP for conditional exclusion from the definition of solid waste for some types of materials destined for recycling that would otherwise be considered listed or characteristic hazardous wastes. NJDEP will consider applications for exclusions from the definition of solid waste on a case-by-case basis, and will conduct a waste stream specific evaluation to ensure that only legitimate recycling of materials (as opposed to sham recycling) takes place. EPA requests comments on these proposed conditional exclusions.

2. Rationale for Allowing an Exclusion From the Definition of Solid Waste

Today's proposal would allow NJDEP, with some exceptions, to grant case-by-case exclusions from the definition of solid waste for hazardous secondary materials generated at Gold Track facilities that are destined for some types of recycling and that, absent the exclusion, would be considered hazardous wastes. Under this proposed rulemaking, these materials would no longer be considered wastes. A number of RCRA regulatory requirements that can make recycling less attractive would no longer apply, including:

- *Permits.* According to current regulations, companies generating hazardous wastes that can be recycled would typically need a RCRA permit if they store the wastes for greater than 90 days prior to recycling. In addition, if hazardous wastes are shipped to off-site facilities for reclamation or recycling, those receiving facilities must also have RCRA permits if they store or treat the wastes prior to recycling. This can have important implications for these companies. Obtaining a RCRA permit can be costly and time consuming. In addition, a RCRA permit carries with it other obligations, such as the requirement for facility-wide corrective action, which can incur further substantial costs. Thus, many companies have a strong incentive to avoid recycling hazardous wastes if they must store wastes for greater than 90 days prior to recycling. As a result, some hazardous wastes are sent to treatment or disposal facilities, rather than being beneficially recycled. Under today's proposal, excluded wastes from Gold Track facilities could be stored by recyclers for an extended period of time without triggering the need for a RCRA permit. EPA expects this flexibility to enhance recycling opportunities for Gold Track participants.
- *Transportation, reporting and recordkeeping.* Hazardous wastes

destined for recycling are generally subject to the RCRA ''cradle to grave'' reporting and recordkeeping requirements. Under this system, generators of such wastes must:

—Manifest off-site shipments of hazardous wastes (§§ 262.20–262.23);
—Submit exception reports for any shipments that have not been reported received (§ 262.42);
—Maintain copies of manifests, exception reports, biennial reports and any data used to make hazardous waste determinations, for at least three years (§ 262.40); and
—Submit a biennial report describing all hazardous wastes generated and the facilities to which they were shipped every other year if they generate large quantities of hazardous wastes. (§ 262.41)

Under this proposed rule, excluded secondary materials being transported to a recycler would not be subject to the manifest and related recordkeeping requirements. The Gold Track facility will keep records on the amounts of excluded material sent to the recycler and returned to the facility.

3. Applicability of the Exclusion From the Definition of Solid Waste

Today's proposed rule would allow Gold Track participants to petition NJDEP to exclude materials that are recycled from the definition of solid waste if they are managed according to certain conditions. This flexibility would only be offered to Gold Track participants. If finalized, materials generated by Gold Track participants that are currently regulated as solid and hazardous wastes prior to reclamation (*i.e.* spent solvents) would no longer be regulated as solid and hazardous wastes if they are recycled according to the conditions discussed below. Excluded materials shipped to off-site recycling facilities would also be excluded from regulation as a solid waste.

Not all types of recycling practices would be eligible for the exclusion under this proposed rule. Today's proposal identifies four specific recycling scenarios that EPA believes merit full regulation under current hazardous waste regulations, and which therefore will not be eligible for relaxed regulatory controls under the Gold Track Program:

- Wastes burned for energy recovery [§ 261.2(c)(1)];
- Wastes used in a manner constituting disposal [§ 261.2(c)(2)];
- Recycling of materials that are inherently waste-like [§ 261.2(d)] (F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, F028, and secondary materials fed to a halogen acid furnace);
- Secondary materials that are stored on the land, in containment buildings, or on drip pads.

EPA and NJDEP believe that limiting the scope of this rulemaking in this way is sensible and appropriate due to the experimental nature of Gold Track and the reduced level of regulation that will be afforded to participating facilities.

It should be noted that the conditional exclusion proposed today would be an exclusion only from the RCRA Subtitle C regulations, and not from the emergency, remediation and information-gathering sections of the RCRA statute (sections 3004(u), 3007, 3008(h), 3013, and 7003). This restates the principle codified for other excluded secondary materials—that the exclusion is only from RCRA regulatory provisions, and not from these statutory authorities. See section 261.1(b). EPA is repeating that principle here in the interests of clarity, not to reopen the issue. The legal basis for the distinction of the Agency's authority under these provisions is that they use the broader statutory definition of solid waste (and hazardous waste as well) and so need not (and should not) be read as being limited by the regulatory definition. *See*, for example, 50 FR 627; January 4, 1985.

EPA is also proposing that the requirements for speculative accumulation of hazardous wastes not apply to Gold Track participants. The speculative accumulation provisions generally apply to secondary materials that are not solid wastes when recycled. Under RCRA regulations, certain recyclable materials are not considered solid wastes if they are recycled in a timely manner. However, if these materials are accumulated on-site for too long, they become a solid waste pursuant to the speculative accumulation provisions of 40 CFR 261.1(c)(8) and 261.2(c)(4).

The provision serves as a safety net, preventing recyclable materials that are not otherwise regulated under RCRA from being stored indefinitely and potentially causing environmental damage. EPA subjects persons who ''accumulate speculatively'' (*i.e.*, persons who fail to recycle a sufficient percentage of a recyclable material during the calendar year or fail to demonstrate that a feasible means of recycling exists) to immediate regulation as hazardous waste generators or storage facilities. (50 FR 614, 650; January 4,1985).

As an alternative safety net, today's proposal, would require Gold Track participants to report on their recycling activities including (1) amount of excluded material generated during each twelve month period after the exclusion takes effect, (2) the amount of excluded material recycled during the same twelve-month period, (3) how the excluded material was recycled, (4) any significant changes in the excluded material wastestream, (5) the recycling processes used, and (6) the location of any off-site recycler. Also, a participant would be required to obtain approval from the State Director prior to any significant changes in the waste stream or the recycling process. In addition to providing data on whether this incentive increases recycling, these reports would directly alert the State to any overly lengthy accumulation practices that may occur and would allow the State to assess whether environmental damage could occur from such storage. EPA believes that this approach provides a suitable alternative to the speculative accumulation requirements for hazardous waste under RCRA.

4. Criteria for Obtaining a Solid Waste Exclusion From NJDEP

Gold Track facilities wishing to take advantage of this flexibility would be required to submit an application identifying each waste stream to be excluded from the definition of a solid waste to NJDEP. Included in the application package must be a detailed description of the waste stream and its composition, a full description of the recycling to be conducted and the sites where storage and recycling would occur, along with a comparison of the proposed recycling strategy to the recycling guidelines set forth in the EPA policy memo entitled: ''Criteria for Evaluating Whether a Waste is Being Recycled''. This document can be obtained either by clicking on the following Web site: *http://yosemite.epa.gov/OSW/rcra. nsf/Documents/BFB132AA4BB3D1D3852565DA006F0447*, or through EPA's Faxback service by dialing 202–651–2060 on your fax machine and entering code # 11426.

This application process will ensure that the regulatory flexibility for recycling that is provided to Gold Track facilities will not compromise human health and the environment. NJDEP will carefully analyze each application to ensure that sham recycling or any other harmful activity will not occur. The determination of whether sham recycling is being proposed rests on a number of factors including: the similarity of the secondary material to an analogous raw material or product, the degree of processing the secondary material must undergo to produce a

finished product, the value of the secondary material, the market for the end product, handling and management practices for the secondary material, and the need for toxic constituents in the recycling process. These factors are laid out in the EPA guidance document described above. Each application will be evaluated and considered in the context of these factors.

5. Protection of Human Health and the Environment

As discussed below, waste destined for recycling must be stored in accordance with the performance standards of 40 CFR part 265, subparts I and J for containers and tanks, respectively, and 40 CFR section 264.175 that requires secondary containment for containers holding free liquid. The Air Emission requirements under subparts AA, BB and CC are included in subparts I and J of 40 CFR part 265 and are applicable. The additional condition that materials excluded from the definition of solid waste may only be stored in tanks or containers that meet stringent design and operating standards also helps to ensure that materials are managed safely prior to recycling.

Materials sent offsite for recycling will be excluded from regulation provided that the generator complies with all applicable conditions. If the offsite recycler manages the material in any of the activities listed in subsection 3 above that are not eligible for the exclusion, the material ceases to be excluded.

With regards to excluded materials sent to an offsite recycler, the Gold Track facility would be required to:

- Designate the off-site facility that will be receiving excluded material;
- Keep facility recycling records that track the amount of excluded material sent to the off-site recycler and returned to the Gold Track participant and make these records available upon facility inspection; and
- Include the recycling information listed above in the Gold Track participant's annual report.

6. Summary of Applicable Management Standards for Excluded Solid Waste

Hazardous secondary materials excluded from RCRA regulation under today's proposed rule would be subject to certain conditions. Failure by Gold Track participants managing materials under this exclusion to meet any of these conditions could result in revocation of the exclusion and/or subsequent enforcement action.

(i) Types of Hazardous Waste Not Eligible for Exclusion Under Gold Track

This exclusion would not apply to materials that are burned for energy recovery, used in a manner constituting disposal, or for materials that are inherently waste-like as defined in 40 CFR 261.2(c)(1), (c)(2) and 261.2(d).

(ii) Requirements for Confirmation From NJDEP Prior to Exclusion

Under this proposal, Gold Track facilities wishing to take advantage of this flexibility would be required to submit a petition to NJDEP to be excluded from the definition of a solid waste. This petition must include a detailed description of the waste stream and its composition, a description of the recycling to be conducted and the sites where storage and recycling would occur, and a comparison of the recycling proposed to the EPA guidance discussed above in section IV.A.4.

NJDEP will make a site specific determination that the material will be legitimately recycled to recover material values based on EPA guidance and the information provided, and will respond to each petition before this exclusion would be applicable.

(iii) Notification of Changes in Operation

EPA is proposing that Gold Track participants would be required to inform NJDEP of any changes to the wastestream, (*e.g.,* as a result of a change in the production process or inputs) changes in the recycling process to be used, and changes in the recycling location.

Gold Track participants would be required to receive approval from NJDEP to continue exercising this flexibility if the changes described above occur.

(iv) Storage of Excluded Materials Destined for Recycling

Under this proposal, Gold Track generators would be required to manage materials in tanks or containers and comply with the management standards for hazardous waste storage units, as specified in 40 CFR part 265, subparts I and J, and the secondary containment standards (or alternative) for containers with free liquids as described at § 264.175. Secondary containment provides an added level of safety by ensuring that if the tank or container leaks, the release is captured by an impermeable base or second exterior tank wall. This condition applies to excluded materials stored at a Gold Track facility. Gold Track facilities would also be required to comply with any other substantive regulatory requirement that would normally be applicable to the containers or tanks.

This exclusion would not be extended to materials that are stored on the land (*e.g.,* in outdoor piles), in containment buildings, or on drip pads. In this respect, storage of excluded materials under today's rule would be subject to more stringent container management standards than if they were managed as hazardous wastes and is consistent with the Project XL goal of superior environmental performance.

(v) Labeling Storage Containers

Today's proposal would also require generators managing materials under this conditional exclusion to use a label to identify the contents of containers in which materials to be recycled are stored and indicate the date the material was originally placed into the container. Gold Track participants would not be required to comply with labeling and marking requirements at § 262.34(a)(2) and (a)(3) as a condition for this exclusion.

(vi) Monitoring and Record Keeping

EPA is also proposing that generators maintain records for each container or tank used to store material exempted from the definition of solid waste, and that participants label the contents as stated above. This information will be used to track trends and environmental performance, and is expected to be used for the annual report.

(vii) Annual Report

Each participant shall submit an annual report to the State of New Jersey that shall specify:

- The amount of exempt material in inventory at the facility at the time the flexibility specified at N.J.A.C. 7:2733.21(a)9 is granted to the facility;
- The amount of exempt material generated during the past twelve months;
- The amount of exempt material recycled during the same twelve-month period;
- A description of how the exempt material was recycled; and
- Any changes in the original wastestream, recycling processes used or the location of recycling sites.

B. 180-day Accumulation Period for Hazardous Wastes Generated by Gold Track Participants

1. Purpose and Context of Proposed Rule

Today's proposed rule would allow large quantity hazardous waste generators (generators of 1000 kilograms or greater of non-acutely hazardous waste or more than 1 kilogram of acute

hazardous waste) that have been accepted into the Gold Track Program to accumulate their hazardous wastes on-site for up to 180 days without having to obtain a RCRA permit.

Participating large quantity generators would also be allowed to accumulate their hazardous waste on-site for up to 270 days if they must transport the waste, or offer the waste for transport, a distance of 200 miles or more. The current requirements under 40 CFR part 262 for large quantity generators (LQGs) limit the amount of time hazardous waste can be accumulated on-site without a RCRA permit. Under 40 CFR 262.34, LQGs may accumulate any quantity of hazardous waste on-site for up to 90 days without having to obtain a RCRA permit.

EPA requests comments regarding its proposal to provide participating Gold Track generators 180 days (or 270, if applicable) to accumulate their hazardous waste on-site without a RCRA permit. Today's proposed rule would not make any changes to the existing conditions for the 90-day accumulation period for generators under the current regulations, and EPA is not requesting comment on 40 CFR 262.34.

2. Rationale for Allowing Gold Track Facilities 180 Days (or 270 Days) To Accumulate Waste

Today's proposed rule is designed to assist EPA in learning more about appropriate hazardous waste generator accumulation times that may optimize the ability of generators to carry out activities incidental to the generation of hazardous waste. EPA intends that this project will yield information regarding typical and appropriate generator activities—such as accumulating hazardous waste prior to sending it off-site for waste management—and the time periods appropriate for carrying out such activities. EPA believes that additional accumulation time may allow generators to accumulate enough waste to make transportation to a waste management facility more cost-effective and efficient. EPA also believes that additional accumulation time may reduce the movement and handling of hazardous waste and also reduce the amount of air pollution created and transportation related safety concerns through more frequent truck trips.

Given the strict screening requirements of the Gold Track Program, only facilities of very high environmental caliber would be allowed to take advantage of the additional accumulation time flexibility, thus EPA believes this limited flexibility should not result in any additional risk to public health or the environment.

In order to evaluate the potential effects of additional accumulation time, EPA and NJDEP would be able to request specific information from participating facilities (including hazardous waste manifests, operating and recycling records, inspection logs for the container/tank areas, waste generation rates, etc.), and hold informational meetings with facility staff as may be necessary to track progress and measure performance of longer accumulation time limits.

The 180 days (or 270 days, if applicable) accumulation time limit was also cited as a very desirable flexibility by industry stakeholders during the Gold Track Final Project Agreement negotiation process. This flexibility is seen as an incentive that rewards Gold Track facilities for undertaking the economically costly commitments (*see* Table 1 in Section II.D.) that are required for Gold Track participation.

3. Protective of Human Health and the Environment

The provisions of today's proposed rule would ensure that on-site accumulation of hazardous waste for up to 180 days (270 days, if applicable) is protective of human health and the environment. As mentioned previously, the strict screening requirements of the Gold Track Program ensure that only facilities of very high environmental caliber will be allowed to take advantage of the additional accumulation time flexibility, thus EPA believes this limited flexibility should not result in any additional risk to public health or the environment.

In addition, all the conditions that apply to 90-day accumulation of any hazardous waste will apply to the 180 day (or 270 day, if applicable) accumulation of hazardous waste by participating Gold Track generators (*See* Section IV.B.4. below). The requirements include that hazardous waste must be stored in accordance with the performance standards of 40 CFR parts 265, subparts I and J for containers and tanks, respectively. Gold Track participants would also be required to manage materials in accordance with the secondary containment standards (or alternative) for containers with free liquids as described at § 264.175. Secondary containment provides an added level of safety by ensuring that if the tank or container leaks, the release is captured by an impermeable base or second exterior tank wall. In addition, the Air Emission requirements under subparts AA, BB and CC are included in subparts I and J of 40 CFR part 265.

4. Additional Accumulation Time for Transport Over 200 Miles

Under today's proposed rule, participating Gold Track generators would have up to 270 days to accumulate their hazardous waste on-site without a RCRA permit or interim status if the generator must transport the waste, or offer the waste for transport, a distance of 200 miles or more. The generator would still be required to comply with all other conditions for accumulating hazardous waste under Gold Track, including the more stringent accumulation requirements noted above.

EPA believes that additional accumulation time under circumstances where a generator must send its hazardous waste a distance of 200 miles or more may be necessary and appropriate to allow sufficient time to accumulate enough waste to make long-distance transport more cost-effective and efficient. EPA also believes that the additional accumulation time may reduce the movement and handling of hazardous waste and also reduce the amount of air pollution created and transportation related safety concerns through more frequent truck trips.

As part of the Gold Track covenant agreement between the Gold Track participant and the NJDEP, a generator in the Gold Track Program would need to identify and keep inventory records for wastes to be shipped to an off-site facility that is located more than 200 miles away.

5. Summary of Applicable Management Standards

Under today's proposed rule, the same, or more stringent standards applicable to 90-day on-site accumulation of hazardous waste under 40 CFR 262.34, other than the length of time that large quantity generators hazardous waste can accumulate that waste on-site without a RCRA permit, would apply to 180-day (or 270-day, as applicable) accumulation of hazardous waste. These include technical standards for units used to accumulate hazardous wastes, recordkeeping standards to document the length of time hazardous wastes are accumulated on-site, preparedness and emergency response procedures, and personnel training. EPA is not proposing to change any of these existing standards as they would apply to generators participating in Gold Track.

The Agency would like to note, however, that the longer additional accumulation time may impact each participating generator's implementation of some of these

provisions. For example, in order to be in compliance with proposed 40 CFR 262.120 (which incorporates the existing general site operation provisions), generators accumulating hazardous waste on-site under the terms of today's proposal may need to consider whether their current general site operation procedures (*e.g.,* personnel training, contingency planning) should be modified in light of having more hazardous waste on-site than they would under the 90-day limit. The existing management standards as they would apply to Gold Track generators of hazardous waste under this proposed rule are summarized below. EPA requests comments on these standards only as they would apply to participating Gold Track generators accumulating their hazardous waste for 180 or 270 days.

(i) *Accumulation Units:* A large quantity generator would only be able to accumulate hazardous waste on-site for up to 180 days (or 270 days, if applicable) in tanks or containers which comply with the unit-specific technical standards of 40 CFR part 265 for containers (subpart I) and tanks (subpart J). These unit-specific standards would include provisions for the design, installation and general condition of each unit. The requirements governing each type of unit would also include standards for ensuring the compatibility of the waste and the unit and special requirements for ignitable, reactive or incompatible wastes. In addition, there would be provisions for performing inspections to monitor for leaks and deterioration of the unit and for proper response to and containment of releases. For example, the container holding hazardous waste would be required to be closed except when adding or removing waste and the container could not be handled in a manner that may cause it to rupture or leak. Participating Gold Track generators that comply with the applicable regulatory provisions would be able to treat and/or recycle the waste in the accumulation unit without a RCRA permit during the 180-day (or 270-day, if applicable) accumulation period. (*See, e.g.,* 51 FR 10168, March 24, 1986).

(ii) *Measures to Ensure Wastes are not Accumulated for More Than 180 (or 270) Days:* Participating Gold Track generators operating under the terms of today's proposed rule would also be required to comply with provisions which help ensure that the length of time the wastes remain on-site in certain accumulation units would not exceed 180 days (270 days, if applicable) from the date the waste is generated. For those accumulating waste in containers, the date upon which each period of accumulation begins would be required to be clearly marked and visible for inspection on each container.

(iii) *Labeling and Marking Accumulation Units:* Participating Gold Track generators operating under the terms of today's proposed rule would be required to clearly label or mark each tank or container used to accumulate hazardous waste with the words ''Hazardous Waste''.

(iv) *Preparedness and Prevention:* Participating Gold Track generators who accumulate waste on-site under the terms of today's proposed rule for up to 180 days (or 270 days, as applicable) would be required to comply with subpart C of part 265 which contains standards for facility preparedness and prevention. Participating generators would be required to maintain their facilities in a manner that minimizes the possibility of fire, explosion, or any unplanned release of hazardous waste or hazardous waste constituents to the environment.

Participating generators would also be required to ensure that their facilities are equipped with emergency devices, such as an internal communications or alarm system, a telephone or other device capable of summoning emergency assistance, and appropriate fire control equipment, unless none of the wastes handled at the generation site requires a particular kind of equipment. Equipment would be required to be tested and maintained, as necessary, to assure its proper functioning.

All persons involved in hazardous waste handling operations would be required to have immediate access to either an internal or external alarm or communications equipment, unless such a device is not required.

Additionally, under the terms of today's proposed rule, participating generators would be required to maintain sufficient aisle space to allow for the unobstructed movement of personnel and equipment to any area of the facility operations in an emergency, unless aisle space is not needed for any of these purposes. Participating generators would also be required to attempt to make arrangements with police, fire departments, state emergency response teams, and hospitals, as appropriate, to familiarize these officials with the layout of the generator's site and the properties of each type of waste handled at the site in preparation for the potential need for the services of these organizations. If state or local authorities decline to enter into such arrangements, the owner or operator would be required to document the refusal.

(v) *Contingency Plan and Emergency Procedures:* Participating generators who accumulate hazardous waste on-site for up to 180 days (or 270 days, as applicable) under the terms of today's proposed rule would be required to comply with the contingency plan and emergency procedures provisions of 40 CFR part 265, subpart D. The contingency plan would be required to include, where necessary, a description of the generator's planned response to emergencies at the facility, any arrangements with local and state agencies to provide emergency response support, a list of the generator's emergency response coordinators, a list of the generator's emergency equipment, and an evacuation plan. Requirements for distributing and amending the contingency plan would also be specified. In addition, a facility emergency coordinator would be required to either be present, or on call, whenever the facility is in operation.

Provisions for emergency procedures would include immediate notification of employees and local, state, and Federal authorities of any imminent or actual emergencies; measures to preclude the spread of fires and explosions to other wastes; proper management of residues; rehabilitation of emergency equipment and notification of authorities before operations are resumed; and recordkeeping and reporting to NJDEP or EPA on the nature and consequences of any incident that requires implementing the contingency plan.

(vi) *Personnel Training:* As proposed in today's rule, generators participating in Gold Track who accumulate hazardous waste on-site for up to180 days (or 270 days, as applicable) would be subject to the provisions for personnel training in 40 CFR 265.16. These requirements are designed to ensure that personnel are adequately prepared to manage hazardous waste and respond to any emergencies that are likely to arise.

Personnel training could be in the form of on-the-job or classroom training, but would have to be performed by an instructor who is trained in hazardous waste management procedures. Personnel training would have to be performed within six months of initial employment and must be renewed annually. A participating generator would also be required to maintain records in accordance with 40 CFR 265.16(d) to document completion of the training requirements for employees.

6. Special Conditions for Gold Track Generators Accumulating Hazardous Waste For Up to 180 (or 270) Days

In addition to complying with the management standards currently applicable to 90-day accumulation of hazardous waste (described above), Gold Track generators would also have to comply with several conditions unique to this XL project in order to accumulate their hazardous waste for up to 180 (or 270 days).

Gold Track generators would be required to make information (such as manifests, costs, environmental releases) available to NJDEP as may be necessary to track the progress and measure the impact of longer accumulation times. If requested, Gold Track generators would also be required to participate in informational meetings with NJDEP. Collecting this information from the Gold Track generators would ensure that NJDEP and EPA would have data that provides a basis for evaluating the impacts of longer accumulation time, including whether it may optimize the ability of the generators to carry out activities incidental to the generation of hazardous waste. In addition, Gold Track generators would be required to notify NJDEP, in writing, of their intent to accumulate hazardous waste for up to 180 (or 270) days. This notification would assist NJDEP and EPA in the tracking and information gathering activities associated with this flexibility.

Additionally, as previously mentioned, participating Gold Track generators accumulating their hazardous waste up to 180 days (270 days if applicable) in containers would be required to comply with § 264.175, which does not currently apply to generators accumulating hazardous waste. Section 264.175 imposes ''secondary containment'' requirements on containers holding hazardous waste. Compliance with § 264.175 would provide an added level of protection against releases to the environment by ensuring that any leaks from the containers storing the waste would be contained in the accumulation area.

C. State Authority—Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize a qualified State to administer and enforce a hazardous waste program within the State in lieu of the federal program, and to issue and enforce permits in the State. (*See* 40 CFR part 271 for the standards and requirements for authorization.) Following authorization, a State continues to have enforcement responsibilities under its law to pursue violations of its hazardous waste program. EPA continues to have independent authority under RCRA sections 3007, 3008, 3013, and 7003.

After authorization, Federal rules written under RCRA provisions that predate the Hazardous and Solid Waste Amendments of 1984 (HSWA), no longer apply in the authorized state. The legal obligations imposed pursuant to RCRA provisions predating HSWA do not take legal effect in an authorized state until the state adopts the provisions under state law.

In contrast, under sections 3004 and 3006(g) of RCRA, new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time they take effect in non-authorized States. EPA is directed to carry out HSWA requirements and prohibitions in authorized States until the State is granted authorization to do so.

Today's proposed rule is not promulgated under HSWA authorities. Consequently, the final rule will not amend the authorized program for the State of New Jersey upon promulgation, and EPA will not implement the rule. The authorized RCRA Program will change when EPA approves New Jersey's application for a revision to its RCRA Program.

For the proposed Gold Track Rule, EPA encourages NJDEP to expeditiously adopt Gold Track regulations and begin program implementation. To revise the federally-authorized RCRA Program, NJDEP would need to seek formal authorization for the Gold Track Rule after program implementation.

It is EPA's understanding that New Jersey intends to develop appropriate legal mechanisms to implement today's rule and that it will be seeking RCRA authorization for the program. At the same time, EPA expects that the state will begin implementing its program as soon as it is allowable under state law, while the RCRA authorization process proceeds. To ensure prompt implementation of the project, EPA encourages the state to take this approach.

V. Additional Information

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The 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 in State, local, or tribal governments or communities;

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

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of 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.

Because the annualized cost of this proposed rule will be significantly less than $100 million and will not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is therefore not subject to OMB review.

B. 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 rule on small entities, small entity is defined as: (1) A small business; (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.

After considering the economic impacts of today's proposed rule on small entities, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the

regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Moreover, the proposed rule will not impose any requirements on small entities. Gold Track is a voluntary program that offers sources flexibility in complying with regulatory requirements. We expect applications only from firms which have determined that the benefits of their participation will outweigh the costs. We have therefore concluded that today's proposed rule will relieve regulatory burden for any small entities that choose to participate in this voluntary program. 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.

C. Paperwork Reduction Act

This proposed rule will only apply to a maximum of nine facilities, and therefore requires no information collection activities subject to the Paperwork Reduction Act. Therefore, no information collection request (ICR) will be submitted to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, 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.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. Given that participation in Gold Track is purely voluntary, the proposed Gold Track rule imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, because this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments, it is not subject to UMRA section 203.

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

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

The portions of this proposal that would amend the current CAA regulations are not subject to Executive Order 13045 because 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 Order has the potential to influence the regulation. These portions of this proposal are not subject to Executive Order 13045 because they are based in part on technology performance and in part implement previously promulgated health or safety based standards, the National Ambient Air Quality Standards (NAAQS). In addition, they are not subject to Executive Order 13045 because they are not economically significant as defined by Executive Order 12866.

The portions of this proposal that would amend the current RCRA regulations are not subject to Executive Order 13045 because they are not economically significant regulatory actions as defined by Executive Order 12866, and the Agency does not have reason to believe the environmental health risks or safety risks addressed by these actions would present a disproportionate risk to children.

The proposal to provide participating Gold Track generators with up to 180 (or 270) days accumulation time includes a condition that such generators follow the current waste management standards for large quantity generators accumulating hazardous waste on-site without a RCRA permit. Similarly, the proposal to allow waste generators to obtain variances from the definition of solid waste contains several conditions. These provisions are discussed in detail in Section IV of this preamble. EPA believes that these provisions are protective of human health and the environment and minimize the likelihood of exposure to hazardous waste held in accumulation units. For this reason, EPA believes that the proposed 180 (or 270) day accumulation time and the proposed solid waste variances would not result in increased exposures to children.

F. Executive Order 13132: Federalism

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

The portions of this proposal that would amend the current RCRA regulations do not have federalism

implications. They 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. These portions of the proposed rule are less stringent than the existing federal RCRA Program, and RCRA authorized states are only required to modify their programs when EPA promulgates federal regulations that are more stringent or broader in scope than the authorized state regulations. Similarly, the portions of this proposal that would amend the current CAA regulations do not have federalism implications. They 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. They provide facilities that receive regulatory flexibility from their state with similar flexibility under federal law. Thus, the requirements of Section 6 of this Executive Order do not apply to this proposal. Although section 6 of the Order does not apply to this rule, EPA consulted extensively with State officials, as noted throughout today's proposed rule and in particular in section II.C., above.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

G. Executive Order 13175: Consultation and Coordination With 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. This proposed rule affects only private entities. 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.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standard. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

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

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

List of Subjects

40 CFR Part 51

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

40 CFR Part 52

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

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Environmental protection, Air pollution control, Hazardous waste insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds. Water supply.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: March 28, 2002.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 51.165 is amended:

a. By adding a new sentence to the end of paragraph (a)(1)(ii).

b. By adding a new paragraph (a)(1)(v)(C)(*10*).

The additions read as follows:

§ 51.165 Permit requirements.

(a) * * *

(i) * * *

(ii) * * * Until [DATE EIGHTEEN YEARS FROM THE DATE THAT THE FEDERAL FINAL RULEMAKING BECOMES EFFECTIVE], this definition does not apply to combined heat and power (CHP) facilities in the State of New Jersey that are participants in the New Jersey Gold Track Program set forth in Subchapter 2 of the N.J.A.C 7:1M.

* * * * *

(v) * * *

(C) * * *

(10) Until [DATE EIGHTEEN YEARS FROM THE DATE THAT THE FEDERAL FINAL RULEMAKING BECOMES EFFECTIVE], changes (including the addition of new emissions units or changes to existing emissions units) at stationary sources in the State of New Jersey that are participants in the New Jersey Gold Track Program set forth in Subchapter 2 of the N.J.A.C 7:1M, provided the stationary source emits within the annual emissions limitations (caps) established under the New Jersey Gold Track Program.

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

3. Section 52.1603 is amended by:

a. Adding text to the end of paragraph (b).

b. Adding paragraphs (c) and (d).

The additions read as follows:

§ 52.1603 Significant deterioration of air quality.

* * * * *

(b) * * * except as provided in paragraphs (c) and (d) of this section.

(c) Until [DATE EIGHTEEN YEARS FROM THE DATE THAT THE FEDERAL FINAL RULEMAKING BECOMES EFFECTIVE], for stationary sources in the State of New Jersey that are participants in the New Jersey Gold Track Program set forth in Subchapter 2 of the N.J.A.C 7:1M:

(1) Changes (including the addition of new emissions units or changes to existing emissions units) at a stationary source are not physical changes or changes in the method of operation and therefore are not major modifications as otherwise defined in 40 CFR 52.21(b)(2), provided the stationary source emits within the annual emissions limitations (caps) established under the New Jersey Gold Track Program.

(2) ''The date on which the annual emissions limitation (cap) established under the New Jersey Gold Track Program became effective, not to exceed 15 years before construction on the particular change commences; and'' applies instead of 40 CFR 52.21 (b) (3) (ii) (a).

(d) Until [DATE EIGHTEEN YEARS FROM THE DATE THAT THE FEDERAL FINAL RULEMAKING BECOMES EFFECTIVE], 40 CFR 52.21 (b) (6) does not apply to combined heat and power (CHP) facilities in the State of New Jersey that are participants in the New Jersey Gold Track Program set forth in Subchapter 33 of the N.J.A.C. For such CHP facilities, ''building, structure, facility, or installation'' includes both the CHP facility itself and heating/cooling equipment at the facility to which the CHP facility supplies electricity and heating/cooling (''the CHP energy user''), provided that there is a contractual agreement between the CHP facility and the CHP energy user which states that the emissions reductions from shutting down or curtailing the heating/cooling equipment at the CHP energy user are to be credited to the CHP facility, rather than the CHP energy user.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

2. Section 261.4 is amended by adding paragraph (a)(20) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(20) Secondary materials (*i.e.*, sludges, by products, and spent materials as defined in § 261.1) that are reclaimed and/or reused are excluded from the definition of solid waste for facilities participating in the New Jersey Gold Track Program with a signed and approved covenant with NJDEP provided that:

(i) The secondary material is not destined to be burned for energy recovery or used in a manner constituting disposal as described in § 261.2(c)(1) and § 261.2(c)(2);

(ii) The secondary material is not inherently waste-like as described in § 261.2(d);

(iii) The generator in the Gold Track Program applies to the Director, as appropriate, supplying the following information: the types and composition of material(s) to be recycled; a description of the recycling to be conducted; and its assessment, including supporting information that the material will be legitimately recycled and the locations where storage and recycling will occur;

(iv) The Director makes a site specific determination that the material will be legitimately recycled to recover material values;

(v) The generator in the Gold Track Program informs and receives approval from the Director regarding the waste streams, recycling process and location identified in paragraph (a)(2)(iii) of this section;

(vi) Any on-site accumulation or storage of the secondary material prior to recycling takes place only in tanks and containers as defined in 40 CFR 260.10. Accumulation and storage in containers must comply with the requirements of subpart I of 40 CFR part 265 and secondary containment requirements found in 40 CFR 264.175. Accumulation and storage in tanks must comply with the requirements of 40 CFR part 265, subpart J. No restrictions on speculative accumulation as defined in §§ 261.1 and 261.2(c)(4) apply;

(vii) Containers and tanks at the generator's facility used to accumulate or store materials subject to this exclusion are labeled to properly identify the contents and the date the material was originally placed into the container, and records are kept for each container and tank indicating the contents and date the material was placed in the tank or container;

(viii) The generator of the excluded materials submits an annual report documenting recycling activities that shall specify:

(A) The amount of excluded material in inventory at the facility at the time the flexibility specified at N.J.A.C. 7:2733 is granted to the facility;

(B) The amount of excluded material generated during each twelve month period after the exclusion takes effect;

(C) The amount of excluded material recycled during the same twelve-month period;

(D) A description of how the excluded material was recycled; and

(E) Any significant changes in the excluded material wastestream, the recycling processes used, and the location of recycling sites.

(ix) If a participating entity withdraws from the Gold Track Program prior to the expiration of its exclusion, or if NJDEP terminates an entity's participation prior to such expiration, the entity must return to compliance with all otherwise applicable hazardous waste regulations as soon as practicable but no later than six months after the date of withdrawal or termination.

(x) This section will expire eighteen years after the federal rulemaking

becomes effective; or earlier, if either New Jersey or EPA terminates the program and EPA promulgates a rule removing these provisions from the Code of Federal Regulations.

* * * * *

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

1. The authority citation for part 262 continues to read as follows:

Authority: 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

2. Part 262 is amended by adding subpart K consisting of § 262.120 to read as follows:

Subpart K—New Jersey Gold Track Program XL Project

§ 262.120 Standards applicable to generators of hazardous waste participating in the New Jersey gold track program.

(a) A generator participating in Gold Track with a signed and approved covenant agreement with NJDEP and who generates greater than 1000 kilograms of hazardous waste per calendar month or 1 kilogram of acute hazardous waste as listed in 40 CFR 261.31, 261.32, and 261.33(e.), may accumulate that hazardous waste onsite for more than 90 days, but not more than 180 days without a permit or without having interim status provided that:

(1) The waste is placed:

(i) In containers and the generator complies with the applicable requirements of subpart I, of 40 CFR part 265; and 40 CFR 264.175; and/or

(ii) In tanks, and the generator complies with applicable requirements in subparts J, of 40 CFR part 265 except §§ 265.197(c) and 265.200;

(2) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(3) While being accumulated on-site, each container and tank is labeled or marked clearly with the words ''hazardous waste';

(4) The generator complies with the requirements for owners or operators in Subparts C and D in 40 CFR part 265, with § 265.16, and with 40 CFR 268.7(a)(5). In addition, such a generator is exempt from all the requirements in subparts G and H of 40 CFR part 265, except for §§ 265.111 and 265.114;

(5) The generator notifies the Director in writing of its intent to accumulate its hazardous waste in accordance with this section; and

(6) The generator makes information (such as manifest, costs, environmental releases) available to the Director and, if requested, participates in informational meetings with the Director as may be necessary to track progress and measure the impact of longer accumulation time limits.

(b) A generator participating in Gold Track and who generates greater than 1000 kilograms of hazardous waste or 1 kilogram of acute hazardous waste as listed in 40 CFR 261.31, 261.32, and 261.33(e.) per calendar month and who must transport this waste, or offer this waste for transportation over a distance of 200 miles or more may accumulate that hazardous waste onsite for more than 90 days, but not more than 270 days without a permit or without having interim status if the generator complies with the requirements of paragraphs (a)(1) through (a)(6) of this section.

(c) A generator accumulating hazardous waste in accordance with paragraphs (a) and (b) of this section who accumulates that hazardous waste onsite for more than 180 days (or for more than 270 days if the generator must transport this waste or offer the waste for transportation over a distance of 200 miles or more), is an operator of a storage facility and is subject to the requirements of 40 CFR parts 264 and 265 and the permit requirements of 40 CFR part 270 unless the generator has been granted an extension to the 180 day (or 270 days if applicable) limit. An extension of up to 30 days may be granted at the discretion of the Director on a case-by-case basis. Such 30 day extensions may be granted by the Director if hazardous waste must remain onsite for longer than 180 days (or 270 if applicable) due to unforseen, temporary, and uncontrollable circumstances.

(d) If a participating entity withdraws from the Gold Track Program prior to the expiration of its exclusion, or if the Director terminates an entity's participation prior to such expiration, the entity must return to compliance with all otherwise applicable hazardous waste regulations no later than six months after the date of withdrawal or termination.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.1 is amended by adding paragraph (g)(13) to read as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(g) * * *

(13) A generator participating in the Gold Track Program with a signed and approved covenant agreement with NJDEP storing or accumulating hazardous waste in accordance with 40 CFR 262.120.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937 unless otherwise noted.

2. Section 265.1 is amended by adding paragraph (c)(16) to read as follows:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(16) A generator participating in the Gold Track Project with a signed and approved covenant agreement with NJDEP storing or accumulating hazardous waste in accordance with 40 CFR 262.120.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for part 270 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

2. Section 270.1 is amended by adding paragraph (c)(2)(x) to read as follows:

§ 270.1 Purpose and scope of these regulations.

* * * * *

(c) * * *

(2) * * *

(x) A generator participating in the Gold Track Project with a signed and approved covenant agreement with NJDEP storing or accumulating hazardous waste in accordance with 40 CFR 262.120.

* * * * *

[FR Doc. 02–8951 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NH–046a; A–1–FRL–7171–8]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Post-1996 Rate-of-Progress Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes post-1996 rate-of-progress (ROP) plans for the Portsmouth-Dover-Rochester serious ozone nonattainment area, and for the New Hampshire portion of the Boston-Lawrence-Worcester serious ozone nonattainment area. The intended effect of this action is to approve this SIP revision as meeting the requirements of the Clean Air Act.

DATES: Written comments must be received on or before May 16, 2002.

ADDRESSES: Comments may be mailed to David Conroy, Unit Manager, Air Quality Planning, Office of Ecosystem Protection (mail code CAQ), U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the state submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA and at the Air Resources Division, New Hampshire Department of Environmental Services, 6 Hazen Drive, Concord, New Hampshire, 03302–0095.

FOR FURTHER INFORMATION CONTACT: Robert McConnell, (617) 918–1046.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments in response to this action, the Agency contemplates no further activity. If EPA receives adverse comments, the Agency will withdraw the direct final rule and will address all public comments received 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. 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.

For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: April 4, 2002.

Ira W. Leighton,

Acting Regional Administrator, EPA—New England.

[FR Doc. 02–9067 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 356

[Docket No. MARAD–2002–11984]

RIN 2133–AB46

Requirements to Document U.S.-Flag Fishing Industry Vessels of 100 Feet or Greater in Registered Length and To Hold a Preferred Mortgage on Such Vessels

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of proposed rulemaking (''NPRM'').

SUMMARY: The Maritime Administration (''MARAD, we, our, or us'') is soliciting public comments on amendments to its regulations which implement the U.S. citizenship requirements set forth in the American Fisheries Act of 1998 (''AFA'') for vessels of 100 feet or greater in registered length for which a fishery endorsement to the vessel's documentation is sought.

On July 24, 2001, the Congress passed a package of amendments to the AFA as section 2202 of the Supplemental Appropriations Act, 2001. This NPRM proposes to implement the new statutory requirements for the owners of Fishing Vessels, Fish Processing Vessels and Fish Tender Vessels of 100 feet or greater in registered length (collectively referred to as ''Fishing Industry Vessels''), amend the requirements to hold a Preferred Mortgage on such Fishing Industry Vessels, and make other minor amendments to the regulations to address issues that arose during the early stages of MARAD's implementation of the new AFA regulations.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than June 17, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2002–11984. Written comments may be submitted by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all other documents entered into this docket are available on the World Wide Web at *http://dms.dot.gov*. A redline/strikeout version of the amended regulations that tracks the added and deleted text can also be obtained from the docket at *http://dms.dot.gov* or from MARAD's website at *http://www.marad.dot.gov/afa.html*.

FOR FURTHER INFORMATION CONTACT: John T. Marquez, Jr. of the Office of Chief Counsel at (202) 366–5320. You may send mail to John T. Marquez, Jr., Maritime Administration, Office of Chief Counsel, Room 7228, MAR–222, 400 Seventh St., SW., Washington, DC, 20590–0001, or you may send e-mail to *John.Marquez@marad.dot.gov*.

SUPPLEMENTARY INFORMATION:

Who May File Comments?

Anyone may file written comments about proposals made in any rulemaking document that requests public comments, including any state government agency, any political subdivision of a State, or any interested person.

How Do I Prepare and Submit Comments?

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

We encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under

ADDRESSES. If possible, one copy should be in an unbound format to facilitate copying and electronic filing.

In addition to comments on the proposed rule, we specifically request that you address in your comments whether the information collection in this proposal is necessary for the agency to properly perform its functions and will have practical utility, the accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

How Can I Be Sure That My Comments Were Received?

If you want Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. If you send comments by e-mail, you will receive a message by e-mail confirming receipt of your comments. Your e-mail address should be noted with your comments.

Is Information That I Submit to MARAD Made Available to the Public?

When you submit information to us as part of this NPRM, during any rulemaking proceeding, or for any other reason, we may make that information publicly available unless you ask that we keep the information confidential. If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, Maritime Administration, at the address given above under **FOR FURTHER INFORMATION CONTACT.** You should mark ''CONFIDENTIAL'' on each page of the original document that you would like to keep confidential.

In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When you send comments containing information claimed to be confidential business information, you should also include a cover letter setting forth with specificity the basis for any such claim (for example, it is exempt from mandatory public disclosure under the Freedom of Information Act, 5 U.S.C. 552).

We will decide whether or not to treat your information as confidential. You will be notified in writing of our decision to grant or deny confidentiality before the information is publicly disclosed and you will be given an opportunity to respond.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and during the hours provided above under **ADDRESSES.**

Comments may also be viewed on the Internet. To read the comments on the Internet, take the following steps: Go to the Docket Management System (''DMS'') Web page of the Department of Transportation (*http://dms.dot.gov/*). On that page, click on ''search.'' On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown on the first page of this document. The docket number for this NPRM is 11984. After typing the docket number, click on ''search.'' On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments.

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

Background

The AFA imposed new citizenship requirements for both the owners of Fishing Industry Vessels of 100 feet or greater in registered length as well as entities that hold a Preferred Mortgage on such vessels. The AFA raised the U.S. citizen ownership and control standard for U.S.-flag Fishing Industry Vessels operating in U.S. waters from a controlling interest standard (greater than 50%) to a 75 percent interest requirement as set forth in section 2(c) of the Shipping Act, 1916, as amended (''1916 Act''). In addition to the requirements of section 2(c) of the 1916 Act, the AFA specifically delineated certain criteria for purposes of determining whether ''control'' of the owner of a Fishing Industry Vessel is vested in Citizens of the United States.

Section 202(b) of the AFA also imposed new requirements to hold a Preferred Mortgage on Fishing Industry Vessels of 100 feet or greater by amending the definition of ''Preferred Mortgage'' at 46 U.S.C. 31322(a)(4) with respect to such vessels. Section 31322(a)(4) of Title 46, United States Code, as amended by the AFA on October 21, 1998, defined a Preferred Mortgage with respect to a Fishing Industry Vessel of 100 feet or greater as one that is held by a mortgagee that: (1) Is a person that meets the 75% U.S. citizen ownership and control standard for fishing industry vessels under 46 U.S.C. 12102(c); (2) is a state or federally chartered financial institution that satisfies the controlling interest criteria of section 2(b) of the Shipping Act, 1916, 46 U.S.C. 802(b); or (c) is a person that complies with the mortgage trustee provisions of 46 U.S.C. 12102(c)(4).

As the effective date of the AFA approached, it became apparent that many traditional lenders in the fishing industry were having problems either complying with or demonstrating that they complied with the new standards to hold a Preferred Mortgage; therefore, Congress amended the requirements to broaden the category of lenders that will qualify to hold a Preferred Mortgage on Fishing Industry Vessels of 100 feet or greater and to limit the extent to which a demonstration of U.S. Citizenship would be required.

Section 2202(b) of the Supplemental Appropriations Act, 2001, Public Law 107–20, amended the definition of ''Preferred Mortgage'' at 46 U.S.C. 31322(a)(4) with respect to Fishing Industry Vessels of 100 feet or greater. As amended, 46 U.S.C. 31322(a)(4), defines a Preferred Mortgage with respect to such vessels as a mortgage that has as its Mortgagee:

(1) A person eligible to own a vessel with a fishery endorsement under 46 U.S.C. 12102(c);

(2) A state or federally chartered financial institution that is insured by the Federal Deposit Insurance Corporation;

(3) A farm credit lender established under title 12, chapter 23, of the United States Code [12 U.S.C. 2001 *et seq.*];

(4) A commercial fishing and agriculture bank established pursuant to State law;

(5) A commercial lender organized under the laws of the United States or of a State and eligible to own a vessel under 46 U.S.C. 12102(a) of this title; or

(6) A Mortgage Trustee that complies with the requirements of 46 U.S.C. 31322(f). In addition, the amendments to the AFA defined the terms ''commercial lender'' and ''lending syndicate'' and relocated the Mortgage Trustee provisions from 46 U.S.C. 12102(c)(4) to 46 U.S.C. 31322(f).

In order to ensure that MARAD would have time to implement new regulations related to the eligibility of lenders to hold a Preferred Mortgage on Fishing Industry Vessels and the extent to which they could exercise control over vessel owners through loan or mortgage covenants, Congress delayed the effective date of 46 U.S.C. 31322(a), as amended by section 202(b) of the AFA and section 2202 of the Supplemental

Appropriations Act, 2001, until April 1, 2003, and directed MARAD, in determining whether a vessel owner complies with the requirements of section 46 U.S.C. 12102(c), not to consider the citizenship status of a lender, in its capacity as a lender with respect to that vessel owner, until after April 1, 2003. Accordingly, we have not reviewed loan transactions in determining whether a vessel owner will qualify as a U.S. Citizen and will not begin to consider loan or mortgage transactions in our analysis until April 1, 2003, when the new requirements become effective.

Finally, section 2202(e) of the Supplemental Appropriations Act, 2001, included changes to section 213(g) of the AFA. As originally enacted, section 213(g) of the AFA stated that if the requirements of 46 U.S.C. 12102(c) or 46 U.S.C. 31322(a), as amended by the AFA, were determined to be inconsistent with the provisions of an international investment agreement to which the United States was a party with respect to the owner or mortgagee of a fishing industry vessel on October 1, 2001, the requirements of the AFA would not apply to the owner or mortgagee of that specific vessel to the extent of the inconsistency. Congress amended section 213(g) of the AFA to change the date upon which an ownership or mortgage interest was required to be in place in order for an owner or mortgagee to claim the protection of an international investment agreement. The date was changed from October 1, 2001, to July 24, 2001.

Discussion of Proposed Rule

Section 356.3 Definitions

Three new terms are being added to the definitions in § 356.3. The new terms are ''Commercial Lender,'' ''Fishing Industry Vessel,'' and ''Lender Syndicate.'' The definitions of ''Commercial Lender'' and ''Lender Syndicate'' mirror the definitions provided by Congress in sections 2202(g) and (h), respectively, of the Supplemental Appropriations Act, 2001. The term ''Fishing Industry Vessel'' is a new term that is being added to the regulation to refer to a Fishing Vessel, Fish Tender Vessel or Fish Processing Vessel as defined in § 356.3.

Paragraph (3) under the definition of ''Controlling Interest'' has been deleted because a state or federally chartered financial institution no longer has to qualify as a U.S. Citizen under the controlling interest standard in order to hold a Preferred Mortgage on a Fishing Industry Vessel.

The definition of the term ''Mortgage Trustee'' has been amended by removing the requirement in paragraph (2) that a Mortgage Trustee qualify as a U.S. Citizen and replacing that paragraph with language requiring the Mortgage Trustee to be eligible to hold a Preferred Mortgage pursuant to 46 CFR 356.19(a)(1)–(4). This change implements the broader range of parties that are now eligible to serve as a Mortgage Trustee.

The term ''Preferred Mortgage'' is amended to track the definition of 46 U.S.C. 31322(a)(4), as amended. The paragraphs under § 356.3 have been renumbered to incorporate the new definitions that have been added to the section.

The second sentence in the definition of ''Non-Citizen'' has been deleted because there is no longer any special citizenship status for a state or federally chartered financial institution that satisfies the controlling interest requirements of section 2(b) of the Shipping Act, 1916. Finally, the definition of ''Trust'' is amended to conform the definition of a mortgage trust to the new requirements for Mortgage Trustees.

Section 356.5 Affidavit of U.S. Citizenship

Paragraph 356.5(d) provides the form of the Affidavit of U.S. Citizenship to be used by a corporation. The form is amended to add a new paragraph 6 which indicates that the vessel owner has submitted the documents required by 46 CFR 356.13 of MARAD's regulations. The existing paragraph 6 is renumbered as paragraph 7. The inclusion of this new paragraph in the Affidavit of U.S. Citizenship was deemed to be necessary to help insure that vessel owners have reviewed the requirements and have submitted the required documentation.

Section 356.7 Methods of Establishing Ownership by United States Citizens

Paragraph 356.7(c)(1)(ii) has been amended by removing the language that applies the fair inference method to state or federally chartered financial institution that is acting as a Mortgage. The amendments to the American Fisheries Act deleted this standard to qualify as a Preferred Mortgagee.

Section 356.11 Impermissible Control by a Non-Citizen

Paragraph 356.11(a)(7) has been amended to make it clear that an entity that has not been approved as a U.S. Citizen, but which is eligible to hold a Preferred Mortgage pursuant to 46 CFR 356.19(a)(2)–(5), may exercise mortgage or loan covenants to cause the sale of a Fishing Industry Vessel. Similarly, a Mortgage Trustee that is qualified to hold a Preferred Mortgage pursuant to 46 CFR 356.19(a)(2)–(5) may exercise mortgage or loan covenants for a Non-Citizen or an entity that does not qualify under 46 CFR 356.19(a)(2)–(5), provided that the Citizenship Approval Officer has approved the use of such loan or mortgage covenants.

Section 356.13 Information Required To Be Submitted by Vessel Owners

Section 356.13(a) has been amended by clarifying in paragraph (5) that financing documents will only be required from entities that have not been approved to hold a Preferred Mortgage on Fishing Industry Vessels or that have not received general approval for their loan documents pursuant to 46 CFR 356.21.

A new element has also been added to the list of material that vessel owners are required to submit with their Affidavit of U.S. Citizenship. The new requirement is a certification for vessels that exceed 165 feet in registered length or 750 tons or that have engines capable of producing more than 3,000 horsepower. The vessel owner must provide a statement indicating whether such vessels meet certain requirements set forth in § 356.47 in order to be eligible for documentation with a fishery endorsement. While this information can be obtained by researching Coast Guard files on specific vessels, it was determined that we would not be able to research the information in a timely manner for all of the vessels that are subject to these new restrictions. Therefore, the vessel owner will be required to certify that the vessel is eligible for documentation pursuant to one of the exceptions in § 356.47.

Section 356.15 Filing of Affidavit of U.S. Citizenship

Section 356.15 has been amended by deleting sections 356.15(a), (b), and (c) that dealt with filing requirements prior to October 1, 2001. It is no longer necessary to maintain these requirements in the regulations now that the October 1, 2001, date has passed. The remaining paragraphs have been reordered in order to present the requirements for filing an Affidavit of U.S. Citizenship in a logical order.

A more significant amendment to § 356.15 is the addition of a new paragraph (d) that allows vessel owners or prospective vessel owners to request a letter ruling to determine whether a

proposed ownership structure will meet the requirements of the regulations and allow the owner to document a vessel with a fishery endorsement. In the preamble to the final regulations (65 FR 44860, 44865–66 (July 19, 2000)), we stated that we would issue letter rulings for vessel owners prior to June 1, 2001, but that we did not plan to issue letter rulings after October 1, 2001, because letter rulings necessarily involve hypothetical transactions and can absorb an inordinate amount of time and resources. While we continue to be concerned about the burden on limited resources that may be presented by requests for letter rulings, we recognize that the ability to obtain a letter ruling before a transaction is finalized is extremely useful to vessel owners and other parties that are required to qualify as U.S. Citizens. Therefore, we have amended the regulations to indicate that we will continue to issue letter rulings after October 1, 2001, to vessel owners and other entities that are required to qualify as U.S. Citizens under these regulations. If the process of issuing letter rulings becomes too burdensome, it may be necessary to reconsider this position in the future.

Section 356.17 Annual Requirements for Vessel Owners

Section 356.17 is amended by deleting the requirement that owners of multiple Fishing Industry Vessels file a certification prior to the renewal date for the certificate of documentation for each vessel. Therefore, a vessel owner will be allowed to file one consolidated Affidavit of U.S. Citizenship on an annual basis for all of its Fishing Industry Vessels. The Affidavit must be filed in conjunction with first certificate of documentation renewal for one of the owner's Fishing Industry Vessels in a calendar year. Although the vessel owner is not required to file a separate certification before the documentation renewal date for each vessel, the vessel owner is still required to notify the Citizenship Approval Officer during the course of the year if there are any changes with respect to the information submitted for particular vessels.

Section 356.19 Requirements to hold a Preferred Mortgage

Section 2202(b) of the Supplemental Appropriations Act, 2001, amended 46 U.S.C. 31322(a)(4) by deleting the definition of a Preferred Mortgage for Fishing Industry Vessels of 100 feet or greater where the mortgagee is a state or federally chartered financial institution that meets the controlling interest requirement of the 1916 Act, and by expanding the definition of Preferred Mortgage for such vessels by increasing the universe of entities that can act as the mortgagee. Accordingly, § 356.19 has been amended by deleting the requirements to hold a Preferred Mortgage in §§ 356.19(a)(2) through (d) and by adding new language to incorporate the new entities that will qualify to hold a Preferred Mortgage. The list of entities that will now qualify to hold a Preferred Mortgage includes: (1) Citizens of the United States who are eligible under 46 U.S.C. 12102(c) to own a vessel with a fishery endorsement; (2) state or federally chartered financial institutions that are insured by the Federal Deposit Insurance Corporation; (3) farm credit lenders established under title 12, chapter 23, of the United States Code [12 U.S.C. 2001 *et seq.*]; (4) commercial fishing and agriculture banks established pursuant to State law; (5) Commercial Lenders organized under the laws of the United States or of a State and eligible to own a vessel under 46 U.S.C. 12102(a); and (6) Mortgage Trustees that comply with the requirements of 46 U.S.C. 31322(f) and 46 CFR 356.27–356.31.

A new paragraph (b) has been added to the section to describe the information that the various entities must submit to the Citizenship Approval Officer so that a determination can be made as to whether the entities are qualified to hold a Preferred Mortgage on a Fishing Industry Vessel. A new paragraph (c) requires the certification for each entity to be submitted on an annual basis for as long as the entity holds a Preferred Mortgage on a Fishing Industry Vessel.

A new paragraph (d) was also added to make clear that an entity, other than a Mortgage Trustee, that is eligible to hold a Preferred Mortgage on a Fishing Industry Vessel may exercise rights and covenants under loan or mortgage agreements and is not required to obtain approval from MARAD. However, an entity that has not been determined by the Citizenship Approval Officer to be a U.S. Citizen that is eligible to own a Fishing Industry Vessel may not operate such a vessel except as authorized in 46 CFR 356.25. The ability of a Mortgage Trustee that holds a Preferred Mortgage on a Fishing Industry Vessel to exercise loan or mortgage covenants is addressed separately under § 356.27.

Section 356.21 General Approval of Non-Citizen Lender's Standard Loan or Mortgage Agreements

Section 356.21 has been amended to allow lenders that are not able to hold a Preferred Mortgage directly to get approval of the standard loan or mortgage agreements that they will use in conjunction with a Mortgage Trustee. This approval was available before for ''Non-Citizen Lenders;'' however, the amendments to the AFA have created a class of lenders that may or may not qualify as U.S. Citizens, but who are nevertheless eligible to hold a Preferred Mortgage directly and to exercise loan and mortgage covenants without requiring approval from MARAD. Accordingly, the term ''Non-Citizen Lender'' is replaced with the term ''lender'' throughout the section, and we have made it clear that the approval of standard loan and mortgage covenants is available to those entities that are not eligible to hold a Preferred Mortgage directly.

Finally, we have also amended paragraph (d) by deleting the penalty imposed on the owner of a fishing industry vessel if a lender uses loan or mortgage covenants that were not approved by the Citizenship Approval Officer. Instead, we have added language to indicate that the Citizenship Approval Officer may determine that the transaction results in an impermissible transfer of control to a Non-Citizen and that therefore, the arrangement does not satisfy the requirements to qualify as a Preferred Mortgage. Furthermore, the lender will lose its general approval and will be required to obtain approval of its loan and mortgage covenants on a case-by-case basis in the future.

Section 356.23 Restrictive Loan Covenants Approved for Use by Lenders

Section 356.23 has been amended by deleting the term ''Non-Citizen Lender'' in the title and the body of the section and substituting the term ''lenders'' in its place. As noted above, the amendments to the AFA have created a class of lenders that may or may not qualify as U.S. Citizens, but who are nevertheless eligible to hold a Preferred Mortgage directly and to exercise restrictive loan and mortgage covenants without requiring approval from MARAD. Accordingly, the term ''lender'' has been substituted for ''Non-Citizen Lender'' throughout the section because the approval of these restrictive loan covenants is not required for all ''Non-Citizen Lenders'' but rather only for those who do not meet the requirements to hold a Preferred Mortgage directly.

Section 356.27 Mortgage Trustee Requirements

The Mortgage Trustee requirements were amended to delete references to a requirement that the Mortgage Trustee demonstrate that it qualifies as a U.S. Citizen because Mortgage Trustees are

no longer required to qualify as a U.S. Citizen if they otherwise meet one of the requirements of 46 U.S.C. 31322(a)(4)(A)–(E). Where references to proving citizenship were included in § 356.27, we have substituted a requirement that the Mortgage Trustee supply the appropriate information to demonstrate that it complies with the requirements of 46 CFR 356.19(b)(1)–(5) to be eligible to hold a Preferred Mortgage on Fishing Industry Vessels.

A new paragraph (4) was also added to the Trustee Application which requires the Mortgage Trustee to agree to furnish the Citizenship Approval Officer with copies of the Trust Agreement as well as any other issuance, assignment or transfer of an interest related to the transaction if the beneficiary under the trust arrangement is not a Commercial Lender, a Lender Syndicate or an entity eligible to hold a Preferred Mortgage under 46 CFR 356.19(a)(1)–(5). This submission is necessary so that the Citizenship Approval Officer can make a determination that the trust arrangement does not result in an impermissible transfer of control.

Section 356.31 Maintenance of Mortgage Trustee Approval

Section 356.31 was amended by deleting the requirement in paragraph (a)(1) that a Mortgage Trustee provide an Affidavit of U.S. Citizenship on an annual basis. A Mortgage Trustee is no longer required to qualify as a U.S. Citizen, provided that it is otherwise qualified to hold a Preferred Mortgage on a Fishing Industry Vessel. Accordingly, Mortgage Trustees will be required to submit the appropriate documentation required under § 356.19(b)(1)-(5) to demonstrate that they are qualified to hold a Preferred Mortgage on Fishing Industry Vessels.

Section 356.45 Advance of Funds

Section 356.45(a)(2)(iv) does not currently allow Non-Citizens to advance funds to a vessel owner and to obtain a security interest in property of the vessel owner to secure the debt. Because Non-Citizens will now be allowed to utilize a Mortgage Trustee to hold a Preferred Mortgage on a vessel for the benefit of the Non-Citizen Lender, we propose to amend § 356.45(a)(2)(iv) by inserting language at the end that would allow a Non-Citizen to advance funds to a vessel owner and to have a security interest in the vessel or other collateral, provided that the Non-Citizen uses a qualified Mortgage Trustee to hold the mortgage and debt instrument for the benefit of the Non-Citizen.

Section 356.47 Special Requirements for Large Vessels

Section 356.47 implements special requirements for certain large vessels. Vessels that exceed 165 feet in registered length or 750 gross tons or that have engines capable of producing in excess of 3000 horsepower are ineligible for documentation with a fishery endorsement pursuant to 46 U.S.C. 12102(c)(5), as redesignated by section 2202(a)(2) of the Supplemental Appropriations Act, 2001. A vessel that meets any of the above criteria can be exempted from the prohibition on obtaining a fishery endorsement if it meets all of the following requirements: (1) A certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997; (2) the vessel is not placed under foreign registry after October 21, 1998; and (3) in the event of the invalidation of the fishery endorsement after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation.

There are a number of events that can render a vessel's documentation and fishery endorsement immediately invalid under Coast Guard regulations. If one of these events occurs, such as the death of one of the tenants in a tenancy by the entirety ownership arrangement, and the owner does not apply for a new fishery endorsement within 15 business days, the vessel could potentially suffer a permanent loss of its eligibility to be documented with a fishery endorsement. Because of the harsh result that could occur if one of these events occurred and the vessel owner did not address the issue within the prescribed time period, MARAD's regulations state that the 15 day period will not begin to run until the vessel owner receives written notification from MARAD or the Coast Guard identifying the reason for such invalidation. In other words, the vessel's fishery endorsement will not be deemed invalid for purposes of complying with § 356.47(b)(3) until notice is given. This requirement ensures that a vessel owner is aware of the consequences of failing to apply for a new fishery endorsement within the specified period of time in the event of an invalidation.

We believe that the sale in bankruptcy of a Fishing Industry Vessel that meets the criteria of paragraph 356.47(a) can also lead to an unintended and harsh result if the vessel is purchased by a Mortgagee that is not qualified to own a vessel with a fishery endorsement. A Mortgagee is permitted under 46 U.S.C. 31329 to purchase a vessel on which it holds a Preferred Mortgage, even though the Mortgagee may not be qualified to own a documented vessel. The Coast Guard's regulations at 46 CFR 67.161 provide that such a sale to a Mortgagee is not deemed to be a foreign sale or to invalidate the vessel's documentation for purposes of complying with certain specified statutory provisions; however, the endorsement on the vessel is not deemed to remain valid. Therefore, as a practical matter, a Mortgagee that is not qualified to own a Fishing Industry Vessel is restricted from purchasing such a vessel on which it holds a mortgage and subsequently holding the vessel for resale to a qualified buyer, as permitted by 46 U.S.C. 31329(b), because the vessel would lose its eligibility to be documented with a fishery endorsement if an application for a new fishery endorsement is not submitted within 15 business days by a qualified owner. Consequently, a Mortgagee would be deprived of using a statutorily permitted means of protecting the value of its collateral by purchasing the vessel and subsequently selling the vessel to a qualified buyer. Furthermore, this could adversely impact the ability of vessel owners to obtain financing from entities that are eligible to hold a Preferred Mortgage on Fishing Industry Vessels, but which are not eligible to own Fishing Industry Vessels. Accordingly, we have amended § 356.47(b)(3) to clarify that a Fishing Industry Vessel's fishery endorsement will not be deemed invalid for purposes of complying with this paragraph, if the vessel is purchased pursuant to 46 U.S.C. 31329 by a Mortgagee that is not eligible to own a vessel with a fishery endorsement, provided that the Mortgagee is eligible to hold a Preferred Mortgage on such vessel at the time of the purchase.

We also propose to amend § 356.47 by adding a new paragraph (e) that will require the owners of vessels that are greater than 165 feet in registered length or 750 gross tons or that have engines capable of producing in excess of 3,000 shaft horsepower to submit with their annual Affidavit of U.S. Citizenship a certification that the vessel is eligible to be documented with a fishery endorsement because it complies with § 356.47(b), (c) or (d) of these regulations. While this information can be obtained by researching Coast Guard files on specific vessels, we have determined that we would not be able to research the information in a timely manner for all of the vessels that are subject to these new restrictions. Therefore, the vessel owner will be required to certify that the vessel is

eligible for documentation pursuant to one of the exceptions in § 356.47.

§ 356.51 Exemptions for Specific Vessels

Paragraph (a) states that certain vessels will be exempt from the requirements of 46 U.S.C. 12102(c) ''until such time as 50% of the interest owned and controlled in the vessel changes.'' We added the phrase ''after October 1, 2001,'' after ''such time'' in paragraph (a) in order to clarify that the ownership structure on October 1, 2001, is the baseline from which we will measure any change in ownership of a vessel that is exempt from the requirements of 46 U.S.C. 12102(c) pursuant to this section.

In addition, there were several technical amendments to § 356.51 to correct typographical errors in the final regulation. The Official Number for the vessel EXCELLENCE was corrected in § 356.51(a)(1) and (c). Section 356.51(e) was deleted and a reworded version of the section was inserted as a new paragraph (d).

The current paragraph (d) relates to the exemption from the ownership and control requirements for Fishing Industry Vessels engaged in fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council and for purse seine vessels that are engaged in tuna fishing in the Pacific Ocean outside of the exclusive economic zone of the United States or pursuant to the South Pacific Regional Fisheries Treaty. Such vessels are exempted, pursuant to 46 U.S.C. 12102(c)(4), as redesignated by section 2202 of the Supplemental Appropriations Act, 2001, from complying with the new ownership and control requirements of the AFA. Our current regulations exempt the vessels from the requirement to meet the higher ownership and control standard of the AFA; however, the regulations require the owners of such vessels to file an Affidavit of U.S. Citizenship with MARAD to demonstrate that the vessel complies with the ownership and control standard that existed prior to the passage of the AFA. Because many of these vessels and the vessel owners are located in remote areas, the requirement to file an Affidavit of U.S. Citizenship with MARAD has proven to be a difficult requirement for many vessel owners to satisfy. Furthermore, upon further consideration, we have determined that the intent of the statutory exemption was to allow the owners of such vessels to forgo the requirement to file an Affidavit of U.S. Citizenship with MARAD. Accordingly, we are proposing to delete the requirement to file an Affidavit of U.S. Citizenship with MARAD, and we are adding a new paragraph (f) that will require the vessel owner to notify both MARAD's Citizenship Approval Officer and the Coast Guard's National Vessel Documentation Center that it is claiming the exemption available to the vessel under 46 CFR 356.51(e). Vessel owners will then be required to follow the Coast Guard's regulatory procedures that were in effect prior to the passage of the AFA to document the vessel with a fishery endorsement.

Section 356.53 Conflicts With International Agreements

Section 213(g) of the AFA states that if the requirements of 46 U.S.C. 12102(c) or 46 U.S.C. 31322(a), as amended by the AFA, are determined to be inconsistent with the provisions of an international investment agreement to which the United States was a party with respect to the owner or mortgagee of a fishing industry vessel on October 1, 2001, the requirements of the AFA will not apply to the owner or mortgagee of that specific vessel to the extent of the inconsistency. Section 2202(e) of the Supplemental Appropriations Act, 2001, amends section 213(g) of the AFA to change the date upon which an ownership or mortgage interest must be in place in order for an owner or mortgagee to claim the protection of an international investment agreement. The date was changed from October 1, 2001, to July 24, 2001. Accordingly, we have amended § 356.53 by substituting the July 24, 2001 date for ''October 1, 2001'' and ''September 30, 2001'' where those dates appear in the section.

We propose to amend paragraph (d) to give the Chief Counsel the discretion as to whether a petition under this section should be published in the **Federal Register**. The decision as to whether a petition should be published in the **Federal Register** will hinge on whether the petition contains new and unique arguments on which the Chief Counsel believes that the public should be given an opportunity to comment. Because of the expense and time involved in publishing these petitions in the **Federal Register** and the fact that no comments were received in response to any of the petitions that were published in the last year, we determined that it would be best to provide discretion to the Chief Counsel to determine whether a petition warrants publication and public comment.

The proposed amendments also include the deletion of paragraph (b)(5), which addresses the timing of submissions prior to October 1, 2001. This section is no longer necessary now that October 1, 2001, has passed.

Finally, section 213(g) of the AFA provides that a vessel owner is not subject to the requirements of the AFA to the extent that those requirements are found to be inconsistent with an international agreement relating to foreign investment to which the United States is a party with respect to the vessel owner. However, section 213(g) also states that the requirements of the AFA shall apply to the owner if any ownership interest in the vessel owner is transferred to or otherwise acquired by a foreign individual or entity after July 24, 2001. This requirement is incorporated in the regulations in paragraph (g)(2). Paragraph (g)(2) states that we will consider a ''transfer of ownership interest'' to be a transfer of interest in the primary vessel owner. We believe that our original regulatory interpretation of what constitutes a transfer of ownership interest is too narrow and should be defined more broadly in the regulation. Accordingly, we propose to delete paragraph (g)(2) and to replace it with new paragraphs (g)(2)–(4).

As amended, paragraph (g)(2) will broaden our interpretation of what constitutes a transfer of ownership interest from merely a transfer of interest in the primary vessel owning entity, to both: (1) A transfer of direct ownership interest in the primary vessel owning entity; and (2) a transfer of an indirect ownership interest at any tier where such transfer would result in a transfer of 5% or more of the interest in the primary vessel owning company. Furthermore, the proposed paragraph (g)(2) clarifies that a vessel owner can not circumvent these requirements by creating additional ownership layers. Accordingly, if the primary vessel owning entity is wholly owned by another entity, we will consider the parent entity to be the primary vessel owner.

Rulemaking Analysis and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

We have reviewed this NPRM under Executive Order 12866 and have determined that this is not a significant regulatory action. Additionally, this NPRM is not likely to result in an annual effect on the economy of $100 million or more. The purpose of this NPRM is: to implement amendments to the requirements to hold a Preferred Mortgage on Fishing Industry Vessels of 100 feet or greater in registered length; to implement statutory changes to section 213(g) of the AFA, which allows

vessel owners and mortgagees to petition MARAD for a determination that the AFA does not apply to them because it is inconsistent with an international investment agreement; and to make other technical changes and revisions to MARAD's regulations regarding the ownership and control of Fishing Industry Vessels by U.S. Citizens.

This NPRM is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979). The costs and benefits associated with this rulemaking are so minimal that no further analysis is necessary. Because the economic impact should be minimal, further regulatory evaluation is not necessary.

Federalism

We analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132 (''Federalism'') and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The regulations have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Therefore, consultation with State and local officials was not necessary.

Regulatory Flexibility Act

This rulemaking will not have a significant economic impact on a substantial number of small entities. The proposed regulations relating to vessel owners are of a technical nature that will not result in a significant economic impact. Furthermore, this NPRM will make it easier for owners of Fishing Industry Vessels to obtain financing for their vessels by expanding the universe of lenders that are eligible to hold a Preferred Mortgage on a Fishing Industry Vessel as security for a loan. Therefore, we certify that this NPRM will not have a significant economic impact on a substantial number of small business entities.

Environmental Impact Statement

We have analyzed this NPRM for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order (''MAO'') 600–1, ''Procedures for Considering Environmental Impacts,'' 50 FR 11606 (March 22, 1985), the preparation of an Environmental Assessment, and an Environmental Impact Statement, or a Finding of No Significant Impact for this rulemaking is not required. This rulemaking involves administrative and procedural regulations which clearly have no environmental impact.

Paperwork Reduction Act

The Office of Management and Budget (''OMB'') previously reviewed the information collection requirements under 46 CFR part 356 and assigned OMB control number 2133–0530. This NPRM establishes a new requirement for the collection of information. OMB will be requested to review and approve the information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et. seq.*). We request that commenters address in their comments whether the information collection in this proposal is necessary for the agency to properly perform its functions and will have practical utility, the accuracy of the burden estimates, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

In accordance with the Paperwork Reduction Act, this notice announces MARAD's intentions to request an amendment to its approval for the subject information collection to allow processing of applications to determine the eligibility of owners of vessels of 100 feet or greater in registered length to obtain a fishery endorsement to the vessel's documentation, to determine the eligibility of lending institutions to hold a Preferred Mortgage on a Fishing Vessel, a Fish Processing Vessel, or a Fish Tender Vessel of 100 feet or greater in registered length and to determine the eligibility of Mortgage Trustees to hold a Preferred Mortgage on such vessels for the benefit of a Non-Citizen Lender. Copies of this request may be obtained from the Office of Chief Counsel at the address given above under **ADDRESSES.**

Title of Collection: [Eligibility of U.S.-Flag Vessels of 100 Feet or Greater In Registered Length to Obtain a Fishery Endorsement to the Vessel's Documentation] 46 CFR part 356.

Type of Request: Modification of existing information collection.

OMB Control Number: 2133–0530.

Form Number: None.

Expiration Date of Approval: Three years following approval by OMB.

Summary of the Collection of Information: Owners of vessels of 100 feet or greater in registered length who wish to obtain a fishery endorsement to the vessel's documentation are currently required to file an Affidavit of United States Citizenship demonstrating that they comply with the requirements of section 2(c) of the 1916 Act, 46 App. U.S.C. 802(c) and with the requirements of 46 U.S.C. 12102(c). Other documentation that must be submitted with the Affidavit includes a copy of the Articles of Incorporation, Bylaws or other comparable documents, a description of any management agreements entered into with Non-Citizens, a certification that any management contracts with Non-Citizens do not convey control in a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel to a Non-Citizen, and a copy of any time charters or voyage charters with Non-Citizens.

Mortgagees who plan to finance vessels of 100 feet or greater in registered length that have a fishery endorsement or for which a fishery endorsement to the vessel's documentation is sought must submit a certification to demonstrate that they meet the statutory definition of a ''Preferred Mortgagee'' at 46 U.S.C. 31322(a)(4). Prior to this rulemaking a Preferred Mortgagee was required to submit an Affidavit of United States Citizenship to demonstrate that it complies with the United States Citizen ownership and control requirements of section 2(c) of the 1916 Act, 46 App. U.S.C. 802(c), or in the case of a state or federally chartered financial institution, the Controlling Interest requirements of section 2(b) of the 1916 Act. If a Mortgagee does not comply with the definition of a ''Preferred Mortgagee,'' it must use a Mortgage Trustee that qualifies as a Citizen of the United States to hold the Preferred Mortgage for the benefit of the Non-Citizen Lender. The Mortgage Trustee must file an application for approval as a Mortgage Trustee that includes evidence that it is eligible to hold a Preferred Mortgage and that it complies with the requirements of 46 U.S.C. 31322. In addition to the Affidavit of United States Citizenship, corporations and other entities must submit documents which demonstrate that the entity is organized and existing under the laws of the United States, such as Articles of Incorporation and Bylaws, or other comparable documents. Annually, owners of vessels, mortgagees and applicable mortgage trustees must submit prescribed citizenship information to MARAD's Citizenship Approval Officer.

Need and Use of the Information: The information collection will be used to verify statutory compliance with the United States Citizen ownership and control requirements under section 2(b) and section 2(c) of the 1916 Act and 46

U.S.C. 12102(c) for owners, charterers, Mortgagees, and Mortgage Trustees of vessels of 100 feet or greater in registered length for which a fishery endorsement to the vessel's documentation is being sought. The information collection is being modified to require owners of vessels that are greater than 165 feet or 750 gross tons or that have engines capable of producing more than 3000 horsepower to submit a certification indicating that the vessel was documented with a fishery endorsement on September 25, 1997 and that the fishery endorsement has remained valid, therefore the vessel is eligible for continued documentation with a fishery endorsement. In addition, rather than demonstrate that they meet specific U.S. Citizenship standards, Preferred Mortgagees will now be required to submit information to demonstrate that they comply with the new statutory definition of a Preferred Mortgagee at 46 U.S.C. 31322(a)(4). Without the information it would be impossible to know whether certain vessels are eligible for documentation with a fishery endorsement and whether a Preferred Mortgagee is eligible to hold a Preferred Mortgage on a Fishing Industry Vessel. This amendment to the collection of information does not result in an increased burden, but it does result in a change in the type of information that is being collected.

Description of Respondents: Owners, Bareboat Charterers, Mortgagees, and Mortgage Trustees of vessels of 100 feet or greater in registered length for which a fishery endorsement to the Vessel's documentation is being sought.

Annual Responses: Responses will be required on an occasional and an annual basis. Updates will be required during the year if there are changes to the ownership or financing of the vessel. There are approximately 550 vessels and 400 vessel owners that are subject to this regulation. Approximately 450 responses are expected from owners and bareboat charterers and less than 50 responses are expected from Mortgagees and Mortgage Trustees.

Annual Burden: 1000 hours.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It would not 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. This proposed rule is the least burdensome alternative that achieves the objective of the rule.

Regulatory Identification Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number is contained in the heading of this document to cross-reference this action with the Unified Agenda.

List of Subjects in 46 CFR Part 356

Citizenship, Fishery endorsement, Fishing industry vessels, Fishing vessels, International investment agreements, Mortgages, Mortgage trustee, Preferred mortgages.

Accordingly, we propose to amend 46 CFR part 356 as follows:

PART 356—REQUIREMENTS FOR VESSELS OF 100 FEET OR GREATER IN REGISTERED LENGTH TO OBTAIN A FISHERY ENDORSEMENT TO THE VESSEL'S DOCUMENTATION

1. The authority citation for part 356 is revised to read as follows:

Authority: 46 App. U.S.C. 12102; 46 App. U.S.C. 31322; Public Law 105–277, Division C, Title II, Subtitle I, section 203 (46 App. U.S.C. 12102 note), section 210(e), and section 213(g), 112 Stat. 2681; Public Law 107–20, section 2202, 115 Stat. 168–170; 49 CFR 1.66.

Subpart A—General Provisions

§ 356.3 [Amended]

2. Section 356.3 is amended as follows:

a. Paragraphs (g) and (h) are redesignated as paragraphs (h) and (i).

b. Paragraphs (i) through (k) are redesignated as paragraphs (k) through (m).

c. Paragraphs (l) through (x) are redesignated as paragraphs (o) through (aa).

d. Paragraph (e)(2) and newly designated paragraphs (h)(2), (u) and (y)(2) are revised.

e. New paragraphs (g), (j), and (n) are added.

f. In newly designated paragraph (q), paragraph (q)(2) is removed, paragraph (q)(3) is redesignated as paragraph (q)(2), and new paragraph (q)(3) is added.

g. In newly designated paragraphs (p) and (q), add the word ''Fishing'' following the word ''Industry'' .

h. In newly designated paragraph (s), remove the second sentence.

The additions and revisions read as follows:

§ 356.3 Definitions.

* * * * *

(e) * * *

(2) Other criteria that must be met by entities other than individuals include:

(i) In the case of a corporation:

(A) The chief executive officer, by whatever title, and chairman of the board of directors and all officers authorized to act in the absence or disability of such persons must be Citizens of the United States; and

(B) No more of its directors than a minority of the number necessary to constitute a quorum are Non-Citizens;

(ii) In the case of a partnership all general partners are Citizens of the United States;

(iii) In the case of an association:

(A) All of the members are Citizens of the United States;

(B) The chief executive officer, by whatever title, and the chairman of the board of directors (or equivalent committee or body) and all officers authorized to act in their absence or disability are Citizens of the United States; and,

(C) No more than a minority of the number of its directors, or equivalent, necessary to constitute a quorum are Non-Citizens;

(iv) In the case of a joint venture:

(A) It is not determined by the Citizenship Approval Officer to be in effect an association or a partnership; and,

(B) Each co-venturer is a Citizen of the United States;

(v) In the case of a Trust that owns a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel:

(A) The Trust is domiciled in the United States or a State;

(B) The Trustee is a Citizen of the United States; and

(C) All beneficiaries of the trust are persons eligible to document vessels pursuant to the requirements of 46 U.S.C. 12102;

(vi) In the case of a Limited Liability Company (LLC) that is not found to be in effect a general partnership requiring all of the general partners to be Citizens of the United States:

(A) Any Person elected to manage the LLC or who is authorized to bind the LLC, and any Person who holds a position equivalent to a Chief Executive Officer, by whatever title, and the Chairman of the Board of Directors in a corporation are Citizens of the United States; and,

(B) Non-Citizens do not have authority within a management group, whether through veto power, combined voting, or otherwise, to exercise control over the LLC.

* * * * *

(g) *Commercial Lender* means an entity that is primarily engaged in the business of lending and other financing transactions and that has a loan portfolio in excess of $100,000,000, of which not more than 50 per centum in dollar amount consists of loans to borrowers in the commercial fishing industry, as certified by the Commercial Lender to the Citizenship Approval Officer.

* * * * *

(h) * * *

(2) Other criteria that must be met by entities other than an individual include:

(i) In the case of a corporation:

(A) The Chief Executive Officer, by whatever title, and the Chairman of the Board of Directors (or equivalent committee or body) and all officers authorized to act in their absence or disability are Citizens of the United States; and,

(B) No more than a minority of the number of its directors, or equivalent, necessary to constitute a quorum are Non-Citizens;

(ii) In the case of a partnership all general partners are Citizens of the United States;

(iii) In the case of an association:

(A) The Chief Executive Officer, by whatever title, and the Chairman of the Board of Directors (or equivalent committee or body) and all officers authorized to act in their absence or disability are Citizens of the United States; and,

(B) No more than a minority of the number of its directors, or equivalent, necessary to constitute a quorum are Non-Citizens;

(iv) In the case of a joint venture:

(A) It is not determined by the Citizenship Approval Officer to be in effect an association or partnership; and

(B) A majority of the equity is owned by and vested in Citizens of the United States free and clear of any trust or fiduciary obligation in favor of any Non-Citizen;

(v) In the case of a Limited Liability Company (LLC) that is not found to be in effect a general partnership requiring all of the general partners to be Citizens of the United States:

(A) Any Person elected to manage the LLC or who is authorized to bind the LLC, and any Person who holds a position equivalent to the Chief Executive Officer, by whatever title, and the Chairman of the Board of Directors in a corporation and any Persons authorized to act in their absence are Citizens of the United States; and,

(B) Non-Citizens do not have authority within a management group, whether through veto power, combined voting, or otherwise, to exercise control over the LLC;

* * * * *

(j) *Fishing Industry Vessel* means a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel;

* * * * *

(n) *Lender Syndicate* means an arrangement established for the combined extension of credit of not less than $20,000,000 made up of four or more entities that each have a beneficial interest, held through an agent, under a trust arrangement established pursuant to paragraph 46 U.S.C. 31322(f), no one of which may exercise powers thereunder without the concurrence of at least one other unaffiliated beneficiary.

* * * * *

(s) *Non-Citizen Lender* means a lender that does not qualify as a Citizen of the United States.

* * * * *

(u) *Preferred Mortgage* means a mortgage on a Fishing Industry Vessel that has as the Mortgagee:

(1) A person eligible to own a vessel with a fishery endorsement under 46 U.S.C. 12102(c);

(2) A state or federally chartered financial institution that is insured by the Federal Deposit Insurance Corporation;

(3) A farm credit lender established under title 12, chapter 23, of the United States Code [12 U.S.C. 2001 *et seq.*];

(4) A commercial fishing and agriculture bank established pursuant to State law;

(5) A commercial lender organized under the laws of the United States or of a State and eligible to own a vessel under 46 U.S.C. 12102(a); or

(6) A Mortgage Trustee that complies with the requirements of 46 U.S.C. 31322(f) and 46 CFR 356.27–356.31.

* * * * *

(y) * * *

(2) In the case of a mortgage trust, a trust that is domiciled in and existing under the laws of the United States, or of a State, that has as its trustee a Mortgage Trustee as defined in § 356.3, and that is authorized to act on behalf of a beneficiary in accordance with the requirements of §§ 356.27–356.31.

* * * * *

Subpart B—Ownership and Control

3. In § 356.5, revise paragraph (d) to read as follows:

§ 356.5 Affidavit of U.S. Citizenship.

* * * * *

(d) The prescribed form of the Affidavit of U.S. Citizenship is as follows:

State of _____ County of _____ Social Security Number: _____I, _____ (Name) of _____ (Residence address) being duly sworn, depose and say:

1. That I am the _____ (Title of office(s) held) of _____, (Name of corporation) a corporation organized and existing under the laws of the State of _____ (hereinafter called the ''Corporation''), with offices at _____, (Business address) in evidence of which incorporation a certified copy of the Articles or Certificate of Incorporation (or Association) is filed herewith (or has been filed) together with a certified copy of the corporate Bylaws. [Evidence of continuing U.S. citizenship status, including amendments to said Articles or Certificate and Bylaws, should be filed within 45 days of the annual documentation renewal date for vessel owners. Other parties required to provide evidence of U.S. citizenship status must file within 30 days after the annual meeting of the stockholders or annually, within 30 days after the original affidavit if there has been no meeting of the stockholders prior to that time.];

2. That I am authorized by and in behalf of the Corporation to execute and deliver this Affidavit of U.S. Citizenship;

3. That the names of the Chief Executive Officer, by whatever title, the Chairman of the Board of Directors, all Vice Presidents or other individuals who are authorized to act in the absence or disability of the Chief Executive Officer or Chairman of the Board of Directors, and the Directors of the Corporation are as follows:[1]

Name	Title	Date and Place of Birth

(The foregoing list should include the officers, whether or not they are also directors, and all directors, whether or not they are also officers.) Each of said individuals is a Citizen of the United States by virtue of birth in the United States, birth abroad of U.S. citizen parents, by naturalization, by naturalization during minority through the naturalization of a parent, by marriage (if a woman) to a U.S. citizen prior to September 22, 1922, or as otherwise authorized by law, except (give name and nationality of all Non-Citizen officers and directors, if any). The By-laws of the Corporation provide that _____ (Number) of the directors are necessary to constitute a quorum; therefore, the Non-Citizen directors named represent no more than a minority of the number necessary to constitute a quorum.

4. Information as to stock, where Corporation has 30 or more stockholders:[2]

That I have access to the stock books and records of the Corporation; that said stock books and records have been examined and disclose (a) that, as of _____, (Date) the Corporation had issued and outstanding

[1] Offices that are currently vacant should be noted when listing Officers and Directors in the affidavit.

[2] Strike inapplicable paragraph 4.

_____ (Number) shares of _____, (Class) the only class of stock of the Corporation issued and outstanding [if such is the case], owned of record by _____ (Number) stockholders, said number of stockholders representing the ownership of the entire issued and outstanding stock of the Corporation, and (b) that no stockholder owned of record as of said date five per centum (5%) or more of the issued and outstanding stock of the Corporation of any class. [If different classes of stock exist, give the same information for each class issued and outstanding, showing the monetary value and voting rights per share in each class. If there is an exception to the statement in clause (b), the name, address, and citizenship of the stockholder and the amount and class of stock owned should be stated and the required citizenship information on such stockholder must be submitted.] That the registered addresses of _____ owners of record of _____ shares of the issued and outstanding _____ (Class) stock of the Corporation are shown on the stock books and records of the Corporation as being within the United States, said _____ shares being _____ per centum (_____%) of the total number of shares of said stock (each class). [The exact figure as disclosed by the stock books of the corporation must be given and the per centum figure must not be less than 65 per centum for a corporation that must satisfy the controlling interest requirements of section 2(b) of the Shipping Act, 1916, 46 App. U.S.C. § 802(b), or not less than 95 per centum for an entity that is demonstrating ownership in a vessel for which a fishery endorsement is sought. These per centum figures apply to corporate stockholders as well as to the primary corporation. The same statement should be made with reference to each class of stock, if there is more than one class.]

4. Information as to stock, where Corporation has less than 30 stockholders: That the information as to stock ownership, upon which the Corporation relies to establish that 75% of the stock ownership is vested in Citizens of the United States, is as follows:

_____
Name of Stockholder

_____
Number of shares owned (each class)

_____
Percentage of shares owned (each class)

_____

and that each of said individual stockholders is a Citizen of the United States by virtue of birth in the United States, birth abroad of U.S. citizen parents, by naturalization during minority through the naturalization of a parent, by marriage (if a woman) to a U.S. citizen prior to September 22, 1922, or as otherwise authorized by law. [**Note:** If a corporate stockholder, give information with respect to State of incorporation, the names of the officers, directors, and stockholders and the appropriate percentage of shares held, with statement that they are all U.S. citizens. Nominee holders of record of 5% or more of any class of stock and the beneficial owners thereof should be named and their U.S. citizenship information submitted to MARAD.]

5. That 75% of the interest in (each) said Corporation, as established by the information hereinbefore set forth, is owned by Citizens of the United States; that the title to 75% of the stock of (each) class of the stock of (each) said Corporation is vested in Citizens of the United States free from any trust or fiduciary obligation in favor of any person not a Citizen of the United States; that such proportion of the voting power of (each) said Corporation is vested in Citizens of the United States; that through no contract or understanding is it so arranged that more than 25% the voting power of (each) said Corporation may be exercised, directly or indirectly, in behalf of any person who is not a Citizen of the United States; and that by no means whatsoever, is any interest in said Corporation in excess of 25% conferred upon or permitted to be exercised by any person who is not a Citizen of the United States; and [3]

[**Note:** An entity that is required to comply with the controlling interest requirements of section 2(b) of the Shipping Act, 1916, 46 App. U.S.C. 802(b), should use the following alternate paragraph (5) and strike the inapplicable paragraph (5).]

5. That the Controlling Interest in (each) said Corporation, as established by the information hereinbefore set forth, is owned by Citizens of the United States; that the title to a majority of the stock of (each) said Corporation is vested in Citizens of the United States free from any trust or fiduciary obligation in favor of any person not a Citizen of the United States; that such proportion of the voting power of (each) said Corporation is vested in Citizens of the United States; that through no contract or understanding is it so arranged that the majority of the voting power of (each) said Corporation may be exercised, directly or indirectly, in behalf of any person who is not a Citizen of the United States; and that by no means whatsoever, is control of (each) said Corporation conferred upon or permitted to be exercised by any person who is not a Citizen of the United States; and

6. That the affiant has submitted all of the necessary documentation required under 46 CFR 356.13 in connection with this Affidavit of U.S. Citizenship for the vessels herein identified.

Vessel Name	Official Number
1._____	_____
2._____	_____

[**Note:** Paragraph 7 should be included in the Affidavit of U.S. Citizenship submitted by an entity that is listed as the owner on the Certificate of Documentation for a Fishing Industry Vessel.]

7. That affiant has carefully examined this affidavit and asserts that all of the statements and representations contained therein are true to the best of his knowledge, information, and belief.

_____
(Name and title of affiant)

_____ _____
(Signature of affiant) Date

Penalty for False Statement: A fine or imprisonment, or both, are provided for violation of the proscriptions contained in 18 U.S.C. 1001 (*see also,* 18 U.S.C. 286, 287).

* * * * *

[3] Strike inapplicable paragraph 5.

§ 356.7 [Amended]

4. Section 356.7(c)(1)(ii) is amended by removing ''in the case of a state or federally chartered financial institution acting as a Mortgagee''.

§ 356.11 [Amended]

5. Section 356.11(a)(7) is amended as follows:

a. By removing ''through approved loan covenants where there is a Preferred Mortgage on the vessel''; and

b. By inserting after the word ''than'' the following: ''by an entity that is eligible to hold a Preferred Mortgage on the vessel pursuant to § 356.19(a)(2) through (5); by an approved Mortgage Trustee that meets the requirements of § 356.19(a)(2) through (5) and that is exercising loan or mortgage covenants on behalf of a beneficiary that does not qualify as a U.S. Citizen or that does not satisfy the requirements of § 356.19(a)(2) through (5), provided that the loan or mortgage covenants have been approved by the Citizenship Approval Officer;''.

Subpart C—Requirement for Vessel Owners

§ 356.13 [Amended]

6. Section 356.13 is amended as follows:

a. By removing the word ''and'' at the end of paragraph (a)(11);

b. By removing the period at the end of paragraph (a)(12) and inserting in lieu thereof a semicolon followed by the word ''and'';

c. By revising paragraph (a)(5); and

d. By adding a new paragraph (a)(13).

The additions read as follows:

§ 356.13 Information required to be submitted by vessel owners.

(a) * * *

(5) Any loan agreements or other financing documents applicable to a Fishing Industry Vessel where the lender has not been approved by MARAD to hold a Preferred Mortgage on Fishing Industry Vessels, excepting standard loan documents that have received general approval from the Citizenship Approval Officer pursuant to § 356.21 for use with an approved Mortgage Trustee.

* * * * *

(13) A copy of the Large Vessel Certification required by § 356.47.

* * * * *

7. Section 356.15 is amended as follows:

a. By removing paragraphs (a), (b), and (c);

b. By redesignating paragraphs (e) and (f) as paragraphs (a) and (b);

c. By redesignating paragraph (d) as paragraph (c) and by removing the

words ''will necessarily'' from the third sentence and inserting in lieu thereof the word ''may''; and

d. By adding a new paragraph (d) to read as follows:

§ 356.15 Filing of affidavit of U.S. Citizenship.

* * * * *

(d) The owner of Fishing Industry Vessel or a prospective owner of such a vessel may request a letter ruling from the Citizenship Approval Officer in order to determine whether the owner under a proposed ownership structure will qualify as a U.S. Citizen that is eligible to document the vessel with a fishery endorsement. A complete request for a letter ruling must be accompanied by an Affidavit of U.S. Citizenship and all other documentation required by § 356.13. The Citizenship Approval Officer will issue a letter ruling based on the ownership structure that is proposed; however, the Citizenship Approval Officer reserves the right to reverse the determination if any of the elements of the ownership structure, contractual arrangements, or other material relationships are altered when the vessel owner submits the executed Affidavits and supporting documentation.

§ 356.17 [Amended]

8. Section 356.17 is amended in paragraph (b) as follows:

a. By removing the word ''only'' in the first sentence and the entirety of the third sentence; and

b. By removing the word ''vessels'' after ''multiple'' in the second sentence and inserting in lieu thereof the term ''Fishing Industry Vessels''.

Subpart D—Mortgages

9. Section 356.19 is revised to read as follows:

§ 356.19 Requirements to hold a Preferred Mortgage.

(a) In order for a Mortgagee to be eligible to obtain a Preferred Mortgage on a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel, it must be:

(1) A Citizen of the United States;

(2) A state or federally chartered financial institution that is insured by the Federal Deposit Insurance Corporation;

(3) A farm credit lender established under title 12, chapter 23, of the United States Code [12 U.S.C. 2001 *et seq.*];

(4) A commercial fishing and agriculture bank established pursuant to State law;

(5) A commercial lender organized under the laws of the United States or of a State and eligible to own a vessel under 46 U.S.C. 12102(a); or

(6) A Mortgage Trustee that complies with the requirements of 46 U.S.C. 31322(f) and 46 CFR 356.27 through 356.31.

(b) A Mortgagee must demonstrate to the Citizenship Approval Officer that it satisfies one of the requirements set forth in § 356.19(a) before it will qualify to hold a Preferred Mortgage on a Fishing Industry Vessel. The required information that must be submitted in order to make such a demonstration for each category in paragraph (a) of this section is as follows:

(1) If a Mortgagee plans to qualify as a United States Citizen under paragraph (a)(1) of this section, the Mortgagee must file an Affidavit of United States Citizenship demonstrating that it complies with the citizenship requirements of 46 U.S.C. 12102(c) and section 2(c) of the 1916 Act, which require that 75% of the ownership and control in the Mortgagee be vested in U.S. Citizens at each tier and in the aggregate. In addition to the Affidavit of U.S. Citizenship, a certified copy of the Articles of Incorporation and Bylaws, or other comparable corporate documents must be submitted to the Citizenship Approval Officer.

(2) A state or federally chartered financial institution must provide a certification that indicates whether it is a state chartered or federally chartered financial institution and that certifies that it is insured by the Federal Deposit Insurance Corporation (''FDIC''). The certification must include the FDIC Certification Number assigned to the institution.

(3) A farm credit lender must provide a certification indicating that it qualifies as a farm credit lender established under title 12, chapter 23, of the United States Code [12 U.S.C. 2001 *et seq.*];

(4) A commercial fishing and agriculture bank must provide a certification indicating that it has been lawfully established as a commercial fishing and agriculture bank pursuant to State law and that it is in good standing;

(5) A Commercial Lender must provide evidence that it is engaged primarily in the business of lending and other financing transactions and a certification that it has a loan portfolio in excess of $100 million, of which no more than 50 percent of the dollar amount of the loan portfolio consists of loans to borrowers in the commercial fishing industry. The certification must include information regarding the approximate size of the loan portfolio and the percentage of the portfolio that consists of loans to borrowers in the commercial fishing industry. In addition, a Commercial Lender must submit an affidavit to the Citizenship Approval Officer to demonstrate that it qualifies under one of the following criteria:

(i) An individual who is a citizen of the United States;

(ii) An association, trust, joint venture, or other entity—

(A) All of whose members are citizens of the United States; and

(B) That is capable of holding title to a vessel under the laws of the United States or of a State;

(iii) A partnership whose general partners are citizens of the United States, and the controlling interest in the partnership is owned by citizens of the United States;

(iv) A corporation established under the laws of the United States or of a State, whose chief executive officer, by whatever title, and chairman of its board of directors are citizens of the United States and no more of its directors are Non-citizens than a minority of the number necessary to constitute a quorum;

(v) The United States Government; or

(vi) The government of a State.

(6) A Mortgage Trustee must submit the Mortgage Trustee Application and other documents required in § 356.27. If the beneficiary under the trust arrangement has not demonstrated to the Citizenship Approval Officer that it qualifies as a Commercial Lender, a Lender Syndicate or an entity eligible to hold a Preferred Mortgage under paragraphs (a)(1) through (4) of this section, the Mortgage Trustee must submit to the Citizenship Approval Officer copies of the trust agreement, security agreement, loan documents, Preferred Mortgage, and any issuance, assignment or transfer of interest so that a determination can be made as to whether any of the arrangements results in an impermissible transfer of control of the vessel to a person not eligible to own a vessel with a fishery endorsement under 46 U.S.C. 12102(c).

(c) A Mortgagee is required to provide the certification required by paragraph (b) of this section to the Citizenship Approval Officer on an annual basis during the time in which it holds a Preferred Mortgage on a Fishing Industry Vessel. The annual certification must be submitted at least 30 calendar days prior to the annual anniversary date of the original filing.

(d) An entity that is deemed qualified to hold a Preferred Mortgage under paragraphs (a)(1) through (5) and that has submitted the appropriate certification to the Citizenship Approval Officer under paragraph (b) of this section may exercise rights under loan

or mortgage covenants with respect to a Fishing Industry Vessel without any approval from MARAD. However, if the Mortgagee has not been approved by the Citizenship Approval Officer as a U.S. Citizen eligible to own a Fishing Industry Vessel, it may only operate such vessel to the extent provided for in § 356.25.

10. Section 356.21 is amended as follows:

a. By removing ''Non-Citizen Lender's'' in the heading of the section;

b. By removing the term ''Non-Citizen Lender'' everywhere that it appears in the section and adding in its place the term ''lender''; and

c. By revising paragraphs (a) introductory text and (e) to read as follows:

§ 356.21 General approval of standard loan or mortgage agreements.

(a) A lender that is engaged in the business of financing Fishing Industry Vessels and that is not qualified to hold a Preferred Mortgage on Fishing Industry Vessels pursuant to § 356.19(a)(2) through (5), may apply to the Citizenship Approval Officer for general approval of its standard loan and mortgage agreements for such vessels. In order to obtain general approval for its standard loan and mortgage agreements, a lender using an approved Mortgage Trustee must submit to the Citizenship Approval Officer:

* * * * *

(e) A lender that has received general approval for its lending program and that uses covenants in a loan or mortgage on a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel that have not been approved by the Citizenship Approval Officer will be subject to loss of its general approval and the Citizenship Approval Officer will review and approve all mortgage and loan covenants on a case-by-case basis. The Citizenship Approval Officer may also determine that the arrangement results in an impermissible transfer of control to a Non-Citizen and therefore does not meet the requirements to qualify as a Preferred Mortgage. If the lender knowingly files a false certification with the Citizenship Approval Officer or has used covenants in a loan or mortgage on a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel that are materially different from the approved covenants, it may also be subject to civil and criminal penalties pursuant to 18 U.S.C. 1001.

11. Section 356.23 is amended as follows:

a. By removing the term ''Non-Citizen Lenders'' in the section heading and adding in its place the term ''lenders;'' and

b. By revising paragraph (a) to read as follows:

§ 356.23 Restrictive loan covenants approved for use by lenders.

(a) We approve the following standard loan covenants, which may restrict the activities of the borrower without the lender's consent and which may be included in loan agreements or other documents between an owner of a Fishing Industry Vessel and an unrelated lender that does not meet the requirements of § 356.19(a)(1) through (5) and that is using an approved Mortgage Trustee to hold the mortgage and debt instrument for the benefit of the lender, so long as the lender's consent is not unreasonably withheld:

* * * * *

Subpart E—Mortgage Trustees

12. Section 356.27 is amended by revising paragraphs (a), (b)(1), (c)(2) and (g) to read as follows:

§ 356.27 Mortgage Trustee requirements.

(a) A lender who is not qualified under § 356.19(a)(1) through (5) to hold a Preferred Mortgage directly on a Fishing Industry Vessel may use a qualified Mortgage Trustee to hold, for the benefit of the lender, the Preferred Mortgage and the debt instrument for which the Preferred Mortgage is providing security.

(b) * * *

(1) Be eligible to hold a Preferred Mortgage on a Fishing Industry Vessel under § 356.19(a)(1) through (5);

* * * * *

(c) * * *

(2) The appropriate certification and documentation required under § 356.19(b)(1) through (5) to demonstrate that it is qualified to hold a Preferred Mortgage on Fishing Industry Vessels;

* * * * *

(g) An application to be approved as a Mortgage Trustee should include the following:

The undersigned (the ''Mortgage Trustee'') hereby applies for approval as Mortgage Trustee pursuant to 46 U.S.C. 31322(f) and the Regulation (46 CFR part 356), prescribed by the Maritime Administration (''MARAD''). All terms used in this application have the meaning given in the Regulation.

In support of this application, the Mortgage Trustee certifies to and agrees with MARAD as hereinafter set forth:

The Mortgage Trustee certifies:

(a) That it is acting or proposing to act as Mortgage Trustee on a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessels documented, or to be documented under the U.S. registry;

(b) That it—

(1) Is organized as a corporation under the laws of the United States or of a State and is doing business in the United States;

(2) Is authorized under those laws to exercise corporate trust powers;

(3) Is qualified to hold a Preferred Mortgage on Fishing Industry Vessels pursuant to 46 CFR 356.19(a);

(4) Is subject to supervision or examination by an official of the United States Government or a State; and

(5) Has a combined capital and surplus of at least $3,000,000 as set forth in its most recent published report of condition, a copy of which, dated _____, is attached.

The Mortgage Trustee agrees:

(a) That it will, so long as it shall continue to be on the List of Approved Mortgage Trustees referred to in the Regulation:

(1) Notify the Citizenship Approval Officer in writing, within 20 days, if it shall cease to be a corporation which:

(i) Is organized under the laws of the United States or of a State, and is doing business under the laws of the United States or of a State;

(ii) Is authorized under those laws to exercise corporate trust powers;

(iii) Is qualified under 46 CFR 356.19(a) to hold a Preferred Mortgage on Fishing Industry Vessels;

(iv) Is subject to supervision or examination by an authority of the U.S. Government or of a State; and

(v) Has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000.

(2) Notify the Citizenship Approval Officer in writing, of any changes in its name, address, officers, directors, stockholders, articles of incorporation or bylaws within 30 calendar days of such changes;

(3) Furnish to the Citizenship Approval Officer on an annual basis:

(i) The appropriate certification and documentation required under § 356.19(b)(1)–(5) to demonstrate that it is qualified to hold a Preferred Mortgage on Fishing Industry Vessels;

(ii) A current copy of the Articles of Incorporation and Bylaws, or other comparable corporate documents;

(iii) A copy of the most recent published report of condition of the Mortgage Trustee; and,

(iv) A list of the Fishing Vessels, Fish Processing Vessels, and Fish Tender Vessels and the respective lenders for which it is acting as Mortgage Trustee;

(4) Furnish to the Citizenship Approval Officer copies of each Trust Agreement as well as any other issuance, assignment or transfer of an interest related to the transaction if the beneficiary under a trust arrangement is not a Commercial Lender, a Lender Syndicate or eligible to be hold a Preferred Mortgage under 46 CFR 356.19(a)(1) through (5);

(5) Furnish to the Citizenship Approval Officer any further relevant and material information concerning its qualifications as Mortgage Trustee under which it is acting or proposing to act as Mortgage Trustee, as the Citizenship Approval Officer may from time to time request; and,

(6) Permit representatives of the Maritime Administration, upon request, to examine its books and records relating to the matters referred to herein;

(b) That it will not issue, assign, or in any manner transfer to a person not eligible to own a documented vessel, any right under a mortgage of a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel, or operate such vessel without the approval of the Citizenship Approval Officer; except that it may operate the vessel to the extent necessary for the immediate safety of the vessel, for its direct return to the United States or for its movement within the United States for repairs, drydocking or berthing changes, but only under the command of a Citizen of the United States for a period not to exceed 15 calendar days;

(c) That after a responsible official of such Mortgage Trustee obtains knowledge of a foreclosure proceeding, including a proceeding in a foreign jurisdiction, that involves a documented Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel on which it holds a mortgage pursuant to approval under the Regulation and to which 46 App. U.S.C. 802(c), 46 U.S.C. 31322(a)(4) or 46 U.S.C. 12102(c) is applicable, it shall promptly notify the Citizenship Approval Officer with respect thereto, and shall ensure that the court or other tribunal has proper notice of those provisions; and

(d) That it shall not assume any fiduciary obligation in favor of Non-Citizen beneficiaries that is in conflict with any restrictions or requirements of the Regulation. This application is made in order to induce the Maritime Administration to grant approval of the undersigned as Mortgage Trustee pursuant to 46 U.S.C. 31322 and the Regulation, and may be relied on by the Citizenship Approval Officer for such purposes. False statements in this application may subject the applicant to fine or imprisonment, or both, as provided for violation of the proscriptions contained in 18 U.S.C. 286, 287, and 1001. Dated this _____day of _____, 20____.

ATTEST:

_____

(Print or type name below)

(SEAL)

MORTGAGE TRUSTEE'S NAME & ADDRESS

By: _____

(Print or type name below)

TITLE _____

13. Section 356.31 is amended by revising paragraph (a)(1) to read as follows:

§ 356.31 Maintenance of Mortgage Trustee approval.

(a) * * *

(1) The appropriate certification and documentation required under § 356.19(b)(1) through (5) to demonstrate that it is qualified to hold a Preferred Mortgage on Fishing Industry Vessels;

* * * * *

Subpart F—Charters, Management Agreements and Exclusive or Long-Term Contracts

§ 356.45 [Amended]

14. Section 356.45(a)(2)(iv) is amended by adding at the end thereof the following: '', unless a qualified Mortgage Trustee is used to hold the debt instrument for the benefit of the Non-Citizen.''

Subpart G—Special Requirements for Certain Vessels

15. Section 356.47 is amended by adding a sentence to the end of paragraph (b)(3) and adding a new paragraph (e) to read as follows:

§ 356.47 Special requirements for large vessels.

* * * * *

(b) * * *

(3) * * * The fishery endorsement of a Fishing Industry Vessel that meets the criteria of paragraph (a) of this section is not deemed to be invalid for purposes of complying with this paragraph, if the vessel is purchased pursuant to 46 U.S.C. 31329 by a Mortgagee that is not eligible to own a vessel with a fishery endorsement, provided that the Mortgagee is eligible to hold a Preferred Mortgage on such vessel at the time of the purchase;

* * * * *

(e) The owner of a vessel that meets any of the criteria in paragraph (a) of this section is required to submit a certification each year in conjunction with its Affidavit of U.S. Citizenship in order to document that the vessel is eligible for documentation with a fishery endorsement. The certification should indicate that the vessel meets the criteria of paragraph (a) of this section; however, it is eligible to be documented with a fishery endorsement because it complies with the requirements of either paragraph (b), (c), or (d) of this section. A form of the certification will be available on the MARAD website at *http://www.marad.dot.gov/afa.html* or may be obtained by contacting the Citizenship Approval Officer.

16. Section 356.51 is amended as follows:

a. By adding ''after October 1, 2001,'' after ''such time'' in paragraph (a);

b. By removing the number ''296779'' following the vessel name ''EXCELLENCE'' in paragraphs (a)(1) and (c) and adding in its place the number ''967502'';

c. By removing paragraph (e).

d. By redesignating paragraph (d) as paragraph (e);

e. By adding paragraphs (d) and (f); and

f. By revising newly designated paragraphs (e) introductory text and (e)(1).

The additions read as follows:

§ 356.51 Exemptions for specific vessels.

* * * * *

(d) Owners of vessels that are exempt from the new ownership and control requirements of the AFA and part 356 pursuant to paragraph (a) of this section must still comply with the requirements for a fishery endorsement under the federal law that was in effect on October 21, 1998. The owners must submit to the Citizenship Approval Officer on an annual basis:

(1) An Affidavit of United States Citizenship in accordance with § 356.15 demonstrating that they comply with the Controlling Interest requirements of section 2(b) of the 1916 Act. The Affidavit must note that the owner is claiming an exemption from the requirements of this part 356 pursuant to § 356.51(e); and

(2) A description of the current ownership structure, a list of any changes in the ownership structure that have occurred since the filing of the last Affidavit, and a chronology of all changes in the ownership structure that have occurred since October 21, 1998.

(e) The following Fishing Industry Vessels are exempt from the new ownership and control standards under the AFA and part 356 for vessel owners and Mortgagees:

(1) Fishing Industry Vessels engaged in fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)); and

* * * * *

(f) Fishing Industry Vessels that are claiming the exemption provided for in paragraph (e) of this section must certify to the Citizenship Approval Officer that the vessel is exempt from the ownership and control requirements of this part 356 pursuant to the exemption in § 356.51(e). The vessel owner will be required to follow the U.S. Coast Guard's procedures for documenting a vessel with a fishery endorsement, as in effect prior to the passage of the AFA. The vessel owner must also notify the Coast Guard's National Vessel Documentation Center that it is claiming an exemption from the ownership and control requirements of this part 356 pursuant to § 356.51(e).

Subpart H—International Agreements

17. Section 356.53 is amended as follows:

a. By adding ''July 24, 2001'' in place of ''October 1, 2001'' in both places where it appears in paragraph (a) and by removing the last sentence of paragraph (a);

b. By adding ''July 24, 2001'' in place of ''October 1, 2001'' in both places where it appears in paragraph (b)(1);

c. By adding the word ''and'' at the end of paragraph (b)(3);

d. By adding ''July 24, 2001'' in place of ''October 1, 2001'' and in place of ''September 30, 2001'' in paragraph (b)(4);

e. By removing the word ''and'' at the end of paragraph (b)(4);

f. By removing paragraph (b)(5);

g. By removing the word ''will'' in the first sentence of paragraph (d) and adding the word ''may'' in lieu thereof; by adding ''if the petition presents unique issues that have not been addressed in previous determinations.'' after the word ''comment'' in the first sentence of paragraph (d); and by inserting '',if any,'' after the word ''comments'' in the third sentence of paragraph (d);

h. By adding ''July 24, 2001'' in place of ''September 30, 2001'' in paragraph (f)(4);

i. By adding ''July 24, 2001'' in place of ''October 1, 2001'' in paragraph (g)(1);

j. By revising paragraph (g)(2); and

k. By adding new paragraphs (g)(3) and (g)(4).

The revisions and additions read as follows:

§ 356.53 Conflicts with international agreements.

* * * * *

(g) * * *

(2) To the owner of a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel on July 24, 2001, if any ownership interest in that owner is transferred to or otherwise acquired by a Non-Citizen or if the percentage of foreign ownership in the vessel is increased after such date.

(3) An ownership interest is deemed to be transferred under this paragraph (g) if:

(i) There is a transfer of direct ownership interest in the primary vessel owning entity. If the primary vessel owning entity is wholly owned by another entity, the parent entity will be considered the primary vessel owning entity;

(ii) There is a transfer of indirect ownership at any tier that results in a transfer of 5% or more of the interest in the primary vessel owning entity.

(4) A transfer of interest in a vessel owner does not include:

(i) Transfers of disparately held shares of a vessel-owning entity if it is a publicly traded company and the total of the shares transferred in a particular transaction equals less than 5% of the shares in that class. An interest in a vessel owning entity that exceeds 5% of the shares in a class can not be sold to the same Non-Citizen through multiple transactions involving less than 5% of the shares of that class of stock in order to maintain the exemption for the vessel owner; or

(ii) Transfers pursuant to a divorce or death.

Dated: April 9, 2002.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 02–9005 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

[CI Docket No. 02–32, CC Docket No. 94–93, CC Docket No. 00–175; FCC 02–46]

Establishment of Rules Governing Procedures To Be Followed When Informal Complaints Are Filed by Consumers Against Entities Regulated by the Commission

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Commission seeks comment on whether to establish a consumer complaint mechanism to apply to all entities regulated by the Commission. The complaint mechanism will be patterned after our existing rules for informal complaints filed against common carriers pursuant to section 208 of the Act.

DATES: Comments are due May 16, 2002 and reply comments are due May 31, 2002. Written comments by the public on the proposed information collections are due May 16, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection on or before June 17, 2002.

ADDRESSES: Parties who choose to file comments by paper must file an original and four copies to the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. Comments may also be filed using the Commission's Electronic Filing System, which can be accessed via the Internet at *www.fcc.gov/e-file/ecfs.html.* In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jbHerman@fcc.gov*, and to Jeanette Thornton, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503, or via the Internet to *jthornto@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Lynn Remly or Margaret Egler (202–418–1400), Consumer Information Bureau. For additional information concerning the information collection(s) contained in this document, contact Judith Boley Herman at 202–418–0214, or via the Internet at *jbHerman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CI Docket No. 02–32, CC Docket Nos. 94–93 and 00–175, FCC 02–46, released February 28, 2002. The full text of this document is available on the Commission's Web site Electronic Comment Filing System and for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. On February 14, 2002, the Commission released a Notice of Proposed Rule Making (NPRM) requesting comment on proposals to establish a unified, streamlined process for the intake and resolution of informal complaints filed by consumers in order to promote maximum compliance with the requirements of the Communications Act of 1934, as amended, (the Act) and our implementing rules and orders.

2. We propose to establish a uniform, streamlined consumer complaint process that will be applicable to all services regulated by the Commission that are not currently covered by the common carrier informal complaint rules. We also propose changes to the common carrier informal complaint process, including specifying the type of documentation that should accompany informal complaints as well as prescribing a specific time frame within which a carrier must respond to such a complaint.

II. Overview

3. In the NPRM, we seek comment on our proposal to create a consumer complaint process patterned after our Section 208 informal complaint rules and to extend this process to all entities regulated by the Commission. Currently, the informal complaint rules apply only to complaints against common carriers. We do not propose to limit or otherwise alter any remedies and procedural options in areas in which the Commission has already established specific informal complaint procedures. Those informal consumer complaints concerning issues for which there is no established resolution procedure and which are not subject to the jurisdiction of another governmental entity would be included under the informal consumer complaint rules proposed in this NPRM. Accordingly, we propose to provide that consumers generally should file informal complaints with the Consumer Information Bureau (CIB). While, as noted below, the Enforcement Bureau (EB) will not adjudicate informal consumer complaints, it will adjudicate formal consumer complaints and will have the authority to investigate, on its own motion, potential violations evidenced through the filing of informal complaints. If a given complaint is subject to an existing complaint procedure, CIB would facilitate the processing of such complaints by, for example, ensuring that the appropriate Bureau receives the complaint for resolution. If there is no established resolution procedure for the specific complaint, it would be processed under the procedure proposed in this notice. We invite comment on this proposal. The Commission has the authority to establish a uniform consumer complaint process applicable to all regulated entities. We tentatively conclude that it is in the public interest to provide consumers with an initial single point of contact to deal with their complaints concerning all of the entities regulated by the Commission, and not only common carriers.

4. Under our proposed new approach, informal complaints would be processed by CIB, or another bureau where appropriate, through the non-adjudicatory process set forth in our informal common carrier complaint rules. EB, or other bureaus in those instances where enforcement responsibility lies in such bureaus, would adjudicate ''formal'' consumer complaints and could, on its own motion, commence an investigation where informal consumer complaints suggest a pattern of violations of the Act or the Commission's rules by a particular licensee, or serious violations that justify enforcement action even in the absence of a pattern. We seek comment on this approach.

5. Commenters are also requested to describe differences in the characteristics of the various communications-related services regulated by the Commission, and whether such differences warrant different informal complaint procedures administered by the Commission. For example, we recognize that, in the common carrier context, consumers and carriers often have a direct contractual relationship. No such relationship exists, for example, between broadcast licensees and consumers. Moreover, whereas consumers who file complaints against common carriers often seek monetary relief such as a refund or credit, consumers who file complaints against broadcast licensees typically have asked the Commission to exercise its discretion to take enforcement action such as a forfeiture or revocation of license. Nevertheless, even in these cases, voluntary action by the broadcaster, *e.g.*, a public apology for its airing of objectionable material, might resolve the complaint. We seek comment on whether these differences warrant excluding certain classes of complaints from the uniform procedures proposed here.

6. We also seek comment on the extent to which our streamlining proposals, if adopted, would impose an unnecessary burden on small regulated entities, as defined by the Regulatory Flexibility Act. For example, we ask whether the time to reply to complaints should be extended in the case of small entities, to avoid taxing their limited resources in time and money. Commenters are requested to make specific suggestions about how the proposals described in the paragraphs that follow might be adjusted in the case of small regulated entities.

7. Where appropriate, we encourage consumers to express informally their concerns or grievances about regulated products and services directly to the product or service provider before filing a complaint with the Commission. We recognize, however, that this informal approach may be more appropriate in the sort of relationships described above, between a common carrier or a cable system operator and a consumer, rather than, for example, some complaints between a broadcast licensee and a consumer. We expect that many disputes will be satisfactorily resolved though such communications without the need to file complaints. We do not propose, however, that consumers be required to engage in such communications as a prerequisite to filing an informal or formal consumer complaint with the Commission. We believe that access to a consumer-friendly informal complaint process will ensure that consumers have an absolute right to have their grievances promptly addressed by the company involved with reasonable expectation that the regulated company will respond in the manner and within the time period prescribed by the Commission. We especially invite interested parties to comment on what if any measures are needed to ensure that consumers reasonably have the ability to contact companies directly with their grievances. We note, for example, that our Section 255 accessibility complaint rules require covered manufacturers and service providers to maintain a point of contact for receiving complaints and inquiries about their products and services from consumers and to file that point of contact information with the Commission. We seek comment on whether the Commission should have a similar requirement for other regulated entities, or whether there are other alternatives for assisting consumers who wish to contact a company directly with a complaint?

8. Under our common carrier complaint rules, in accordance with Section 208 of the Act, informal complaints are filed directly with the Commission, which then serves on the carrier a ''Notice of Complaint'' that includes a copy of the complaint and instructions to respond to the complaint within a specified time. We propose to adopt a rule directing Commission staff to forward informal consumer complaints that raise issues within the Commission's jurisdiction and that meet the form and content requirements discussed below to the regulated entity or entities involved in the same manner as is done under our common carrier complaint rules, unless there is a more effective means to resolve the complaint. For example, in some cases informal consumer complaints may be resolved more quickly if the regulated entity that is the subject of the complaint is contacted by telephone or e-mail. Interested parties are invited to address the feasibility of this approach with respect to non-common carriers and whether different rules or procedures should apply.

9. We propose to encourage informal consumer complaints to be transmitted to the Commission by any reasonable means, including transmission by letter, facsimile transmission, telephone (voice and TTY), Internet e-mail, and audio or video-cassette recording. Our objective is to make it easy for consumers to file

complaints and for companies that are the subjects of complaints to move promptly to satisfy any meritorious complaints. Therefore, we propose that any consumer complaint filed with the Commission should include: (1) The name and address of the complainant; (2) the name and address of the company against whom the complaint is being made, and in the case of a broadcast station, the station call sign or network affiliation; (3) details about the product or service about which the complaint is being made; (4) a statement of facts supporting the complainant's allegation that the regulated company has acted or failed to act as required by the Act or the Commission's rules or orders; (5) if applicable, a copy of the complainant's bill or other correspondence from the regulated entity that gives rise to the dispute; and (6) the specific action by the regulated entity that is being sought by the complainant. We invite comment on this proposal. We also seek comment on whether the Commission should make it a priority to facilitate the filing of online complaints. What types of measures should the Commission take in this regard?

10. Although these parameters will necessitate some diligence on the part of consumers in preparing and submitting complaints, we believe that any such burdens are far outweighed by the benefits of prompt and decisive action by the company involved or Commission staff. In order to ensure that all consumer complaints are addressed, Commission staff will be available to assist consumers in the filing of informal complaints. This may entail staff assisting the consumer in obtaining the necessary information. We seek comment on the burden imposed by this complaint process, specifically as to whether there are scenarios in which the proposed ''informal'' process would make it more, not less, difficult for consumers to obtain redress for their complaints? We seek comments and proposals as to how to make this process more consumer friendly, and to limit the burden placed on complaining consumers. The level and nature of the information required is likely to vary widely depending upon the specific allegations raised, and we believe that it is impractical to fashion a rule to anticipate these varying circumstances. We request comment on the kinds of information and documentation that should be required in informal consumer complaints and on what, if any, additional information should be included in informal consumer complaints against broadcast station licensees and other non-common carrier entities. We also request comment on whether we should make changes to our informal common carrier complaint rules with regard to the types of information and documentation that should be required pursuant to § 1.716 of our rules.

11. We envision an informal consumer complaint process that emphasizes informal, cooperative efforts between consumers and companies to resolve disputes without extensive involvement by Commission staff. We also wish to avoid imposing cumbersome filing and reporting requirements that might deprive consumers and companies of non-adversarial opportunities to resolve their disputes. Just as it is important for consumers to have a simple, easy-to-understand process for raising their concerns with the Commission, it is equally important that companies be able to respond quickly and effectively to those concerns. As with the common carrier complaint rules, a non-common carrier will be required to send a copy of its response to the complainant. It is not feasible to speculate about specific types of information that may be required by Commission staff in response to a complaint. Thus, we do not contemplate the imposition of any undue burdens on non-common carriers that have procedures in place for the quick and effective resolution of consumer complaints.

12. We seek comment, however, on whether we should set a specific time frame within which a company must respond to notification of an informal consumer complaint. We anticipate that there would be a benefit to consumers in requiring carriers to respond within a predictable, uniform time frame, but we are concerned that setting such a time frame might do away with the flexibility necessary to respond to complaints of varying complexity. We ask commenters to comment on the appropriateness of a fixed 30-day, or other fixed number of days, response period for informal consumer complaints. We also ask commenters to comment on the appropriateness of a fixed 30-day, or other fixed number of days, response period for informal complaints filed against common carriers pursuant to § 1.717 of our rules.

13. We anticipate that many informal consumer complaints will be resolved by the informal process, as is the case under our current common carrier complaint rules. We also recognize that not all informal consumer complaints will be resolved by the company involved to the satisfaction of the consumer. Under our section 208 informal complaint rules for common carriers, Commission staff reviews the complaint and the carrier's response to determine what, if any, additional action is warranted. If the complainant is not satisfied by the carrier's response and the Commission's disposition, he or she may file a formal complaint with the Commission within six months of the carrier's response. If the complainant does not file a timely formal complaint, he or she is deemed to have abandoned the unsatisfied informal complaint. We propose a similar approach for informal consumer complaints involving non-common carriers. Specifically, under our proposal, Commission staff would review the informal complaint and company's response. If deemed necessary, staff would contact the complainant regarding the staff's review and the company's response. If the consumer is not satisfied with the company's response, staff will advise the consumer that it may file a formal complaint within six months of the company's response. Currently, the rules contain no procedures for filing a ''formal'' complaint in the non-common carrier context. We propose to establish a formal complaint process that is similar to that which applies to common carriers. Under this approach, consumers filing formal complaints against broadcast licensees or other non-common carriers would need to comply with pleading and filing requirements similar to those that apply to formal complaints filed against common carriers. Such complaints would be handled by EB or other relevant bureaus with jurisdiction over such matters. We seek comment on this approach. In particular, we seek comment on what, if any, additional or different pleading or filing requirements should apply to formal consumer complaints against the various types of non-common carriers.

14. As noted above, our experience has been that in many cases, consumers filing complaints against non-common carriers are, in fact, asking the Commission to investigate and take enforcement action. This is particularly true in the broadcast context, where the Act does not authorize the Commission to award damages to the complainant. We note, however, that the Commission has declined to assess forfeitures in formal complaint proceedings, but rather has initiated separate forfeiture proceedings where it believed that a common carrier's violation warranted assessment of a forfeiture. Such enforcement proceedings involve discretionary action by the Commission where the subject is a party, but not the complainant. We propose to follow this

approach in the non-common carrier context as well. We believe this approach takes into account that the complaint process and the forfeiture process are two distinct processes, each subject to different types of judicial scrutiny. In addition, the Enforcement Bureau may initiate investigations, on its own motion, and take or recommend enforcement actions where, for example, informal consumer complaints received show a possible pattern of rule violations by a particular non-common carrier or an egregious individual violation against a consumer.

15. We also seek comment on whether to handle informal consumer complaints concerning interference to home electronic equipment using this proposed process. We propose not to forward informal consumer complaints involving such interference to the companies because our experience has shown that interference to home electronic equipment can occur from either a legal or illegal operation, and the mere fact that a consumer may be experiencing interference, in and of itself, is not sufficient to allege a violation of our rules. Where, however, a consumer does provide sufficient information that the interference is the result of a violation, Commission staff will process the complaint under the informal complaint process. As in other areas, if a complainant is not satisfied, it may file a formal complaint with EB. And, of course, EB would initiate independent enforcement action where appropriate. We seek comment on these proposals.

16. We invite comment on whether we should establish any time limit for the filing of an informal complaint under the proposed rules. We note that section 415(b) of the Act limits the filing of certain claims against common carriers for money damages to ''within two years from the time the cause of action accrues, and not after * * *'' We recognize that the affected entities need to be protected from being exposed indefinitely to stale complaints. On the other hand, we recognize that consumers should have maximum flexibility in electing to pursue informal complaints, especially in the case of repeated infractions on the part of an entity. We seek comment on this issue, on the relationship of section 415 to our informal complaint authority under the proposed rules, and on the need for regulatory parity in this respect as among the various entities regulated by the Commission.

17. We also seek comment on how the Commission can best address the issues raised above to better serve consumers. We ask the parties to comment on how the Commission can better coordinate its complaint process with the processes used by state and local governments. What efforts can be made to share information gained by this coordination? What other procedural assistance should the Commission offer to consumers, as well as state and local governments?

18. We also seek comment on a specific proposal contained in the *Amendment of Subpart E of Chapter 1 of the Commission's Rules Governing Procedures to be Followed When Informal Complaints Are Filed Against Common Carriers, CC Docket No. 94–92, Notice of Proposed Rulemaking* (59 FR 51538, October 12, 1994) relating to a complainant's right to file a formal section 208 complaint based on an unsatisfied informal section 208 complaint. Section 1.718 of the common carrier complaint rules provides that a complainant that is not satisfied with a carrier's resolution of an informal section 208 complaint must file a formal complaint within six months of the carrier's report in order to continue prosecution of the complaint and to continue to use the filing date of the informal complaint for statute of limitation purposes. The filing of an informal complaint is in no way a prerequisite to filing a formal complaint. In addition, the institution of the proposed informal complaint process does not supplant the formal complaint process. Previously, the Commission proposed to revise §§ 1.718 to provide that in all cases involving an unsatisfied informal section 208 complaint, the period of time allowed for filing a formal complaint that will relate back to the filing date of the informal complaint is sixty days after the staff has informed the parties in writing of its disposition of the informal complaint. Interested parties are asked to comment on whether the proposed rule would pose any hardship or disadvantage for either complainants or defendant carriers.

19. We propose to amend the pertinent provisions in the current rules that designate informal complaints as records that are routinely available for public inspection. Because informal complaint records include personal information relating to consumers such as their names, addresses, and phone numbers, we propose to no longer make them routinely available for public inspection. Such personal information is subject to protection from disclosure under the Privacy Act and is not generally available to the public. To comply with the requirements of the Privacy Act, informal complaint records that are subject to disclosure pursuant to requests for information under the Freedom of Information Act, and other requests for such information will be sanitized to remove all personal, identifying information relating to the complainants prior to the records being disclosed. Such personal information is not generally available to the public. We anticipate that the implementation of this proposal will be in the interests of the consumers and in keeping with the letter and intent of the Privacy Act. Moreover, we must ensure that our rules facilitate the submission of relevant information by consumers and defendant companies without fear of dissemination of information that is confidential or proprietary. We encourage interested parties to address whether our existing rules governing the disclosure of confidential or proprietary materials are adequate to protect the interests of consumers and regulated companies or whether additional or different safeguards are needed. If a formal complaint process is established for non-common carrier complaints as discussed in paragraph above, however, or if EB or another relevant bureau independently begins an investigation or enforcement proceeding, the informal complaints triggering the formal complaint or investigation would be made routinely available to the public unless confidential treatment was specifically requested at the time of filing. The Commission's Privacy Act System of Records lists such disclosure. Conceivably, however, consumers who file underlying informal complaints that are the subject of the investigation or enforcement proceeding may request confidentiality. Personal information on such consumers will be subject to protection under the Privacy Act and will not be disclosed.

20. We propose that informal complaints filed pursuant to these new rules shall be deemed ''exempt'' proceedings, as is the case with informal complaints filed pursuant to our common carrier complaint rules under section 208 of the Act. This exempt designation will allow the Commission and its staff to meet or otherwise communicate with either the complaining consumer or the regulated entity, as well as with third parties, on an *ex parte* basis to discuss matters pertaining to the complaint and related compliance issues. This exempt classification has proven to be highly beneficial to consumers, regulated common carriers and the Commission in terms of facilitating the identification and exchange of information and ideas needed to resolve section 208 informal complaints and related compliance issues. We seek comment on whether

this is the appropriate classification of informal complaints, and on the potential effect of this classification on complainants and defendant companies. On the other hand, if a formal complaint process is established as discussed above, then these complaint proceedings will be treated as restricted for the purposes of the *ex parte* rules.

Paperwork Reduction Act

This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due June 17, 2002. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: None.

Title: In the Matter of Establishing Rules Governing Procedures To Be Followed When Informal Complaints Are Filed by Consumers Against Entities Regulated by the Commission.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit; not-for-profit institutions; and/or state, local or tribal governments.

Number of Respondents: 200,000.

Estimated Time Per Response: 0.5 hours.

Frequency of Response: On occasion.

Total Annual Burden: 100,000 hours.

Total Annual Costs: $1,000,000.

Needs and Uses: The Commission will use the information to resolve consumer complaints and identify trends in the violation of Commission rules.

III. Procedural Matters

A. Ex Parte Presentations

21.This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in Commission rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206 (a).

B. Initial Regulatory Flexibility Act Analysis

22. As required by the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities of the proposals addressed in this Notice. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the NPRM, and they should have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

1. Need for and Objectives of the Proposed Rules

23. Since the passing of the Telecommunications Act of 1996, the convergence of competition and technology has resulted in more opportunities for consumers, but also more areas of confusion and concern. We initiate this proceeding to seek comment on proposals to establish a unified, streamlined process for the intake and resolution of complaints filed by consumers. We expect such a process to promote maximum compliance with both the requirements of the Communications Act of 1934, as amended (the Act), and the Commission's implementing rules and orders.

24. The Commission has previously emphasized that our consumer complaint mechanisms are a principal vehicle for achieving compliance and promoting competition. We are concerned, however, that our existing complaint measures require consumers to navigate an array of rule provisions and disparate procedures in order to file complaints. Because the Commission relies on the informal complaint process to protect consumers, including small businesses, the process must expand in order to be accessible and efficient. We propose to establish an informal consumer complaint mechanism that emphasizes ease of filing by consumers and voluntary cooperative efforts by consumers and affected companies to resolve their differences. Our intention is to create a process that is both simple and effective.

2. Legal Basis

25. The Commission has authority to process informal complaints filed against common carriers pursuant to section 208 of the Act and §§ 1.716 through 1.718 of the Commission's rules. Further, the Commission has the authority to extend the informal complaint process to other entities regulated by the Commission under sections 1, 2, and 4(i) and (j) of the Act.

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

26. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under 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).

27. A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 governmental entities in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96%, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96%) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by these proposed rules.

28. *Cable Services or Systems.* The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million

or less in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $11 million in revenue.

29. The Commission has developed its own definition of a small cable system operator for purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

30. The Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 67,700,000 subscribers in the United States. Therefore, we estimate that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we estimate that the number of cable operators serving 677,000 subscribers or less totals 1,450. We do not request nor collect information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, and therefore are unable at this time to estimate more accurately the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

31. *Other Pay Services.* Other pay television services are also classified under the North American Industry Classification System (NAICS) codes 51321 and 51322, which includes cable systems operators, closed circuit television services, direct broadcast satellite services (DBS), multipoint distribution systems (MDS), satellite master antenna systems (SMATV), and subscription television services.

32. *Common Carrier Services and Related Entities.* The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide appears to be data the Commission publishes annually in its *Carrier Locator* report, derived from filings made in connection with the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 4,822 interstate service providers. These providers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

33. We have included small incumbent local exchange carriers (LECs) in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

34. *Total Number of Telephone Companies Affected.* The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' It seems reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by these proposed rules.

35. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone (wireless) company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone (wireless) companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Even if all 26 of the remaining companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone (wireless) companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Therefore, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone (wireless) companies are small entities or small incumbent LECs that may be affected by these proposed rules.

36. *Local Exchange Carriers, Competitive Access Providers, Interexchange Carriers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor the SBA has developed a definition for small LECs, competitive access providers (CAPS), interexchange carriers (IXCs), operator service providers (OSPs), payphone providers, or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information that we know regarding the number of these carriers nationwide appears to be the data that we collect annually in connection with the TRS. According to our most recent data, there are 1,395 LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under the SBA's definition. Therefore, we estimate that there are fewer than 1,395 small entity LECs or small incumbent LECs, 349 CAPs, 204 IXCs,

21 OSPs, 758 payphone providers, and 541 resellers that may be affected by these proposed rules.

37. *Small Incumbent Local Exchange Carriers.* We have included small incumbent local exchange carriers in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operations because any such dominance is not ''national'' in scope.

38. *International Services.* The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC). This definition provides that a small entity is one with $11.0 million or less in annual receipts. According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $10.0 million. The Census report does not provide more precise data.

39. *International Broadcast Stations.* Commission records show that there are 17 international high frequency broadcast station authorizations. We do not request nor do we collect annual revenue information, and are unable to estimate the number of international high frequency broadcast stations that would constitute a small business under the SBA definition.

40. *International Public Fixed Radio (Public and Control Stations).* There is one licensee in this service subject to the payment of regulatory fees to the Commission, and the licensee does not constitute a small business under the SBA definition.

41. *Fixed Satellite Transmit/Receive Earth Stations.* There are approximately 2,784 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. We do not request nor do we collect annual revenue information, and are unable to estimate the number of the fixed satellite transmit/receive earth stations that would constitute a small business under the SBA definition.

42. *Fixed Satellite Small Transmit/ Receive Earth Stations.* There are approximately 2,784 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. We do not request nor do we collect annual revenue information, and are unable to estimate the number of fixed satellite small transmit/receive earth stations that would constitute a small business under the SBA definition.

43. *Fixed Satellite Very Small Aperture Terminal (VSAT) Systems.* These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single ''blanket'' application may be filed for a specified number of small antennas and one or more hub stations. There are 492 current VSAT System authorizations. We do not request nor do we collect annual revenue information, and are unable to estimate the number of VSAT systems that would constitute a small business under the SBA definition.

44. *Mobile Satellite Earth Stations.* There are 15 licensees. We do not request nor do we collect annual revenue information, and are unable to estimate the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

45. *Radio Determination Satellite Earth Stations.* There are four licensees. We do not request nor do we collect annual revenue information, and are unable to estimate the number of radio determination satellite earth stations that would constitute a small business under the SBA definition.

46. *Space Stations (Geostationary).* There are presently 66 Geostationary Space Station authorizations. We do not request nor do we collect annual revenue information, and are unable to estimate the number of geostationary space stations that would constitute a small business under the SBA definition.

47. *Space Stations (Non-Geostationary).* There are presently six Non-Geostationary Space Station authorizations, of which only three systems are operational. We do not request nor do we collect annual revenue information, and are unable to estimate the number of non-geostationary space stations that would constitute a small business under the SBA definition.

48. *Direct Broadcast Satellites.* Because DBS provides subscription services, DBS falls within the SBA-recognized definition of ''Cable and Other Pay Television Services.'' This definition provides that a small entity is one with $11.0 million or less in annual receipts. Currently, there are nine DBS authorizations, though there are only two DBS companies in operation at this time. We do not request nor do we collect annual revenue information for DBS services, and are unable to determine the number of DBS operators that would constitute a small business under the SBA definition.

49. *Commercial Radio and Television Services.* The proposed rules and policies will apply to television broadcasting licensees and radio broadcasting licensees. The SBA defines a television broadcasting station that has $10.5 million or less in annual receipts as a small business. Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified under another NAICS number. There were 1,509 television stations operating in the nation in 1992. That number has remained fairly constant as indicated by the approximately 1,663 operating television broadcasting stations in the nation as of September 30, 2000. For 1992, the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.

50. Additionally, the SBA defines a radio broadcasting station that has $5 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations, which primarily are engaged in radio broadcasting and which produce radio program materials, are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS number. The 1992 Census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than $5 million in revenue in 1992. Official Commission records indicate that a= total of 11,334 individual radio stations were operating in 1992. As of September 30, 2000, Commission records indicate that a total of 12,717 radio stations were operating, of which 8,032 were FM stations. The proposed rules may affect an estimated

total of 1,663 television stations, approximately 1,281 of which are considered small businesses. The proposed rules will also affect an estimated total of 12,717 radio stations, approximately 12,209 of which are small businesses. These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 2,366 low power television stations (LPTV). Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

51. *Auxiliary, Special Broadcast and Other Program Distribution Services.* This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. The applicable definitions of small entities are those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.

52. The Commission estimates that there are approximately 2,700 translators and boosters. The Commission does not collect financial information on any broadcast facility, and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most commercial translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either $5 million for a radio station or $10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a ''small business concern'' because they are not independently owned and operated.

53. *Multipoint Distribution Service (MDS).* This service involves a variety of transmitters, which are used to relay programming to the home or office. In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million. The SBA has approved this definition of a small entity in the context of MDS auctions. These stations were licensed prior to implementation of Section 309(j) of the Communications Act of 1934, as amended. Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 met the definition of a small business. There are approximately 2,000 MDS/MMDS/LMDS stations currently licensed. We conclude that there are 1,595 MDS/MMDS/LMDS providers that are small businesses as deemed by the SBA and the Commission's auction rules.

54. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities specific to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone (wireless) company employing no more than 1,500 persons. According to the Census Bureau, only twelve radiotelephone (wireless) firms from a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Telecommunications Reporting Worksheets* data, 806 wireless telephony providers reported that they were engaged in the provision of either cellular service, Personal Communications Service (PCS) services, and specialized mobile radio telephony carriers, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 806 small wireless service providers that may be affected by these proposed rules.

55. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone (Wireless) Communications companies. This definition provides that a small entity is a radiotelephone (wireless) company employing no more than 1,500 persons. According to the Census Bureau, only 12 radiotelephone (wireless) firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees. If this general ratio continues in 2001 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

56. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order,* we adopted criteria for defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these definitions. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

57. *700 MHz Guard Band Licenses.* In the *700 MHz Guard Band Order,* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15

million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to 9 bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

58. *Private and Common Carrier Paging.* In the *Paging Third Report and Order,* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven (57) companies claiming small business status won. At present, there are approximately 24,000 Private-Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 172 small paging carriers that may be affected by these proposed rules. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

59. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequencies designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these regulations defining ''small entity'' in the context of broadband PCS auctions. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. An additional classification for ''very small business'' was added for C Block and is defined as ''an entity that together with its affiliates and persons or entities that hold interest in such entity and their affiliates, has average annual gross revenues that are not more than forty million dollars for the preceding three years.'' The SBA approved this definition.'' Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

60. *Narrowband PCS.* To date, two auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. For purposes of the two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order.* A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these definitions. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the Commission's Rules. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

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

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

63. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small business under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. Thus, 40 winning bidders for geographic licenses in the 800 MHz SMR band qualified as small businesses. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

64. These proposed rules apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

65. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. Companies of all sizes operating in all U.S. business categories use these radios. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

66. The Commission is unable at this time to estimate the number of small businesses that could be impacted by the proposed rules. The Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States.

67. *Amateur Radio Service.* We estimate that 8,000 applicants will apply for vanity call signs in FY 2001. These licensees are presumed to be individuals, and therefore not small entities.

68. *Aviation and Marine Radio Service.* Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. The applicable definition of small entity is the definition under the SBA rules for radiotelephone (wireless) communications.

69. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of this IRFA, we estimate that there may be at least 712,000 potential licensees that are individuals or are small entities, as the SBA defines that term.

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

71. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. As indicated earlier, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.

72. *Personal Radio Services.* Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS). Since the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition.

73. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's definition for radiotelephone (wireless) communications.

74. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven

winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

75. *39 GHz Service.* The Commission defined ''small entity'' for 39 GHz licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these regulations defining ''small entity'' in the context of 39 GHz auctions. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

76. *Local Multipoint Distribution Service.* The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission defined ''small entity'' for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these regulations defining ''small entity'' in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 small entity winning bidders. Based on this information, we conclude that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

77. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 595 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, we defined a small business as an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order,* we defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the above discussion regarding the prevalence of small businesses in the subscription television services and message communications industries, we assume for purposes of this IRFA that in future auctions, all of the licenses may be awarded to small businesses, which would be affected by these proposed rules.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

78. With certain exceptions, the Commission's informal complaint process will apply to all Commission licensees and regulatees. The compliance requirements imposed by the proposed rules on these entities are three-fold. First, entities against which a complaint is made must acknowledge receipt of the complaint. Second, these entities are expected to resolve the consumer complaints if possible; and third, the entity must advise the Commission that resolution of such complaint has either been attempted and has been unsuccessful or has been achieved. Entities will be required to respond within a prescribed time frame. All steps of the informal complaint process are completed by non-professional staff. Therefore, we expect that the cost for addressing consumer complaints per complaint will be no greater for small entities than it will be for large ones. Failure to resolve an informal complaint may lead to the filing of a formal complaint by the consumer and possible enforcement measures exercised by the Commission.

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

79. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

80. As described in the NPRM, we are attempting to streamline our complaint procedures to make the same requirements applicable to all licensees and regulatees. One of the alternatives we are considering is in keeping with alternative (1) above and is the establishment of a different time for responses to complaints involving small businesses. As set forth above, we are seeking comments on this alternative, including the issue of whether a different standard should be applied to different industries. Our expectation is that the establishment of an informal complaint process will reduce costs overall for small entities, by minimizing the need for extensive legal or accounting services that might be necessary in a formal complaint process.

81. In addition, this item contemplates that small entities may choose to avail themselves of the informal complaint process when in problematic situations. We are considering an alternative for small businesses that would allow such businesses, using the informal complaint process, additional time to file formal complaints if necessary. We emphasize that this informal complaint process is entirely voluntary and imposes no mandatory burden on small entities that use this process. We seek additional comment on this alternative in the NPRM.

82. Furthermore, we seek comment on other alternatives or suggestions that might simplify our informal complaint procedures or otherwise benefit small entities, while remaining consistent with our purposes in this proceeding.

6. Federal Rules That May Duplicate, Overlap, or Conflict with the Proposed Rules.

83. None.

A. Comment Due Dates and Filing Procedures

84. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before May 16, 2002, and reply comments on or before May 31, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

85. Comments filed through the ECFS can be sent as an electronic file via the Internet to <*http://www.fcc.gov/e-file/ecfs.html*>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

86. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Acting Secretary, William F. Caton, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., TW–A325, Washington, DC 20554.

87. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Renee Owusu, Consumer Information Bureau, 445 12th Street, SW., Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case CI Docket No. 02–32), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

88. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities by contacting Brian Millin of the Consumer Information Bureau at (202) 418–7426, TTY (202) 418–7365, or at *bmillin@fcc.gov.* The NPRM and the proposed rules can also be downloaded from *http://www.fcc.gov.*

89. Written comments by the public on the proposed information collections are due May 16, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before June 17, 2002. In addition to filing comments with the Secretary, a copy of any comments on the information collection(s) contained herein should be submitted to Judy Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *jbHerman@fcc.gov* and to Jeanette Thornton, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *jthornto@mb.eop.gov.*

IV. Ordering Clauses

90. Pursuant to the authority contained in sections 1, 2, 4(i), 4(j), 208, 303(r), and 403 of the Communications Act of 1934, as amended, the Notice of Proposed Rulemaking is adopted.

91. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 1

Commission practice and procedure.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 0 and 1 as follows:

PART 0—COMMISSION ORGANIZATION

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

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

2. Section 0.453 is amended by revising paragraph (a)(2)(ii)(F) to read as follows:

§ 0.453 Public reference rooms.

* * * * *

(a) * * *

(2) * * *

(ii) * * *

(F) All formal complaints against common carriers filed under §§ 1.711 through 1.735 of this chapter, all documents filed in connection therewith and all communications related thereto.

* * * * *

3. Section 0.457 is amended by adding paragraph (f)(4) to read as follows:

§ 0.457 Records not routinely available for public inspection.

* * * * *

(f) * * *

(4) Informal complaints filed under §§ 1.711 through 1.735 of this chapter, all documents filed in connection therewith, and all communications related thereto.

* * * * *

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(I), 154(j), 155, 225, 303(r), 309 and 325(e).

5. Add § 1.715 to subpart E following the undesignated center heading entitled ''Informal Complaints'' to read as follows:

§ 1.715 Purpose and scope.

(a) The purpose of these rules is to establish a unified, streamlined process for the intake and resolution of complaints filed by consumers in order to promote maximum compliance with the requirements of the Communications Act of 1934, as amended, and our implementing rules and orders.

(b) These rules shall apply to all consumer complaints filed against any entities regulated by the Commission, except common carriers. Complaints against common carriers should be filed pursuant to §§ 1.716 through 1.718. The requirements contained in this subpart are not intended to preempt the adoption or enforcement of other rules

established by the Commission, or any other governmental entity, as remedies in specific areas.

(c) A consumer complaint may be transmitted to the Commission by any reasonable means, including letter, facsimile transmission, telephone (voice and TTY), Internet e-mail, and audio or video cassette recording. The complaint should contain:

(1) The name and address of the complainant;

(2) The name and address of the company against which the complaint is being made;

(3) Details about the product or service about which the complaint is being made;

(4) A statement of facts supporting the complainant's allegation that the defendant company has acted or failed to act as required by the Act or the Commission's rules or orders;

(5) If the complainant is disputing a rate or charge assessed by the defendant company, a copy of the complainant's bill setting forth the rate or charge in dispute; and

(6) The specific relief or satisfaction being sought by the complainant.

(d) The Commission will forward consumer complaints to the appropriate regulated entity for investigation. The regulated entity will, within 30 days, advise the Commission in writing, with a copy to the complainant, of its satisfaction of the complaint or of its refusal or inability to do so. Where there are clear indications from the entity's report or from other communications with the parties that the complaint has been satisfied, the Commission may, in its discretion, consider a complaint proceeding to be closed, without response to the complainant. In all other cases, the Commission will contact the complainant regarding its review and disposition of the matters raised.

[FR Doc. 02–8795 Filed 4–15–02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH80

Endangered and Threatened Wildlife and Plants; Amendment to Manatee Protection Areas in Florida

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to amend our existing regulations for establishing and administering manatee protection areas. We propose to except specific activities that will not result in take of manatees from the regulations within the Barge Canal manatee protection area in Brevard County, Florida. We also propose to establish a mechanism by which persons wishing to engage in specific activities within the Barge Canal manatee protection area may request and, as appropriate, receive a determination from us that the proposed activity will not result in take of manatees and is, therefore, excepted from the restrictions imposed by the designation.

DATES: We will consider comments on the proposed rule that are received by June 17, 2002. We must receive requests for public hearings by May 31, 2002.

ADDRESSES: If you wish to comment, you may submit written comments and information to the Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216. Also, you may fax your comments to 904/232–2404.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours from 8:00 a.m. to 4:30 p.m., at the above address.

FOR FURTHER INFORMATION CONTACT: David Hankla, Peter Benjamin, or Cameron Shaw (*see* **ADDRESSES** section), telephone 904/232–2580.

SUPPLEMENTARY INFORMATION: The authority to establish protection areas for the Florida manatee is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (ESA), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361–1407) (MMPA), and is implemented in 50 CFR, part 17, subpart J. We may, by regulation, establish manatee protection areas whenever substantial evidence shows that such establishment is necessary to prevent the taking of one or more manatees.

Take, as defined by the ESA, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct (16 U.S.C. 1532 (18)). Harm means an act that actually kills or injures wildlife (50 CFR 17.3). Such an act may include significant habitat modification or degradation that actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Under the ESA, harass means an intentional or negligent act or omission that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding or sheltering (50 CFR 17.3).

Section 104 of the MMPA sets a general moratorium, with certain exceptions, on the taking and importation of marine mammals and marine mammal products and makes it unlawful for any person to take, possess, transport, purchase, sell, export, or offer to purchase, sell, or export, any marine mammal or marine mammal product unless authorized. Take, as defined by section 3(13) of the MMPA means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Harassment is defined at section 3(18) of the MMPA as any act of pursuit, torment, or annoyance which—(i) has the potential to injure a marine mammal or marine mammal stock in the wild; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (16 U.S.C. 1362).

We may establish two types of manatee protection areas—manatee refuges and manatee sanctuaries. A manatee refuge, as defined in 50 CFR 17.102, is an area in which we have determined that certain waterborne activities would result in the taking of one or more manatees, or that certain waterborne activities must be restricted to prevent the taking of one or more manatees, including but not limited to a taking by harassment. A manatee sanctuary is an area in which we have determined that any waterborne activity would result in the taking of one or more manatees, including but not limited to a taking by harassment. A waterborne activity is defined as including, but not limited to, swimming, diving (including skin and SCUBA diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles and dredging and filling activities.

We have used manatee protection areas to limit human disturbance around important warm water manatee aggregation sites and to limit vessel speeds in waterways where it has been shown that manatee/vessel collisions have resulted in the injury and death of manatees. We have established seven manatee sanctuaries in the Crystal River area of Citrus County, Florida, (50 CFR 17.108), and on Aug. 10, 2001, we proposed establishing 16 additional manatee protection areas throughout peninsular Florida (66 FR 42318). On

January 7, 2002, we published in the **Federal Register** final designations for two of those 16 sites—the Barge Canal and Sykes Creek in Brevard County (67 FR 680).

In response to our proposed rule to establish 16 additional manatee protection areas, we received comments indicating that certain existing uses of waters proposed for designation would be eliminated or severely restricted, and that the loss of these uses would result in substantial hardship to the affected parties. In regard to the two sites for which we made final designations, on January 7, 2002, we received a request for an exemption to our regulations for the Barge Canal. After reviewing the party's request, we believe that conducting certain otherwise prohibited activities within the Barge Canal in a manner that would not result in take of manatees may be possible. This would be the case if the party could ensure that no manatees were present in the vicinity when the subject activity was to occur.

We have no desire to unnecessarily restrict or prohibit activities that will not cause incidental take of manatees. Therefore, we are proposing to amend our regulations at 50 CFR part 17 to establish a process for evaluating specific requests to conduct otherwise prohibited activities within the Barge Canal manatee protection area. We are proposing to establish this process for the Barge Canal, and only the Barge Canal, at this time, because it is the sole designated manatee protection area to date for which we have received a request for authorization of an otherwise prohibited activity. This proposed rule amendment would establish a process that will allow the public to apply for authorization to conduct otherwise prohibited activities within the Barge Canal, and to allow us to provide such authorization upon finding that the activities will not result in take of manatees. Additionally, we intend to establish this process for a limited area initially, so that we may assess the efficacy of the process in a controlled fashion, both in terms of ensuring effective manatee protection and in terms of our ability to effectively administer such a process, before we consider making it more widely available.

Under our proposed amendment, persons wishing to engage in otherwise prohibited activities within the Barge Canal would submit a written request to us. The request would contain a description of the proposed activity including the timing and duration of the activity, and specific measures to be undertaken by the requester in association with the proposed activity to ensure that take of manatees will not occur. Upon receiving a complete request, we will publish a notice in the **Federal Register** advising the public that a request has been submitted. Within 120 days of receiving a complete request, we will grant or deny the authorization and include any terms and conditions appropriate to ensure that no take of manatees will occur. In making these determinations, we will rely on information contained in the written request, other information supplied by the requester, and the best available scientific information related to the effects of the proposed activity on manatees and means for eliminating any such effects. Upon approving or denying a request, we will publish notification of our decision in the **Federal Register**, and will send copies of any approvals to appropriate local, State and federal law enforcement and regulatory agencies.

As stated above, we would approve exceptions to the manatee protection area restrictions in the Barge Canal under this proposed process only upon finding that the activity would not cause take of manatees. Given the broad definitions of ''take'' in both the ESA and MMPA, we believe that the surest means of eliminating the potential for take is to ensure that no manatees are present when the subject waterborne activity is taking place. Ensuring the absence of manatees will require implementation of an effective manatee monitoring program to cover the manatee watch area.

Water conditions in the Barge Canal are generally murky, and because the Barge Canal serves primarily as a travel corridor for manatees, they are typically submerged for extended periods. Therefore, reliably detecting the presence of manatees from a boat or from shore at ground level is exceedingly difficult. Under such conditions, monitoring of manatees (*i.e.,* manatee watch) must be conducted from an elevated platform that provides a viewing angle as nearly perpendicular to the water surface as possible in order to be effective. Platforms that provide a more oblique viewing angle, such as shore-based or watercraft-based observation stations, are considerably less effective. Effective viewing platforms are generally airborne platforms such as helicopters or small planes, with helicopters being the preferred option. Surface-based observation points (shore or watercraft-based observers) may be used to supplement aerial observers. Tethered airships equipped with video cameras have been used by researchers as an effective method to observe manatee behavior, and are another alternative aerial platform. Tethered airships may provide the only viable aerial platform for sites located in or near restricted airspaces.

Because manatees are frequently submerged while traveling and water conditions may make it impossible to observe manatees that are not at the surface, the area of the manatee watch (watch area) must extend well beyond the limits of the waterborne activity in order to ensure that any manatees approaching the area are observed. We generally recommend that the watch area extend at least 0.5 miles beyond the limits of the waterborne activity. Observers must have the ability to effectively communicate with those conducting the activity in order to ensure that any high-speed vessel operation ceases immediately when a manatee enters the watch area. Finally, the manatee watch must be initiated at least 30 minutes prior to the start of the activity to ensure that any manatees present in the watch area are observed.

In confined waters with limited access, such as the Barge Canal, employing technologies such as acoustic arrays or sonar devices to detect manatees as they enter and leave the watch area may be possible; thereby effectively gating the area of the waterborne activity. Such devices are currently employed for manatee detection at navigation locks.

The use of aerial manatee watches and certain technologies, as discussed above, are examples of types of measures that may be effective in determining that manatees are not present, and that otherwise prohibited waterborne activities may therefore occur in the Barge Canal without the potential for causing take of manatees. Other methods may be available; however, any method proposed must be able to meet the basic test of ensuring that the proposed waterborne activity will not cause the take of manatees.

Public Comments Solicited

We are soliciting comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

1. The reasons why the proposed rule amendment should or should not be adopted;

2. Current or planned activities within designated or proposed manatee protection areas and their possible effects on manatees;

3. Any foreseeable economic or other impacts resulting from the proposed rule amendment;

4. Potential adverse effects to the manatee associated with the proposed rule amendment;

5. Any actions that could be considered in lieu of, or in conjunction with, the proposed amendment that would provide comparable or improved manatee protection;

6. Potential means of conducting waterborne activities in the Barge Canal in such a way as to ensure that take of manatees will not occur; and,

7. The appropriateness of the public notification process.

Our practice is to make all comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold also from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The ESA provides for one or more public hearings on this proposal, if requested. Requests must be filed within 45 days of the date of this proposal. Requests for hearings must be made in writing and should be addressed to the Field Supervisor, Jacksonville Field Office (*see* **ADDRESSES** section). We will publish a separate notice in the **Federal Register** providing information about the time and location for any hearings. Written comments submitted during the comment period receive equal consideration with those comments presented at a public hearing.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain unnecessary technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240.

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this proposed rule is not a significant regulatory action. The Office of Management and Budget makes the final determination under Executive Order 12866.

a. This proposed rule will not have an annual economic impact of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit analysis is not required. We do not expect that any significant economic impacts would result from the proposed rule amendment. The purpose of this proposed rule is to establish a process that will allow the public to apply for authorization to conduct otherwise prohibited activities within the Barge Canal, and to allow us to provide such authorization upon finding that the activities will not result in take of manatees.

b. This proposed rule is consistent with the approach used by the State of Florida to protect manatees, although more protective measures may be deemed necessary. We recognize the important role of State and local partners, and we continue to support and encourage State and local measures to improve manatee protection. Therefore, we are eager to work with State and local agencies to develop and implement measures to protect manatees. We welcome their comments and participation to increase the likelihood of consistency of our final action with possible future action by the State or local agencies.

c. This proposed rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. No entitlements, grants, user fees, loan programs or the rights and obligations of their recipients are expected to occur.

d. This proposed rule will not raise novel legal or policy issues.

Regulatory Flexibility Act

I certify that this proposed rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

On August 10, 2001, we proposed in the **Federal Register** creation of 16 manatee protection areas in Florida (66 FR 42318), and on January 7, 2002, we published in the **Federal Register** final designations for two of those sites—the Barge Canal and Sykes Creek in Brevard County (67 FR 680). In conjunction with the August 10 rulemaking proposal, we conducted a public hearing in Melbourne, FL, and a 60-day public notice and comment period to determine the activities occurring in Barge Canal and Sykes Creek, among other sites, that might be affected by the creation of manatee protection areas. In our final rule of January 7, 2002, we published information we had compiled on the general economic characteristics and employment statistics for Brevard County and concluded that the designation of both sites as manatee refuges would ''not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).'' (67 FR 691) The current proposed rule would create a mechanism whereby entities that receive a letter of authorization would be excepted from the regulations governing the Barge Canal manatee protection area. Based on the foregoing, we believe that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2). This proposed rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It is unlikely that

unforeseen changes in costs or prices for consumers will stem from this proposed rule.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required.

b. This rule will not produce a Federal mandate of $100 million or greater in any year, *i.e.*, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required. The purpose of this rule is to establish a mechanism by which persons wishing to engage in specific activities within the Barge Canal manatee protection area may request and, as appropriate, receive a determination from us that the proposed activity will not result in take of manatees and is, therefore, excepted from the restrictions imposed by the designation.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. This rule will not have substantial direct effects on the State of Florida, in the relationship between the Federal Government and the State, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* Because this proposed rule affects a limited area (the Barge Canal), and due to the fact that only one entity has requested an exception to the restrictions imposed per our designation of the Barge Canal as a manatee protection area, we anticipate that fewer than 10 local governments, individuals, businesses, or organizations, will seek exceptions under this rule.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA). We have determined that this rule is categorically excluded under NEPA because it relates to policies, directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature; or the environmental effects of which are too broad, speculative or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case (516 DM 2, Appendix 1.10).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects.

Energy Supply, Distribution or Use (Executive Order 13211)

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this proposed rule amendment is not a significant regulatory action under Executive Order 12866, and because it establishes a process for excepting from regulation otherwise prohibited activities within the Barge Canal, it is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Author

The primary author of this document is Peter Benjamin (*see* **ADDRESSES** section).

Authority

The authority to establish manatee protection areas is provided by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), as amended.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

* * * * *

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.108 by revising paragraph (c)(1)(ii) and adding paragraph (c)(1)(iii) to read as follows:

* * * * *

(ii) Watercraft must proceed at slow speed (channel included) all year unless the Director has granted authorization to conduct an otherwise prohibited activity under paragraph (c)(1)(iii) of this section.

(iii) Any waterborne activity otherwise prohibited by this subpart may be authorized within the Barge Canal manatee protection area if the Director finds that such activity will not cause the take of manatees.

(A) Persons who want to conduct otherwise prohibited activities in the Barge Canal manatee protection area must submit a request for authorization to the Director. Requests for authorization must include a description of the proposed activity, including the timing and duration of the activity, specific measures that will be undertaken in association with the proposed activity to ensure that take of manatees does not occur, and any other information that the Director may deem relevant to the evaluation of the request.

(B) Upon receipt of a complete request for authorization, the Director will publish notification of receipt of the request in the **Federal Register**. To the maximum extent practicable, the Director will make a determination of approval or denial within 120 days. If the Director decides to issue to a letter of authorization, it will include terms and conditions specific to the activity. Examples of such terms and conditions include, but are not limited to, maximum allowable vessel speed, time and duration of operation, manatee watch protocols, use of specialized equipment, and monitoring and reporting requirements. Letters of

authorization will specify the period of validity, but will not exceed 60 months. Upon approving or denying a request, the Director will publish notification of the decision in the **Federal Register**.

(C) The person conducting the authorized activity must be in possession of a letter of authorization. Violation of any of the terms and conditions of the authorization may result in suspension or withdrawal and appropriate penalties provided in the Marine Mammal Protection Act (16 U.S.C. 1375) or Endangered Species Act (16 U.S.C. 1531). The Director may revoke a letter of authorization upon determining that the activity is likely to cause a taking of manatees or impede the recovery of the species or if the person who has been issued the letter of authorization is convicted of a violation of State or Federal conservation laws. All other Federal, State, and local requirements continue to apply.

(D) The Director will notify Federal and State conservation agencies and other appropriate law enforcement officials of any letters of authorization granted under paragraph (c)(1)(iii) of this section.

* * * * *

Dated: April 2, 2002.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–9224 Filed 4–15–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 040302B]

Pacific Fishery Management Council; Notice of Intent

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS); request for written comments.

SUMMARY: NMFS and the Pacific Fishery Management Council (Council) announce their intent to prepare an EIS in accordance with the National Environmental Policy Act of 1969 (NEPA) for Amendment 16 to the Pacific Coast Groundfish Fishery Management Plan (FMP). This amendment will incorporate rebuilding plans for groundfish species that have been declared overfished by the Secretary of Commerce (Secretary) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The amendment will also establish procedures for periodic review and revision of rebuilding plans. The Council has already held public scoping meetings and will continue to accept written comments to determine the issues of concern and the appropriate range of management alternatives to be addressed in the EIS.

DATES: Written comments will be accepted on or before May 31, 2002.

ADDRESSES: Send comments on issues and alternatives for the EIS to John DeVore, Pacific Fishery Management Council, 7700 NE Ambassador Pl., Suite 200, Portland, OR 97220 or Becky Renko, NMFS, Northwest Region, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070. Comments also may be sent via facsimile (fax) to the Council at 503–326–6831. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: John Devore, phone: 503–326–6352; fax: 503–326–6831 and e-mail: *John.Devore@noaa.gov.*

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Act, the United States has management authority over all living marine resources within the exclusive economic zone (EEZ), which extends from three to 200 nautical miles offshore. The Council develops FMPs and FMP amendments governing fisheries off the coasts of California, Oregon and Washington for approval and implementation by the Secretary of Commerce.

The Council implemented the original Groundfish FMP in 1982. Groundfish stocks are harvested in numerous commercial, recreational, and tribal fisheries in state and Federal waters off the West Coast. Groundfish are also harvested incidentally in non-groundfish fisheries, most notably fisheries for pink shrimp, spot and ridgeback prawns, California halibut, and sea cucumbers.

The FMP manages 82 species, of which eight have been declared overfished by the Secretary pursuant to the Magnuson-Stevens Act and overfishing criteria adopted by the Council under Amendment 11 to the FMP. Under Section 304(e)(3) of the Magnuson-Stevens Act (16 U.S.C. 1854(e)(3)), the Council is required, within one year, to prepare an FMP, FMP amendment, or proposed regulations to rebuild any species that has been declared overfished. In 2000, after three species had been declared overfished, NMFS approved Amendment 12 to the Groundfish FMP. Amendment 12 provided that rebuilding plans would be developed according to so-called ''framework procedures'' under the Groundfish FMP, but would not be incorporated directly into the FMP itself. Amendment 12 was subsequently deemed inconsistent with the Magnuson-Stevens Act in the case of *Natural Resources Defense Council* v. *Evans*, 168 F. Supp.2d 1149 (N.D. Calif. 2001), in that the rebuilding plans were not made part of the FMP. The court also found that the environmental assessment prepared for Amendment 12 was deficient under NEPA for failure to adequately discuss appropriate alternatives.

Amendment 16 to the FMP, which is now in development, is intended to comply with the Court's directive to include rebuilding plans in the FMP, and also to provide for rebuilding of additional species that have been declared overfished. Specifically, rebuilding plans for five of the eight overfished stocks (lingcod, cowcod, Pacific ocean perch (POP), widow rockfish, and darkblotched rockfish) will be incorporated into the FMP through Amendment 16. Three additional rebuilding plans (for bocaccio, canary rockfish and yelloweye rockfish) are pending the completion of new stock assessments and rebuilding analyses, and will be adopted in subsequent plan amendments.

Initially, NMFS intended to prepare an environmental assessment (EA) for Amendment 16. An EA is used to determine whether the proposed action (in this case adopting rebuilding plans and procedures) will have a significant impact on the human environment, as defined by NEPA and its implementing regulations. If a significant impact is anticipated to occur, an EIS must be prepared. During public scoping for the EA, it became apparent that the proposed action may cause significant impacts, so NMFS decided to proceed with an EIS rather than an EA.

Alternatives

As currently planned, the Amendment 16 EIS will evaluate the effects of two sets of alternatives that might be adopted under Amendment 16. The first set of alternatives will address the effects of different procedures that might be followed for revising rebuilding plans. This could include a variety of strategies based on the results of the biennial reviews of rebuilding plans required by section 304(e)(7) of the Magnuson-Stevens Act at 16 U.S.C. 1854(e)(7). The second set of

alternatives will analyze effects of different rebuilding parameters. These parameters include the target rebuilding period, the fishing mortality management strategy (e.g., constant catch versus constant fishing mortality rate) and rates associated with the strategy, and levels of probability or risk that rebuilding targets will be achieved.

Scoping

Public involvement in the scoping of issues and alternatives is an important part of the EIS process. Meetings of the Council have been and will continue to be the principal opportunities for public participation in scoping Amendment 16 alternatives and issues. Scoping began in March 1999 when lingcod and POP were the first groundfish species to be declared overfished. Since that time there has been substantial opportunity for public input at 11 Council meetings. Since the proposed action has already been subject to a lengthy development process that has included early and meaningful opportunity for public participation, no additional public hearings are planned. However, written comments on the scope of issues and alternatives may be submitted as described under **ADDRESSES**.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 9, 2002.

Jack H. Dunnigan,

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

[FR Doc. 02–9203 Filed 4–15–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 67, No. 73

Tuesday, April 16, 2002

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 02–023–1]

Availability of Risk Management Analysis for the Importation of Clementines From Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that a risk management analysis has been prepared by the Animal and Plant Health Inspection Service relative to a proposed rule currently under consideration that would allow the importation of clementines from Spain to resume. We are making this risk management analysis available to the public for review and comment.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by May 16, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–023–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–023–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–023–1'' on the subject line.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Ron A. Sequeira, Center for Plant Health Science and Technology, PPQ, APHIS, 1017 Main Campus Drive, Suite 2500, Raleigh, NC 27606–5202; (919) 513–2663.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS) is considering amending the fruits and vegetables regulations to allow the importation of clementines from Spain to resume. Until recently, APHIS allowed the importation of clementines from Spain under permit, provided that they were cold treated for the Mediterranean fruit fly (*Ceratitis capitata*) (Medfly) in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference into the regulations at 7 CFR 300.1.

In December 2002, APHIS suspended the importation of clementines from Spain due to interceptions of live Medfly larvae in clementines imported from Spain. Since that time, APHIS has conducted reviews of the clementine import program and of our Medfly cold treatment protocol in general. APHIS believes, based on the available evidence, that there are two possible explanations for the survival of Medfly larvae in imported Spanish clementines during the 2001–2002 shipping season. One is that despite the assumed mortality rate of Medflies following the cold treatment (99.9968 percent), any small or partial failure in the application of the cold treatment could have allowed Medflies to survive in clementines imported from Spain due to the above average levels of Medfly infestation of fruits. Alternately, it is possible that the level of Medfly infestation in imported clementines simply overwhelmed the capabilities of the cold treatment process, even if the treatment was properly applied.

At the request of the Government of Spain, APHIS has considered alternate strategies to mitigate the risk posed by Medflies imported in clementines from Spain. Our evaluation of proposed management measures is documented in a pest risk management analysis, ''Risk mitigation for tephritid fruit flies with special emphasis on risk reduction for commercial imports of clementines (several varieties of Citrus reticulata) from Spain'' (March 2002).

The risk management analysis uses an adaptation of a type of risk management approach used by the U.S. Food and Drug and Drug Administration (FDA) and U.S. Department of Agriculture's Food Safety and Inspection Service, called a hazard analysis and critical control point (HACCP) analysis.

HACCP analyses have been found to provide an effective and rational means of assuring food safety from harvest to consumption. Preventing problems from occurring is the paramount goal underlying any HACCP system, and seven basic principles are employed in the development of HACCP plans that meet the stated goal. These principles include hazard analysis, critical control point identification, establishment of critical limits, procedures for monitoring, corrective actions, verification procedures, and recordkeeping and documentation. Using a HAACP approach, if a deviation occurs indicating that control has been lost, the deviation is detected and appropriate steps are taken to reestablish control in a timely manner to ensure that potentially hazardous products do not reach the consumer.

APHIS has adapted the HAACP approach to apply to the analysis of phytosanitary measures. To distinguish our adaptation from the guidelines applicable to food safety, we use the name phytosanitary hazard analysis and critical control point (PHAACP). Using the PHACCP approach, the risk management analysis evaluates the risk reduction potential of phytosanitary measures employed to reduce the risk that clementines imported from Spain could be infested with Medflies. The PHAACP approach is described in generic form in an appendix to the risk management analysis.

The risk management analysis and appendices are available in our reading room (information on the location and hours of the reading room is listed under the heading **ADDRESSES** at the beginning of this notice) and on the Internet at *http://www.aphis.usda.gov/oa/clementine/index.html.* You may also request a copy by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This notice solicits public comments on the risk management analysis. We will also be making the risk management analysis available for public comment again during the comment period for any proposed rule related to the importation of clementines from Spain.

Authority: 7 U.S.C. 166, 450, 7701–7772; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

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

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–9212 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sunken Moose Project; Chequamegon/Nicolet National Forest, Bayfield County, WI

AGENCY: Forest Service, USDA

ACTION: Revised notice, intent to prepare an Environmental Impact Statement

SUMMARY: The Sunken Moose Analysis was originally published in the **Federal Register** on April 24, 2001 (Vol. 66, No. 79 page 20622, Tuesday, April 24, 2001/Notices). The Forest Service has decided to revise the proposed action for several reasons. The purpose and need for action has been changed as a result of the emerging concerns about the potential spread of an exotic insect pest, the gypsy moth, and new information provided by watershed and roads analysis for the Sunken Moose Project. In addition, the Responsible Official identified a number of the originally proposed components as not connected to the primary activities, and, decided to remove these dissimilar actions from consideration (40 CFR 1508.25). Activities removed from the original proposal include, erosion control projects, access control projects, prescribed burning for natural fuels reduction and wildlife habitat improvements, and installation of dry hydrants. These potential projects will be undertaken in separate NEPA analyses.

This action would occur entirely on National Forest System lands within the Northwest Bayfield Peninsula and Southeast Bayfield Peninsula watersheds approximately six miles east of Washburn, Wisconsin in T.48N, R.5W, Section 6; T.48N, R.6W, Sections 1–24, 26–35; T.48N, R.7W, Sections 1–3, 11–13, 25–26, 36; T.49N, R.5W, Sections 6–7, 18–19, 30–31; T.49N, R6W; T.49N, R.7W, Sections 1, 11–17, 20–29, 32–36.

The Forest Service will prepare an environmental impact statement (EIS) to analyze and disclose the potential environmental effects of the project.

The purpose of the Sunken Moose project is to implement land management activities that are consistent with direction in the Chequamegon National Forest Land and Resource Management Plan (Forest Plan, 1986) and to respond to specific needs and/or problems, identified during watershed and roads analysis. The purpose and need for this proposal are:

1. Restoring and maintaining red and white pine communities at levels that are consistent with providing the desired habitat diversity goals of the Forest Plan (pp. IV–52 through IV–55, IV–59 through IV–60);

2. Maintaining birch woodlands at levels that are consistent with providing habitat diversity goals consistent with the Forest Plan (IV–43 through IV–44);

3. Improving the vigor of oak communities to minimize mortality and growth loss as a result of the expanding infestations of gypsy moth, a non-native, introduced pest of forest stands (Forest Plan, pp. IV–23, IV–52); and

4. Providing saw timber and other wood related commodities for local industries and communities (Forest Plan p. IV–39).

Proposed Action: The Forest Service proposes to implement the following activities on 13,800 to 15,200 acres utilizing a variety of silvicultural systems: shelterwood (23%), commercial thinning (77%). The timber produced as a result of these activities would be yarded by conventional ground-based logging systems (e.g. tractor/jammer, forwarders etc.). In addition, approximately 3,100 acres of timber stand improvement of existing red pine plantations would be undertaken.

Post-harvest activities would include the following: prescribed burning for activity fuel abatement and site preparation and mechanical preparation for reforestation, and tree planting.

In order to facilitate log and/or wood product haul and minimize sedimentation approximately 3.5 miles of permanent road and 9.0 miles of temporary road would be constructed. Approximately ½ mile of Forest Road 697 would be re-constructed to reduce run-off into Four Mile Creek and approximately ¼ mile of Forest Road 433 would be re-located to improve the stream crossing on Lenawee Creek. Finally, about 4 miles of classified roads and 13.5 miles of un-classified roads not needed for management activities would be decommissioned.

DATES: Comments concerning the scope of the analysis should be received within 30 days following publication of this notice to receive timely consideration in the preparation of the draft EIS.

ADDRESSES: Send written comments and suggestions on the proposed action, or requests to be placed on the project mailing list, to: Chris Worth, District Ranger, Washburn Ranger District, P.O. Box 578, 113 East Bayfield St., Washburn, WI 54891. E-mail comments should have a subject line that reads ''NEPA Washburn—Sunken Moose'' and be sent to *rkiewit@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Ray Kiewit, Interdisciplinary Team Leader, Washburn Ranger District, P.O. Box 578, 113 East Bayfield St., Washburn, WI 54891, phone (715) 373–2667, or email at *rkiewit@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The information presented in this notice is included to help the reviewer determine if they are interested in or are potentially affected by proposed management activities. Those who wish to provide comments, or are otherwise interested in or affected by the project, are encouraged to obtain additional information from the contact identified in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

Responsible Official—The District Ranger of the Washburn Ranger District, Chris Worth, is the Responsible Official for making project-level decisions, within the project area.

Preliminary Concerns— Scoping conducted in April, 2001 resulted in 54 responses. The Interdisciplinary Team examined letters, e-mails and telephone conversations that were received by the Responsible Official. The Team identified two significant issues: (1) Timber harvest could fragment the forested landscape, resulting in degradation of habitat for interior forest species; and (2) proposed silvicultural prescriptions would not change the current plant communities towards early succession pioneering species

(such as aspen and scrub oak) compared to other methods such as clearcutting. The interdisciplinary team will review any additional comments and will examine those irresolvable issues that would drive issues and alternative development.

Public Participation—The Forest Service is seeking comments from Federal, State, and local agencies, as well as local Native American tribes and other individuals or organizations that may be interested in or affected by the proposed action. Comments received in response to this notice will become a matter of public record. While public participation is welcome at any time, comments on the proposed actions received within 30 days of this notice will be especially useful in the preparation of the draft EIS. Timely comments will be used by the interdisciplinary team to: (1) Identify any additional potential issues associated with the proposed actions; (2) develop alternatives to the proposed actions that respond to the identified needs and significant issues; 3) and frame the analysis of potential environmental effects of the alternatives considered in detail. In addition, the public is encouraged to contact and/or visit Forest Service officials at any time during the planning process. At this time, the Forest anticipates sponsoring either an open house or field tour of the project when the DEIS is released for public review and comment.

Relationship to Forest Plan Revision—The Chequamegon-Nicolet National Forest is in the process of revising and combining the existing Land and Resource Management Plans (Forest Plans) for the Chequamegon National Forest and the Nicolet National Forest, which were administratively separate at the time the Forest Plans were developed. A Notice of Intent to revise and combine the Forest Plans was issued in 1996. As part of this process, various inventories and evaluations are occurring. Additionally, the forest is in the process of developing alternative land management scenarios that could change the desired future conditions and management direction for the Forest. A Draft Environmental Impact Statement (DEIS) will be published in the near future that will disclose the consequences of the different land management direction scenarios considered in detail. As a result of the Forest Plan revision effort, the Forest has new and additional information beyond that used to develop the existing Forest Plans. This information will be used where appropriate in the analysis of this project to disclose the effects of the proposed activities and any alternatives developed in detail.

The decisions associated with the analysis of this project will be consistent with the existing Forest Plan, unless amended, for the Chequamegon. Under regulations of the National Environmental Policy Act (40 CFR 1506.1), the Forest Service can take actions while work on a Forest Plan revision is in progress because a programmatic Environmental Impact Statement-the existing Forest Plan Final EIS, already supports the actions. The relationship of this project to the proposed FP revision will be considered as appropriate as part of this planning effort.

Estimated Dates for Filing—It is anticipated that the Draft EIS will be filed with the Environmental Protection Agency and available for public review by August 2002. A 45-day comment period will follow publication of a Notice of Availability of the draft EIS in the **Federal Register**. Comments received on the draft EIS will be used to prepare of a final EIS, expected in early 2003. A Record of Decision (ROD) will be issued at that time along with the publication of a Notice of Availability of the final EIS and ROD in the **Federal Register**.

The Reviewer's Obligation to Comment—The Forest Service believes it is important at this early stage to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the draft EIS must structure their participation in the environmental review of the proposal in such a way that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 513 (1978). Also, environmental objections that could be raised at the draft EIS state but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986), and *Wisconsin Heritages Ubc,* v. *Harris.* 490 F Supp. 1334, 1338 (E.D. Wis., 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the 45-day comment period of the draft EIS in order that substantive comments and objections are available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: April 5, 2002.

Robert Lueckel,

Acting Forest Supervisor, Chequamegon/Nicolet National Forest, 1170 4th Ave. S., Park Falls, WI 54552.

[FR Doc. 02–9161 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of Land and Resource Management Plan for the Mark Twain National Forest; Barry, Bollinger, Boone, Butler, Callaway, Carter, Christian, Crawford, Dent, Douglas, Howell, Iron, Laclede, Madison, Oregon, Ozark, Phelps, Pulaski, Reynolds, Ripley, St. Genevieve, St. Francis, Shannon, Stone, Taney, Texas, Washington, Wayne, and Wright Counties, MO

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare environmental impact statement (EIS).

SUMMARY: The USDA Forest Service intends to prepare an EIS for revising the Mark Twain National Forest Land and Resource Management Plan (Forest Plan) pursuant to 16 U.S.C. 1604(f)(5) and USDA Forest Service National Forest System Land and Resource Management Planning regulations (36 CFR 219.) The revised Forest Plan will supersede the current Forest Plan, which the regional forester approved June 23, 1986, and has been amended 25 times. This notice describes the focus areas of change, the estimated dates for filing the EIS, the information concerning public participation, and the names and addresses of the responsible agency official and the individual who can provide additional information.

DATES: Your comments on this Notice of Intent (NOI) should be submitted in writing by August 2, 2002. The Draft EIS is expected to be available for public review by November 2004. The Final EIS and revised Forest Plan are expected to be completed by October 2005.

ADDRESSES: Send written comments to: NOI—FP Revision, Mark Twain National Forest, 401 Fairgrounds Road, Rolla, MO 65401. Electronic mail should include ''Forest Plan Revision'' in the subject line, and be sent to: *mailroom_r9;_mark_twain@fs.fed.us*

FOR FURTHER INFORMATION CONTACT: Laura Watts, Forest Planner, at 573–

341–7471, TTY 573–341–7453. Information will also be posted on the forest web page at *www.fs.fed.us/r9/marktwain/*

Responsible Official: Regional Forester, Eastern Region, 310 W. Wisconsin Ave, Milwaukee, Wisconsin 53203.

SUPPLEMENTARY INFORMATION: The Regional Forester for the Eastern Region gives notice of the agency's intent to prepare an EIS to revise the Mark Twain Forest Plan. The Regional Forester approved the original Mark Twain Forest Plan in June 1986. This plan guides the overall management of the Mark Twain National Forest.

The National Forest Management Act requires that national forests revise forest plans at least every 15 years (U.S.C. 1604[f][5]). Additional indicators of the need to revise the 1986 Mark Twain Forest Plan are: (1) Land conditions and public demands have changed, (2) agency policies and strategic priorities have changed, (3) results of monitoring and evaluation suggest the need for revision, (4) new information is available, and (5) suggestions for changes have been made by those interested in management of the Mark Twain National Forest.

The Nature and Scope of the Decision to be Made: Forest plans make the following types of decisions:

1. Forest-wide multiple-use goals and objectives. Goals describe a desired condition to be achieved sometime in the future. Objectives are concise, time-specific statements of measurable planned results that respond to the goals.

2. Forest-wide management direction and requirements. These include limitations on management activities, or advisable courses of action that apply across the entire forest.

3. Management direction specific to certain portions (management areas) of the Forest. This includes the desired future condition for different areas of the forest, and the accompanying management direction to help achieve that condition.

4. Lands suited and not suited for resource use and production (e.g. timber management).

5. Monitoring and evaluation requirements needed to gauge how well the plan is being implemented.

6. Recommendations to Congress, if any (e.g. additional Wilderness designation).

The scope of this decision is limited to revisiting only those portions of the current Forest Plan that need revision, update, or correction. We propose to narrow the scope of revising the Forest Plan by focusing on topics identified as being most critically in need of change.

Revision Topics: Many sources were reviewed to identify the parts of the current Forest Plan that need revision, update, or correction. These sources included: comments from the public, interested groups, government officials, State and Federal agencies, and Forest Service employees; results of monitoring and evaluation; changes in law and policy; relevant new scientific information; the 1991 five-year review of the Forest Plan; and the Ozark-Ouachita Highlands Assessment.

Based on our review of the current Forest Plan and the sources listed above, we propose that the Forest Plan revision focus on improving management in the following areas:

1. Vegetation and Timber Management

a. Identify lands suited to timber production.

b. Maintain oak-hickory, shortleaf pine and oak-pine communities by providing for adaptive management and greater flexibility of silvicultural techniques.

2. Ecological Sustainability and Ecosystem Health

a. Restore and maintain healthy forest ecosystems in response to oak decline; provide a healthier balance of shortleaf pine and white oak; restore open woodland habitats.

b. Encourage natural vegetation by allowing pine and oak reforestation and stand improvement in a wider variety of situations.

c. Provide a wide diversity of natural communities and wildlife habitat conditions.

d. Revise list of management indicator species.

3. Fire Management

a. Use prescribed fire to restore ecosystems, reduce hazardous fuels, maintain healthy forests and provide wildlife habitat.

b. Manage wildland fires to protect life and property.

c. Improve and maintain forest health and reduce the intensity of wildland fires through a proactive approach to fire and fuels management.

4. Management Area Boundaries and Prescriptions

a. Adjust management area boundaries where needed to incorporate ecological landtypes, current social demands, and management practicalities.

b. Evaluate inventoried roadless areas for Wilderness designation. Determine the most appropriate use and management for inventoried roadless areas not recommended to Congress for Wilderness designation. Determine eligibility and highest potential classification for any rivers identified with potential for inclusion in the Nation's wild and scenic river system.

5. Riparian Management

a. Restore and maintain the ecological function of riparian areas, emphasizing the ecological processes that riparian areas play in supporting aquatic systems and water quality; define riparian areas and aquatic ecosystems based on plant community, soil and hydrologic criteria; protect water quality and ecological processes associated with karst terrain and karst features.

Additional detail on the Revision Topics is available in the document titled ''Assessment of the Need For Change in the Revision of the Mark Twain National Forest Land and Resource Management Plan.'' You are encouraged to review this additional document before commenting on the Notice of Intent. You may request the additional information as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

Other Changes: In addition to the major revision topics listed above, we anticipate making other changes that are important as direction for the forest but which tend to be narrow in scope. These changes, which are listed below, would not affect many resources or result in significant changes in the plan.

1. Access and Transportation Management

a. Modify or eliminate road density standards in management area prescriptions.

b. Eliminate ''woods roads'' designation.

c. Eliminate the Forest Plan Transportation Map.

d. Clarify existing plan direction for off-highway vehicle (OHV) and all-terrain vehicle (ATV) use on the forest.

2. Scenery Management System

a. Replace the current Visual Management System with the national Scenery Management System.

3. Monitoring and Evaluation

a. Revise the monitoring strategy to focus on information that will enhance understanding of resource management issues, is measurable and scientifically supported, and is feasible given probably budgets.

We also propose making changes of an editorial nature. These could include changes to explain or clarify direction in

the existing plan, remove items that do not pertain to the six Forest Plan decisions, or remove direction that can be found elsewhere, such as in the Forest Service Directives System. These changes would not represent a change in the direction, goals or objectives in the Plan.

Topics beyond the scope of this Forest Plan Revision: Forest plan decisions do not change laws, regulations or rights. The revised Forest Plan will only make decisions that apply to National Forest System lands. The revised Forest Plan will make no decisions regarding management or use of privately owned lands or reserved and outstanding mineral estates.

Of the topics suggested for change, some appear to be adequately addressed in the 1986 Forest Plan, as amended, and do not need to be changed. Others are not considered to be among the highest priority topics to be included in this revision, but rather can be differed to be addressed in future amendments. For a discussion of the process used to narrow the range of plan revision topics, see the document titled ''Assessment of the Need For Change in the Revision of the Mark Twain National Forest Land and Resource Management Plan.'' You may request a copy of this document as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice. Some of the Forest Plan decisions that do not need to be changed at this time are:

• Management for Federally-listed and other sensitive species—The Forest Plan was amended in 2000 and 2001 to incorporate changes in management for threatened and endangered species. In 2001, an analysis found that the current Forest Plan provided objectives contributing to the viability of species on the Region 9 Regional Forester's Sensitive Species list. We do not propose any changes for management of species at risk.

• Management of rivers previously identified as eligible for inclusion in the National Wild and Scenic Rivers system—Under current Forest Plan direction, these rivers and the National Forest System lands around them are managed to perpetuate their current condition and protect their unique qualities. There has been no wide spread public support, or any indication from the State, Federal agencies, or Congressional delegations that there is a need to change the current management of these rivers or to conduct a suitability determination at this time. Therefore, we do not propose any changes in the management direction for these rivers.

• Off-road vehicle use on the Forest—Under the current plan, the Forest is ''closed unless posted open'' to motorized use. This means that off-highway vehicle (OHV) and all-terrain vehicle (ATV) use is restricted to designated trails or use areas. OHVs and ATVs may also use Forest Service classified roads (system roads), if the vehicle complies with State law. OHV and ATV users have expressed a strong interest in using existing unclassified roads, which the Forest Plan considers to be closed (whether or not there is a physical closure) and therefore off-limits to all motorized vehicle use. Based on monitoring results, interpretation of national policy trends, other Forests' experiences, and our own experiences trying to manage ATV and OHV use, we do not believe that a major change in plan direction for off-road motorized use is warranted.

• Recreation Management—The Forest Plan was recently amended to update the goals and management direction for recreation. The amendment expanded the recreation program emphasis to include providing quality developed sites and recreation facilities designed to meet the needs and desires of the public being served by the facility. The amendment also added Management Prescription 7.1 to the Forest Plan, emphasizing intensive recreation opportunities occurring in the more highly developed recreation areas. We do not propose any additional changes in direction for recreation management at this time.

• Heritage Resources Management—The Forest Plan was recently amended to address current federal mandates and compliance requirements for heritage resources. Processes were included for preservation efforts to restore and interpret selected heritage sites, increase public outreach, and develop public education and volunteer programs. We do not propose any additional changes in direction for heritage resources management at this time.

• Fish and Aquatic Management—The Forest Plan was recently amended to incorporate goals and management direction for fish and aquatic species into the Forest Plan. The amendment provides for protection of aquatic ecosystems, restoration of degraded aquatic ecosystems and recovery of threatened or endangered aquatic species, and enhancement of aquatic resource user opportunities by increasing system productivity, improving user access and/or associated amenities, and providing environmental education and interpretation. We do not propose any additional changes in direction for fish and aquatic management at this time.

• Minerals Exploration—There is a high level of interest and widely differing opinions about the mining and processing of lead in Missouri. The responsibility of the Forest Service in regards to mining is limited to the surface activities, primarily those associated with exploration for minerals. We believe that the Forest Plan contains appropriate and adequate direction in regards to the surface activities associated with mining that occur on the Mark Twain National Forest, and we do not propose any changes to the management direction in the Forest Plan.

Public comments received on topics beyond the scope of the Forest Plan revision will be acknowledged as such. Comments relating to project or program implementation will be forwarded to the managers responsible for that topic area. Comments on topics outside the responsibility of the Forest Service will be forwarded to the appropriate agency, State or local government.

Range of Alternatives: We will consider a range of alternatives when revising the Forest Plan. Alternatives will provide different ways to address and respond to issues identified during the scoping process. A ''no-action alternative'' is required, meaning that management would continue under the existing Forest Plan.

Proposed Revised Planning Regulations: The Department of Agriculture published new planning regulations in November of 2000. Concerns regarding the ability to implement these regulations prompted a review and will likely result in a proposed revision of the 2000 planning rule. On May 10, 2001, Secretary Veneman signed an interim final rule allowing forest plan amendments or revisions initiated before May 9, 2002, to proceed under the 2000 planning rule or under the 1982 planning rule. The Mark Twain National Forest will proceed under the 1982 planning rule, pending future transition direction in a revised rule.

Coordination with other National Forests: The Mark Twain, Ouachita, and Ozark-St. Francis National Forests manage about four million acres of public land in the Ozark-Ouachita Highlands of southeastern Oklahoma, southern Missouri, and northern and west-central Arkansas. Besides proximity, the forests share many management issues, markets, communities of interest, and ecological conditions. For example, the Mark Twain and the Ozark National Forests are working closely together on strategies for coping with the recent red oak borer infestation and oak decline.

Recognizing our commonalities, and in an attempt to set the stage for forest plan revisions, the respective Forest Supervisors initiated the Ozark-Ouachita Highlands Assessment in 1996. This multi-agency, broad-scale assessment yielded a five-volume set of reports in late 1999 and demonstrated the value of a coordinated approach to meeting national forest planning needs in the Ozark-Ouachita Highlands. We intend to continue coordination among the three national forests throughout the forest plan revision process.

Inviting Public Participation: We are now soliciting comments and suggestions from Federal agencies, State and local governments, individuals, and organizations on the scope of the analysis to be included in the draft environmental impact statement for the revised Forest Plan (40 CFR 1501.7). Comments should focus on (1) the proposal for revising the Forest Plan, (2) possible alternatives for addressing issues associated with the proposal, (3) potential environmental effects that should be included in the analysis, and (4) any possible impacts associated with the proposal based on an individual's civil rights (race, color, national origin, age, religion, gender, disability, political beliefs, sexual orientation, marital or family status). We will encourage public participation in the environmental analysis and decision-making process.

Along with the release of this NOI and proposal for revising the Forest Plan, we will provide for many types of public involvement. One method of public involvement will be a series of public meetings hosted by the Forest Service. These purpose of these meetings is to (1) present and clarify proposed changes to the Forest Plan; (2) describe ways that individuals can respond to this Notice of Intent; and (3) accept comments from the public on this proposal for revising the Forest Plan.

Below is the schedule of initial meetings based on publication of this NOI. Additional meetings may be scheduled as needed.

Date	Time	Location
June 6, 2002	7–8:30 p.m	West Plains Civic Center, 110 St. Louis, West Plains, MO 65775.
June 13, 2002	7–8:30 p.m	Black River Coliseum, 301 South 5th Street, Poplar Bluff, MO 63901.
June 20, 2002	7–8:30 p.m	Farmington Civic Center, #2 Black Knight, Farmington, MO 63640.
June 27, 2002	7–8:30 p.m	Leinor Community Center, #1 Hurigan Drive, Columbia, MO 65201.

Availability of Public Comment: Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decisions under 36 CFR parts 215 or 217.

Additionally, pursuant to 7 CFR 1.27(d), any persons may request the agency to withhold a submission from the public record by showing how the FOIA (Freedom of Information Act) permits such confidentiality. Persons requesting such confidentiality should be aware that under FOIA confidentiality may be granted in only very limited circumstances, such as to protect trade secrets.

The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality and where the requester is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 90 days.

Release and Review of the Draft EIS: The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public comment in November 2004. At that time, the EPA will publish a notice of availability in the **Federal Register**. The comment period on the DEIS will be 90 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, that it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Poser Corp.* v. *NRDS,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings it is very important that those interested in this proposed action participate by the close of the 90-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council of Environmental Quality Regulations (*http://ceq.eh.doe.gov/nepa/nepanet.htm*) for implementing the procedural provision of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: April 8, 2002.

Donald L. Meyer,

Acting Regional Forester.

[FR Doc. 02–9142 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Trinity County Resource Advisory Committee

AGENCY: Forest Service, USDA

ACTION: Notice of meeting.

SUMMARY: The Trinity County Resource Advisory Committee (RAC) will meet on May 6, 2002 in Weaverville, California. The purpose of the meeting is to discuss the selection of Title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on May 6, 2002 from 6:30 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Trinity County Office of Education, 201 Memorial Drive, Weaverville, California.

FOR FURTHER INFORMATION CONTACT: Joyce Andersen, Designated Federal Official, USDA, Shasta Trinity National Forests, PO Box 1190, Weaverville, CA 96093. Phone: (530) 623–1709. E-mail: *jandersen@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting will focus on agreeing on Title II projects for recommendation to the Secretary of Agriculture. 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: April 10, 2002.

Jerry Boberg,

Acting Forest Supervisor.

[FR Doc. 02–9158 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Del Norte County Resource Advisory Committee (RAC) will meet on May 7, 2002 in Crescent City, California. The purpose of the meeting is to discuss the selection of Title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on May 7, 2002 from 6 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Elk Valley Rancheria Community Center, 2298 Norris Avenue, Suite B, Crescent City, California.

FOR FURTHER INFORMATION CONTACT: Laura Chapman, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501. Phone: (707) 441–3549. E-mail: *lchapman@fs.fed.us.*

SUPPLEMENTARY INFORMATION: This will be the fifth meeting of the committee, and will focus on the process for requesting and reviewing public Title II proposals and project monitoring. 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: April 10, 2002.

Jerry Boberg,

Acting Forest Supervisor.

[FR Doc. 02–9159 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Reports and Guidance Documents; Availability; Withdrawal of the Alaska Regional Guide

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The intended effect of this action is to comply with 36 CFR part 219 § 219.35(e) which directs the Regional Forester must withdraw the Regional Guide. When a Regional Guide is withdrawn, the Regional Forester must identify the decisions in the Regional Guide that are to be transferred to a regional supplement of the Forest Service directive system (36 CFR 200.4) and to give notice in the **Federal Register** of these actions.

DATES: This action will be effective the date of this **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Jan Lerum, Regional Planner, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802. Telephone (907) 586–8796.

SUPPLEMENTARY INFORMATION: This action withdraws the Alaska Regional Guide and transfers some decisions therein to the Forest Service directive system. Specifically, this action transfers from the Regional Guide to a regional supplement to the FSM 2410 directives the management standards and guidelines for: Appropriate harvest cutting methods; forest type standards; maximum size of created openings (a requirement of the National Forest Management Act); dispersal and size variation of tree openings; management intensity; utilization standards; sale administration; project monitoring; and competitive bidding and small business.

Dated: April 8, 2002.

Jacqueline Myers,

Deputy Regional Forester.

[FR Doc. 02–9160 Filed 4–15–02; 8:45 am]

BILLING CODE 3410–11–M

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Public Hearing: Reactive Chemical Hazards

AGENCY: U.S. Chemical Safety and Hazard Investigation Board (CSB).

ACTION: Notice announcing public hearing and requesting public comment and participation.

SUMMARY: The CSB is planning to hold a public hearing to examine findings and preliminary conclusions resulting from its investigation into chemical process safety involving reactive hazards. This notice provides information regarding the CSB investigation into reactive hazards, a request for comments on specific issues raised by the investigation, and the date, time, location and format for the public hearing.

DATES: The Public Hearing will be held on Thursday, May 30, 2002, beginning at 9 a.m. at the Paterson, New Jersey, City Hall, 155 Market Street, Paterson, New Jersey.

Pre-registration: The event is open to the public and there is no fee for attendance. However, attendees are strongly encouraged to pre-register, to ensure adequate seating arrangements. To pre-register, please e-mail your name and affiliation by May 22, 2002, to *reactives@csb.gov.*

Written Comments: The public is encouraged to not only submit written comments but also to provide oral comments at the Public Hearing. Individuals, organizations, businesses, or local, state or federal government agencies may submit written comments on the questions to be addressed at the Public Hearing. Such comments must be filed on or before June 30, 2002. For further instructions on submitting comments, please see the ''Form and Availability of Comments'' section below.

ADDRESSES: Written comments and requests to provide oral comments at the Public Hearing should be submitted to: Mr. John Murphy, U.S. Chemical Safety and Hazard Investigation Board, 2175 K Street, NW., Suite 400, Washington, DC 20037. Alternatively, they may be e-mailed to *reactives@csb.gov.*

FOR FURTHER INFORMATION CONTACT: John Murphy, Office of Investigations and Safety Programs, 202.261.7622 or e-mail at: *reactives@csb.gov.*

SUPPLEMENTARY INFORMATION:

A. Introduction
B. Background
C. CSB Hazard Investigation
D. Key Findings

E. Request for Comments
F. Form and Availability of Comments
G. Registration Information
H. Sunshine Act Notice

A. Introduction

The CSB is nearing completion of its investigation into incidents involving reactive hazards. A public hearing will be held on May 30th, 2002, at 9 am, at the Paterson, New Jersey, City Hall, 155 Market Street. CSB staff will present findings and preliminary conclusions from this investigation to the Board. The hearing provides a forum for interested parties to provide input prior to CSB's formulation of final recommendations and issuance of a report. Witnesses will be called, and there will be an opportunity for public comment.

B. Background

In April 1995, an explosion and fire at Napp Technologies, in Lodi, New Jersey, killed five employees, injured several others, destroyed a majority of the facility and significantly damaged nearby businesses, and resulted in the evacuation of 300 residents from their homes and a school. Additionally, firefighting efforts generated chemically contaminated water that ran off into a river. Property damage exceeded $20 million. The incident occurred as Napp was performing a toll blending operation. The chemicals involved were water reactive. During the operation, water was inadvertently introduced into a blender in the process.[1] This initiated a sequence of events that led to the severe impacts.

On August 24, 2000, the CSB approved an investigative report on the April 1998 explosion at the Morton International (now Rohm and Haas) facility in Paterson, New Jersey.[2] The report stated that the incident might not have occurred had the company's safety program for reactive chemicals followed recommended industry safety practices. The blast injured nine workers and released chemicals into the neighboring community. Although the chemical involved in this incident has the capacity to decompose violently, it is not covered under OSHA's PSM or EPA's RMP.

The Napp incident, the Morton incident, and other similar events led the CSB to conduct a reactive chemical hazard investigation.

C. CSB Hazard Investigation

The objectives of CSB's investigation included: evaluation of the impacts of reactive chemical incidents; examination of how OSHA and EPA authorities and regulations address reactive hazards; analysis of the appropriateness and consideration of alternatives to reliance on the National Fire Protection Association (NFPA) instability rating system to define reactive substances covered under OSHA's process safety management (PSM) standard; examination of how industry and other private sector organizations address reactive hazards; and development of recommendations for reducing the number and severity of reactive chemical incidents.

D. Key Findings

The data analyzed by CSB include 167 serious incidents in the United States involving uncontrolled chemical reactivity that occurred from 1980 to June 2001. Forty-eight of these incidents resulted in a total of 108 fatalities. Available data reveal that there were an average of 6 injury-related incidents that resulted in 5 fatalities per year. About 50 of the 167 incidents affected the public.[3] Approximately 70 percent of the 167 incidents occurred in the chemical manufacturing industry. Some reactive chemical incidents have caused in excess of $100 million in damage.

Where causal information is available,[4] 60 percent of the reactive chemical incidents involved inadequate management systems for identifying hazards or conducting process hazard evaluations.

OSHA's PSM standard covers listed chemicals that present a range of hazards, including reactivity. Reactive chemicals covered by OSHA's PSM were selected from a list of chemicals rated by NFPA because they have an instability rating of ''3'' or ''4'' (on a scale of 0 to 4). EPA's Risk Management Program (RMP; 40CFR68) does not list substances for coverage based on reactivity. Over 50 percent of the 167 incidents involved chemicals not covered by existing OSHA or EPA process safety regulations. Approximately 60 percent of the 167 incidents involved chemicals that are either not rated by NFPA or have instability ratings indicating ''no special hazard'' (NFPA ''0'').

NFPA instability ratings have the following limitations with respect to identifying reactive hazards: they were designed for initial emergency response purposes, not for application to chemical process safety; they address the instability of single substances only, not reactivity with other chemical substances (with the exception of water) or chemical behavior under process conditions. OSHA's PSM covers only 38 chemicals that are rated as 3's or 4's by NFPA Standard 49 (1975). This standard is based on a rating system that relies, in part, on subjective criteria.

The list-based approach for establishing coverage of reactive hazards in the OSHA PSM standard is inadequate because it fails to address the hazards from combinations of chemicals and process-specific conditions. Additional staff findings and conclusions will be presented at the public hearing.

E. Request for Comments

CSB solicits written or verbal comments on the following four issues, which will be the main focus of the public hearing:

1. Is there a need to improve coverage of potentially catastrophic[5] reactive hazards under OSHA's PSM standard? If so, what approaches should be pursued?

a. What criteria could be used, in the context of process safety regulations, to classify chemical mixtures as ''highly hazardous'' due to chemical reactivity?

b. Should there be a minimum regulatory requirement for reactive hazard identification and evaluation that applies to all facilities engaged in chemical manufacturing?

c. What are alternative regulatory approaches?

2. For processes already covered under the OSHA PSM standard, do the safety management requirements of the standard adequately address reactive hazards? If not, what should be added or changed?

3. Does EPA's RMP regulation provide sufficient coverage to protect the public and the environment from the hazards of reactive chemicals? If not, what should be added or changed?

4. What non-regulatory actions should be taken by OSHA and EPA to reduce the number and severity of reactive chemical incidents?

Additional Issues. CSB also solicits comments on the following related subjects: (i) suggested improvements to industry guidance or initiatives (e.g. Responsible Care®, Responsible Distribution Process℠, etc.) to reduce

[1] EPA/OSHA Joint Chemical Accident Investigation Report, Napp Technologies, Inc., Lodi, NJ October 1997

[2] US CSB, Investigation Report, Morton International, Inc.; *www.csb.gov*

[3] Public impact is defined as known injury, offsite evacuation, or shelter-in-place.

[4] Causal information was available in 20 percent of the 167 incidents.

[5] Potentially catastrophic reactive hazards covered under the provisions of OSHA PSM standard fall in the category of ''highly hazardous'' substances. Highly hazardous substances include substances listed due to their reactivity or toxicity, and a class a flammables.

the number and severity of reactive incidents; (ii) suggested improvements for the sharing of reactive chemical test data, incident data, and lessons learned; (iii) other non-regulatory initiatives that would help prevent reactive incidents.

F. Form and Availability of Comments

Comments should address the questions listed above. CSB will accept verbal comments at the public hearing. Verbal comments must be limited to 5 minutes. Those wishing to make verbal comments should pre-register by May 22nd. To pre-register, send your name and a brief outline of your comments to the person listed in ''Addresses.''

The CSB requests that interested parties submit written comments on the above questions to facilitate greater understanding of the issues. Of particular interest are any studies, surveys, research, and empirical data. Comments should indicate the number(s) of the specific question(s) being answered, provide responses to questions in numerical order, and use a separate page for each question answered. Comments should be captioned ''Reactives Hazard Investigation—Comments,'' and must be filed on or before June 30, 2002.

Parties sending written comments should submit an original and two copies of each document. To enable prompt review and public access, paper submissions should include a version on diskette in PDF, ASCII, WordPerfect, or Microsoft Word format. Diskettes should be labeled with the name of the party, and the name and version of the word processing program used to create the document. Alternatively, comments may be e-mailed to *reactives@csb.gov.* Written comments will be available for public inspection in accordance with the Freedom of Information Act, 5 U.S.C. 552, and CSB regulations. This notice and, to the extent technologies make it possible, all comments will also be posted on the CSB Web site: *www.csb.gov.*

G. Registration Information

The Public Hearing will be open to the public, and there is no fee for attendance. As discussed above, pre-registration is strongly encouraged, as seating may be limited. To pre-register, please e-mail your name and affiliation to *reactives@csb.gov* by May 22, 2002. A detailed agenda and additional information on the hearing will be posted on the CSB's Web site at *www.csb.gov* before May 22, 2002.

H. Sunshine Act Notice

The United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning on Thursday, May 30, 2002, beginning at 9 a.m. at the Paterson, New Jersey, City Hall, 155 Market Street, Paterson New Jersey. Topics will include: CSB's investigation into process safety of reactive hazards. The meeting will be open to the public. Please notify CSB if a translator or interpreter is needed, 10 business days prior to the public meeting. For more information, please contact the Chemical Safety and Hazard Investigation Board's Office of Congressional and Public Affairs, 202.261.7600, or visit our Web site at: *www.csb.gov.*

Christopher W. Warner,

General Counsel.

[FR Doc. 02–9105 Filed 4–15–02; 8:45 am]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–832]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 16, 2002.

FOR FURTHER INFORMATION CONTACT: Vicki Schepker or Christopher Smith, at (202) 482–1756 or (202) 482–1442, respectively; AD/CVD Enforcement Group II Office 5, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulation

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 of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2001).

Preliminary Determination

We preliminarily determine that carbon and certain alloy steel wire rod (steel wire rod) from Brazil 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 Act. The estimated margins of sales at LTFV are shown in the Suspension of Liquidation section of this notice.

Case History

This investigation was initiated on September 24, 2001.[1] *See Initiation of Antidumping Duty Investigations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela,* 66 FR 50164 (October 2, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

On October 12, 2001, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that the domestic industry producing steel wire rod is materially injured by reason of imports from Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine of carbon and certain alloy steel wire rod.[2] *See Determinations and Views of the Commission,* USITC Publication No. 3456, October 2001.

The Department issued a letter on October 16, 2001, to interested parties in all of the concurrent steel wire rod antidumping investigations, providing an opportunity to comment on the Department's proposed model match characteristics and hierarchy. The petitioners submitted comments on October 24, 2001. The Department also received comments on model matching from respondents Hysla S.A. de C.V. (Mexico), Ivaco, Inc., Ispat Sidbec Inc. (Canada). These comments were taken into consideration by the Department in developing the model matching characteristics and hierarchy for all of the steel wire rod antidumping investigations.

On November 9, 2001, the Department issued an antidumping questionnaire to Companhia Siderúrgica Belgo Mineira and its fully-owned subsidiary, Belgo-Mineira Participação Indústria e Comércio S.A. (BMP), collectively Belgo Mineira.[3] We issued supplemental

[1] The petitioners in this investigation are Co-Steel Raritan, Inc., GS Industries, Inc., Keystone Consolidated Industries, Inc., and North Star Steel Texas, Inc.

[2] With respect to imports from Egypt, South Africa, and Venezuela, the ITC determined that imports from these countries during the period of investigation (POI) were negligible and, therefore, these investigations were terminated.

[3] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets.

questionnaires on December 27, 2001, January 18, and February 13, 2002. On December 5, 2001, the petitioners alleged that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of steel wire rod from Brazil, Germany, Mexico, Moldova, Turkey, and Ukraine.[4]

On January 17, 2002, the petitioners requested a 30-day postponement of the preliminary determinations in this investigation. On January 28, 2002, the Department published a **Federal Register** notice postponing the deadline for the preliminary determinations until March 13, 2002. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Carbon and Certain Alloy Steel Wire Rod from Brazil, Canada, Indonesia, Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine,* 67 FR 3877 (January 28, 2002). On March 4, 2002, the petitioners requested an additional 20-day postponement of the preliminary determinations in this investigation. On March 15, 2002, the Department published a **Federal Register** notice postponing the deadline for the preliminary determinations until April 2, 2002. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Carbon and Certain Alloy Steel Wire Rod From Brazil, Canada, Germany, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine,* 67 FR 11674 (March 15, 2002).

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2)(A) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Section 351.210(e)(2) of the Department's regulations requires that exporters requesting postponement of the final determination must also request an extension of the provisional measures referred to in section 733(d) of the Act from a four-month period until not more than six months. We received a request to postpone the final determination from Belgo Mineira on April 1, 2002. In its request, the respondent consented to the extension of provisional measures to no longer than six months. Since this preliminary determination is affirmative, the request for postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, and there is no compelling reason to deny the respondent's request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register**. Furthermore, any provisional measures imposed by this investigation have been extended from a four month period to not more than six months.

Period of Investigation

The POI is July 1, 2000, through June 30, 2001. This period corresponds to the four most recently completed fiscal quarters prior to the month of the filing of the petition (*i.e.,* August 2001).

Scope of Investigations

The merchandise covered by these investigations is certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, 5.00 mm or more, but less than 19.00 mm, in solid cross-sectional diameter.

Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high nickel steel; (d) ball bearing steel; and (e) concrete reinforcing bars and rods. Also excluded are (f) free machining steel products (*i.e.,* products that contain by weight one or more of the following elements: 0.03 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorus, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium).

Also excluded from the scope are 1080 grade tire cord quality wire rod and 1080 grade tire bead quality wire rod. This grade 1080 tire cord quality rod is defined as: (i) Grade 1080 tire cord quality wire rod measuring 5.0 mm or more but not more than 6.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.15 mm; (vi) capable of being drawn to a diameter of 0.30 mm or less with 3 or fewer breaks per ton, and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.006 percent or less of nitrogen, and (5) not more than 0.15 percent, in the aggregate, of copper, nickel and chromium.

This grade 1080 tire bead quality rod is defined as: (i) Grade 1080 tire bead quality wire rod measuring 5.5 mm or more but not more than 7.0 mm in cross-sectional diameter; (ii) with an average partial decarburization of no more than 70 microns in depth (maximum individual 200 microns); (iii) having no inclusions greater than 20 microns; (iv) having a carbon segregation per heat average of 3.0 or better using European Method NFA 04–114; (v) having a surface quality with no surface defects of a length greater than 0.2 mm; (vi) capable of being drawn to a diameter of 0.78 mm or larger with 0.5 or fewer breaks per ton; and (vii) containing by weight the following elements in the proportions shown: (1) 0.78 percent or more of carbon, (2) less than 0.01 percent of soluble aluminum, (3) 0.040 percent or less, in the aggregate, of phosphorus and sulfur, (4) 0.008 percent or less of nitrogen, and (5) either not more than 0.15 percent, in the aggregate, of copper, nickel and chromium (if chromium is not specified), or not more than 0.10 percent in the aggregate of copper and nickel and a chromium content of 0.24 to 0.30 percent (if chromium is specified).

The designation of the products as ''tire cord quality'' or ''tire bead quality'' indicates the acceptability of the product for use in the production of tire cord, tire bead, or wire for use in other rubber reinforcement applications such as hose wire. These quality designations are presumed to indicate that these products are being used in tire cord, tire

Section B requests a complete listing of all home market sales or, if the home market is not viable, of sales in the most appropriate third-country market. Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

[4] On December 21, 2001 the petitioners further alleged that there was a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of steel wire rod from Trinidad and Tobago. On February 4, 2002, the Department preliminarily determined that critical circumstances exist with respect to wire rod from Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine; however, the Department did not make a determination with respect to wire rod from Brazil at that time. *See Memorandum to Faryar Shirzad Re: Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Mexico and Trinidad and Tobago—Preliminary Affirmative Determinations of Critical Circumstances* (February 4, 2002); *See also Carbon and Certain Alloy Steel Wire Rod from Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances,* 67 FR 6224 (February 11, 2002).

bead, and other rubber reinforcement applications, and such merchandise intended for the tire cord, tire bead, or other rubber reinforcement applications is not included in the scope. However, should petitioners or other interested parties provide a reasonable basis to believe or suspect that there exists a pattern of importation of such products for other than those applications, end-use certification for the importation of such products may be required. Under such circumstances, only the importers of record would normally be required to certify the end use of the imported merchandise.

All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3010, 7213.91.3090, 7213.91.4510, 7213.91.4590, 7213.91.6010, 7213.91.6090, 7213.99.0031, 7213.99.0038, 7213.99.0090, 7227.20.0010, 7227.20.0020, 7227.20.0090, 7227.20.0095, 7227.90.6051, 7227.90.6053, 7227.90.6058, and 7227.90.6059 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

See Carbon and Certain Alloy Steel Wire Rod: Requests for exclusion of various tire cord quality wire rod and tire bead quality wire rod products from the scope of Antidumping Duty (Brazil, Canada, Egypt, Germany, Indonesia, Mexico, Moldova, South Africa, Trinidad and Tobago, Ukraine, and Venezuela) and Countervailing Duty (Brazil, Canada, Germany, Trinidad and Tobago, and Turkey) Investigations.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits us to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. In the petition, the petitioners identified four producers/exporters of steel wire rod. The data on the record indicate that two of these producers/exporters sold subject merchandise to the United States during the period of investigation (*i.e.,* the period July 2000 through June 2001); however, due to limited resources we determined that we could investigate only the largest exporter, Belgo Mineira. *See Respondent Selection Memorandum,* from David Bede and Vicki Schepker, dated November 9, 2001.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Brazil during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on eight criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or constructed value (CV): grade range, carbon content range, surface quality, deoxidization, maximum total residual content, heat treatment, diameter range, and coating. These characteristics have been weighted by the Department where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Fair Value Comparisons

To determine whether sales of steel wire rod from Brazil were made in the United States at less than fair value, we compared the export price (EP) and the constructed export price (CEP) to the normal value (NV), as described in the *Export Price and Constructed Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs. We compared these to weighted-average home market prices or CVs, as appropriate.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP as defined in sections 772(a) and 772(b) of the Act, respectively. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the producer or exporter outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection 722(c) of the Act.

Section 772(b) of the Act defines CEP as the price at which the subject merchandise is first sold in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections 772(c) and (d) of the Act.

We calculated EP and CEP, as appropriate, based on the packed prices charged to the first unaffiliated customer in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions from the starting price for movement expenses. These include freight charges incurred in transporting merchandise from the plant to a warehouse, warehousing expenses, brokerage and handling expenses, ocean freight and associated expenses (including marine insurance) for shipments by ocean vessel, as well as, U.S. port, discharge, cleaning and rebanding, inland freight (where applicable), U.S. duty, and other U.S. transportation expenses. We added an amount for duty drawback received on imports of coke used in the production of subject merchandise. We also deducted any rebates from the starting price and added interest revenue.

Section 772(d)(1) of the Act provides for additional adjustments to calculate CEP. Accordingly, where appropriate, we deducted direct and indirect selling expenses incurred in selling the subject merchandise in the United States, including direct selling expenses (credit), indirect selling expenses, and inventory carrying costs. Pursuant to section 772(d)(3) of the Act, where applicable, we made an adjustment for CEP profit.

Where appropriate, in accordance with section 772(d)(2) of the Act, the Department also deducts from CEP the cost of any further manufacture or assembly in the United States, except where the special rule provided in section 772(e) is applied. In this case, Belgo Mineira requested that it be exempted from reporting the costs of further manufacture or assembly in the United States because of the complexity of reporting such data in this case. Section 772(e) of the Act provides that, where the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the Department has the discretion to determine the CEP using alternative methods.

The alternative methods for establishing export price are: (1) The

price of identical subject merchandise sold by the exporter or producer to an unaffiliated person; or (2) the price of other subject merchandise sold by the exporter or producer to an unaffiliated person. The Statement of Administrative Action (SAA) notes the following with respect to these alternatives:

''There is no hierarchy between these alternative methods of establishing the export price. If there is not a sufficient quantity of sales under either of these alternatives to provide a reasonable basis for comparison, or if Commerce determines that neither of these alternatives is appropriate, it may use any other reasonable method to determine constructed export price, provided that it supplies the interested parties with a description of the method chosen and an explanation of the basis for its selection. Such a method may be based upon the price paid to the exporter or producer by the affiliated person for the subject merchandise, if Commerce determines that such price is appropriate.'' *See* SAA accompanying the URAA, H.R. Doc. No. 103–316 (1994) at 826.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for one form of the merchandise sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated person. *See* 19 CFR 351.402 (2). Based on this analysis, and the information on the record, we determined that the estimated value added in the United States by TrefilArbed Arkansas (TrefilArbed), Belgo Mineira's affiliated further manufacturer in the United States, accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States.[5] Therefore, we determined that the value added is likely to exceed substantially the value of the subject merchandise. In this case, all of the products Belgo Mineira sold to its further manufacturer, as defined by the Department's model match criteria, were also sold to unaffiliated CEP customers during the POI. As a consequence, the Department relied on the first methodology, the price of identical merchandise, and calculated Belgo Mineira's margin for these sales by applying the margin for CEP sales of relevant products to the POI quantity of the identical further manufactured product. For further discussion, *See Preliminary Determination Calculation Memorandum* from Vicki Schepker and Christopher Smith to Constance Handley, April 2, 2002.

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate), that the time of the sales reasonably corresponds to the time of the sale used to determine EP or CEP, and that there is no particular market situation that prevents a proper comparison with the EP or CEP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. *See* section 773(a)(1)(C)(ii)(II). We found that Belgo Mineira had a viable home market for steel wire rod. The respondent submitted home market sales data for purposes of the calculation of NV.

In deriving NV, we made adjustments as detailed in the *Calculation of Normal Value Based on Home Market Prices* section below.

B. Cost of Production Analysis

Based on allegations contained in the petition, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that steel wire rod sales were made in Brazil at prices below the cost of production (COP). See Initiation Notice, 66 FR at 50166. As a result, the Department has conducted an investigation to determine whether the respondent made home market sales at prices below its COP during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of Companhia Siderúrgica Belgo Mineira's and BMP's[6] cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses, including interest expenses, selling expenses, and packing expenses. We relied on the COP data submitted by Companhia Siderúrgica Belgo Mineira and BMP, except for Companhia Siderúrgica Belgo Mineira's reported cost of materials purchased from affiliated parties, which we adjusted to reflect the highest of market price, transfer price, or cost of production. In addition, for both Companhia Siderúrgica Belgo Mineira and BMP, we increased the G&A expenses to include non-operating expenses for profit sharing and excluded the non-operational income related to the sale of a subsidiary. We then calculated one weighted-average cost for each CONNUM based on the respective production quantities for the companies.

2. Test of Home Market Sales Prices

We compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.,* a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model-specific basis, we compared the revised COP to the home market prices, less any taxes that are not collected when the product is sold for export, billing adjustments, applicable movement charges, and direct and indirect selling expenses (which were also deducted from COP).

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with sections 773(b)(2)(B) and 773(b)(2)(C)(i) of the Act. In such cases, because we compared prices to POI average costs, pursuant to section 773(b)(2)(D) of the Act, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time. Therefore, we disregarded these below-cost sales.

[5] See Memorandum from Vicki Schepker and Chris Smith to Gary Taveman dated February 8, 2002.

[6] BMP leases and operates the Juiz de Fora mill.

C. Calculation of Normal Value Based on Home Market Prices

We determined home market prices net of billing adjustments and added interest revenue. Pursuant to section 773(a)(6)(B)(iii) of the Act, we deducted taxes imposed directly on sales of the foreign like product (ICMS, IPI, PIS, and COFINS taxes), but not collected on the subject merchandise. We note that, in some past cases involving Brazil, we have determined that the PIS and COFINS taxes are direct taxes and, as such, should not be deducted from NV. *See, e.g., Certain Cut-To-Length Carbon Steel Plate From Brazil: Final Results of Antidumping Duty Administrative Review* 63 FR 12744, 12746 (March 16, 1998). However, in a recent countervailing duty (CVD) preliminary determination regarding *Certain Cold-Rolled Carbon Steel Flat Products from Brazil,* we preliminarily concluded that the PIS and COFINS taxes are indirect. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determinations: Certain Cold-Rolled Carbon Steel Flat Products from Brazil,* 67 FR 9652, 9659 (March 4, 2002).

In reaching this decision, we examined the legislation underlying the PIS and COFINS to determine how Brazil assesses these taxes. Article 2 of the COFINS legislation states that ''corporate bodies'' will contribute two percent, ''charged against monthly billings, that is, gross revenue derived from the sale of goods and services of any nature.'' Likewise, Article ''Second'' of the PIS tax law (also found in the PIS and COFINS legislation) provides similar language stating that this tax contribution will be calculated ''on the basis of the invoicing.'' The PIS legislation further defines invoicing under Article ''Third'' to be the gross revenue ''originating from the sale of goods.''

Section 351.102(b) of the Department's regulations defines an indirect tax as a ''sales, excise, turnover, value added, franchise, stamp, transfer, inventory, or equipment tax, border tax, or any other tax other than a direct tax or an import charge.'' As noted in the PIS and COFINS legislation, these taxes are derived from the ''monthly invoicing'' or ''invoicing'' originating from the sale of goods and services. Therefore, we preliminarily find that the manner in which these taxes are assessed is characteristic of an indirect tax, and we are treating PIS and COFINS taxes as indirect taxes for the purposes of this preliminary determination.

Where applicable, we also made adjustments for packing and movement expenses, such as inland freight and warehousing expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. In order to adjust for differences in packing between the two markets, we deducted home market packing costs from NV and added U.S. packing costs. For comparisons made to EP sales, we made circumstance-of-sale (COS) adjustments by deducting direct selling expenses incurred on home market sales (commissions, credit, and warranty expenses). We then added U.S. direct selling expenses (e.g., credit). For comparisons made to CEP sales, we deducted home market direct selling expenses, but did not add U.S. direct selling expenses. For matches of similar merchandise, we made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

D. Arm's-Length Sales

Belgo Mineira reported sales of the foreign like product to affiliated customers. To test whether these sales to affiliated customers were made at arm's length, where possible, we compared the prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. *See Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27355 (May 19, 1997) (preamble to the Department's regulations). Consistent with § 351.403(c) of the Department's regulations, we excluded from our analysis those sales where the price to the affiliated parties was less than 99.5 percent of the price to the unaffiliated parties.

E. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as the EP or CEP transaction. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP sales, the U.S. level of trade is also the level of the starting-price sale, which is usually from exporter to importer. For CEP transactions, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731, 61733, 61746 (November 19, 1997).

In implementing these principles in this investigation, we obtained information from Belgo Mineira about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondent for each channel of distribution. In identifying levels of trade for EP and home market sales we considered the selling functions reflected in the starting price before any adjustments. For CEP sales, we considered only the selling activities reflected in the price after the deduction of expenses pursuant to section 772(d) of the Act. Generally, if the reported levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party reports levels of trade that are different for different categories of sales, the functions and activities may be dissimilar.

In the home market, Belgo Mineira reported three channels of distribution: direct sales to unaffiliated customers, warehouse sales to unaffiliated customers, and sales to affiliated customers. Belgo Mineira also reported two levels of trade in the home market: sales to unaffiliated customers and sales to affiliated customers. According to the respondent, only the most basic selling activities and services are required for sales to unaffiliated companies. In addition, because the sales to affiliates involve inter-company transactions, negotiations with and considerations of

credit and collection for affiliated companies are far more standardized and less significant. While we agree that the intensity of selling activities varies between Belgo Mineira's channels of distribution in the home market, we do not agree that the variations support Belgo Mineira's claim of two distinct levels of trade in the home market. First, we note that Belgo Mineira described the same selling activities for all customers, regardless of the channel of distribution. In addition, Belgo Mineira provided the same sales process description for both channels of distribution; therefore, we are not persuaded that the processing of customer orders is affected by affiliation. Furthermore, Belgo Mineira's questionnaire responses contradict its claim that some selling activities are more significant with respect to unaffiliated customers. For example, Belgo Mineira claims that it provides more warranty and technical services to unaffiliated customers.[7] However, we note that, in Belgo Mineira's section B response, the company did not report any direct warranty expenses. In response to the Department's supplemental questionnaire, Belgo Mineira stated that it does not have a formal warranty program, but developed a customer-specific direct warranty adjustment.[8] This direct warranty adjustment was reported without regard to the affiliation of the customer. In addition, the company did not report any direct technical services expenses associated with its home market sales. For indirect warranty and technical service expenses, the company calculated a factor to account for the expenses of its quality departments. Again, this factor was the same for all customers, regardless of affiliation and market. Although there may be more negotiations, freight and delivery arrangements, and credit and collection expenses associated with sales to unaffiliated companies, we do not find that these differences support Belgo Mineira's claim that there are two separate levels of trade in the home market.[9] Therefore, we preliminarily determine that home market sales in the three channels of distribution constitute a single level of trade.

In the U.S. market, Belgo Mineira had both EP and CEP sales. Belgo Mineira reported EP sales through two channels of distribution: sales to unaffiliated trading companies and sales to unaffiliated end-users. The company identified sales through both of these channels as one level of trade. Because the selling activities associated with EP sales were similar to the selling activities in the home market, we have determined that the EP sales are at the same level of trade as the home market sales.

With respect to CEP sales, the company reported these sales through two channels of distribution: sales through TradeArbed and sales to TrefilArbed (an affiliated further manufacturer). The company claimed that its CEP sales (*i.e.,* sales to affiliates) are at a different level of trade than its EP sales (i.e., sales to unaffiliated customers). Similar to its home market level of trade analysis, the company claims that there are two levels of trade in the U.S. market because Belgo Mineira has a close relationship with its affiliated importers, which affects the level of selling activities it performs for those customers. However, as in the home market level of trade analysis, we find Belgo Mineira's arguments unpersuasive. Specifically, we note that Belgo Mineira provides the same selling activities for all of its U.S. customers, regardless of the channel of distribution. In addition, Belgo Mineira provided the same sales process description for all channels of distribution; therefore, we are not persuaded that the processing of customer orders is affected by affiliation. Furthermore, Belgo Mineira's questionnaire responses contradict its claim that some selling activities are more significant with respect to unaffiliated customers. For example, Belgo Mineira claims that it provides more warranty and technical service activities to unaffiliated customers.[10] However, we note that, in Belgo Mineira's section C response, the company did not report any direct warranty expenses. In addition, the company did not report any direct technical services expenses associated with its U.S. sales. For indirect warranty and technical service expenses, the company calculated a factor to account for the expenses of its quality departments. Again, this factor was the same for all customers, regardless of affiliation and market. Although, as with home market sales, there may be more negotiations and credit and collection expenses associated with sales to unaffiliated companies, we do not find that these differences support Belgo Mineira's claim that there are two separate levels of trade in the U.S. market.

After subtraction of the expenses incurred in the United States, in accordance with section 772(d) of the Act, we preliminarily determine that the selling functions corresponding to the adjusted CEP are the same as the selling functions for Belgo Mineira's home market sales. Therefore, we have determined that home market and CEP sales do not involve substantially different selling activities, as stipulated by § 351.412(c)(2) of the Department's regulations. Because we find that the level of trade for CEP sales is similar to the home market level of trade, we made no level-of-trade adjustment or CEP offset. *See* section 773(a)(7)(A) of the Act. We will examine this issue further at verification.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Critical Circumstances

In their December 5, 2001, submission, the petitioners' alleged that critical circumstances exist with respect to steel wire rod from Brazil. Throughout the course of this investigation, the petitioners and interested parties have submitted additional comments concerning this issue.

Since the petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, § 351.206(c)(2)(i) of the Department's regulations provides that we must issue our preliminary critical circumstances determination not later than the date of the preliminary determination.

If critical circumstances are alleged, section 733(e)(1) of the Act directs the Department to examine whether 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

[7] *See* Belgo Mineura;s February 11, 2002 response to the Department's supplemental questionnaire at Exhibit B–16.

[8] *Id.* at 76.

[9] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 64 FR 35590 (July 1, 1999).

[10] *Id.* at Exhibit B–16.

exporter was selling the subject merchandise at less than its fair value and 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 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, § 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 months 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.

In this case, we have determined that imports have not been massive over a ''relatively short period of time,'' pursuant to 733(e)(1)(B) of the Act. As stated in section 351.206(i) of the Department's regulations, if the Secretary finds importers, exporters, or producers had reason to believe at some time prior to the beginning of the proceeding that a proceeding was likely, then the Secretary may consider a time period of not less than three months from that earlier time.

In determining whether the relevant statutory criteria have been satisfied, we considered: (i) The evidence presented by the petitioners in their December 5, 19, and 21, 2001 and January 25, 2002 letters; (ii) exporter-specific shipment data requested by the Department; (iii) comments by interested parties in response to the petitioners' allegations; (iv) import data available through the ITC's DataWeb website; and (v) the ITC's preliminary injury determination.

For the reasons set forth in the memorandum regarding our critical circumstances determination for Brazil, we find a sufficient basis exists for finding importers, or exporters, or producers knew or should have known antidumping cases were pending on steel wire rod imports from Brazil by June 2001 at the latest. *See Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Brazil—Preliminary Negative Determination of Critical Circumstances Memorandum* from Bernard T. Carreau to Faryar Shirzad, April 2, 2002. Further, as discussed in the above-cited memo, we determined it appropriate to use six-month base and comparison periods. Accordingly, we determined December 2000 through May 2001 should serve as the ''base period,'' while June 2001 through November 2001 should serve as the ''comparison period'' in determining whether or not imports have been massive in the comparison period.

In order to determine whether imports from Brazil have been massive, the Department requested that Belgo Mineira provide its shipment data from January 1999 up until the time of the preliminary determination. Based on our analysis of the shipment data reported, imports have decreased during the comparison period; therefore, we preliminarily find that the criterion under section 733(e)(1)(B) of the Act has not been met, i.e., there have not been massive imports of steel wire rod from Belgo Mineira over a relatively short time. *See Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Brazil: Preliminary Negative Critical Circumstances Memorandum,* dated April 2, 2002 (*Critical Circumstances Memorandum*). Because there have not been massive imports in this case, we have determined that it is unnecessary to address the other prong of the critical circumstances test. For this reason, we preliminarily determine that critical circumstances do not exist for imports of steel wire rod produced by Belgo Mineira.

Regarding the ''All Others'' category, although the mandatory respondent did not have massive imports, we also considered country-wide import data for the products covered under the scope of this investigation. In determining whether massive imports exist for ''All Others,'' we compared the volume of aggregate imports during the base period to the volume of aggregate imports during the comparison period. Based on our analysis of the country-wide import data, imports of steel wire rod increased during the comparison period, but not by the requisite 15 percent. *See Critical Circumstances Memorandum.* Accordingly, pursuant to section 733(e) of the Act and § 351.206(h) of the Department's regulations, we preliminarily find that critical circumstances do not exist for imports of steel wire rod produced by the ''All Others'' category.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of carbon and certain alloy steel wire rod from Brazil, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the EP or CEP, as indicated below. These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Companhia Siderúrgica Belgo Mineira and Belgo-Mineira Participação Indústria e Comércio S.A. (BMP)	65.76
All Others	65.76

Disclosure

The Department will normally disclose calculations performed within five days of the date of publication of this notice to the parties of the proceeding in this investigation in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the verification reports. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of

the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one steel wire rod case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 2, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–9263 Filed 4–15–02; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCTS SAFETY COMMISSION

[CPSC Docket No. 02–1]

In the Matter of Chemetron Corporation, et al.; Prehearing Conference

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of first prehearing conference.

DATE: This notice announces a prehearing conference to be held in the matter of Chemetron Corporation, Chemetron Investments, Inc., Sunbeam Corporation, Sprinkler Corporation of Milwaukee, Inc. and Grucon Corporation on May 1, 2002 at 10 a.m.

ADDRESS: The prehearing conference will be in hearing room 420 of the East-West Towers Building, 4330 East-West Highway, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Todd A. Stevenson, Secretary, U.S. Consumer Product Safety Commission, Washington, DC; telephone (301) 504–0800; telefax (301) 504–01237.

SUPPLEMENTARY INFORMATION: This public notice is issued pursuant to 16 CFR 1025.21(b) of the U.S. Consumer Product Safety Commission's Rules of Practice of Adjudicative Proceedings to inform the public that a prehearing conference will be held in administrative proceeding under Section 15 of the Consumer Product Safety Act (CPSA or Act) captioned CPSC Docket No. 02–1, In the Matter of Chemetron Corporation, Chemetron Investments, Inc., Sunbeam Corporation, Sprinkler Corporation of Milwaukee, Inc. and Grucon Corporation. The Presiding Officer in the proceeding is United States Administrative Law Judge William B. Moran. The Presiding Officer has determined that, for good and sufficient cause, the time period for holding this first prehearing conference had to be extended to the date announced above, which date is beyond the fifty (50) day period referenced in 16 CFR 1025.21(a).

The public is referred to the Code of Regulations citation listed above for identification of the issues to be raised at the conference and is advised that the date, time and place of the hearing also will be established at the conference.

Substantively, the issues being litigated in this proceeding are described by the Presiding Officer to include: Whether the Star ME–1, a dry fire sprinkler manufactured from 1977 through 1995 is, within the meaning of the CPSA, a ''consumer product'' which was distributed in commerce; whether, as a result of inadequate design and/or manufacturing, this sprinkler model has failed to operate as intended in fires and constitutes a ''defect'' under the Act, which presents a ''substantial product hazard,'' creating a substantial risk of injury to consumers, within the meaning of Section 15(a)(2), (c) and (d) of the CPSA, 15 U.S.C. 2064(a)(2), (c) and (d). Should these allegations be proven, Complaint Counsel for the Office of Compliance of the U.S. Consumer Product Safety Commission seeks a finding that the product presents a substantial product hazard and that public notification be made pursuant to section 15(c) of the CPSA and that other appropriate relief be directed, as set forth in the Compliant.

April 10, 2002.

Todd A. Stevenson,

Secretary.

[FR Doc. 02–9140 Filed 4–15–02; 8:45 am]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

National Senior Service Corps; Schedule of Income Eligibility Levels

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent Program (FGP) and the Senior Companion Program (SCP) of the Corporation, published in 66 FR 18073 on April 5, 2001.

DATES: These guidelines are effective on April 1, 2002.

FOR FURTHER INFORMATION CONTACT: Corporation for National and Community Service, National Senior Service Corps, Attn: Ms. Ruth Archie, 1201 New York Avenue NW., Washington, DC 20525, or by telephone at (202) 606–5000, ext. 289, or e-mail: *rarchie@cns.gov.*

SUPPLEMENTARY INFORMATION: The revised schedules are based on changes in the Poverty Guidelines issued by the Department of Health and Human Services (DHHS), published in 67 FR 6931, February 14, 2002. In accordance with program regulations, the income eligibility level for each State, Puerto Rico, the Virgin Islands and the District of Columbia is 125 percent of the DHHS Poverty Guidelines, except in those areas determined by the Corporation to be of higher cost of living as of April 1, 2002. In such instances, the guidelines shall be 135 percent of the DHHS Poverty levels (*See* attached list of High Cost Areas). The level of eligibility is rounded to the next highest multiple of $5.00.

In determining income eligibility, consideration should be given to the following, as set forth in 45 CFR Parts 2551–2553, dated October 1, 1999.

Allowable medical expenses are annual out-of-pocket expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse and were not and will not be paid for by Medicare, Medicaid, other insurance, or by any other third party and, must not exceed 15 percent of the applicable Corporation income guideline.

For new applicants, annual income is projected for the following 12 months, based on income at the time of application. For currently stipended volunteers, annual income is counted for the past 12 months. Annual income includes the applicant or enrollee's income and that of his/her spouse, if the

spouse lives in the same residence. Sponsors shall count the value of shelter, food, and clothing, if provided at no cost by persons related to the applicant, enrollee, or spouse.

Any person whose income is not more than 100 percent of the DHHS Poverty Guideline for her/his specific family unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs.

2002 FGP/SCP INCOME ELIGIBILITY LEVELS

(Based on 125 percent of DHHS poverty guidelines)

States	Family units of			
	One	Two	Three	Four
All, except High Cost Areas, Alaska & Hawaii	$11,075	$14,925	$18,775	$22,625

For family units with more than four members, add $3,850 for each additional member in all States except designated High Cost Areas, Alaska and Hawaii.

2002 FGP/SCP INCOME ELIGIBILITY LEVELS

(Based on 135 percent of DHHS poverty guidelines)

Area	Family units of			
	One	Two	Three	Four
All, except Alaska & Hawaii	$11,965	$16,120	$20,280	$24,435
Alaska	14,960	20,155	25,355	30,550
Hawaii	13,770	18,550	23,330	28,110

For family units with more than four members, add: $4,160 for all areas, $5,200 for Alaska, and $4,780 for Hawaii, for each additional member.

The income eligibility levels specified above are based on 135 percent of the DHHS poverty guidelines and are applicable to the following high cost metropolitan statistical areas and primary metropolitan statistical areas:

High Cost Areas

(Including all Counties/Locations Included in that Area as Defined by the Office of Management and Budget)

Alaska

(All Locations)

California

Los Angeles/Compton/San Gabriel/Long Beach/Hawthorne (Los Angeles County)
Santa Barbara/Santa Maria/Lompoc (Santa Barbara County)
Santa Cruz/Watsonville (Santa Cruz County)
Santa Rosa/Petaluma (Sonoma County)
San Diego/El Cajon (San Diego County)
San Jose/Los Gatos (Santa Clara County)
San Francisco/San Rafael (Marin County)
San Francisco/Redwood City (San Mateo County)
San Francisco (San Francisco County)
Oakland/Berkeley (Alameda County)
Oakland/Martinez (Contra Costa County)
Anaheim/Santa Ana (Orange County)
Oxnard/Ventura (Ventura County)

Connecticut

Stamford (Fairfield)

District of Columbia/Maryland/Virginia

District of Columbia and Surrounding Counties in Maryland and Virginia. MD counties: Ann Arundel, Calvert, Charles, Cecil, Frederick, Montgomery and Prince Georges, Queen Anne Counties. VA Counties: Arlington, Fairfax, Loudoun, Prince William, Stafford, Alexandria City, Fairfax City, Falls Church City, Manassas City and Manassas Park City

Hawaii

(All Locations)

Illinois

Chicago/Des Plaines/Oak Park/Wheaton/Woodstock (Cook, DuPage and McHenry Counties)

Massachusetts

Barnstable (Barnstable)
Edgartown (Dukes)
Boston/Malden (Essex, Norfolk, Plymouth, Middlesex and Suffolk Counties)
Brockton/Wellesley/Braintree/Boston (Norfolk County)
Dorchester/Boston (Suffolk County)
Worcester (City) (Worcester County)

New Jersey

Bergen/Passaic/Paterson (Bergen and Passaic Counties)
Jersey City (Hudson)
Middlesex/Somerset/Hunterdon (Hunterdon, Middlesex and Somerset Counties)
Monmouth/Ocean/Spring Lake (Monmouth and Ocean Counties)
Newark/East Orange (Essex, Morris, Sussex and Union Counties)
Trenton (Mercer County)

New York

Nassau/Suffolk/Long Beach/Huntington (Suffolk and Nassau Counties) New York/Bronx/Brooklyn (Bronx, Kings, New York, Putnam, Queens, Richmond and Rockland Counties)
Westchester/White Plains/Yonkers/Valhalla (Westchester County)

Ohio

Medina/Lorain/Elyria (Medina/Lorain County)

Pennsylvania

Philadelphia/Doylestown/West Chester/Media/Norristown (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties)

Washington

Seattle (King County)

Wyoming

(All Locations)

The revised income eligibility levels presented here are calculated from the base DHHS Poverty Guidelines now in effect as follows:

2002 DHHS POVERTY GUIDELINES FOR ALL STATES

States	Family Units of—			
	One	Two	Three	Four
All, except Alaska/Hawaii	$8,860	$11,940	$15,020	$18,100
Alaska	11,080	14,930	18,780	22,630
Hawaii	10,200	13,740	17,280	20,820

For family units with more than four members, add: $3,080 for all areas, $3,850 for Alaska, and $3,540 for Hawaii, for each additional member.

Authority: These programs are authorized pursuant to 42 U.S.C. 5011 and 5013 of the Domestic Volunteer Service Act of 1973, as amended. The income eligibility levels are determined by the current guidelines published by DHHS pursuant to sections 652 and 673 (2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Dated: April 10, 2002.

Tess Scannell,

Director, Senior Corps.

[FR Doc. 02–9201 Filed 4–15–02; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0067]

Federal Acquisition Regulation; Submission for OMB Review; Incentive Contracts

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning incentive contracts. A request for public comments was published at 67 FR 6235, February 11, 2002. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before May 16, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0067, Incentive Contracts, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Julia Wise, Acquisition Policy Division, GSA (202) 208–1168.

SUPPLEMENTARY INFORMATION:

A. Purpose

Incentive contracts are normally used when a firm fixed-price contract is not appropriate and the required supplies or services can be acquired at lower costs, and sometimes with improved delivery or technical performance, by relating the amount of profit or fee payable under the contract to the contractor's performance.

The information required periodically from the contractor—such as cost of work already performed, estimated costs of further performance necessary to complete all work, total contract price for supplies or services accepted by the Government for which final prices have been established, and estimated costs allocable to supplies or services accepted by the Government and for which final prices have not been established—is needed to negotiate the final prices of incentive-related items and services.

The contracting officer evaluates the information received to determine the contractor's performance in meeting the incentive target and the appropriate price revision, if any, for the items or services.

B. Annual Reporting Burden

Respondents: 3,000.
Responses Per Respondent: 1.
Annual Responses: 3,000.
Hours Per Response: 1.
Total Burden Hours: 3,000.
Obtaining Copies of Proposals: Requesters may obtain copies of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0067, Incentive Contracts, in all correspondence.

Dated: April 5, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–9145 Filed 4–15–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to delete systems of records.

SUMMARY: The Department of the Air Force is deleting two systems of records notices in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action would be effective without further notice on May 16, 2002, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Air Force Privacy Act Manager, Office of the Chief Information Officer, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 601–4043.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 10, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F036 ACC A

SYSTEM NAME:

Special Awards File (June 11, 1997, 62 FR 31793).

Reason: Records in this system of records are retrieved by award, not a personal identifier. Therefore, the system of records is no longer subject to the Privacy Act of 1974 and is being deleted from the Department of the Air Forces' inventory of systems of records notices subject to the Privacy Act of 1974.

F036 ACC B

SYSTEM NAME:

Operations Training Development Evaluation (June 11, 1997, 62 FR 31793).

Reason: Records in this system of records are retrieved by crew position, not a personal identifier. Therefore, the system of records is no longer subject to the Privacy Act of 1974 and is being deleted from the Department of the Air Forces' inventory of systems of records notices subject to the Privacy Act of 1974.

[FR Doc. 02–9181 Filed 4–15–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 17, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 10, 2002.

John D. Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title: National Longitudinal Transition Study—2 (NLTS2).

Frequency: One time.

Affected Public: Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 17,347.

Burden Hours: 8,765.

Abstract: NLTS2 will provide nationally representative information about youth with disabilities in secondary school and in transition to adult life, including their characteristics, programs and services and achievements in multiple domains (*e.g.,* employment, postsecondary education). The study will inform special education policy development and support the Individuals with Disabilities Education Act (IDEA) reauthorization.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, D.C. 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO_IMG_Issues@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her Internet *Sheila.Carey@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. 02–9179 Filed 4–15–02; 8:45 am]

BILLING CODE 4000–01–P

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. This clearance is proceeding in an emergency mode in order to have the Office of Management and Budget (OMB) cleared information collection available for public usage by July 1, 2002 as the statute requires.

DATES: Interested persons are invited to submit comments on or before May 16, 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: April 10, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: Revision.

Title: Federal Family Education Loan, Direct Loan, and Perkins Loan Discharge Applications.

Frequency: One time.

Affected Public: Businesses or other for-profit; Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 15,000.

Burden Hours: 7,500.

Abstract: This form will serve as the means of collecting the information to determine whether a Federal Family Education Loan (FFEL), Direct Loan, or Perkins Loan borrower qualifies for a conditional discharge of their loan due to total and permanent disability.

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 Joseph Schubart at (202) 708–9266 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. 02–9178 Filed 4–15–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity; Notice of Members

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education.

What Is the Purpose of This Notice?

The purpose of this notice is to list the members of the National Advisory Committee on Institutional Quality and Integrity (National Advisory Committee) and to give the public the opportunity to nominate candidates for the positions to be vacated by those members whose terms will expire on September 30, 2002. This notice is required under section 114(c) of the Higher Education Act (HEA), as amended.

What Is the Role of the National Advisory Committee?

The National Advisory Committee is established under Section 114 of the HEA, as amended, and is composed of 15 members appointed by the Secretary of Education from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and type of institutions of higher education. The National Advisory Committee meets at least twice a year and provides recommendations to the Secretary of Education pertaining to:

- The establishment and enforcement of criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV, HEA.
- The recognition of specific accrediting agencies or associations.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.

As the Committee deems necessary or on request, the Committee also advises the Secretary about:

- The eligibility and certification process for institutions of higher education under Title IV, HEA.
- The development of standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies in order to establish the interim eligibility of those institutions to participate in Federally funded programs.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory functions relating to accreditation and institutional eligibility that the Secretary may prescribe.

What Are the Terms of Office for Committee Members?

The term of office of each member is 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed is appointed for the remainder of the term. A member may be appointed, at the Secretary's discretion, to serve more than one term.

Who Are the Current Members of the Committee?

The current members of the National Advisory Committee are:

Members With Terms Expiring September 30, 2002

- Mr. Gordon M. Ambach, retired, formerly Executive Director, Council of Chief State School Officers, Washington, DC
- Dr. Norman Francis, President, Xavier University of Louisiana
- Dr. George A. Pruitt, President, Thomas A. Edison State College, New Jersey
- Dr. Norma S. Rees, President, California State University, Hayward
- Honorable Thomas P. Salmon, Former Governor of Vermont, President Emeritus of University of Vermont

Members With Terms Expiring September 30, 2003

- Mr. David Johnson III, Student Member, Brigham Young University, Utah
- Dr. Estela R. Lopez, Vice Chancellor for Academic Affairs, Connecticut State University System Office
- Dr. Ronald F. Mason, Jr., President, Jackson State University, Mississippi

- Dr. Eleanor P. Vreeland, Chairman, Barland Education Consultants, Florida
- Dr. John A. Yena, President, Johnson & Wales University, Rhode Island

Members With Terms Expiring September 30, 2004

- Dr. Robert C. Andringa, President, Council for Christian Colleges and Universities, Washington, DC
- Dr. Lawrence W. Burt, Director, Student Financial Services, University of Texas at Austin
- Dr. Lawrence J. DeNardis, President, University of New Haven, Connecticut
- Mr. Steven W. McCullough, Executive Director, Iowa Student Loan Liquidity Corporation
- Dr. Laura Palmer Noone, President, University of Phoenix, Arizona

How Do I Nominate an Individual for Appointment as a Committee Member?

If you would like to nominate an individual for appointment to the Committee, send the following information to the Committee's Executive Director:

- A copy of the nominee's resume; and
- A cover letter that provides your reason(s) for nominating the individual and contact information for the nominee (name, title, business address, and business phone and fax numbers).

The information must be sent by June 17, 2002 to the following address: Bonnie LeBold, Executive Director, National Advisory Committee on Institutional Quality and Integrity, U.S. Department of Education, room 7007, MS 7592, 1990 K Street, NW., Washington, DC 20006.

How Can I Get Additional Information?

If you have any specific questions about the nomination process or general questions about the National Advisory Committee, please contact Ms. Bonnie LeBold, the Committee's Executive Director, telephone: (202) 219–7009, fax: (202) 219–7008, e-mail: *Bonnie.LeBold@ed.gov* between 9:00 a.m. and 5:00 p.m., Monday through Friday.

Authority: 20 U.S.C. 1011c.

Dated: April 9, 2002.

Sally L. Stroup,

Assistant Secretary for Postsecondary Education.

[FR Doc. 02–9190 Filed 4–15–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.305J, 84.305H, and 84.305G]

Office of Educational Research and Improvement (OERI) Research Grant Programs; Notice of Application Review Procedures for Certain New Awards for Fiscal Year 2002

SUMMARY: This notice establishes procedures that OERI will use to review applications for research grants under the Preschool Curriculum Evaluation Research Grant Program, the Cognition and Student Learning Research Grant Program, and the Reading Comprehension Research Grant Program in fiscal year 2002. These procedures modify the procedures governing the review of applications in 34 CFR part 700.

Application Review Procedure

OERI will form a peer review panel that will be composed of reviewers who are expert in the substantive area of the competition. The panel will be of sufficient size to review carefully all applications submitted for the particular competition. All eligible applications received for the competition will be provided to all members of the panel, either electronically, for those applications submitted electronically, or in paper copy. All reviewers will be expected to be familiar enough with the applications to participate in a discussion of the applications at the review panel meeting.

A primary, secondary, and tertiary reviewer (lead reviewers) will be identified for each eligible application. Each member of the panel will serve as a lead reviewer for a number of applications. Prior to the panel meeting, panel members will independently review and rate those applications for which they are assigned lead reviewer responsibilities. For each assigned application, the lead reviewers will complete technical review forms, fully documenting their judgments regarding the strengths and weaknesses of the application according to the published selection criteria and assigning a preliminary rating for each criterion.

The four selection criteria to be used to evaluate applications were published in the application notices for the competitions, along with the weights assigned to each criterion. The criteria and weights are: National Significance (.2), Quality of the Project Design (.5), Quality and Potential Contributions of Personnel (.2), and Adequacy of Resources (.1).

In assigning ratings for each criterion, reviewers will use a seven-point scale. The scale is anchored on each end, with 7 = Excellent and 1 = Poor.

Prior to the panel meeting, panel members will send to the OERI program official their preliminary ratings for each criterion for each application for which they are a lead reviewer. Applying the criterion weights, OERI staff will calculate the preliminary score of the primary, secondary, and tertiary reviewer for each application, as well as the average score of the lead reviewers for each application. A preliminary rank order will be prepared based on the average lead reviewer score for each application. Prior to the opening session of the panel meeting, all members of the panel will be provided the preliminary rank order, along with the average lead reviewer score and the individual scores of the primary, secondary, and tertiary reviewers, for each application.

At the panel meeting, the full panel will convene to discuss the strengths and weaknesses of applications. Applications that received average lead reviewer scores that place them in the bottom half of all applications, as shown on the preliminary rank order, will be deemed non-competitive and will not be discussed, unless (a) a member of the panel, who believes that a particular application might be competitive, requests that the application be discussed by the full panel; (b) the OERI program official determines that a larger proportion of applications needs to be discussed in order to ensure fair consideration among applications with tightly clustered scores; or (c) the OERI program official determines that the total number of applications received is too small to warrant differential discussion of applications, in which case all applications will be discussed. For any competition for which the OERI program official determines that the total number of applications received is too large for the entire top half of applications to be considered competitive, then only the top proportion of applications that represents approximately three times the estimated number of applications to be funded will be discussed by the full panel. For example, if 90 applications are received and approximately 10 can be funded, then the top one-third of applications will be discussed by the full panel.

A panel chairperson designated by the OERI program official will lead the discussion of applications. For each application, the primary, secondary, and tertiary reviewers will each discuss strengths and weaknesses of the application and answer any questions posed by other panel members.

Following the discussion of applications, each member of the panel will independently rate each application on each criterion, using the seven-point scale. In addition, each reviewer will indicate for each application whether the reviewer highly recommends funding, recommends funding, or does not recommend funding of the application. Lead reviewers will be able to change their preliminary ratings and modify their documented technical review forms at this time.

Following the review panel meeting, the OERI program official and OERI staff will apply the published weights to the ratings provided by reviewers in order to calculate reviewer scores for each of the applications. Then the average score will be calculated for each application, and a rank order will be prepared of all applications that were scored by the full panel. The rank order will also indicate, for each application, the number of reviewers who highly recommended the application be funded, the number who recommended that it be funded, and the number who recommended that the application not be funded.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, because this notice merely establishes procedural requirements for review of applications and does not create substantive policy, the Secretary has determined that proposed rulemaking is not required under 5 U.S.C. 553(b)(A).

FOR FURTHER INFORMATION CONTACT: Elizabeth Payer, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., room 502e, Washington, DC 20208–5645. Telephone: (202) 219–1310 or via Internet: *Elizabeth_Payer@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**.

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: *http://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.

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. 6031(c).

Dated: April 10, 2002.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 02–9235 Filed 4–15–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.170]

Jacob K. Javits Fellowship Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Correction notice.

SUMMARY: On September 27, 2001 we published in the **Federal Register** (66 FR 49371) a notice inviting applications for new awards for FY 2002 for the Jacob K. Javits Fellowship Program (JKJ). The notice stated that the Secretary would determine the JKJ stipend level for the academic year 2002–2003 based on the level of support provided by the National Science Foundation (NSF) graduate fellowships, with adjustments as necessary to ensure that the amount would not exceed the fellow's demonstrated level of financial need.

This notice is to clarify that the Secretary will determine the stipend level for the JKJ by using the level of the NSF stipend level for the Graduate Research Fellowship Program as of April 16, 2002. The Secretary intended to specify a date for this determination in the notice inviting applications, but did not do so.

FOR FURTHER INFORMATION CONTACT: Carolyn Proctor, Jacob K. Javits Fellowship Program, U.S. Department of Education, International Education and Graduate Programs Service, 1990 K Street, NW, Suite 6000, Washington DC 20006–8521, Telephone: (202) 502–7567 or via Internet for the JKJ: *ope_javits_program@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 contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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 the 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.

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. 1135–1135e.

Dated: April 11, 2002.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 02–9236 Filed 4–15–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

National Educational Policy and Priorities Board; Teleconference

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of meeting by teleconference.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee on the National Educational Research Policy and Priorities Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting. The public is being given less than 15 days notice of this meeting because of the need to expedite a decision on a contract action.

Date: Wednesday, April 17, 2002.

Time: 2–3 p.m. Schedule may be adjusted; please telephone the Board office for possible update.

Location: Room 100, 80 F. St., NW, Washington, DC 20208–7564.

FOR FURTHER INFORMATION CONTACT: Mary Grace Lucier, Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, DC 20208–7564. Tel.: (202) 219–2253; fax: (202) 219–1528; e-mail: *Mary.Grace.Lucier@ed.gov.* The main telephone number for the Board is (202) 208–0692.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office. The teleconference is open to the public. The Board will consider a modification of a contract currently in effect and approve a statement of work. Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 800 F St., NW, Washington, D.C. 20208–7564.

Dated: April 11, 2002.

Rafael Valdivieso,

Executive Director.

[FR Doc. 02–9187 Filed 4–15–02; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Stakeholder Forum on Alternative Technologies to Incineration

AGENCY: Department of Energy.

ACTION: Notice of Stakeholder Forum on alternative technologies to incineration.

SUMMARY: The Department of Energy (DOE) seeks to improve stakeholder involvement in its efforts to develop and evaluate alternative technologies to incineration for mixed transuranic and mixed low level waste. To encourage broad, diverse stakeholder participation, DOE is hosting the Stakeholder Forum on Alternative Technologies to Incineration, June 7–8, 2002, in Denver, Colorado.

DATES: The Forum will be held on June 7–8, 2002. June 7, 2002, from 1 p.m.–5:30 p.m. and June 8, 2002, 8:30 a.m. to 4 p.m.

ADDRESSES: Denver Airport Marriott, 6900 Tower Road, Denver, CO 80249, Phone: 303–371–0300 or 800–321–2211.

Forum Information and Registration: For more information on the background of the Forum please visit *http://tmfa.inel.gov/ati/.* Registration materials and a draft meeting agenda are available on the following website *http://www.getf.org/ati.*

FOR FURTHER INFORMATION CONTACT: Ms. Noeleen Tillman, Global Environment and Technology Foundation, 7010 Little River Turnpike, Suite # 460, Annandale, VA 22003; e-mail *ntillman@getf.org;* telephone (760) 434–4662.

SUPPLEMENTARY INFORMATION: The objectives of the Forum include: (1) To facilitate an exchange of information among technical experts, regulators, and interested stakeholders, and (2) to identify stakeholder values and concerns that the Department should consider in its technology development and evaluation process.

Topics for discussion at the Stakeholder Forum include:

- The Department of Energy's plans for developing alternative technologies to incineration.
- The current state of alternative technology development.
- Factors to be considered in determining the acceptability of new technologies.
- Stakeholder views regarding the benefits and drawbacks of various alternative technologies.
- Opportunities for stakeholder involvement in new technology development and evaluation.
- Federal and State regulatory processes, including permitting.

Issued at Washington, DC, on April 18, 2002.

James Owendoff,

Deputy Assistant Secretary for Science and Technology.

[FR Doc. 02–9194 Filed 4–15–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, May 2, 2002, 6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Quarterly update on status of wildlife refuge planning, by ex-officio representative from the U.S. Fish and Wildlife Service.

2. Presentation and discussion on DOE's risk-based strategy for end-state cleanup.

3. Other Board business may be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 9 a.m. to 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC, on April 11, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–9195 Filed 4–15–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–336–002, RP01–484–000, RP01–486–000, and RP00–139–000]

El Paso Natural Gas Co.; Aera Energy, LLC, et al., Complainants v. El Paso Natural Gas Co., Respondent; Texas, New Mexico and Arizona Shippers, Complainants v. El Paso Natural Gas Co., Respondent; KN Marketing, L.P., Complainant v. El Paso Natural Gas Co., Respondent; Public Conference Agenda

April 10, 2002.

As announced in the prior notices issued on March 21, 2002 and April 8, 2002, there will be a public conference on April 16, 2002 to receive comments on Staff's proposal for resolving capacity allocation issues on the El Paso Natural Gas Company system. This conference will be held at 10:00 a.m. in the Commission Meeting Room of the Federal Energy Regulatory Commission, 888 First St., NE, Washington, DC. All interested persons are invited to attend.

The Agenda for the conference is attached to this Notice. Written comments may be submitted on April 16, 2002. A time for filing reply comments will be discussed at the conference.

The conference will be transcribed. Those interested in obtaining transcripts should contact Ace Federal Reporters at 202–347–3700. The Capitol Connection will broadcast the conference live via the Internet and by phone. To find out more about The Capitol Connection's Internet and phone bridge, contact David Reininger or Julia Morelli at 703–993–3100 or go to *www.capitolconnection.gmu.edu.* Anyone interested in purchasing videotapes of the workshops should call VISCOM at 703–715–7999.

Any questions concerning the procedures or format of the conference, may be addressed to either Robert Petrocelli at (202)208–2085 or Ingrid Olson at (202)208–2015.

Magalie R. Salas,

Secretary.

El Paso Natural Gas Company, Docket No. RP00–336–000, et al. April 16, 2002, 10 a.m.

Public Conference

I. Opening Remarks and Introduction—10 a.m.

Robert J. Petrocelli, Office of Markets, Tariffs, and Rates, FERC

Patricia Shelton, President, El Paso Natural Gas Company

William Healy, Vice President, Commercial Operations, El Paso Corporation's Western Pipeline Group.

Daniel Collins, Vice President and Deputy General Counsel, El Paso Corporation.

Norman Walker, Director of Nominations and Scheduling Department, El Paso Natural Gas Company

II. Panel of State Commissions—10:15 a.m.

William A. Mundell, Chairman, Arizona Corporation Commission

Jonathan A. Bromson, Staff Counsel, California Public Utilities Commission

III. Panel of Full Requirements Shippers 10:40 a.m.

James F. Moriarty, Counsel, Spokesperson for Full Requirements Shippers

John P. Gregg, Counsel, El Paso Municipal Customer Group

Melvin Christopher, Vice President, Operations & Engineering, Public Service Company of New Mexico

Michael Langston, Vice President, Gas Supply, Southern Union Gas Company

John A. Cogan, The Johnco Group, LLC, Arizona Gas Division of Citizens Communications Company

Edward C. McMurtrie, Director, Federal Regulatory Affairs, Southwest Gas Corporation

David G. Areghini, Associate General Manager, Salt River Project

Mark W. Schwirtz, Chief Operating Officer, Arizona Electric Power Cooperative

James H. McGrew, Counsel, El Paso Electric Company

Stephen M. Wheeler, Senior Vice President, Arizona Public Service Co. for Arizona Public Service and Pinnacle West

Michael D. McElrath, Energy Manager, Phelps Dodge Corporation, for Phelps Dodge Corporation and ASARCO, INC.

IV. Panel of Contract Demand Shippers 11:40 a.m.

Katherine B. Edwards, Counsel, Indicated Shippers

Paul B. Keeler, Managing Attorney—Marketing, Burlington Resources Oil & Gas LP, Vice President, Law, Burlington Resources Trading Inc.

Penny Barry, San Juan and Rockies Trading, BP America Inc.

Douglas F. John, Counsel, MGI Supply

Cathy Bulf, Manager of Transportation, ONEOK Energy Marketing and Trading

James Harrigan, Vice President Gas Acquisitions, Southern California Gas Company

Rodger Schwecke, Manager Pipeline Products, Southern California Gas Company.

John Ellis, Counsel, Sempra Energy

(To be announced), Southern California Generation Coalition

Lunch Break—12:40 p.m.

V. Open Discussion of Issues—1:45–2:45 p.m.

Dynegy Marketing and Trade, Panda Gila River LP, Pacific Gas & Electric Company, and Southern California Edison Company have indicated an interest in making comments during this discussion. Others will also have an opportunity to participate in the discussion.

[FR Doc. 02–9182 Filed 4–15–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7118–007]

State of Maine Department of Marine Resources; Notice of Site Visit

April 10, 2002.

On April 23, 2002, the Office of Energy Projects staff will participate in a site visit to the Smelt Hill Hydroelectric Project on the Presumpscot River in the town of Falmouth, Maine. The site visit will begin at about 9 a.m. near the dam. All interested parties may attend the site visit. Those planning to attend must provide their own transportation. For further information, please contact the

Commission's Office of External Affairs at (202) 208–0004.

Magalie R. Salas,

Secretary.

[FR Doc. 02–9185 Filed 4–15–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–1422–000]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

April 4, 2002.

Take notice that on March 29, 2002, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) the Joint Open Access Transmission Tariff for the Midwest Independent Transmission System Operator, Inc. for the Transmission System (Michigan), FERC Electric Tariff, Original Volume No. 2, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations..

The Midwest ISO has electronically served copies of its filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

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 19, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–9183 Filed 4–15–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of Exemption and Soliciting Comments, Motions To Invervene, and Protests

April 10, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Exemption.

b. *Project No.:* P–5018–004.

c. *Date Filed:* March 8, 2002.

d. *Applicant:* Wellesley Rosewood Maynard Mills, L.P.

e. *Name of Project:* Clock Tower Place Project.

f. *Location:* The project is located in Maynard, Massachusetts on the Assabet River. This project does not utilize Federal or Tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Thomas Clark, Executive Director, Clock Tower Place, 2 Clock Tower Place, Suite 200, Maynard, MA 01754, (978) 461–1456.

i. *FERC Contact:* Shannon Dunn at *shannon.dunn@ferc.gov,* or telephone (202) 208–0853.

j. *Cooperating agencies:* We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item k below.

k. Deadline for filing comments, motions, or protests and requests for cooperating agency status: May 10, 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.

Comments and protests 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.gov/documents/makeanelectronicfiling/doorbell.htm*

Please include the project number (P–5018–004) on any comments or motions filed.

l. *Description of Project:* Wellesley Rosewood Maynard Mills, L.P. (WRMM), licensee for the Clock Tower Place Project (Project), requests to surrender its exemption from licensing for the existing, non-operational Project.

m. *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. The application 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). A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–9184 Filed 4–15–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–12–000]

Electricity Market Design and Structure; Notice of Options Paper

April 10, 2002.

Take notice that the Commission has distributed an options paper for resolving rate and transition issues for standardized transmission service and wholesale electric market design. The purpose of this paper is to stimulate public discussion that can guide the development of a proposed rulemaking on these issues. Parties filing comments are requested to make recommendations on the options that should be included in the proposed rulemaking as well as to address the pros and cons of the various options contained in the paper.

The options paper is being placed in the record of this rulemaking docket. It will also be available on the Commission's website at *http://www.ferc.gov/Electric/RTO/mrkt-strct-comments/discussion—paper.htm.*

Comments on this paper should be filed with the Commission by May 1, 2002. Comments may be filed in paper format or electronically. For paper filings, the original and 14 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. For electronic filings via the Internet, see 18 CFR 385.2001(a)(1)(iii) (2001) and the instructions on the Commission's web site under the ''e-Filing'' link. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by e-mail to rimsmaster@ferc.gov.

Magalie R. Salas,

Secretary.

[FR Doc. 02–9186 Filed 4–15–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7172–3]

Agency Information Collection Activities: Proposed Collection; Comment Request; Risk Management Program Requirements and Petitions To Modify the List of Regulated Substances under Section 112(r) of the Clean Air Act (CAA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Risk Management Program Requirements and Petitions to Modify the List of Regulated Substances under section 112(r) of the Clean Air Act (CAA), EPA ICR Number 1656.09, OMB Control Number 2050–0144, expiring September 30, 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 17, 2002.

ADDRESSES: Chemical Emergency Preparedness and Prevention Office, Mailcode 5104A, U.S. EPA, 1200 Pennsylvania Avenue NW, Washington DC 20004. Interested persons may obtain a copy of the ICR without charge by contacting the person in **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, 202–564–8019, fax no. 202–564–8233, or e-mail: *jacob.sicy@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those stationary sources that have more than a threshold quantity of a regulated substance in a process. Entities more likely to be affected by this action may include chemical and non-chemical manufacturers, petroleum refineries, utilities, federal sources, etc.

Title: Risk Management Program Requirements and Petitions to Modify the List of Regulated Substances under section 112(r) of the Clean Air Act (CAA), EPA ICR No. 1656.09, OMB Control No. 2050–0144 expiring 09/30/02 .

Abstract: This information collection request (ICR) addresses the following information requirements: (1) Documenting sources risk management programs and submitting a source risk management plan (RMP) under CAA section 112(r)(7). The regulations include requirements for covered sources to implement and maintain documentation for a risk management program and submit an RMP (including information on a source's hazard assessment, prevention program, and emergency response program) to EPA. (2) Collecting and submitting information to support petitions to modify the list of regulated substances under CAA section 112(r)(3). The regulations include requirements for a petitioner to submit sufficient information in support of a petition to scientifically support the request to add or delete a chemical from the list of regulated substances. The Agency will use this information in making the decision to grant or deny a petition. EPA developed and promulgated these regulations through several rulemakings. The rules are codified in 40 CFR part 68.

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 estimates of the universe used in the previous ICRs have been revised to reflect the actual number of RMPs submitted to EPA, adjusted for non-compliance based on reports from the EPA Regions and state implementing agencies. As a result, there has been a decrease in the estimate of the number of facilities subject to these requirements to about 16,635 respondents. Because of the schedule

for certain activities established in Part 68, some costs occur in the three-year time period covered by this ICR did not occur during the previous three-year period. Most sources will have to revise their RMPs and update their process hazard analyses, hazard reviews, and offsite consequence anaylses in 2004, five years after submitting their initial RMPs. Consequently, the record keeping and reporting costs for Part 68 fluctuate considerably from ICR to ICR.

The public reporting burden will depend on the regulatory program tier into which sources are categorized. In this ICR, EPA estimates that only certain entities will be newly subject to the RMP during the three years covered by this ICR. For these newly affected sources, the public reporting burden for rule familiarization, is estimated to be 35 hours per source and 11 hours for other initial compliance. The respondent to prepare and submit an RMP is estimated to take 5.0 hours for retailers to 28 hours for complex chemical manufacturers. The respondent burden to maintain on-site documentation is estimated to range from 4.5 hours for retailers to 355 hours for complex chemical manufacturers. The reporting burden for CBI claims is estimated to be 9.5 hours for certain chemical manufacturing sources. The total respondent burden to become familiar with the rule, complete and submit (or revise) the risk management plan, maintain on-site documentation, and substantiate claims for confidential business information is estimated to be about 273,000 hours over three years, or an annual burden of 91,000 hours. The three-year burden estimated for 15 states that may be implementing Part 68 program is 18,480 hours, or an annual burden of 6,160 hours. Therefore, the total burden for all sources and states is estimated to be 291,480 hours for three years, or an annual burden of 97,160 hours.

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: April 10, 2002.

David Speight,

Acting Director, Chemical Emergency Preparedness and Prevention Office.

[FR Doc. 02–9217 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0002; FRL–6832–3]

TSCA Section 8(c) Health and Safety Data Reporting Rule; Request for Comment on Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), EPA is seeking public comment on the following Information Collection Request (ICR): TSCA Section 8(c) Health and Safety Data Reporting Rule (EPA ICR No. 1031.07, OMB No. 2070–0017). This ICR involves a collection activity that is currently approved and scheduled to expire on August 31, 2002. The information collected under this ICR relates to requirements under TSCA section 8(c) that companies that manufacture, process, or distribute in commerce any chemical substance or mixture maintain records of significant adverse reactions to health or the environment alleged to have been caused by such substance or mixture. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPPT–2002–0002 and administrative record number AR–239, must be received on or before May 16, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPT–2002–0002 and administrative record number AR–239 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Gerry Brown, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8086; fax number: (202) 564–4765; e-mail address: brown.gerry@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a company that manufactures, processes, imports, or distributes in commerce chemical substances or mixtures. Potentially affected categories and entities may include, but are not limited to:

Type of business	NAICS codes	SIC codes
Basic chemical manufacturing	3251	2869
Resin, synthetic rubber and artificial synthetic fibers, and filaments manufacturing	3252	2821
Paint, coating, and adhesive manufacturing	3255	2851
Pesticide, fertilizer, and other agricultural chemical manufacturing	3253	2879
Petroleum refineries	32411	2911

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

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

A. 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/.

B. Fax-on-Demand

Using a faxphone call (202) 564–3119 and select item 4088 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPPT–2002–0002 and administrative record number AR–239. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the 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 OPPT–2002–0002 and administrative record number AR–239 on the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPT–2002–0002 and administrative record number AR–239. Electronic comments may also be filed online at many Federal Depository Libraries.

B. 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when 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 collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number and administrative record 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.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: TSCA Section 8(c) Health and Safety Data Reporting Rule.

ICR numbers: EPA ICR No. 1031.07, OMB No. 2070–0017.

ICR status: This ICR is currently scheduled to expire on August 31, 2002. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under PRA, unless it displays a currently valid OMB control

number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: TSCA section 8(c) requires companies that manufacture, process, or distribute chemicals to maintain records of significant adverse reactions to health or the environment alleged to have been caused by such chemicals. Since section 8(c) includes no automatic reporting provision, EPA can obtain and use the information contained in company files only by inspecting those files or requiring reporting of records that relate to specific substances of concern. Therefore, under certain conditions, and using the provisions found in 40 CFR part 717, EPA may require companies to report such allegations to the Agency.

EPA uses such information on a case-specific basis to corroborate suspected adverse health or environmental effects of chemicals already under review by EPA. The information is also useful to identify trends of adverse effects across the industry that may not be apparent to any one chemical company.

Responses to the collection of information are mandatory (see 40 CFR part 717). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to range between 0.25 hours and 8.0 hours per response, depending upon the category of respondent. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: 7,397.

Estimated total number of potential respondents: 12,287.

Frequency of response: On occasion.

Estimated average number of responses for each respondent: < 1 per year.

Estimated total annual burden hours: 29,939.

Estimated total annual burden costs: $2,613,486.

VI. Are There Changes in the Estimates from the Last Approval?

There is a decrease of 340 hours (from 30,279 hours to 29,939 hours) in the total estimated respondent burden compared with that identified in the information collection request most recently approved by OMB. This decrease reflects minor downward re-estimates in the number of small and large businesses and the average number of employees at those businesses (adjustment). The decrease in the estimates of the number of employees in turn decreases the number of estimated allegations. Because allegations trigger response by industry, this results in a decrease in the estimated burden hours and costs.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 5, 2002.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–9219 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0004; FRL–6832–7]

TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals; Request for Comment on Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), EPA is seeking public comment on the following Information Collection Request (ICR): TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals (EPA ICR No. 1188.07, OMB No. 2070–0038). This ICR involves a collection activity that is currently approved and scheduled to expire on August 31, 2002. The information collected under this ICR relates to the requirement that persons notify EPA at least 90 days before they manufacture, import, or process a chemical substance for a significant new use, as defined by the Toxic Substances Control Act (TSCA) section 5. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPPT–2002–0004 and administrative record number AR–240, must be received on or before May 16, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPT–2002–0004 and administrative record number AR–240 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Frank Kover, Chemical Control Division (7405M), Office of Pollution Prevention

and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8162; fax number: (202) 564–4755; e-mail address: kover.frank@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a company that manufactures, processes, imports, or distributes in commerce chemical substances or mixtures. Potentially affected categories and entities may include, but are not limited to:

Type of business	NAICS codes	SIC codes
Basic chemical manufacturing	3251	2869
Resin, synthetic rubber and artificial synthetic fibers, and filaments manufacturing	3252	2821
Paint, coating, and adhesive manufacturing	3255	2851
Pesticide, fertilizer, and other agricultural chemical manufacturing	3253	2879
Petroleum refineries	32411	2911

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

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

A. 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/.

B. Fax-on-Demand

Using a faxphone call (202) 564–3119 and select items 4091, 4092, and 4093 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPPT–2002–0004 and administrative record number AR–240. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the 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 OPPT–2002–0004 and administrative record number AR–240 on the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPT–2002–0004 and administrative record number AR–240. Electronic comments may also be filed online at many Federal Depository Libraries.

B. 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when 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 collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number and administrative record 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.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals.

ICR numbers: EPA ICR No. 1188.07, OMB No. 2070–0038.

ICR status: This ICR is currently scheduled to expire on August 31, 2002. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: Section 5 of TSCA provides EPA with a regulatory mechanism to monitor and, if necessary, control significant new uses of chemical substances. Section 5 of TSCA authorizes EPA to determine by rule (a significant new use rule or SNUR), after considering all relevant factors, that a use of a chemical substance represents a significant new use. If EPA determines that a use of a chemical substance is a significant new use, section 5 of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

EPA uses the information obtained through this collection to evaluate the health and environmental effects of the significant new use. EPA may take regulatory actions under TSCA section 5, 6 or 7 to control the activities for which it has received a SNUR notice. These actions include orders to limit or prohibit the manufacture, importation, processing, distribution in commerce, use, or disposal of chemical substances. If EPA does not take action, section 5 of TSCA also requires EPA to publish a **Federal Register** notice explaining the reasons for not taking action.

Responses to the collection of information are mandatory (see 40 CFR part 721). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to be 118.9 hours per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: 8.

Frequency of response: On occasion.

Estimated average number of responses for each respondent: 1 per year.

Estimated total annual burden hours: 988.

Estimated total annual burden costs: $81,921.

VI. Are There Changes in the Estimates from the Last Approval?

There is a decrease of 44 hours (from 1,032 hours to 988 hours) in the total estimated respondent burden compared with that identified in the information collection request most recently approved by OMB. This change results from updating estimates based upon historical information on SNURs promulgated by the EPA (adjustment). Based upon revised estimates, the number of SNUNs estimated to be received annually has increased from 3 to 5. Additionally, the estimated number of chemicals per SNUR has increased from 34 to 65.5. However, the estimated annual number of SNURs has decreased from 10 to 3 based upon historical information. The overall result of these adjustments is a decrease in estimated burden.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 5, 2002.

Susan B. Hazen,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–9220 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0005; FRL–6832–8]

Data Submissions for the Voluntary Children's Chemical Evaluation Program; Request for Comment on Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), EPA is seeking public comment on the following Information Collection Request (ICR): Data Submissions for the Voluntary Children's Chemical Evaluation Program (VCCEP) (EPA ICR No. 2055.01, OMB No. 2070–tbd). This ICR proposes a collection activity for a new voluntary program whose goal is to obtain information on chemicals to which children are likely to be exposed so that any risks can be assessed and managed. Information on health effects, exposure, risk, and data needs will be submitted by chemical manufacturers who have volunteered to participate in VCCEP. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPPT–2002–0005 and administrative record number AR–238, must be received on or before May 16, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPT–2002–0005 and administrative record number AR–238 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Catherine Roman, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8172; fax number: (202) 564–4755; e-mail address: roman.catherine@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a manufacturer or importer of certain chemicals and have volunteered to sponsor your chemical in the VCCEP. Potentially affected categories and entities may include, but are not limited to:

Type of business	NAICS codes	SIC codes
Industrial organic chemicals	325	2869
Adhesives and sealants	32552	2891
Paints and allied products	32551	2851
Textile goods	313	2299
Petroleum products	42272	5172

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

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

A. 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/.

B. Fax-on-Demand

Using a faxphone call (202) 564–3119 and select items 4089 and 4090 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPPT–2002–0005 and administrative record number AR–238. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit the 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 OPPT–2002–0005 and administrative record number AR–238 on the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically*. Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPT–2002–0005 and administrative record number AR–238. Electronic comments may also be filed online at many Federal Depository Libraries.

B. 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when 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 collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number and administrative record 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.

D. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Data Submissions for the Voluntary Children's Chemical Evaluation Program.

ICR numbers: EPA ICR No. 2055.01, OMB No. 2070–tbd.

ICR status: This ICR is a new proposed information collection that has not been approved by OMB. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: VCCEP is a voluntary program intended to provide data to enable the public to understand the potential health risks to children associated with certain chemical exposures. EPA has asked companies which manufacture and/or import 23 chemicals which have been found in human tissues and the environment to volunteer to sponsor their evaluation in VCCEP. VCCEP consists of three tiers which a sponsor may commit to separately. Thus far, EPA has received Tier 1 commitments for 20 chemicals. As part of their sponsorship, companies would submit commitment letters, collect and/or develop health effects and exposure information on their chemical(s), integrate that information in a risk assessment, and develop a ''Data Needs Assessment.'' The Data Needs Assessment would discuss the need for additional data, which could be provided by the next tier, to fully characterize the risks the chemical may pose to children.

The information submitted by the sponsor will be evaluated by a group of scientific experts with extensive, relevant experience in toxicity testing and exposure evaluations, a Peer Consultation Group. This group will forward its opinions to EPA and the sponsor(s) concerning the adequacy of the assessments and the need for development of any additional information to fully assess risks to children. EPA will consider the opinions of the Peer Consultation Group and announce whether additional higher tier information is needed. Sponsors and the public will have an opportunity to comment on EPA's decision concerning data needs. EPA will consider these comments and issue a final decision. If the final decision is that additional information is needed, sponsors will be asked to volunteer to provide the next tier of information. If additional information is not needed, the risk communication and, if necessary, risk management phases of the program will be initiated.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to average 519.6 hours per response. The

following is a summary of the estimates taken from the ICR:

Respondents/affected entities: 34.

Estimated total number of potential respondents: 23.

Frequency of response: On occasion.

Estimated total/average number of responses for each respondent: 39 over a 3 year period.

Estimated total annual burden hours: 154,332.

Estimated total annual burden costs: $12,515,227.

VI. Are There Changes in the Estimates from the Last Approval?

No. This is a new proposed ICR.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 8, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–9221 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00331; FRL–6827–2]

Pollution Prevention Grants and Announcement of Financial Assistance Programs Eligible for Review; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA expects to have approximately $5 million available in fiscal year 2002 grant/cooperative agreement funds under the Pollution Prevention (P2) grant program. Grants/cooperative agreements will be awarded under the authority of the Pollution Prevention Act of 1990. The Pollution Prevention Act and 40 CFR part 35, subpart B authorize EPA to award grant funds to State, Tribes, and Intertribal Consortia programs that address the reduction or elimination of pollution across environmental media (air, land, and water) and to strengthen the efficiency and effectiveness of State technical assistance programs in providing source reduction information to businesses. This notice describes the procedures and criteria for the award of these grants.

FOR FURTHER INFORMATION CONTACT: *For general information about the grant program contact*: Christopher Kent, Pollution Prevention Division (7409), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–8842; e-mail address: *kent.christopher@epa.gov*.

For technical and regionally specific information: The EPA Regional Pollution Prevention Coordinator listed under Unit X. of this notice.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to States (including state universities), Tribes and Intertribal Consortia. This notice may, however, be of interest to local governments, private universities, private nonprofit entities, private businesses, and individuals who are not eligible for this grant program. If you have any questions regarding the applicability of this action to a particular entity, contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

You may obtain electronic copies of this document and certain other related documents that might be available electronically, from the EPA Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the **Federal Register**—Environmental Documents. You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgst. These documents will also be available at the EPA P2 web site *http://www.epa.gov/P2*.

II. Background of the Pollution Prevention Grant Program

More than $75 million has been awarded to over 100 State and Tribal organizations under EPA's multimedia pollution prevention grant program, since its inception in 1989. During the past 12 years, P2 grant funds have established and enabled State and Tribal programs to implement a wide range of pollution prevention activities. P2 grants provide economic benefits to small businesses by funding State technical assistance programs focused on helping the businesses develop more efficient production technologies and operate more cost effectively.

The goal of the P2 grant program is to assist businesses and industries in identifying better environmental strategies and solutions for reducing waste at the source. The majority of the P2 grants fund State-based projects in the areas of technical assistance and training, education and outreach, regulatory integration, data collection and research, demonstration projects, and recognition programs.

In November 1990, the Pollution Prevention Act of 1990 (the Act) (Public Law 101–508) was enacted, establishing as national policy that pollution should be prevented or reduced at the source whenever feasible.

1. Section 6603 of the Act defines source reduction as any practice that:

i. Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal.

ii. Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

EPA further defines pollution prevention as the use of other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or protection of natural resources, or protection of natural resources by conservation.

2. Section 6605 of the Act and 40 CFR part 35, subpart B authorizes EPA to make matching grants to promote the use of source reduction techniques by businesses. In evaluating grant applications, the Act directs EPA to consider whether the proposed State program will:

i. Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice and to assist in the development of source reduction plans.

ii. Target assistance to businesses for which lack of information is an impediment to source reduction.

iii. Provide training in source reduction techniques.

III. Availability of FY 2002 Funds

EPA expects to have approximately $5 million in grant/cooperative agreement funds available for FY 2002–2003 pollution prevention activities. The Agency has delegated grant making authority to the EPA regional offices. EPA regional offices are responsible for the solicitation of interest and the screening of proposals.

In addition to the statutory criteria discussed in Unit II., all applicants must address all five of the national program criteria listed under Unit VI.2.ii. EPA invites applicants to submit proposals that make the case for how their work will address P2 priorities on the national, Tribal, regional and State level. Interested applicants should contact their EPA Regional Pollution Prevention Coordinator, listed under Unit X. for more information.

The 2002 Pollution Prevention Grant Guidance is located at http://www.epa.gov/p2/programs/ppis.htm.

IV. Catalogue of Federal Domestic Assistance

The number assigned to the P2 grant program in the Catalogue of Federal Domestic Assistance is 66.708 (formerly 66.900).

V. Matching Requirements

States, Tribes, and Intertribal Consortia recipients of Pollution Prevention grants under section 6605 of the PPA must provide at least 50% of the total allowable project cost. For example, the Federal government will provide half of the total allowable cost of the project, and the recipient will provide the other half. Recipients may meet the match requirements by allowable costs incurred by the grantee (often referred to as ''in-kind goods or services'') or the value of third party in-kind contributions consistent with 40 CFR 31.24. If a Tribe or Intertribal Consortium is selected for award of a Pollution Prevention Grant (PPG) and the Tribe includes the funds in a Performance Partnership Grant awarded under 40 CFR part 35, subpart B, the required Tribal match for the Pollution Prevention portion of the PPG will be reduced to 5% of the allowable Pollution Prevention project cost for the first 2 years of the PPG grant.

VI. Eligibility

1. *Applicants*. Eligible applicants for purposes of funding under this program include the 50 States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, any territory of or possession of the United States, any agency or instrumentality of a State including State universities, and Indian tribes that meet the requirement for treatment in a manner similar to a State at 40 CFR 35.663 and Intertribal Consortia that meet the requirements at 40 CFR 35.504. Local governments, private universities, private nonprofit, private businesses, and individuals are not eligible for funding. Eligible applicants are encouraged to establish partnerships with business and other environmental assistance providers to seamlessly deliver pollution prevention assistance. Successful applicants will be those that best meet the evaluation criteria in this unit. In many cases, this is likely to be accomplished through partnerships.

2. *Activities and criteria*—i. *General*. The purpose of the P2 grant program is to support the establishment and expansion of State and Tribal multimedia pollution prevention programs. EPA specifically seeks to build pollution prevention capabilities or to test, innovative pollution prevention approaches and methodologies. Funds awarded under the P2 grant program must be used to support pollution prevention programs that address the transfer and reduction of potentially harmful pollutants across environmental media: air, water, and land. Programs should reflect comprehensive and coordinated pollution prevention planning and implementation efforts State-wide.

ii. *2002 National program criteria*. This section describes the five national program criteria EPA will use to evaluate proposals under the P2 grant program. In addition to the statutory criteria and the national program criteria, there may be regionally specific criteria that the proposing activities are also required to address. For more information on the EPA regional requirements, applicants should contact their EPA Regional Pollution Prevention Coordinator, listed under Unit X. As well as ensuring that the proposed activities meet EPA's definition of pollution prevention, the applicant's proposal must include how the applicant will address the following five activities:

a. *Promote multimedia pollution prevention*. Applicants should identify how projects will encourage source reduction to actively prevent pollution across environmental media: air, water, and land. Programs should reflect comprehensive and coordinated pollution prevention planning and implementation efforts. Pollution prevention programs can develop multimedia pollution prevention activities which provide technical assistance to businesses, institutionalize multimedia pollution prevention as an environmental management priority, or initiate demonstration projects that test and support innovative pollution prevention approaches and methodologies.

b. *Advance environmental goals*. EPA believes that State and Tribal pollution prevention programs have an unique opportunity to promote pollution prevention, especially through the environmental performance agreements. By developing applications that support stated environmental goals, pollution prevention programs can help ensure that States and Tribes achieve objectives through a cost-effective preventive approach. Pollution prevention programs will continue to be valuable to top management if they can demonstrate how their actions will help advance stated goals. EPA would like to ensure that pollution prevention is integrated and that the funds provide a service that supports the State's or Tribes' strategic plan. EPA will not fund any projects developed apart from the stated strategic plan.

c. *Promote accomplishments within the State's environmental programs*. EPA realizes the importance of being able to document the effectiveness of the program back to the affected media office. EPA added this application criteria to create the necessary link between the regulatory program and the pollution prevention program activities to ensure that the affected offices know the good work that is being done within their sectors/programs/geographic areas. By periodically documenting the proposed activities' accomplishments, grantees will help media program managers understand the benefits of their delivered services. By creating this positive feedback mechanism to the regulatory program, the grantee can market their accomplishments and help promote the sustainability of the P2 program.

d. *Promote partnerships*. For the past 6 years, EPA has required P2 grant applicants to identify major environmental assistance providers in their area and to work with these organizations to educate businesses on pollution prevention. EPA believes that pollution prevention programs who do not develop a strong relationship with other environmental assistance providers will face difficulties accessing State and Federal resources in the future.

EPA continues to seek more cooperation among pollution prevention programs and the other environmental and business assistance providers at the

State level. These can include university-based technical assistance and cooperative extension programs, and other assistance programs offered within the State. Partnerships are also encouraged with regional and national programs such as the Pollution Prevention Resource Exchange (P2Rx) centers, National Institute of Standards and Technology (NIST) programs, Office of Enforcement and Compliance Assistance (OECA) Compliance Assistance Centers, EPA's Small Business Assistance Programs (SBAPs), etc.

By developing such partnerships, EPA would like to ensure that pollution prevention programs leverage these outside expertise. This partnership will also reduce the need for other environmental assistance providers to develop their own expertise, duplicating effort.

e. *Identify measures of success.* Applicants are encouraged to identify how and what criteria they are using to track the effectiveness of the activity. Measures of success could be measures of direct environmental improvement or linked to such measures. For example, success could be identified by demonstrating a direct link between the project's activities and quantifiable reductions in pollution generated or in the natural resources used. Many of the EPA regional offices have negotiated with their States specific measurement structures which may provide appropriate frameworks for measuring the effectiveness of pollution prevention programs.

3. *Program management.* Awards for FY 2002 funds will be managed through the EPA regional offices. Applicants should contact their EPA Regional Pollution Prevention Coordinator, listed under Unit X. or view the 2002 Grant Guidance located at http://www.epa.gov/p2/programs/ppis.htm to obtain specific regional requirements and deadlines for submitting proposals. National funding decisions will be made by June 2002.

VII. Proposal Narrative Format

The proposed work plan must meet the requirements for an approvable work plan at 40 CFR 35.107 and 35.507.

VIII. Applicable Regulations

State applicants and recipients of Pollution Prevention Grants are subject to the requirements of 40 CFR parts 31 and 35, subpart A. Tribal and Intertribal Consortia applicants and recipients of Pollution Prevention Grants are subject to the requirements of 40 CFR parts 31 and 35, subpart B.

IX. Reporting

The work plans and reporting must be consistent with the requirements of 40 CFR 35.107, 35.115, 35.507, and 35.515.

The grantee, along with the Regional Project Officer will develop a process for jointly evaluating and reporting progress and accomplishments under the work plan (see 40 CFR 35.115 and 35.515). A description of the evaluation process and a reporting schedule must be included in the work plan (see 40 CFR 35.107(b)(2)(iv) and 35.507(b)(2)(iv)).

The evaluation process must provide for:

(1) A discussion of accomplishments as measured against work plan commitments.

(2) A discussion of the cumulative effectiveness of the work performed under all work plan components.

(3) A discussion of existing and potential problem areas.

(4) Suggestions for improvement, including, where feasible, schedules for making improvements.

EPA's Pollution Prevention Division has created an optional progress report format to facilitate national reporting on status of pollution prevention grant activities. A copy of the report format is included on the PPIS page of the P2 web site (http://www.epa.gov/p2/ppis.htm). This progress report format is not required but has been used in several States for the past year.

X. Regional Pollution Prevention Coordinators

Region I: (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont) Abby Swaine, 1 Congress St., Suite 1100 (SPN), Boston, MA 02203, (617) 918–1841, e-mail: swaine.abby@epa.gov.

Region II: (New Jersey, New York, Puerto Rico, Virgin Islands) Deborah Freeman (SPMMB), 290 Broadway, 25th Floor, New York, NY 10007, (212) 637–3730, e-mail: freeman.deborah@epa.gov.

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia) Lorna Rosenberg, (3E100), 1650 Arch St., Philadelphia PA 19103–2029, (215) 814–5389, e-mail: rosenberg.lorna@epa.gov.

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee) Dan Ahern, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303, (404) 562–9028, e-mail: ahern.dan@epa.gov.

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin) Phil Kaplan, (DW–8J), 77 West Jackson Blvd., Chicago, IL 60604–3590, (312) 353–4669, e-mail: kaplan.phil@epa.gov.

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas) Joy Campbell, (6EN-XP), 1445 Ross Ave., 12th Floor, Suite 1200, Dallas, TX 75202, (214) 665–0836, e-mail: campbell.joy@epa.gov.

Region VII: (Iowa, Kansas, Missouri, Nebraska) Gary Bertram, (ARTD/TSPP), 901 N 5th St., Kansas City, KS 66101, (913) 551–7533, e-mail: bertram.gary@epa.gov.

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) Linda Walters, (8P-P3T), 999 18th St., Suite 300, Denver, CO 80202–2405, (303) 312–6385, e-mail: walters.linda@epa.gov.

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, Guam) Leif Magnuson (WST–7), 75 Hawthorne Ave., San Francisco, CA 94105, (415) 972–3286, e-mail: magnuson.leif@epa.gov.

Region X: (Alaska, Idaho, Oregon, Washington) Carolyn Gangmark, 01–085, 1200 Sixth Ave., Seattle, WA 98101, (206) 553–4072, e-mail: gangmark.carolyn@epa.gov.

XI. Regional Pollution Prevention Resource Exchange (P2Rx) Centers

Regions I–II (Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont) P2Rx Center - NEWMOA, http://www.newmoa.org, 129 Portland St., Suite 602, Boston, MA 02114–2014, Contact: Andy Bray, telephone: (617) 367–8558, ext. 306.

Regions III–IV: (Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, Mississippi, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia,) P2Rx Center - The Waste Reduction Resource Center - http://wrrc.p2pays.org - 1639 Mail Service Center, Raleigh, NC 27699–1639; telephone: (800) 476–8686.

Region V (Michigan, Minnesota, Illinois, Indiana, Ohio, Wisconsin) P2Rx Center - The Great Lakes Regional Pollution Prevention Roundtable (GLRPPR) -http://www.glrppr.org - IL Waste Management and Research Center, One E. Hazelwood Dr., Champaign, IL 61820, Contact: Deb Jacobson. telephone: (630) 472–5019.

Region VI (Arizona, Louisiana, New Mexico, Oklahoma, Texas) P2Rx Center - The Southwest P2 InfoSource - http://p2.utep.edu - Institute for Manufacturing and Materials Management, 500 W. University, Burgess Hall, Room 400, El Paso, TX 79968, Contact: Ed Gonzalez, telephone: (915) 747–6273.

Region VII (Iowa, Kansas, Missouri, Nebraska) P2Rx Center - The Pollution Prevention Regional Information Center

- http://www.p2ric.org - 1313 Farnham, Suite 230, Omaha, NE 68182, Contact: Rick Yoder, telephone: (402) 595–2381.

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming) P2Rx Center - The Peaks to Prairies Pollution Prevention Information Center - http://peakstoprairies.org - MSU Extension Service, P.O. Box 173580, Bozeman, MO 59717, Contact: Mike Vogel, telephone: (406) 994–3451.

Region IX (Arizona, California, Hawaii, Nevada) P2Rx Center - The Western Regional Pollution Prevention Network - http://www.westp2net.org - 1735 N First St, Suite 275, San Jose, CA 95112, Contact: Isao Kobashi, telephone: (408) 441–1195 ext. 4450.

Region X (Arkansas, Idaho, Oregon, Washington) P2Rx Center - The Pacific Northwest Pollution Prevention Resource Center- http://www.pprc.org - 513 First Ave. West, Seattle, WA 98119, Contact: Chris Wiley, telephone: (206) 352–2050.

List of Subjects

Environmental protection, Grants.

Dated: April 8, 2002.

Stephen L. Johnson,

Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–9223 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7172–1]

US EPA Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Executive Committee (EC) of the US EPA Science Advisory Board (SAB) will meet on Wednesday, May 8, 2002 in a publicly accessible conference call convened in the SAB Conference Room (Room 6013, USEPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20004). The meeting will begin at 11:00 am and adjourn no later than 2:00 pm Eastern Daylight Time. The purpose of the meeting is to take action on an estimated six reports from its Committees and Subcommittees. This meeting is open to the public; however, seating is limited and available on a first come basis. Information on how to access the meeting via conference call is available from Ms. Diana Pozun (*see* contact information below). The draft SAB reports will be available on the SAB Web site (*www.epa.gov/sab*) one week prior to the meeting. Documents that are the subject of SAB reviews are normally available from the originating EPA office (*see* Program Contacts below), not from the SAB Office.

Purpose of the Meeting—The Executive Committee will take action on reports from its Committees and Subcommittees, most likely including the following:

a. ''A Framework for Reporting on Ecological Conditions: An SAB Report, prepared by the Ecological Processes and Effects Committee (EPEC). [This report is a self-initiated activity and, hence, there is no background material beyond the report itself.]

b. ''USEPA's Surface Impoundment Study: An SAB report'', prepared by the Environmental Engineering Committee (EEC), for the Office of Solid Waste and Emergency Response. [Program contact: Becky Cuthbertson, Phone 703–308–8447 or e-mail *cuthbertson.becky@epa.gov*]

c. ''USEPA's LTESWTR/Stage II DBP Rule Proposal; An SAB report'', prepared by the Drinking Water Committee (DWC), for the Office of Water. [Program contact: Mr. James Taft (Phone: 202–564–4655) or e-mail *taft.james@epa.gov*]

d. ''USEPA's Particulate Matter (PM) Research Centers: An SAB Report'', prepared by the PM Research Centers Interim Review Panel, an ad hoc Subcommittee of the EC, for the Office of Research and Development. [Program contacts: Ms. Stacey Katz (Phone: 202–564–8201, or e-mail *katz.stacey@epa.gov*) or Ms. Gail Robarge (Phone: 202–564–8301, or e-mail *robarge.gail@epa.gov*)]

e. ''Progress in Improving the SAB's Panel Formation Process: An SAB Commentary'', prepared by the Policies and Procedures Subcommittee, a standing Subcommittee of the EC. [This report is a self-initiated activity and, hence, there is no background material beyond the report itself.]

f. ''Southeastern Ecological Framework: An SAB Report'', prepared by the Ecological Processes and Effects Committee (EPEC). [Review materials describing the Southeastern Ecological Framework are available from Dr. Cory Berish, Chief of the Planning and Analysis Branch, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303–8960, telephone (404) 562–8276, or e-mail at *berish.cory@epa.gov*.]

Availability of Review Materials: The SAB reports to be reviewed by the EC will be available on the SAB Web site (*www.epa.gov/sab*) at least one week prior to the conference call. Any background Agency documents that were the subject of the SAB reviews are available from the program offices contacts listed above, not from the SAB.

FOR FURTHER INFORMATION: The agenda for the meeting will be posted on the SAB Web site (*www.epa.gov/sab*) no later than one week prior to the meeting. Members of the public wishing a written agenda or roster of the EC may obtain these from the SAB Web site, or from Ms. Diana Pozun, Program Specialist, EPA Science Advisory Board (1400A), Suite 6450, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone/voice mail at (202) 564–4533; fax at (202) 501–0323; or via e-mail at *pozun.diana@epa.gov.* Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (three minutes or less) must contact Dr. Donald Barnes, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4533; FAX (202) 501–0323; or via e-mail at *barnes.don@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax, or mail) and received by Dr. Barnes no later than noon Eastern Time on May 1, 2002.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the

SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the review panel for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments at the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Barnes at least five business days prior to the meeting so that appropriate arrangements can be made.

General Information—Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Web site (*http://www.epa.gov/sab*) and in the *Science Advisory Board FY2001 Annual Staff Report* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Dated: April 9, 2002.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 02–9218 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–82057; FRL–6826–5]

2002 Reporting Notice; Partial Updating of Inventory Data Base; Production and Site Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the 2002 reporting period for the Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR). The IUR requires manufacturers and importers of certain chemical substances included on the TSCA Chemical Substance Inventory to report current data on the production volume, plant site, and site-limited status of the substances. The 2002 reporting period is from August 26, 2002 to December 23, 2002. While chemical identifiers, such as Premanufacturing Notice (PMN) numbers, original inventory form numbers, and bona fide numbers are permitted under 40 CFR part 710, to facilitate the compilation and timely release of the 2002 IUR data base, the Agency strongly encourages industry to report their chemicals by the Chemical Abstracts Service (CAS) or accession number only.

DATES: This document is effective April 16, 2002. The 2002 reporting period is from August 26, 2002 to December 23, 2002.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Linda Werrell Gerber, Information Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–3452; e-mail address: gerber.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufactured or imported organic chemicals or other chemicals subject to proposed or final rules or orders during your company's latest fiscal year prior to August 26, 2002. Potentially affected categories and entities may include, but are not limited to:

Categories	Examples of potentially affected entities
Chemical manufacturers	Manufacturers of chemical substances subject to the rule
Chemical importers	Importers of chemical substances. Under the regulations, importers include such persons as brokers, agents, importers of record, consignees, and owners.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table in this unit could also be affected. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions beginning at 40 CFR 710.2. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

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

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. Background

A. What Action is the Agency Taking?

The Agency is announcing the 2002 reporting period for the Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR). The IUR requires manufacturers and importers of certain chemical substances included on the TSCA Chemical Substance Inventory to report current data on the production volume, plant site, and site-limited status of the substances. The 2002 reporting period is from August 26, 2002 to December 23, 2002.

The Agency received comments that several of the 1998 submitters were concerned about the processing time of submissions received. Analysis of the 1998 reporting cycle indicated that significant Agency resources were expended identifying and correcting misidentified CAS and/or accession numbers as well as identifying CAS registry numbers or accession numbers for chemicals reported using other identifiers i.e., PMN, TME, bona fide, original inventory form numbers. Therefore, in order to facilitate timely processing of 2002 submissions, the Agency strongly recommends that submitters report chemical identification as either CAS or accession number. If a submitter experiences difficulty in the identification of the appropriate CAS or accession number, the technical contact person identified under **FOR FURTHER INFORMATION CONTACT** can provide assistance.

B. What is the Agency's Authority for Taking this Action?

Under the authority of section 8(a) of TSCA, 15 U.S.C. 2607(a), EPA promulgated a reporting rule at 40 CFR part 710, subpart B, referred to as the IUR (51 FR 21438, June 12, 1986). The IUR requires manufacturers and importers of certain chemical substances included on the TSCA Chemical Substance Inventory to report current data on the production volume, plant site, and site-limited status of the substances. After the initial reporting during 1986, recurring reporting was required every 4 years. A second reporting cycle took place in 1990, a third in 1994, and a fourth in 1998. The fifth reporting period is from August 26, 2002 to December 23, 2002. Persons subject to the IUR must submit the required information during this period.

C. How Do I Know What Information is Currently in the TSCA Chemical Substance Inventory?

The Agency publishes, via the National Technical Information Service (NTIS), an updated public Inventory twice a year, normally around January/February and July/August each year. One will soon be published (in a variety of magnetic media products (CD-ROM, diskette, and magnetic tape)) in February, covering all information available to the Agency by December 31, 2001. Specifically, each of the chemical substances included in these products is identified by a Chemical Abstracts (CA) Index or Preferred Name, the corresponding CAS registry number, molecular formula, and if applicable, the chemical definition and appropriate EPA special flags as found in the printed Inventory. The substances are sequenced in ascending order of the corresponding CAS registry numbers. The products do not include chemical synonyms that are copyrighted by the CAS. Furthermore, generic names or EPA accession numbers for substances with confidential chemical identities are not included on the public Inventory.

For confidential substances, the Agency also publishes a tape linking the PMN case number to the corresponding accession number. The publication of the accession number will facilitate IUR reporting. This tape is also available at the NTIS.

The magnetic media products include over 66,000 records and require 12 megabytes of disk space for installation. The products are available for sale from: National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161; telephone: (703) 605–6000, toll free: 1–800–553–NTIS; Internet address: www.ntis.gov/fcpc. The NTIS order number for the CD-ROM is SUB–5423INQ. The NTIS order number for the diskettes is SUB–5435INQ. The NTIS order number for the tapes is PB98–500556 INQ.

D. How Do I Know If I Have to Report?

You have to report if you manufacture or import IUR reportable chemical substances included on the TSCA Chemical Substance Inventory in excess of 10,000 pounds at a single facility during your company's last fiscal year ending August 26, 2002. EPA has developed a software regulatory advisory tool that provides a detailed series of questions to assist manufacturers and importers in reporting under the 2002 IUR, including relevant parts of the CFR cited in the rule. For further and more specific information, please review the IUR reporting regulations beginning at 40 CFR 710.2.

E. How Do I Get a 2002 Reporting Package?

EPA will automatically mail out a reporting package to the company headquarters of those companies that reported in 1998. This package will include information describing the 2002 reporting period, Agency procedures and sources of information as well as instructions on how to download the 2002 IUR Instruction Manual and the Reporting Database from the Agency web site. In an effort to streamline the reporting process, reduce administrative costs, and accelerate processing time, the Agency is relying more heavily on electronic methods of information dissemination and collection. If you do not have access to the web, traditional hard copies of the reporting package will be made available through the TSCA Hotline. Failure to receive a reporting package from EPA does not obviate or otherwise affect the requirement to submit a timely report.

If you did not report in 1998, but need to report in 2002, you may obtain the reporting package from the Agency website or the TSCA Hotline. Additional reporting forms, electronic or printed, will also be available from the TSCA Hotline.

F. How Do I Submit My Report?

The regulation at 40 CFR 710.39 requires submitters to report using EPA's Form U. Submitters may report using the printed or the electronic 2002 Form U, although the electronic version is preferred.

1. *Electronic reporting.* As stated above, instructions for downloading the necessary information are included in the reporting package that will be distributed to the 1998 IUR submitters. EPA is encouraging submitters to use the electronic Form U for 2002 reporting. This new version of the software will allow you to download the reporting software, save files, and submit a completed version of your forms on disk to the Agency. Everything you will need to complete these forms will be available on-line.

Section 710.32(b) provides that magnetic media submitted in response to the IUR must meet EPA specifications, as described in the ''Instructions for Reporting for the Partial Updating of the TSCA Chemical Inventory Data Base'' available from the TSCA Hotline. Directions for use of the reporting data base are provided in the ''Instructions for Reporting for the Partial Updating of the TSCA Chemical Inventory Data Base'' available from the TSCA Hotline at the address listed above. The instruction manual, the reporting form (Form U) in a PDF format, and the reporting data base will be made available by April 2002, on the Agency website or the TSCA hotline.

2. *Paper reporting.* Printed copies of the Form U will be available upon request from the TSCA Hotline, and will not be distributed as a part of the reporting package. After April, the printed form can be requested from the TSCA Hotline at the address listed above.

G. Where Do I Send My 2002 Report?

Please mail your completed form or magnetic media to the OPPT Document Control Officer, Mail Code 7407M, ATTN: Inventory Update Rule, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460. At this time, the Agency is not able to accept these reports electronically, except through the submission of a disk. All submissions should be mailed to this address.

H. What Happens If I Fail to Report During the 2002 Reporting Period?

If you fail to report as required, the Agency can take enforcement action against you. Section 16 of the Act provides that any person who violates a provision of TSCA shall be liable to the United States for a civil penalty not to exceed $25,000 for each such violation.

I. Does this Action Involve Any New Information Collection Activities, Such as Reporting, Recordkeeping, or Notification?

No. The information collection requirements contained in 40 CFR part 710, subpart B, have already been

approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* under OMB control number 2070–0070 (EPA ICR No. 1011). The annual public burden for this collection of information is estimated at 11.5 hours per response. Under the PRA, ''burden'' means the total time, effort or financial resources expended by persons to generate, maintain, retain, or disclose information to or for a Federal agency. For this collection, it includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of 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 number. The OMB control number for this information collection appears above. In addition, the OMB control numbers for EPA's regulations, after initial display in the final rule, are listed in 40 CFR part 9 and appear on any form that is required to be used.

Send any comments on the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Regulatory Information Division, Office of Policy, Economics and Innovation, U.S. Environmental Protection Agency, Mail Code 1806A, 1200 Pennsylvania Ave., Washington, DC 20460. Include the OMB control number in any correspondence, but do not submit the requested information to this address. The requested information should be submitted in accordance with the instructions accompanying the form, or as specified in the corresponding regulation.

J. What are the Agency's Plans Regarding the Revision of the IUR Requirements (i.e., the IUR amendments)?

Although not promulgated at this time, the Agency is pursuing amending the IUR through formal revision. The technical contact person for the IUR amendments is Susan Sharkey, who can be contacted by phone at (202) 564–8789 or by e-mail at sharkey.susan@epa.gov.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: April 8, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–9222 Filed 4–15–02; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting, Thursday, April 18, 2002

April 11, 2002.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 18, 2002, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No. and Bureau	Subject
1. Consumer and Governmental Affairs	*Title:* Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (CC Docket No. 98–67) and Petition for Clarification of WorldCom, Inc. *Summary:* The Commission will consider issues concerning Internet protocol relay service as it relates to the Interstate Telecommunications Relay Service Fund.
2. Wireline Competition	*Title:* Rural Health Care Support Mechanism (WC Docket No. 02–60). *Summary:* The Commission will consider a Notice of Proposed Rulemaking concerning the rural health care universal service support mechanism.
3. International	*Title:* The Establishment of Policies and Service Rules for the Non-Geostationary Satellite Orbit, Fixed Satellite Service in the Ku-Band (IB Docket No. 01–96). *Summary:* The Commission will consider a Report and Order and Further Notice of Proposed Rulemaking to implement sharing among multiple licensees in a new service capable of providing broadband access to the Internet over satellite facilities.
4. International	*Title:* World Telecommunications Development Conference Report. *Summary:* The International Bureau will report on its role in the ITU World Telecommunications Development Conference, which concluded March 27, 2002.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at *Qualexint@apl.com*

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 834–1470 Ext. 10. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <*http://www.fcc.gov/realaudio/*>. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–1470, Ext. 10; fax number (703) 834–0111.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02–9276 Filed 4–12–02; 11:37 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2542]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

April 11, 2002.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these document are available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased

from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petition must be filed by May 1, 2002. *See* Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996 (CC Docket No. 96–128).

Number of Petitions Filed: 5.

William F. Caton,

Acting Secretary.

[FR Doc. 02–9225 Filed 4–15–02; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Policy Statement Regarding Minority Depository Institutions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final policy statement.

SUMMARY: The FDIC is adopting a final Policy Statement Regarding Minority Depository Institutions. The final Policy Statement recognizes the importance of minority depository institutions and the unique challenges they often face in serving their communities. This FDIC Policy Statement complies with the requirements of Section 308 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (''FIRREA'') by implementing an outreach program designed to preserve and encourage minority ownership of financial institutions. Based on comments received by the agency, the final Policy Statement amends the proposed definition of minority-owned institution, clarifies the types of technical assistance available from the FDIC, improves interagency coordination and enhances communications between the FDIC and minority institutions.

EFFECTIVE DATE: April 16, 2002.

FOR FURTHER INFORMATION CONTACT: Brett A. McCallister, Risk Management and Applications Section, Division of Supervision (202) 898–3803 or Grovetta N. Gardineer, Counsel, Legal Division, (202) 898–3728, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

On April 3, 1990, the Board of Directors of the FDIC adopted a Policy Statement on Encouragement and Preservation of Minority Ownership of Financial Institutions. The original Policy Statement provided guidance to the industry regarding the agency's efforts in achieving the goals of Section 308 of FIRREA. On December 20, 2001, the FDIC Board of Directors approved a new proposed Policy Statement Regarding Minority-Owned Depository Institutions for public comment. The revised Policy Statement attempts to provide a more structured framework that sets forth initiatives of the FDIC to promote and preserve the minority ownership of depository institutions, and to provide technical assistance, training and educational programs to minority depository institutions by working with those institutions, their trade associations and the other Federal financial regulatory agencies. The proposed Policy Statement was published on January 2, 2002, and the comment period ended on March 4, 2002.

II. Comments Received

The FDIC received eleven comment letters in response to the proposed Policy Statement that raised 23 issues. The comments came from seven insured financial institutions and four trade associations. All of the commenters expressed support for the FDIC's proposed Policy Statement; however, each of the commenters recommended specific changes to the final Policy Statement. These comments and the changes and additions made to the final Policy Statement are discussed in detail below. It should be noted that several commenters raised issues that are not related to the proposed Policy Statement (i.e., CRA credit for assistance to minority- and women-owned financial institutions). These issues are being addressed in other projects of the FDIC and the other Federal financial institution regulators. Since the issues raised by those comments relate to other initiatives, they are not specifically discussed herein.

Four commenters suggested that the FDIC develop a definition of ''minority-owned institution'' consistent with that used by other Federal agencies. Two commenters suggested that the FDIC change the term Black American to African American. Another commenter suggested that the definition of minority include multi-racial individuals. One commenter suggested that the definition of minority-owned include institutions owned by women. Three comments suggested that the FDIC expand the program to include legal residents of the United States as opposed to only citizens of the United States. The FDIC received a number of comments relating to whether an institution should continue to be considered minority-owned if it is merged with an institution that is publicly traded and/or widely held if the board of directors, account holders and community that it serves are predominantly minority. One commenter vehemently disagreed with expanding the definition to include publicly traded and widely held institutions under these circumstances, stating that the expanded definition would contradict the language and intent of Section 308 of FIRREA. Two commenters recommended expanding the definition of minority-owned to include *any* institution if a majority of its board of directors, account holders, and the community that it serves is predominantly minority. Another commenter suggested changing the requirement to allow publicly traded and widely held institutions to be considered minority-owned if any one of the three specified criteria were met. Two commenters suggested the definition of minority-owned be based on ownership or control by minority individuals. Another commenter preferred eliminating the ownership requirement entirely and basing the definition on the customers and community served. Several commenters suggested that the FDIC be more proactive and expeditious in identifying and notifying qualified bidders in the event a minority-owned institution failed. The agency also received several comments seeking further clarification as to the level of technical assistance the FDIC would provide. One commenter suggested that the FDIC consider hosting an annual conference designed to promote and encourage the creation of new minority-owned depository institutions. One commenter suggested that the return visit after examinations to provide technical assistance be available upon request rather than routinely offered to the institutions. One commenter recommended that the FDIC's national coordinator evaluate the training needs of individual minority-owned institutions. Two commenters recommended that the FDIC form an advisory board of minority-owned institution bankers to provide additional guidance in administering the program. Two commenters suggested that the content of the FDIC's Webpage contain information determined relevant by conducting a survey of all the minority-owned depository institutions and contain information regarding the FDIC's rules and regulations. Finally, three commenters suggested that the FDIC reduce the reporting burden on

minority institutions as a result of the program. The FDIC has responded to these comments by defining the term minority depository institution, expanding the definition for purposes of this policy statement to include those institutions where its board of directors and community that it serves are predominantly minority, and providing a better explanation of technical assistance under the FDIC's outreach program. More specific discussions of the FDIC's particular responses to the comments are found in the section-by-section analysis.

III. Final Policy Statement—Section-by-Section Analysis

Title

The FDIC is changing the title of the statement to Policy Statement Regarding Minority Depository Institutions to reflect the change in the definition of minority depository institution for purposes of this policy statement.

Definition

The FDIC made a few technical amendments to this section of the Policy Statement. We reviewed the comments relating to a change in the definition of minority for purposes of this Policy Statement. The FDIC used the definition of minority as that term is defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act (''FIRREA''). While we understand and appreciate the sensitivity surrounding the suggested changes to the definition of minority, the FDIC has no authority to change the statutory language, and therefore the agency is using the exact definition provided in the law. Accordingly, the definition of minority is unchanged in the Final Policy Statement.

Three commenters suggested that the FDIC expand its program under the Policy Statement to include legal residents of the United States. Section 308 of FIRREA does not address the citizenship issue. Permanent legal residents are legally accorded the privilege of residing permanently in the United States. The FDIC's Minority Depository Institutions Program is centered on outreach, and institutions do not receive any direct economic benefit from participation. Therefore, the Policy Statement has been changed to include ownership by minority individuals that are permanent legal residents of the United States. Several commenters discussed the suggested criteria relating to board membership, account holders and the community served being predominantly minority to determine whether mutual institutions, publicly traded and widely held institutions should be considered minority-owned institutions. Based on the comments received, the FDIC is defining the term ''minority depository institution'' as any Federally insured depository institution where 51 percent or more of the voting stock is owned by minority individuals. In addition, for purposes of this Policy Statement, the FDIC is including in the definition of minority depository institution, institutions are not minority-owned but a majority of its Board of Directors and the community that it serves are predominantly minority. The FDIC is not including for consideration a criterion that the majority of account holders of an institution be predominantly minority. The FDIC does not intend to suggest that institutions should collect information regarding the race and national origin of their account holders in order to be considered minority depository institutions.

As a result, the term minority depository institution is being used throughout the policy statement in place of the term minority-owned institution.

Identification of Minority Depository Institutions

There are no changes to this section of the Policy Statement.

Organizational Structure

A technical change to this section that eliminates the requirement for the national coordinator to consult with officials from the FDIC's Division of Compliance and Consumer Affairs merely reflects an internal change in the FDIC's organizational structure. The FDIC is further clarifying the scope of its program under the Policy Statement by changing the final Policy Statement to reflect that the agency's regional coordinators will contact minority depository institutions directly supervised by the FDIC on an annual basis.

Technical Assistance

The proposed Policy Statement clarified the meaning of technical assistance and provided examples as to the types of assistance that FDIC employees could provide to minority depository institutions. While the Policy Statement cannot address every possible action by which the FDIC could assist an institution, the final Policy Statement further clarifies that FDIC employees can advise on risk management procedures, accounting practices, recruiting techniques, etc., but will not actually perform tasks expected of bank personnel. The final Policy Statement also emphasizes that the return visits are optional, and to be proactive, we feel the return visits should be offered rather than available upon request.

Training and Educational Programs

One of the goals specified in Section 308 of FIRREA is ''promoting and encouraging creation of new minority depository institutions.'' Therefore, the final Policy Statement has been amended to state that the national and regional coordinators will work with trade associations and other organizations to attempt to identify groups that may be interested in establishing new minority depository institutions. FDIC representatives will be available to address such groups to discuss the application process, the requirements of becoming FDIC insured, and the various programs geared toward minority depository institutions. In response to those comments regarding the FDIC's training and educational programs, the final Policy Statement emphasizes that we will work with trade associations representing minority depository institutions and other regulatory agencies to periodically assess the need for, and provide for, training and educational opportunities. The FDIC will partner with the trade associations to offer these types of programs during their annual conferences and other regional meetings. To address the specific needs of each institution, the agency will offer to have staff members return after examinations of minority depository institutions directly supervised by the FDIC to provide technical assistance.

Failing Institutions

Several commenters suggested the FDIC be proactive and expeditious in identifying qualified interested bidders in the case of a failing minority-owned institution. The process of notifying qualified minority depository institutions is handled by the FDIC's Division of Resolutions and Receiverships (''DRR''). This Division already contacts all qualified minority-owned institutions nationwide in the case of a failing minority-owned institution. The process is handled as quickly as possible considering that the FDIC must be relatively certain that an institution will actually fail before soliciting the interest of other institutions. A technical amendment to this section is being made to ensure that the FDIC consults with all trade associations that represent minority depository institutions in maintaining a list of qualified and interested bidders.

Reporting Requirements

No changes are being made to this section of the Final Policy Statement since the program does not impose any reporting burden on minority depository institutions participating in the program.

Internet Site

A technical change is being made to this section based on comments aimed at making the site more beneficial. The final Policy Statement is being changed to indicate that the Webpage will provide links to various FDIC resources of information available to the public such as the FDIC's Rules and Regulations. The final Policy Statement also provides a general description of the proposed Webpage and states that visitors will have the opportunity to provide feedback regarding the FDIC's program and the usefulness of the Webpage.

For the reasons set forth above, the final Policy Statement is amended to read as follows:

Federal Deposit Insurance Corporation

Policy Statement Regarding Minority Depository Institutions

Minority depository institutions often promote the economic viability of minority and under-served communities. The FDIC has long recognized the importance of minority depository institutions and has historically taken steps to preserve and encourage minority ownership of insured financial institutions.

Statutory Framework

In August 1989, Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (''FIRREA''). Section 308 of FIRREA established the following goals:

- Preserve the number of minority depository institutions;
- Preserve the minority character in cases of merger or acquisition;
- Provide technical assistance to prevent insolvency of institutions not now insolvent;
- Promote and encourage creation of new minority depository institutions; and
- Provide for training, technical assistance, and educational programs.

Definition

''Minority'' as defined by Section 308 of FIRREA means any ''Black American, Asian American, Hispanic American, or Native American.'' Section 308 of FIRREA defines ''minority depository institution'' as any Federally insured depository institution where 51 percent or more of the voting stock is owned by one or more ''socially and economically disadvantaged individuals.'' Given the ambiguous nature of the phrase ''socially and economically disadvantaged individuals,'' for the purposes of this Policy Statement, minority depository institution is defined as any Federally insured depository institution where 51 percent or more of the voting stock is owned by minority individuals. This includes institutions collectively owned by a group of minority individuals, such as a Native American Tribe. Ownership must be by U.S. citizens or permanent legal U.S. residents to be counted in determining minority ownership. In addition to the institutions that meet the ownership test, for the purposes of this Policy Statement, institutions will be considered minority depository institutions if a majority of the Board of Directors is minority and the community that the institution serves is predominantly minority.

Identification of Minority Depository Institutions

To ensure that all minority depository institutions are able to participate in the program, the FDIC will maintain a list of Federally insured minority depository institutions. Institutions that are not already identified as minority depository institutions can request to be designated as such by certifying that they meet the above definition. For institutions supervised directly by the FDIC, our examiners will review the appropriateness of an institution being on the list during the examination process. In addition, case managers in our regional offices will note changes to the list while processing deposit insurance applications, merger applications, change of control notices, or failures of minority depository institutions. The FDIC will work closely with the other Federal regulatory agencies to ensure that institutions not directly supervised by the FDIC are accurately captured on our list. In addition, the FDIC will periodically provide the list to relevant trade associations and seek input regarding its accuracy. Inclusion in the FDIC's minority depository institution program is voluntary. Any minority depository institution not wishing to participate in this program will be removed from the official list upon request.

Organizational Structure

The FDIC has designated a national coordinator for the FDIC's minority depository institutions program in the Washington Office and a regional coordinator in each Regional Office. The national coordinator will consult with officials from the Office of Diversity and Economic Opportunity, the Legal Division, and the Division of Resolutions and Receiverships to ensure appropriate personnel are involved in program initiatives. The national coordinator will regularly contact the various minority depository institution trade associations to seek feedback on the FDIC's efforts under this program, discuss possible training initiatives, and explore options for preserving and promoting minority ownership of depository institutions. As the primary Federal regulator for State nonmember banks, the FDIC will focus its efforts on these institutions. However, the national coordinator will meet with the other Federal regulators periodically to discuss each agency's outreach efforts, to share ideas, and to identify opportunities where the agencies can work together to assist minority depository institutions. Representatives of other divisions and offices may participate in these meetings.

The regional coordinators are knowledgeable about minority bank issues and are available to answer questions or to direct inquiries to the appropriate office. However, each FDIC-insured institution has previously been assigned a specific case manager in their regional office who will continue to be the institution's central point of contact at the FDIC. At least annually, regional coordinators will contact each minority depository institution directly supervised by the FDIC in their respective regions to discuss the FDIC's efforts to promote and preserve minority ownership of financial institutions and to offer to have a member of regional management meet with the institution's board of directors to discuss issues of interest. Finally, the regional coordinators will contact all new minority State nonmember banks identified through insurance applications, merger applications, or change in control notices to familiarize the institutions with the FDIC's minority depository institution program.

Technical Assistance

The FDIC can provide technical assistance to minority depository institutions in several ways on a variety of issues. An institution can contact its case manager for assistance in understanding bank regulations, FDIC policies, examination procedures, etc. Case managers can also explain the application process and the type of analysis and information required for different applications. During examinations, examiners are expected to fully explain any supervisory

recommendations and should offer to help management understand satisfactory methods to address such recommendations.

At the conclusion of each examination of a minority depository institution directly supervised by the FDIC, the FDIC will offer to have representatives return to the institution approximately 90 to 120 days later to review areas of concern or topics of interest to the institution. The purpose of the return visits will be to assist management in understanding and implementing examination recommendations, not to identify new problems. The level of technical assistance provided should be commensurate with the issues facing the institution. As such, institutions where more examination recommendations are made would generally be offered more detailed technical assistance in implementing those recommendations.

FDIC employees can advise on risk management procedures, accounting practices, recruiting techniques, etc., but will not actually perform tasks expected of an institution's management or employees. For example, FDIC employees may explain Call Report instructions as they relate to specific accounts, but will not assist in the preparation of an institution's Call Report. As another example, FDIC employees may provide information on community reinvestment opportunities, but will not recommend a specific transaction.

Training and Educational Programs

The FDIC will work with trade associations representing minority depository institutions and other regulatory agencies to periodically assess the need for, and provide for, training opportunities and educational opportunities. We will partner with the trade associations to offer training programs during their annual conferences and other regional meetings.

The national coordinator and the regional coordinators will also work with trade associations and other organizations to attempt to identify groups that may be interested in establishing new minority depository institutions. FDIC representatives will be available to address such groups to discuss the application process, the requirements of becoming FDIC insured, and the various programs geared toward minority depository institutions.

Failing Institutions

The FDIC will attempt to preserve the minority character of failing institutions during the resolution process. In the event of a potential failure of a minority depository institution, the Division of Resolutions and Receiverships will contact all minority depository institutions nationwide that qualify to bid on failing institutions. The Division of Resolutions and Receiverships will solicit qualified minority depository institutions' interest in the failing institution, discuss the bidding process, and upon request, offer to provide technical assistance regarding completion of the bid forms. In addition, the Division of Resolutions and Receiverships, with assistance from the Office of Diversity and Economic Opportunity, will maintain a list of minority individuals and nonbank entities that have expressed an interest in acquiring failing minority-owned institutions. Trade associations that represent minority depository institutions will also be contacted periodically to help identify possible interested parties.

Reporting

The regional coordinators will report their region's activities related to this Policy Statement to the national coordinator quarterly. The national coordinator will compile the results of the regional offices' reports and submit a quarterly summary to the Office of the Chairman. Our efforts to preserve and promote minority ownership of depository institutions will also be highlighted in the FDIC's Annual Report.

Internet Site

The FDIC will create a Webpage on its Internet site (*www.fdic.gov*) to promote the Minority Depository Institution Program. Among other things, the page will describe the program and include the name, phone number, and email address of the national coordinator and each regional coordinator. The page will also contain links to the list of minority depository institutions, pertinent trade associations, and other regulatory agency programs. We will also explore the feasibility and usefulness of posting other items to the page, such as statistical information and comparative data for minority depository institutions. Visitors will have the opportunity to provide feedback regarding the FDIC's program and the usefulness of the Webpage.

By order of the Board of Directors.

Dated at Washington, DC, this 9th day of April, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 02–9155 Filed 4–15–02; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notice

DATE AND TIME: Thursday, April 18, 2002 at 10 a.m.

PLACE: 999 E Street, NW., Washington, D.C. (ninth floor)

STATUS: This meeting will be open to the public.

The following item has been added to the agenda:

Report of the Audit Division on Bill Bradley for President, Inc.

PERSON TO CONTACT FOR INFORMATION: Ron Harris, Press Officer, Telephone (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–9371 Filed 4–12–02; 3:18 pm]

BILLING CODE 6715–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

First Responder Initiative Grant Process

AGENCY: Federal Emergency Management Agency.

ACTION: Notice and request for comments.

SUMMARY: The President's Fiscal Year 2003 Budget proposes $3.5 billion in funding to prepare State and local first responders for terrorist attacks. Specifically, the initiative would include grants for planning, training, exercises, and equipment. While Congress has not acted on the President's proposal, the Federal Emergency Management Agency (FEMA) is preparing to implement the program if enacted by Congress. As part of a preliminary exploration of the issues, FEMA is soliciting ideas from all interested parties on the design of the grant program and processes. During the comment period, FEMA also will hold meetings on this subject with invited representatives from the State and local responder community and overall emergency management profession for the purpose of obtaining a variety of individual opinions.

DATES: Comments must be received by May 16, 2002.

ADDRESSES: Please send written comments to the Rules Docket Clerk,

Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., room 840,Washington DC 20472, (facsimile) 202–646–4536, or (e-mail) *rules@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Gil Jamieson, Federal Emergency Management Agency, Office of National Preparedness, 500 C Street, SW., Washington, DC 20472, (202) 646–4090 or e-mail *gil.jamieson@fema.gov.*

SUPPLEMENTARY INFORMATION: In preliminary exploration of the issues surrounding design of the President's proposed First Responder Initiative grant program, FEMA is soliciting responses to the following questions:

1. Does your jurisdiction have a plan in place that outlines the planning, training, equipment, and exercise needs of first responders? If not, would your jurisdiction be willing to develop such a plan? Do you have a recommendation as to how State and local governments and first response organizations may develop such plans jointly?

2. Does your jurisdiction have legislative, regulatory or budgetary restrictions that would prevent it from applying for, matching, or expending first responder grants?

3. Does your jurisdiction participate in mutual aid agreements? If local, what kinds of assistance are covered by the agreements and what is the extent of coverage: statewide, metropolitan area, or other? If a State, to which interstate mutual aid arrangements is your State a party? Does your State have a statewide mutual aid system? Should the Federal Government require States to participate in an interstate agreement and maintain an internal statewide mutual aid system as a condition of receiving these first responder grants?

4. Should meeting certain standards be a requirement for grantees? In what areas should standards be developed (*e.g.,* training, interoperable communications and equipment, *etc.*) as part of this program? Do you have recommendations on the content of such standards? Should meeting any of these standards be a precondition of assistance rather than an outcome of the assistance?

5. What factors should be considered in deciding how much each State grantee and local subgrantee should receive (*e.g.,* population, critical infrastructure)?

6. Does your jurisdiction have organizations in place to prepare grant applications, distribute funds, and report on progress? Please briefly describe this process.

7. Has your jurisdiction established a Citizen Corps Council to organize local volunteer efforts to assist first responders, or does it already have another organization performing that function? 8. What other factors should be considered in developing the First Responder grant program (e.g., participation in Citizen Corps or Citizen Corps related activities)?

Dated: April 9, 2002.

Bruce P. Baughman,

Director, Office of National Preparedness.

[FR Doc. 02–9153 Filed 4–15–02; 8:45 am]

BILLING CODE 6718–32–P

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 30, 2002.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Mr. Gilbert Garza, San Benito, Texas; to increase control of First San Benito Bancshares Corporation, San Benito, Texas, its intermediate tier bank holding company, First Community Holdings, Inc., Carson City, Nevada, and its subsidiary bank, First National Bank, San Benito, Texas.

Board of Governors of the Federal Reserve System, April 10, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–9151 Filed 4–15–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 10, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Empire Federal Bancorp, Inc., Livingston, Montana; to become a bank holding company by acquiring 100 percent of Montana First National Bancorporation, Kalispell, Montana, and thereby indirectly acquire voting shares of Montana First National Bank, Kalispell, Montana.

In connection with this application, Applicant also has applied to retain ownership of Empire Bank, Livingston Montana, and thereby engage in owning and operating a federal savings bank, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, April 10, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–9150 Filed 4–15–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or to Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 30, 2002.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Allegiant Bancorp, Inc., St. Louis, Missouri; to engage *de novo* through its subsidiary, Allegiant Capital Corporation, St. Louis, Missouri, in real estate and personal property appraising, pursuant to § 225.28(b)(2)(i) of Regulation Y, financial and investment advisory activities, pursuant to § 225.28(b)(6)(iii) of Regulation Y, and private-placement of securities services, as agent, pursuant to § 225.28(b)(7)(iii) of Regulation Y.

Board of Governors of the Federal Reserve System, April 10, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.02–9149 Filed 4–15–02; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Notice of Intent To Prepare an Environmental Assessment

The General Services Administration intends to prepare an Environmental Assessment, with the National Capital Planning Commission (NCPC) participating as a cooperating agency, in compliance with the National Environmental Policy Act, on the following project:

Disposal of Square 62, (Lot Nos. 810, 813, 814 and 815), located at 2218 C Street, NW Washington, DC 20037.

Square 62 was acquired through condemnation in 1958 for the purpose of providing a security buffer to the newly constructed Department of State building on C Street, NW. GSA is currently maintaining Square 62 as a ceremonially landscaped buffer area.

Although security is still a major issue with any future development of Square 62, maintaining it, as a vacant landscaped buffer is no longer required. Square 62 produces no income and requires periodic expenses for maintenance and as a result, GSA is proposing to dispose of the Square 62 property under its disposal authority (the Federal Property and Administrative Services Act of 1949, as amended). Part of GSA's mission is to dispose of surplus Federal property that is no longer serving a Federal purpose but requires Federal expenses for upkeep and maintenance.

Alternatives being considered include:

- No Action Alternative—Taking no action and continuing to maintain Square 62 as a ceremonially landscaped security buffer area.
- Disposition of Square 62

Under the disposition alternative, GSA is considering the following:

- Disposing of Square 62 to the adjacent landowner, the American Pharmaceutical Association, (APhA). APhA wants to use the Square 62 property along with a portion of their existing property to build a new 193,000 square feet, five story, office building capable of housing roughly 800–850 workers.
- Disposing of Square 62 to some other entity, which would allow the option of developing a 100,000 square feet building, likely to be zoned SP–2 by District of Columbia (GSA appraisal 2001).

A public scoping meeting has been scheduled for: Thursday, April 25, 2002, at 7 pm, at the American Pharmaceutical Association Building, 2215 Constitution Avenue, Washington, DC 20405.

GSA is requesting your input to ensure that all pertinent issues are addressed in the Environmental Assessment (EA). In addition GSA and NCPC are soliciting comments under Section 106 of the National Historic Preservation Act as building actions under some of the alternatives could have an impact on other historic properties in the National Mall area.

All interested parties who would like to provide oral comments at the public scoping meeting should register to speak by calling (202) 708–5334.

At the meeting there will be a brief presentation about the proposed action and the EA process. Agencies and individuals will then be invited to offer their comments about the appropriate scope of the study. Those who have preregistered to speak by telephone will be given the first opportunity to speak. They will be followed by those persons who sign up to speak at the registration desk, the night of the scoping meeting. All speakers will be asked to limit their oral comments to five (5) minutes.

The meeting will also feature informational displays about the project and the environmental study, and meeting participants will have an opportunity to provide their input at these exhibits.

Agencies and the general public are also invited and encouraged to provide written comment in addition to, or in lieu of, comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics that you think the EA should address, and should be received by GSA no later than May 12, 2002.

If you can not attend the Public Scoping meeting, please send comments to the address below.

Frank T. Thomas, General Services Administration, National Capital Region, Public Buildings Service, Office of Portfolio Management (WPT), Room 7600, 7th & D Streets 20407. FAX (202) 708–7671. (202) 708–4840. E-mail: *Frank.Thomas@GSA.Gov.*

Dated: April 9, 2002.

Nancy Czapek,

Executive Officer/Acting Director, Property Disposal.

[FR Doc. 02–9146 Filed 4–15–02; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Computer Matching Program (Match No. 2001–05)

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) (formerly the Health Care Financing Administration).

ACTION: Notice of Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice proposes to establish a new CMP that CMS plans to conduct with the Social Security Administration (SSA). We have provided background information about the proposed matching program in the ''Supplementary Information'' section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed matching program, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section below for comment period.

EFFECTIVE DATES: CMS filed a report of the CMP with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 29, 2002. We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication. We may defer implementation of this matching program if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), Enterprise Databases Group, Office of Information Services, CMS, Mailstop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Michael Collett, Health Insurance Specialist, Division of Provider/Supplier Enrollment, Program Integrity Group, Office of Financial Management, CMS, Mailstop N3–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–6121, or e-mail *mcollett@hhs.cms.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

A. General

The Computer Matching and Privacy Protection Act (CMPPA) of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. § 552A) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L.100–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;
2. Obtain the Data Integrity Boards' (DIB) approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and,
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. CMS Computer Matches Subject to the Privacy Act

CMS has taken action to ensure that all of the CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Dated: March 29, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Computer Match No. 2001–05

NAME:

Computer Matching Agreement between the Centers for Medicare & Medicaid Services (CMS) (formerly the Health Care Financing Administration (HCFA)) and the Social Security Administration titled ''Verification of Social Security Numbers (SSN)''.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

PARTICIPATING AGENCIES:

The Centers for Medicare & Medicaid Services; and Social Security Administration (SSA).

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

This Computer Matching Agreement (CMA) is executed to implement the information provisions of sections 1631(e) and (f) of the Social Security Act (the Act) (42 U.S.C. 1383 (e) and (f)). Section 4313 of the Balanced Budget Act (BBA) of 1997 amended, sections 1124(a)(1) and 1124A of the Act (42 U.S.C. sections 1320a–3(a)(1) and 1320a–3a) authorizes CMS to collect SSN following the publication of a Report to Congress as required in section 4313(d) of the Act. The Secretary of the Department of Health and Human Services (HHS) on January 26, 1999 signed the Report to Congress on the confidentiality of SSN that are collected and verified by the SSA.

PURPOSE(S) OF THE MATCHING PROGRAM:

The purpose of this CMA is to establish the conditions, safeguards, and procedures under which CMS will provide SSA with the information necessary to confirm the validity of identifying information submitted as part of the Medicare provider/supplier enrollment process. SSA will disclose information-matching SSNs provided by Medicare providers/suppliers to CMS.

CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:

CMS will provide to the SSA, a real-time request or a batch file consisting of the name, SSN, and date of birth for all individual Medicare providers, owners, managing/directing employees, authorizing representatives, ambulance services Medical directors, ambulance crew members, technicians, chain organization administrators, Independent Diagnostic Testing Facilities (IDTF) supervising/directing physicians, and IDTF interpretation service providers that have been identified on one of the five applications in a series titled, ''Medicare Federal Health Care Provider/Supplier Enrollment Applications'' (HCFA Form 855A, 855B, 855I, 855R, and 855S). SSA agrees to conduct a computer match of the data provided by CMS utilizing the processes defined in the State Online Query System (SOLQ) system and/or the State Verification and Exchange System (SVES) and the files accessed by the SOLQ and/or the SVES. SSA will confirm that the name, SSN, and date of birth combination assigned to the individual identified on the HCFA Form 855 series application.

INCLUSIVE DATES OF THE MATCH:

The matching program shall become effective no sooner than 40 days after the report of the CMA notice is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, which ever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 02–9204 Filed 4–15–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Computer Matching Program (Match No. 2001–07)

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

ACTION: Notice of Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces the establishment of a CMP that CMS plans to conduct with the Health Administration Center (HAP) of the Department of Veteran Affairs. We have provided background information about the proposed matching program in the ''Supplementary Information'' section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed matching program, CMS invites comments on all portions of this notice. See ''Effective Dates'' section below for comment period.

EFFECTIVE DATES: CMS filed a report of the CMP with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 28, 2002. To ensure that all parties have adequate time in which to comment, the modified or altered system of records, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), Office of Information Services (OIS), CMS, Mail-stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern standard time.

FOR FURTHER INFORMATION CONTACT: Maribel Franey, Health Insurance Specialist, DDLD, OIS, CMS, Mail-stop N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. The telephone number is 410–786–0757.

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits.

Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 100–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records (SOR) are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;

2. Obtain the Data Integrity Board approval of the match agreements;

1. Furnish detailed reports about matching programs to Congress and OMB;

2. Notify applicants and beneficiaries that the records are subject to matching; and,

3. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. CMS Computer Matches Subject to the Privacy Act

CMS has taken action to ensure that all CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Dated: March 28, 2002.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Computer Match No. 2001–07

NAME:

Computer Matching Agreement between the Centers for Medicare & Medicaid Services (CMS) and the Health Administration Center (HAC) of the Department of Veterans Affairs for Verification of CHAMPVA Eligibility.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

PARTICIPATING AGENCIES:

The Centers for Medicare & Medicaid Services, and Health Administration Center (HAC) of the Department of Veterans Affairs.

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

This Computer Matching Program (CMP) is executed to comply with the Provisions of Public Laws (Pub. L.) 93–82, 94–581, 102–190, and 107–14 (codified at Title 38 United States Code (U.S.C.) § 1713) restrict CHAMPVA eligibility for benefits dependent upon a beneficiary's Medicare (Part A) and (Part B) status. This computer match will match CHAMPVA applicants and beneficiaries with Medicare Part A and B beneficiaries.

PURPOSE(S) OF THE MATCHING PROGRAM:

The purpose of this computer matching agreement is to establish the conditions, safeguards and procedures under which the CMS and HAC will conduct a computer-matching program to determine entitlement to CHAMPVA benefits. Under the terms of this matching agreement, HAC will provide to CMS a list of social security numbers (SSN) for all CHAMPVA eligible beneficiaries who may also be eligible for Medicare benefits. This information is maintained in HAC's SOR (SOR) entitled ''Health Administration Center Civilian Health and Medical Program Records-VA.'' CMS agrees to conduct a computer match of the SSNs of beneficiaries provided by HAC against the information found in CMS's Health Insurance Master Record (HIMR) SOR, HAC will receive the results of the computer match in order to determine a beneficiary's eligibility for care under CHAMPVA.

CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:

Upon establishment of the CHAMPVA program under Pub.L. 93–82, CHAMPVA entitlement will be

terminated when any individual becomes eligible for Medicare Part A (Hospital Insurance) on a non-premium basis. Pub. L. 94–581 provided for reinstatement of CHAMPVA as second payer for beneficiaries aged 65 and over whom exhausted a period of Medicare Part A (Hospital Insurance). These beneficiaries must also be enrolled in Medicare Part B (Medical Insurance) in order to retain their CHAMPVA entitlement. Pub. L. 102–190 extended CHAMPVA benefit to age 65 for any beneficiary eligible for Medicare Part A on the basis of disability/end stage renal disease (ESRD) only if that individual is also enrolled in Medicare Part B. Pub. L. 107–14 provided for extending benefit coverage for beneficiaries over the age of 65 years if the beneficiary is in receipt of Medicare Part A and Medicare Part B.

DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:

SYSTEMS OF RECORDS:

Records Maintained by HAC.

The information used in this matching program are maintained in the HAC system identified as 54VA17, entitled ''Health Administration Center Civilian Health and Medical Program Records-VA,'' last published at 65 FR 81572 (Dec. 26, 2000). SSNs of CHAMPVA beneficiaries will be released to CMS pursuant to the routine use number 23 as set forth in the system notice.

RECORDS MAINTAINED BY CMS:

The matching program will be conducted with data maintained by CMS in the HIMR, System No. 09–70–0502, published at 55 FR 47394 (November 13, 1990) (for future references, the HIMR is being amended and will soon be re-named the Enrollment Database). Matched data will be released to HAC pursuant to the routine use number 11 as set forth in the system notice.

INCLUSIVE DATES OF THE MATCH:

The CMP shall become effective no sooner than 40 days after the report of the Matching Program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, which ever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 02–9205 Filed 4–15–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Child Support Enforcement Office; Administration for Children and Families

Contract to the State Information Technology Consortium

AGENCY: Office of Child Support Enforcement, ACF, DHHS.

ACTION: Contract award announcement.

SUMMARY: Notice is hereby given that a contract is being awarded to the State Information Technology Consortium (SITC) of Herndon, Virginia, in the amount of $2,000,000 to help improve the coordination of child support enforcement activities.

Congress recognizes that seamless and cost-effective processes for information-sharing among state human service agencies and courts are critical to states in meeting the complex information and systems reporting requirements of the Child Support Enforcement Program. Accordingly, it has earmarked $2,000,000 to SITC to identify and widely disseminate methods for improving the flow of information between federal and state agencies and the state court system. Over the past several years, SITC has successfully performed, and continues to perform, similar services for the Office of Family Assistance to assist states in meeting the information and systems reporting requirements of the Temporary Assistance to Needy Families (TANF) Program. Given this success, it is expected that SITC will be equally as effective in its efforts to help improve coordination in the Child Support Enforcement Program. The period of this funding will extend through April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Nehemiah Rucker, Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, telephone 202–260–5494.

Dated: April 5, 2002.

Sherri Z. Heller,

Commissioner, Office of Child Support Enforcement.

[FR Doc. 02–9156 Filed 4–15–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0109]

Agency Information Collection Activities; Proposed Collection; Comment Request; Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting and recordkeeping requirements associated with the dissemination of information on unapproved or new uses for marketed drugs, biologics, and devices.

DATES: Submit written or electronic comments on the collection of information by June 17, 2002.

ADDRESSES: Submit electronic comments on the collection of information to http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Ln., rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520) Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the

public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each collection of information, including each extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices (OMB Control No. 0910–0390)—Extension.

In the **Federal Register** of November 20, 1998 (63 FR 64555), FDA published a final rule to add a new part 99 (21 CFR part 99) entitled ''Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices.''

The final rule implemented section 401 of the Food and Drug Administration Modernization Act (FDAMA) (Public Law 105–115). In brief, section 401 of FDAMA amended the act to permit drug, biologic, and device manufacturers to disseminate certain written information concerning the safety, effectiveness, or benefits of a use that is not described in the product's approved labeling to health care practitioners, pharmacy benefit managers, health insurance issuers, group health plans, and Federal and State Government agencies, provided that the manufacturer complies with certain statutory requirements. For example, the information that is to be disseminated must be about a drug or device that is being legally marketed; it must be in the form of an unabridged reprint or copy of a peer-reviewed journal article or reference publication; and it must not be derived from another manufacturer's clinical research, unless that other manufacturer has given its permission for the dissemination. The information must be accompanied by certain information, including a prominently displayed statement that the information discusses a use or uses that have not been approved or cleared by FDA. Additionally, 60 days before dissemination, the manufacturer must submit to FDA a copy of the information to be disseminated and any other clinical trial information that the manufacturer has relating to the safety or effectiveness of the new use, any reports of clinical experience that pertain to the safety of the new use, and a summary of such information.

The rule sets forth the criteria and procedures for making such submissions to FDA. Under the rule, a submission would include a certification that the manufacturer has completed clinical studies necessary to submit a supplemental application to FDA for the new use and will submit the supplemental application within 6 months of its initial dissemination of information. If the manufacturer has planned, but not completed, such studies, the submission would include proposed protocols and a schedule for conducting the studies, as well as a certification that the manufacturer will complete the clinical studies and submit a supplemental application no later than 36 months of its initial dissemination of information. The rule also permits manufacturers to request extensions of the time period for completing a study and submitting a supplemental application, and to request an exemption from the requirement to submit a supplemental application. The rule prescribes the timeframe within which the manufacturer shall maintain records that would enable it to take corrective action. The rule requires the manufacturer to submit lists pertaining to the disseminated articles and reference publications and the categories of persons (or individuals) receiving the information, and to submit a notice and summary of any additional research or data (and a copy of the data) relating to the product's safety or effectiveness for the new use. The rule requires the manufacturer to maintain a copy of the information, lists, records, and reports for 3 years after it has ceased dissemination of the information and to make the documents available to FDA for inspection and copying.

FDA based its estimates of the number of submissions it would receive and the number of manufacturers who would take advantage of to part 99 on the number of efficacy and new use supplements for approved drugs, biologics, and devices received in fiscal year (FY) 1997 and on a projected increase in supplements due to FDAMA. In FY 1997, FDA received 198 efficacy and new use supplements from 115 manufacturers. The number of supplements increased 100 percent from FY 1995 to FY 1997 as a result of two new initiatives, the Prescription Drug User Fee Act and a new pediatric labeling regulation. If FDAMA results in an additional 50 percent increase in the number of supplements and a corresponding increase in the number of manufacturers, then the estimated number of submissions under part 99 is 297 (198 + (0.5 x 198)), and the estimated number of manufacturers is 172 (115 + (0.5 x 115)). These figures are reflected in tables 1 and 2 of this document for §§ 99.201(a)(1), (a)(2), (a)(3), (b), and (c) and 99.501(a)(1), (a)(2), (b)(1), (b)(3), and (c).

The estimated burden hours for these provisions are as follows:

Section 99.201(a)(1) requires the manufacturer to provide an identical copy of the information to be disseminated, including any required information. Because the manufacturer must compile this information in order to prepare its submission to FDA, the agency estimates that 40 hours would be required per submission. Because 297 annual responses are expected under § 99.201(a)(1), the total burden for this provision is 11,880 hours (297 responses x 40 hours per response).

Section 99.201(a)(2) requires the manufacturer to submit clinical trial information pertaining to the safety and effectiveness of the new use, clinical experience reports on the safety of the new use, and a summary of the information. FDA estimates 24 burden hours per response for this provision for assembling, reviewing, and submitting the information and assumes that the manufacturer will have already acquired some of this information in order to decide whether to disseminate information on an unapproved use under part 99. The total burden for this provision is 7,128 hours (297 annual responses x 24 hours per response).

Section 99.201(a)(3) requires the manufacturer to explain its search strategy when assembling its bibliography, and so FDA estimates that only 1 hour would be required for the explanation because the manufacturer would have developed and used its search strategy before preparing the bibliography. Because 297 annual responses are expected under § 99.201(a)(3), the total burden for this provision is 297 hours (297 annual responses x 1 hour per response).

Section 99.201(b) simply requires the manufacturer's attorney, agent, or other

authorized official to sign its submissions, and certifications, or requests for an exemption. FDA, therefore, estimates that only 30 minutes are necessary for such signatures. Because 297 annual responses are expected under § 99.201(b), the total burden for this provision is 148.5 hours (297 response x 0.5 hours per response = 148.5 hours).

Section 99.201(c) requires the manufacturer to provide two copies with its original submission. Copying the submission should not be time consuming, so FDA estimates the burden to be 30 minutes. Because 297 annual responses are expected under § 99.201(c), the total burden for this provision is 148.5 hours.

While the act requires manufacturers to provide a submission to FDA before they disseminate information on unapproved/new uses, it also permits manufacturers to: (1) Have completed studies and promise to submit a supplemental application for the new use within 6 months of the date of initial dissemination; (2) provide protocols and a schedule for completing studies and submitting a supplemental application for the new use within 36 months of the date of initial dissemination; (3) have completed studies and have submitted a supplemental application for the new use; or (4) request an exemption from the requirement to submit a supplemental application. These possible scenarios are addressed in §§ 99.201(a)(4)(i)(A), (a)(4)(ii)(A), and (a)(5) and 99.205(b), respectively.

To determine the number of responses in §§ 99.201(a)(4)(i)(A), (a)(4)(ii)(A), and (a)(5) and 99.205(b), FDA began by estimating the number of requests for an exemption under § 99.205(b). The legislative history indicates that such exemptions are to be limited. In the final rule, FDA estimated that approximately 10 percent of all respondents would seek—or 10 percent of all submissions would contain—an ''economically prohibitive'' exemption (resulting in 17 total respondents and approximately 30 annual responses) and that the estimated reporting burden per response would be 82 hours. This results in a total hour burden of 2,460 hours for § 99.205(b) (30 submissions x 82 hours per submission).

The estimated increase in the number of exemption requests results in a corresponding decrease in the remaining number of respondents and submissions under § 99.201(a)(4)(i)(A), (a)(4)(ii)(A), and (a)(5). FDA assumes that the remaining 267 submissions (297 total submissions - 30 submissions containing an exemption request) will be divided equally among § 99.201(a)(4)(i)(A), (a)(4)(ii)(A), and (a)(5), resulting in 89 responses in each provision (267 submissions/3 provisions). FDA has estimated the number of respondents in a similar fashion ((172 total respondents - 17 respondents submitting an exemption request)/3 provisions = 51.6, rounded up to 52 respondents per provision).

As stated earlier, § 99.201(a)(4)(i)(A)) requires the manufacturer, if the manufacturer has completed studies needed for the submission of a supplemental application for the new use, to submit the protocol(s) for the completed studies, or, if the protocol was submitted to an investigational new drug application (IND) or investigational device exemption (IDE), to submit the IND or IDE number(s), the date of submission of the protocol(s), the protocol number(s), and the date of any amendments to the protocol(s). FDA estimates that 30 hours would be required for this response because this is information that each manufacturer already maintains for its drugs or devices. The total burden for this provision is 2,670 hours (89 annual responses x 30 hours per response).

For manufacturers who submit protocols and a schedule for conducting studies, § 99.201(a)(4)(ii)(A) requires the manufacturer to include, in its schedule, the projected dates on which the manufacturer expects the principal study events to occur. FDA estimates a manufacturer would need approximately 60 hours to include the projected dates because it would have to contact the studies' principal investigator(s) and other company officials. The total burden for this provision is 5,340 hours (89 annual responses x 60 hours per response).

If the manufacturer has submitted a supplemental application for the new use, § 99.201(a)(5) requires a cross-reference to that supplemental application. FDA estimates that only 1 hour would be needed because manufacturers already maintain this information. The total burden for this provision is 89 hours (89 annual responses x 1 hour per response).

Under § 99.203, a manufacturer who has certified that it will complete studies necessary to submit a supplemental application within 36 months after its submission to FDA, but later finds that it will be unable to complete such studies or submit a supplemental application within that time period, may request an extension of time from FDA. Such requests for extension should be limited, occurring less than 1 percent of the time, because manufacturers and FDA, when developing or reviewing study protocols, should be able to identify when a study will require more than 36 months to complete. Section 99.203 contemplates extension requests under two different scenarios. Under § 99.203(a), a manufacturer may make an extension request before it makes a submission to FDA regarding the dissemination of information under part 99. The agency expects such requests to be limited, occurring less than 1 percent of the time (or 1 annual response), and that such requests will result in a reporting burden of 10 hours per request. The total burden hours for this provision, therefore, is 10 hours (1 annual response x 10 hours per response).

Section 99.203(b) specifies the contents of a request to extend the time for completing planned studies after the manufacturer has provided its submission to FDA. The required information includes a description of the studies, the current status of the studies, reasons why the study cannot be completed on time, and an estimate of the additional time needed. FDA estimates that 10 hours for reporting the required information under § 99.203(b) because it would require consultation between the manufacturer and key individuals (such as the study's principal investigator(s)). As in the case of § 99.203(a), the expected number of responses is very small (1 annual response), and the total burden hours for this provision is 10 hours (1 annual response x 10 hours per response).

Section 99.203(c) requires two copies of an extension request (in addition to the request required under section 554(c)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360aaa–3)), and FDA estimates that these copies would result in a minimal reporting burden of 30 minutes. However, this requirement would apply to extension requests under § 99.203(a) and (b), so the total number of annual responses is 2, resulting in a total burden hour for this provision of 1 hour (2 annual responses x 0.5 hours per response).

The remaining reporting and recordkeeping burdens are as follows:

Section 99.501(a)(1) requires the manufacturer to maintain records that identify recipients by category or individually. Under § 99.301(a)(3), FDA will notify the manufacturer whether it needs to maintain records identifying individual recipients due to special safety considerations associated with the new use. This means that, in most cases, the manufacturer will only have to maintain records identifying recipients by category. In either event,

the manufacturer will know whether it must maintain records that identify individual recipients before it begins disseminating information. The time required to identify recipients individually should be minimal, and the time required to identify recipients by category should be even less. Therefore, FDA estimates the burden for this provision to be 10 hours, and, because 297 annual responses are expected under § 99.501(a)(1), the total burden for this provision is 2,970 hours (297 annual responses x 10 hours per response).

Section 99.501(a)(2) requires the manufacturer to maintain a copy of the information it disseminates. This task is not expected to be time consuming, so FDA estimates the burden to be 1 hour. Because 297 annual responses are expected under § 99.501(a)(2), the total burden for this provision is 297 hours (297 annual responses x 1 hour per response).

Section 99.501(b)(1) requires the manufacturer to submit to FDA semiannually a list containing the articles and reference publications that were disseminated in the preceding 6-month period. FDA tentatively estimates a burden of 8 hours for this provision. The actual burden may be less if the manufacturer develops and updates the list while it disseminates articles and reference publications during the 6-month period (as opposed to generating a completely new list at the end of each 6-month period) and if the volume of disseminated materials is small. The total burden for this provision is 4,752 hours (297 responses submitted semiannually x 8 hours per response = 297 x 2 x 8 = 4,752 hours).

Section 553(a)(2) of the act (21 U.S.C. 360aaa–2(a)(2)) requires manufacturers that disseminate information to submit to FDA semiannually a list that identifies the categories of providers who received the articles and reference publications. Section 99.501(b)(2) also requires the list to identify which category of recipients received each particular article or reference publication. If each of the 297 submissions under part 99 results in disseminated information, § 99.501(b)(2) would result in 594 lists (297 submissions x 2 submissions per year) identifying which category of recipients received each particular article or reference publication. The agency estimates the burden to be only 1 hour per response because this type of information is maintained as a usual and customary business practice, and the total burden for this provision is 594 hours (594 lists x 1 hour per list).

In relation to § 99.201(a)(2), § 99.501(b)(3) requires the manufacturer to provide, on a semiannual basis, a notice and summary of any additional clinical research or other data relating to the safety and effectiveness of the new use and, if it possesses such research or data, to provide a copy to FDA. This burden should not be as extensive as that in § 99.201(a)(2), so FDA estimates the burden to be 20 hours per response, for a total burden of 11,880 hours for this provision (297 annual responses submitted semiannually x 20 hours per response = 297 x 2 x 20 = 11,880 hours).

If a manufacturer discontinues or terminates a study before completing it, § 99.501(b)(4)) requires the manufacturer to state the reasons for discontinuing or terminating the study in its next progress report. Based on FDA's regulatory experience in monitoring studies to support supplemental applications, FDA estimates this would affect only 1 percent of all applications (297 x 0.01 = 2.97, rounded up to 3) and only two manufacturers (172 x 0.01 = 1.72, rounded up to 2). FDA estimates 2 hours of reporting time for this requirement because the manufacturer should know the reasons for discontinuing or terminating the study and would only need to provide those reasons in its progress report. The total burden hours for this provision is 6 hours (3 annual responses x 2 hours per response).

Section 99.501(b)(5) requires the manufacturer to submit any new or additional information that relates to whether the manufacturer continues to meet the requirements for the exemption after an exemption has been granted. FDA cannot determine, at this time, how many exemption requests will be granted, but, for purposes of this information collection, has estimated that 10 percent of all submissions will contain an exemption request (297 total submissions x 0.10 = 29.7, rounded up to 30) and has assumed that all exemption requests will be granted, for a total of 30 annual responses. The information sought under § 99.501(b)(5) pertains solely to new or additional information and is not expected to be as extensive as the information required to obtain an exemption. Thus, FDA tentatively estimates the burden for § 99.501(b)(5) to be 41 hours per response (or half the burden associated with an exemption request), for a total burden of 1,230 hours for this provision (30 annual responses x 41 hours per response).

Section 99.501(c) requires the manufacturer to maintain records for 3 years after it has ceased dissemination of the information. FDA estimates the burden hour for this provision to be 1 hour. Because 297 annual responses are expected under § 99.501(c), the total burden for this provision is 297 hours.

Description of Respondents: All manufacturers (persons and businesses, including small businesses) of drugs, biologics, and device products.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR section	No. of respondents	Annual frequency per response	Total Annual responses	Hours per response	Total hours
99.201(a)(1)	172	1.7	297	40	11,880
99.201(a)(2)	172	1.7	297	24	7,128
99.201(a)(3)	172	1.7	297	1	297
99.201(a)(4)(i)(A)	52	1.7	89	30	2,670
99.201(a)(4)(ii)(A)	52	1.7	89	60	5,340
99.201(a)(5)	52	1.7	89	1	89
99.201(b)	172	1.7	297	0.5	148.5
99.201(c)	172	1.7	297	0.5	148.5
99.203(a)	1	1	1	10	10
99.203(b)	1	1	1	10	10
99.203(c)	2	1	2	0.5	1
99.205(b)	17	1.8	30	82	2,460
99.501(b)(1)	172	3.4	594	8	4,752
99.501(b)(2)	172	3.4	594	1	594
99.501(b)(3)	172	3.4	594	20	11,880

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

21 CFR section	No. of respondents	Annual frequency per response	Total Annual responses	Hours per response	Total hours
99.501(b)(4)	2	1.7	3	2	6
99.501(b)(5)	17	1.8	30	41	1,230
Total					48,644.0

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR section	No. of recordkeepers	Annual frequency per recordkeeping	Total annual records	Hours per recordkeeper	Total hours
99.501(a)(1)	172	1.7	297	10	2,970
99.501(a)(2)	172	1.7	297	1	297
99.501(c)	172	1.7	297	1	297
Total					3,564

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated burden associated with the information collection requirements for this rule is 52,208 hours.

Dated: April 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–9239 Filed 4–15–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0267]

Agency Information Collection Activities; Announcement of OMB Approval; Medical Device Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Medical Device Labeling Regulations'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 16, 2001 (66 FR 52630), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0485. The approval expires on March 31, 2005. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: April 5, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–9177 Filed 4–15–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Invasive Species Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of public meetings of the Invasive Species Advisory Committee.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of meetings of the Invasive Species Advisory Committee.

DATES: Meeting of Invasive Species Advisory Committee: 9:30 a.m., Monday, May 6, 2002 and 8:30 a.m., Tuesday, May 7, 2002.

ADDRESSES: William F. Bolger Center for Leadership and Development, 9600 Newbridge Drive, Potomac, MD 20854–4436. Meetings on both days will be held in Room 200 (Second Floor) of the Main Building.

FOR FURTHER INFORMATION CONTACT: Kelsey Passé, National Invasive Species Council Program Analyst; Phone: (202) 208–6336; Fax: (202) 208–1526.

SUPPLEMENTARY INFORMATION: The purpose of the Advisory Committee is to provide advice to the National Invasive Species Council, as authorized by Executive Order 13112, on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause. The Council is Co-chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The duty of the Council is to provide national leadership regarding invasive species issues. The purpose of a meeting on May 6–7, 2002 is to convene the full Advisory Committee (appointed by Secretary Norton on April 1, 2002); and to discuss implementation of action items outlined in the National Invasive Species Management Plan, which was finalized on January 18, 2001.

Dated: April 9, 2002.

Lori Williams,

Executive Director, National Invasive Species Council.

[FR Doc. 02–8991 Filed 4–15–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species for the Pinery Glen Residential Development, Douglas County, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for incidental take of endangered species.

SUMMARY: On October 17, 2001, a notice was published in the **Federal Register** (66 FR 52777), that an application has

been filed with the U.S. Fish and Wildlife Service (Service) by Continental Homes on behalf of the Pinery Glen residential subdivision, Douglas County, Colorado, for a permit to incidentally take, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539), as amended, Preble's meadow jumping mouse (*Zapus hudsonius preblei*), pursuant to the terms of the Environmental Assessment/Habitat Conservation Plan for Issuance of an Endangered Species Section 10(a)(1)(B) Permit for the Incidental Take of the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) at Pinery Glen in Douglas County, Colorado.

Notice is hereby given that on March 20, 2002, as authorized by the provisions of the Endangered Species Act, the Service issued a permit (TE–048568–0) to the above named party subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act, as amended.

Additional information on this permit action may be requested by contacting the Service's Colorado Ecological Services Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215, telephone (303) 275–2370, between the hours of 7 a.m. and 4:30 p.m. weekdays.

Dated: March 25, 2002.

John A. Blackenship,

Acting Regional Director, Region 6.

[FR Doc. 02–9172 Filed 4–15–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Outer Continental Shelf (OCS), Western Gulf of Mexico (GOM), Oil and Gas Lease Sale 184

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of the proposed notice of sale.

SUMMARY: GOM OCS; Notice of Availability of the proposed Notice of Sale for proposed Oil and Gas Lease Sale 184 in the Western GOM. This Notice is published pursuant to 30 CFR 256.29(c) as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notice. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

FOR FURTHER INFORMATION CONTACT: The proposed Notice of Sale for Sale 184 and a ''Proposed Sale Notice Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504)736–2519.

DATES: The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for August 21, 2002.

Dated: April 3, 2002.

R.M. ''Johnnie'' Burton,

Director, Minerals Management Service.

[FR Doc. 02–9157 Filed 4–15–02; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to renew the approval for the collection of information under 30 CFR part 842 which allows the collection and processing of citizen complaints and requests for inspections. The collection described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments should be submitted to OMB by May 16, 2002, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783, or electronically to *jtreleas@osmre.gov.*

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [*see* 5 CFR 1320.8(d)]. OSM has submitted a request to OMB to approve the collection of information in 30 CFR part 842, Federal inspections and monitoring. OSM is requesting a 3-year term of approval for this information collection activity.

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 number for this collection of information, 1029–0118, has been placed on the electronic citizen complaint form that may be found on OSM's home page at *http://www.osmre.gov//citizen.htm.*

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on January 9, 2002 (67 FR 1227). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

Title: Federal inspections and monitoring—30 CFR part 842.

OMB Control Number: 1029–0118.

Summary: For purposes of information collection, this part establishes the procedures for any person to notify the Office of Surface Mining in writing of any violation that may exist at a surface coal mining operation. The information will be used to investigate potential violations of the Act or applicable State regulations.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Citizens, public interest groups, State governments.

Total Annual Responses: 126.

Total Annual Burden Hours: 95 hours.

Send comments on the need for the collections of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collections; and ways to minimize the information collection burdens on respondents, such as use of automated means of collections of the information, to the following addresses.

Please include the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503. Also, please send a copy of your comments to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 210—SIB, Washington, DC 20240, or electronically to *jtreleas@osmre.gov.*

Dated: March 12, 2002.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 02–9234 Filed 4–15–02; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–469]

Certain Bearings and Packaging Thereof; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 11, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of SKF USA Inc. of Norristown, Pennsylvania. An amended complaint was filed on March 21, 2002. Supplements to the complaint were filed on March 29 and April 5, 2002. The complaint, as amended and supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain bearings and packaging thereof by reason of (1) infringement of U.S. Trademark Registration Nos. 502,839, 502,840, 1,944,843, and 2,053,722; (2) infringement of common law trademarks; (3) dilution of registered and common law trademarks; (4) false representation of source in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. 1125(a)(1)(A); (5) false advertising in violation of Section 43(a)(1)(B) of the Lanham Act, 15 U.S.C. 1125(a)(1)(B); (6) passing off; and (7) unfair pecuniary benefits. The complaint further alleges that an industry in the United States exists as required by subsections (a)(1)(A) and (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, amended complaint, and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's ADD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

FOR FURTHER INFORMATION CONTACT: David O. Lloyd, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2576.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2002).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 9, 2002, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain bearings and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 502,839, 502,840, 1,944,843, or 2,053,722 and whether there exists an industry in the United States as required by subsection (a)(2) of section 337; and

(b) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain bearings and packaging thereof by reason of (1) infringement of common law trademarks; (2) dilution of registered and/or common law trademarks; (3) false representation of source; (4) false advertising; (5) passing off; or (6) unfair pecuniary benefits, the threat or effect of which is to destroy or substantially injure an industry in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—SKF USA Inc., 1111 Adams Avenue, Norristown, PA 19403.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Bearing Distributors Inc., 930 S. Stadium Road, Columbia, SC 29202.
Bearings & Motive Specialties Company, Inc., 90 Westmoreland Ave., White Plains, NY 10606.
Bearings Limited, 20 Davids Drive, Hauppauge, NY 11788.
Bohls Bearing & Power Transmission Service, 210 Probandt, San Antonio, TX 78204.
Creswell Industrial Supply, Inc., 6125 Airways Boulevard, Chattanooga, TN 37422.
CST Bearing Company, 2115 S. Santa Fe St., Santa Ana, CA 92705.
Gulf United Industries Inc., d/b/a United Bearing Company, 675 S. Royal Lane, Coppell, TX 75019.
McGuire Bearing Company, 947 S.E. Market St., Portland, OR 97214.
Motor Bearing Supply, Inc., Rt. 1, Box 679, Jasper, TX 75951.
RF Wolters Company, Inc., 4585 S. Berkley Lake Road, Norcross, GA 30071.
Representaciones Industriales Rodriguez, S.A. de C.V., Av. Dr. I. Morones Prieto 3150 Ote, Monterrey, NL, Mexico.
Ringball Corporation, 2160 Meadowpine Boulevard, Mississauga, Ontario, Canada L5N 6H6.
RitBearing Corporation, 14500 Lochridge Boulevard, Covington, GA 30014.
Seal Pack Corporation, 8502 NW 66th St., Miami, FL 33166.

(c) David O. Lloyd, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr., is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

Issued: April 10, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–9230 Filed 4–15–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 303–TA–23, 731–TA–566–570, and 731–TA–641 (Final) (Reconsideration) (Remand)]

Ferrosilicon From Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Notice and scheduling of remand proceedings.

SUMMARY: The United States International Trade Commission (Commission) hereby gives notice of the court-ordered remand of its reconsideration proceedings pertaining to countervailing duty investigation no. 303–TA–23 (Final) concerning ferrosilicon from Venezuela, and antidumping investigation nos. 731–TA–566–570 and 731–TA–641 (Final) concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela.

EFFECTIVE DATE: April 11, 2002.

FOR FURTHER INFORMATION CONTACT: Lynn Featherstone, Office of Investigations, telephone 202–205–3160, or Marc A. Bernstein, Office of General Counsel, telephone 202–205–3087, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background

In August 1999 the Commission made a negative determination upon reconsideration in its antidumping and countervailing duty investigations concerning ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela. Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, Inv. Nos. 303–TA–23, 731–TA–566–570, 731–TA–641 (Final) (Reconsideration), USITC Pub. 3218 (Aug. 1999). The Commission's determinations were appealed to the U.S. Court of International Trade (CIT). On February 21, 2002, the CIT issued an opinion finding the Commission's proceedings on reconsideration defective because they did not accord the parties an opportunity to participate in a hearing specifically concerning the reconsideration proceeding. The CIT accordingly remanded the matter to the Commission for further proceedings. *Elkem Metals Co.* v. *United States,* slip op. 02–18 (Ct. Int'l Trade Feb. 21, 2002). On March 18, 2002, the CIT issued an Order providing the Commission within 180 days of service of the Order to complete the remand proceedings. The Commission received notice of this Order on April 1, 2002.

Reopening the Record

The Commission is reopening the record in these reconsideration proceedings to enable it to conduct the remand proceedings required by the CIT's opinion. The scope of the proceedings was not addressed in the CIT's opinion or Order, and consequently will remain unchanged from the 1999 reconsideration proceeding. See Ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, 64 Fed. Reg. 28212 (May 25, 1999). Consequently, any new information submitted in this remand proceeding must be limited to the issues of (a) the price-fixing conspiracy in which certain domestic ferrosilicon producers participated during the periods of the Commission's original investigations, or other anticompetitive conduct relating to the original periods of investigation, and (b) any possible material misrepresentations or material omissions, by any entity that provided information or argument in the original investigations, concerning: (1) The conspiracy or other anticompetitive conduct or (2) any other matter.The record in these proceedings will encompass the material from the record of the original investigations, the 1998–99 changed circumstances investigations involving ferrosilicon from Brazil, China, Kazakhstan, Russia, Ukraine, and Venezuela, and the 1999 reconsideration proceedings, as well as any information submitted during the remand proceedings, to include the Staff Reports and Economic Reports prepared during the original investigations and the Staff Report prepared during the changed circumstances investigation.

Participation in the Proceedings

Only those persons who were parties to the previous reconsideration proceedings (i.e., persons listed on the Commission Secretary's service list) may participate as parties in these remand proceedings. Nonparties may file written submissions and submit hearing testimony as described below.

Nature of the Remand Proceedings

The Commission will conduct the following additional proceedings in this remand: *Prehearing Brief.* Each party to the investigation shall submit to the Commission a prehearing brief no later than May 23, 2002. The brief shall only address those matters within the scope of the reconsideration proceeding. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules. Any person who is not a party to this investigation may submit a brief written statement of information pertinent to the reconsideration proceeding within the time specified for the filing of prehearing briefs.

Hearing. The Commission will hold a hearing in connection with this reconsideration proceeding beginning at 9:30 a.m. on June 6, 2002, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before May 29, 2002. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement

at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 3, 2002, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in camera no later than 7 days prior to the date of the hearing. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules. Written witness testimony must be filed no later than three days before the hearing. Hearing testimony and presentations shall address only those matters within the scope of the reconsideration proceeding.

Posthearing Brief. Parties to the investigation may file posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is June 13, 2002. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before June 13, 2002. Posthearing submissions shall address only those matters within the scope of the reconsideration proceeding.

Final Comments. On a date after the submission of prehearing briefs to be announced, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may subsequently submit final comments on this information on a date to be announced. Such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. General Information on Written Submissions. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service. Parties are also advised to consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subpart A (19 CFR part 207) for provisions of general applicability concerning written submissions to the Commission.

Limited Disclosure of BPI Under an Administrative Protective Order (APO) and BPI Service List

Information obtained during the remand proceedings will be released to parties under the Administrative Protective Order (APO) in effect during the previous reconsideration proceedings. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make business proprietary information gathered in the previous reconsideration proceedings and this remand proceeding available to additional authorized applicants, that are not covered under the original APO, provided that the application is made not later than seven (7) days after publication of the Commission's notice of reopening the record on remand in the **Federal Register**. Applications must be filed for persons on the Judicial Protective Order in the related CIT case, but not covered under the original APO. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under APO in these remand proceedings.

Authority: This action is taken under the authority of title VII of the Tariff Act of 1930 as amended.

Issued: April 11, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–9238 Filed 4–15–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–925 (Final)]

Greenhouse Tomatoes From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission (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 not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Canada of greenhouse tomatoes, provided for in subheadings 0702.00.20, 0702.00.40, and 0702.00.60 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective March 28, 2001, following receipt of a petition filed with the Commission and Commerce by Carolina Hydroponic Growers Inc., Leland, NC; Eurofresh, Inc., Willcox, AZ; Hydro Age, Cocoa Beach, FL; Sun Blest Management, Fort Lupton, CO; Sun Blest Farms, Peyton, CO; and Village Farms, LP, Eatontown, NJ. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of greenhouse tomatoes from Canada 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 final phase 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 November 14, 2001 (66 FR 57112). The hearing was held in Washington, DC, on February 21, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 11, 2002. The views of the Commission are contained in USITC Publication 3499 (April 2002), entitled *Greenhouse Tomatoes from Canada: Investigation No. 731–TA–925 (Final).*

Issued: April 10, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–9229 Filed 4–15–02; 8:45 am]

BILLING CODE 7020–02–P

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[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] Commissioner Lynn M. Bragg dissenting.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–990 (Preliminary)]

Non-Malleable Cast Iron Pipe Fittings From China

Determination

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of non-malleable cast iron pipe fittings, provided for in subheadings 7307.11.00 and 7307.19.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On February 21, 2002, a petition was filed with the Commission and Commerce by Anvil International, Inc., Portsmouth, NH, and Ward Manufacturing, Inc., Blossburg, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of non-malleable cast iron pipe fittings from China. Accordingly, effective February 21, 2002, the Commission instituted antidumping duty investigation No. 731–TA–990 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference 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 February 27, 2002 (67 FR 9004). The conference was held in Washington, DC, on March 14, 2002, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 8, 2002. The views of the Commission are contained in USITC Publication 3500 (April 2002), entitled *Non-Malleable Cast Iron Pipe Fittings from China: Investigation No. 731–TA–990 (Preliminary).*

Issued: April 9, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–9231 Filed 4–15–02; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–466]

In the Matter of Certain Organizer Racks and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') terminating the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, *Esq.*, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 2053096. Copies of the public versions of the ID and all other nonconfidential documents in the record of this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 26, 2001, based on a complaint filed by Spectrum Concepts, Inc. (''Spectrum'') against Bryan Plastics Ltd. (''Bryan''). The complaint alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and/or sale within the United States after importations, of certain organizer racks or products containing same by reason of infringement of claims, 1, 6, 8, 11, 12, 13, and 24 of U.S. Letters Patent 5,740,924. 66 FR 66425 (2001)

On February 1, 2002, Spectrum filed a motion to terminate the investigation on the basis of a settlement agreement. On February 12, 2002, the Commission investigative attorney filed a response supporting the motion. On February 13, 2002, the presiding ALJ issued an ID (Order No. 6) granting the motion and, on February 19, 2002, issued another ID (Order No. 7) with an *erratum*, providing additional reasoning in support of his granting of the motion. No party petitioned for review of the ID. This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: April 4, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–9232 Filed 4–15–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE02010]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 18, 2002 at 2 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: None.
2. Minutes.
3. Ratification List.
4. In. No. 731–TA–991 (Preliminary) (Silicon Metal from Russia)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before April 22, 2002; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before April 29, 2002.)
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Dated: Issued: April 11, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–9372 Filed 4–12–02; 3:18 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Office of Community Oriented Policing Services (COPS); Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of information collection under review: Reinstatement, with change, of a previously approved collection for which approval has expired; regional community policing institute quarterly report.

The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until June 17, 2002. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gretchen DePasquale, Office of Community Oriented Policing Services, 1100 Vermont Avenue NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement, With Change, of a Previously Approved Collection for Which Approval has Expired

(2) *Title of the Form/Collection:* Regional Community Policing Institute Quarterly Report

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: COPS 022/01. Office of Community Oriented Policing Services, Department of Justice

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local or Tribal Government. Other: None Abstract: This information collection requests information required to monitor the progress and use of funds by the Regional Community Policing Institutes through the one-year cooperative agreements to provide training and technical assistance to COPS grantees and other participants in the area of community-oriented policing.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are 32 respondents. The amount of estimated time required for the average respondent to respond is 11.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are 1,472 hours associated with this information collection.

If additional information is required contact: Brenda E. Dyer, Department Deputy Clearance Officer, Information Management and Security Staff, Justice Management Division, Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

Dated: April 10, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–9152 Filed 4–15–02; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 8, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paper Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on (202) 693–4129 or e-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Karen Lee, OMB Desk Officer for Department of Labor, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the property performance of the functions of the agency, including whether the information will have practical utility;
* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Office of the Assistant Secretary for Administration and Management (OASAM).

Type of Review: Extension of a currently approved collection.

Title: Applicant Background Questionnaire.

OMB Number: 1225–0072.

Frequency: On occasion.

Affected Public: Individuals or households and Federal Government.

Type of Response: Voluntary reporting.

Number of Respondents: 3,000.

Number of Annual Responses: 3,000.

Estimated Time per Response: 5 minutes.

Total Burden Hours: 250.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The U.S. Department of Labor (DOL) provides a wide range of services to a diverse American workforce. As part of its obligation to provide equal employment opportunities, DOL is charged with ensuring that qualified individuals in groups that have historically been underrepresented in various employments are included in applicant pools for Department positions [*See* 5 U.S.C. 7201(c); 29 U.S.C. 791; 5 CFR 720.204]. To achieve this goal, DOL employment offices have targeted recruitment outreach to a variety of sources. Included in these sources are educational institutions that historically serve a high concentration of minorities, women, and persons with disabilities. Outreach efforts are also extended to professional organizations, newspapers and magazines, as well as participation in career fairs and conferences, many of which reach high concentrations of Hispanics, Blacks, Native Americans, and persons with disabilities.

Without the information from this collection, DOL does not have the ability to evaluate the effectiveness of any of these targeted recruiting strategies because collection of racial and ethnic information only would occur at the point of hiring. DOL needs to collect data on the pools of applicants which result from the various targeted recruiting strategies listed above. With the information from this collection, DOL can adjust and redirect its targeted recruitment to ensure that the applicant pools contain candidates from historically underrepresented groups.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–9198 Filed 4–15–02; 8:45 am]

BILLING CODE 4510–23–M

MEDICARE PAYMENT ADVISORY COMMISSION

Commission Meeting

AGENCY: Medicare Payment Advisory Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission will hold its next public meeting on Thursday, April 25, 2002, and Friday, April 26, 2002, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW, Washington, DC. The meeting is tentatively scheduled to begin at 10 a.m. on April 25, and 9 a.m. on April 26.

Topics for discussion include: Coverage of nonphysician practitioners, payment for non-physician practitioners; beneficiaries' access to Medicare hospice care; assessing the Medicare benefit package: Successes, challenges and options for change; proposed prospective payment system for long-term care hospitals; quality in traditional Medicare; risk-adjustment in Medicare+Choice; and state-level variations in Medicare spending: preliminary observations. Agendas will be mailed on April 16, 2002. The final agenda will be available on the Commission's Web site (*www.MedPAC.gov.*)

ADDRESSES: MedPAC's address is: 1730 K Street, NW., Suite 800, Washington, DC 20006. The telephone number is (202) 653–7220.

FOR FURTHER INFORMATION CONTACT: Diane Ellison, Office Manager, (202) 653–7220.

Murray N. Ross,

Executive Director.

[FR Doc. 02–9176 Filed 4–15–02; 8:45 am]

BILLING CODE 6820–BW–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

April 3, 2002.

TIME AND DATE: 10 a.m., Thursday, April 11, 2002.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Watkins Engineers and Constructors, Docket Nos. WEST 99–280–M, etc. (Issues include whether the judge erred in determining that (a) the Lyons Cement plant falls within the jurisdiction of the Mine Act and (b) Congress' grant of authority to the Secretary of Labor in section 3(h)(1) of the Mine Act to construe the word ''milling'' is not an unconstitutional delegation of legislative power).

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 02–9299 Filed 4–12–02; 12:26 pm]

BILLING CODE 6735–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–050)]

Submission for OMB Review; Comment Request

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). The purpose of this collection is to measure the effectiveness of interventions and improvements in general aviation safety.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: National Aviation Operations Monitoring Service.

OMB Number: 2700–0099.

Type of review: Extension.

Need and Uses: The information developed by the National Aviation Operations Monitoring Service will be used by NASA Aviation Safety Program managers to evaluate the progress of their efforts to improve aviation over the next decade.

Affected Public: Individuals or households.

Number of Respondents: 8,000.

Responses Per Respondent: 1.

Annual Responses: 8,000.

Hours Per Request: Approximately ½ hour.

Annual Burden Hours: 5,455.

Frequency of Report: Quarterly; annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–9107 Filed 4–15–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–049)]

NASA Advisory Council, Earth Systems Science and Applications Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council (NAC), Earth Systems Science and Applications Advisory Committee (ESSAAC).

DATES: Tuesday, May 7, 2002, 8:30 a.m. to 5:30 p.m.; and Wednesday, May 8, 2002, 8:30 a.m. to 5:30 p.m.

ADDRESSES: Channel Inn Hotel, 650 Water Street SW, Captain's Room, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Williams, Code Y, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0241.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Welcome/Introduction/Logistics
—State of the Enterprise/Discussion
—Remarks from NASA Administrator/Discussion
—Office of Earth Science (OES) Actions to Implement Agency Priorities
—FY 03 Budget
—Earth Observing System Data and Information System (EOSDIS)
—Summary of first day
—Science Roadmaps and Research Strategy Revision
—Center Management Discussion
—Applications Strategy & Next Steps
—Solid Earth Science Working Group Update
—Committee Deliberations/Writing Session

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors' register.

Dated: April 10, 2002.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–9106 Filed 4–15–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes a three-year generic clearance to conduct user satisfaction research for our Internet sites. The information will be used to better understand customer needs, identify areas of our Internet sites requiring improvement in either content or delivery, quantify the effectiveness/efficiency of current tools and delivery, and align web offerings with identified user needs. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before June 17, 2002, to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–837–3213; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–837–3213.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways, including the use of information technology, to minimize the burden of the collection of information on respondents. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Generic clearance for user satisfaction research on Internet sites.

OMB number: 3095–NEW.

Agency form number: N/A.

Type of review: Regular.

Affected public: Individuals and households.

Estimated number of respondents: 4,000.

Estimated time per response: 5 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 333 hours.

Abstract: This is a request for a three-year generic clearance to conduct user satisfaction research for our Internet sites. This effort is made according to Executive Order 12862, which directs Federal agencies that provide significant services directly to the public to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.

Dated: April 9, 2002.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 02–9175 Filed 4–15–02; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 31, General Domestic Licenses for Byproduct Material.

2. *Current OMB approval number:* 3150–0016.

3. *How often the collection is required:* Reports are submitted as events occur. Registration certificates may be submitted at any time. Changes to the information on the registration certificate are submitted as they occur.

4. *Who is required or asked to report:* Persons receiving, possessing, using, or transferring byproduct material in certain items.

5. *The number of annual respondents:* Approximately 7,600 NRC general licensees and 22,800 Agreement State general licensees.

6. *The number of hours needed annually to complete the requirement or request:* 45,825 (10,393 hours for NRC licensees [1902 recordkeeping and 8491 reporting or an average of 0.6 hours per response] and 35,432 hours for Agreement State licensees [5705 recordkeeping and 29,727 reporting or an average of 0.5 hours per response].

7. *Abstract:* 10 CFR part 31 establishes general licenses for the possession and use of byproduct material in certain items and a general license for ownership of byproduct material. General licensees are required to keep records and submit reports identified in Part 31 in order for NRC to determine with reasonable assurance that devices are operated safely and without radiological hazard to users or the public.

Submit, by June 17, 2002, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike, Rockville, MD. OMB clearance requests are available at the NRC World Wide Web Site (*http://www.nrc.gov/public-involve/doc-comment/omb/index.html*). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E–6, Washington, DC, 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 10th day of April, 2002.

For the Nuclear Regulatory Commission.

Beth C. St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–9188 Filed 4–15–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285]

Omaha Public Power District (OPPD), Fort Calhoun Station, Unit 1; Notice of Receipt of Application for Renewal of Facility Operating License No. DPR–40 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering an application for the renewal of Operating License No. DPR–40, which authorizes the Omaha Public Power District to operate Fort Calhoun Station, Unit 1 (FCS), at 1500 megawatts thermal. The renewed license would authorize the applicant to operate FCS for an additional 20 years beyond the period specified in the current license or forty years from the date of issuance of the new license, whichever occurs first. The current operating license for FCS expires on August 9, 2013.

The Omaha Public Power District submitted an application to renew the operating license for FCS, on January 11, 2002. A Notice of Receipt of Application, ''Omaha Public Power District (OPPD), Fort Calhoun Station, Unit 1; Notice of Receipt of Application for Renewal of Facility Operating License Nos. DPR–40 for an Additional 20-Year Period,'' was published in the **Federal Register** on February 12, 2002 (67 FR 6551).

The NRC staff has determined that the Omaha Public Power District has submitted information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c) that is complete and acceptable for docketing. The current Docket No. 50–285 for Operating License No. DPR–40, will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. In accordance with 10 CFR 54.29, the NRC will issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB) and that any changes made to the plant's CLB comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants'' (May 1996). Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. The

Commission also intends to hold public meetings to discuss the license renewal process and the schedule for conducting the review. The Commission will provide prior notice of these meetings. As discussed further herein, in the event that a hearing is held, issues that may be litigated will be confined to those pertinent to the foregoing.

By May 15, 2002, the applicant may file a request for a hearing, 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 with respect to the renewal of the licenses in accordance with the provisions of 10 CFR 2.714. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, 11555 Rockville Pike (first floor) Rockville, Maryland, and on the NRC Web site at *http://www.nrc.gov* (the Electronic Reading Room). If a request for a hearing or a 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(s) and/or petition(s), and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed by the above date, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the licenses without further notice.

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, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must 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 that may be entered in the proceeding on the petitioner's interest. The petition must 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 before 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 before the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. 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 each contention and a concise statement of the alleged facts or the expert opinion that supports 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. The 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 action under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that 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.

Requests for a hearing and petitions for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, 11555 Rockville Pike (first floor), Rockville, Maryland, 20852–2738, by the above date. A copy of the request for a hearing and the petition to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Ross T. Ridenoure, Division Manager—Nuclear Operations, Omaha Public Power District, Fort Calhoun Station FC–2–4 Adm, Post Office Box 550, Fort Calhoun, Nebraska, 68023–0550.

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 the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Detailed information about the license renewal process can be found under the nuclear reactors' icon of the NRC's Web page at *http://www.nrc.gov.*

A copy of the application is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or on the NRC Web site from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html.* The staff has verified that a copy of the license renewal application for Fort Calhoun Station, Unit 1 has been provided to the Blair Public Library located in Blair, Nebraska, and the W. Dale Clark Library in Omaha, Nebraska.

Dated at Rockville, Maryland, the 11th day of February 2002.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 02–9189 Filed 4–15–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of April 15, 22, 29, May 6, 13, 20, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 15, 2002

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—Ex. 1)

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.

Week of May 13, 2002—Tentative

Thursday, May 16, 2002

9:25 a.m.
Affirmation Session (Public Meeting) (If needed)
9:30 a.m.
Meeting with World Association of Nuclear Operators (WANO) (Public Meeting)
This meeting will be webcast live at the Web address—*www.nrc.gov*
2:00 p.m.
Discussion of Intragovernmental Issues (Closed—Ex. 9)

Week of May 20, 2002—Tentative

There are no meetings scheduled for the Week of May 20, 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.

Additional Information

By a vote of 5–0 on April 4 and 5, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Discussion of Security Issues (Closed—Ex. 1)'' be held on April 8, and on less than one week's notice to the public.

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: April 11, 2002.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 02–9300 Filed 4–12–02; 12:26 pm]

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 22, 2002 through April 4, 2002. The last biweekly notice was published on April 2, 2002 (67 FR 15619).

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 16, 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/adams.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.*

Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendments request: January 31, 2002.

Description of amendments request: The proposed amendments would change the method of verifying the boron concentration of each safety injection tank. Rather than taking a sample from each tank every 31 days, the proposed change would require leakage into the tanks to be monitored every 12 hours and a sample be taken every 6 months.

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. Would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Boron concentration is controlled in the safety injection tanks (SITs) to prevent either excessive boron concentrations or insufficient boron concentrations. Post-loss-of-coolant accident (LOCA) emergency procedures directing the operator to establish simultaneous hot and cold leg injection are based on the worst case minimum boron precipitation time. Maintaining the maximum SIT boron concentration within the upper limit ensures that the SITs do not invalidate this calculation. The minimum boron requirements of 2300 ppm [parts per million] are based on beginning-of-life reactivity values and are selected to ensure that the reactor will remain subcritical during the reflood stage of a large break LOCA. During a large break LOCA, all control element assemblies are assumed not to insert into the core, and the initial reactor shutdown is accomplished by void formation during blowdown.

Sufficient boron concentration must be maintained in the SITs to prevent a return to criticality during reflood. Level and pressure instrumentation is provided to monitor the availability of the tanks during plant operation.

The Technical Specification Surveillance Requirement (SR 3.5.1.4) verifies that the boron concentration remains within the required range by sampling. Currently, the boron concentration in each SIT is required to be verified by taking a sample of the water in the SIT every 31 days. A containment entry is required to take a sample from each of the four SITs. In addition, the boron concentration of the water added to the SITs is also sampled at the discharge of the high pressure safety injection pump to ensure that the water being added to the SITs is within the required boron concentration limits prior to being added. All intentional sources of level increase have their boron concentrations administratively maintained to ensure that the SIT boron concentrations are within Technical Specification limits. However, the Reactor Coolant System boron concentration is lower during power operation than the boron concentration in the SITs. Two check valves in series prevent leakage from the Reactor Coolant System into the SITs.

This proposed amendment would require inleakage monitoring to be done every twelve hours in addition to taking samples from each SIT every six months. Samples would continue to be taken to verify the inleakage observations remain conservative. In addition, the requirement to sample the discharge of the operating high pressure safety injection pump prior to filling the SIT would remain.

As noted above, the SITs are used only to respond to an accident and are not an accident initiator. Therefore, the probability of an accident has not increased.

The engineering analysis and risk insights combine to demonstrate that the method of SIT boron concentration verification can be changed from sampling very 31 days to monitoring inleakage every twelve hours and sampling every six months. The inleakage monitoring is based on a calculation method that has sufficient conservatism to predict the boron concentration of the SITs as shown by sample. Therefore, the SITs would remain capable of responding to an accident as described above and the consequences of an accident previously evaluated are not increased.

Therefore the probability or consequences of an accident previously evaluated are not increased.

2. Would not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

The proposed change does not alter the function of any equipment, nor has it to operate differently than it was designed to operate. All equipment required to mitigate the consequences of an accident would continue to operate as before. The proposed change alters the method of verification of the SIT boron concentration, but not the boron concentration requirements themselves.

Therefore, this change does not create the possibility of a new or different [kind] of accident from any accident previously evaluated.

3. Would not involve a significant reduction in a margin of safety.

The margin of safety defined by 10 CFR [Code of Federal Regulations] Part 100 has not been significantly reduced. The inleakage monitoring done to verify the concentration of boron in the SITs, is sufficiently conservative to ensure that the boron concentration would be underpredicted, leading to attempts to increase the boron concentration or a need to sample the affected SIT. Sampling of the SITs every six months will continue to be done to ensure that the inleakage monitoring remains conservative and representative. Water added to the SITs will also continue to be sampled to ensure that it meets the minimum boron concentrations. If the boron concentration is maintained in the SITs, the system operates as assumed in the Updated Final Safety Analysis Report Chapter 14 analyses and the analyses continue to meet the dose consequences acceptance criteria given in the Updated Final Safety Analysis Report.

Therefore, this 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 amendments request involves no significant hazards consideration.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Joel Munday, Acting.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: February 21, 2002.

Description of amendment request: The proposed amendment involves changes to the Fermi 2 Updated Final Safety Analysis Report (UFSAR) and Technical Requirements Manual which is incorporated by reference in the UFSAR to eliminate the chlorine detection function from the control room heating, ventilation, and air conditioning system. Changes to the UFSAR are subject to the requirements of 10 CFR 50.59; however, these changes are being submitted for Nuclear Regulatory Commission (NRC) review and approval since they involve the elimination of an automatic action in accordance with the Nuclear Energy Institute guidance document 96–07, Revision 1.

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 change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The chlorine detection system was originally added to the plant design when it was assumed that a chlorine rail car would be located on site for use in water treatment purposes; however, one-ton chlorine cylinders were used instead. In 1992, the use of chlorine for on site water treatment was discontinued. There is no chlorine stored on site and no significant amounts are stored at any other facility within the 5-mile radius of the plant. The only credible accident involving a chlorine release that could be carried into the control room is from a chlorine rail car accident on the three railroad tracks 3.4 to 3.8-miles away from the site. The probability of a rail car accident and spill of chlorine is not affected by the removal of the chlorine detectors located in the normal air intake for the CCHVAC [control room heating, ventilation and air conditioning] system; therefore, only the consequences of the event must be addressed as a result of the proposed change.

The chlorine detectors in the control room ventilation air intake are intended to provide protection to the control room occupants in the event of an accidental offsite chlorine release. Detroit Edison has performed a probabilistic risk assessment to determine the probability of reaching toxic chlorine concentration levels of 10 parts per million in the control room as a result of a chlorine railcar accident and spill within 5 miles of the plant. The probability analysis took no credit for any automatic or manual action to

isolate the control room. The results of the analysis show that the total probability of 8.4E–07 per year is below the 1.0E–06 threshold specified in Regulatory Guide (RG) 1.78, Revision 1. Therefore, since the probability analysis results meet the RG criteria, the elimination of the chlorine detection function will not significantly increase the consequences of an offsite chlorine release.

2. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The probabilistic risk assessment evaluation demonstrates that the likelihood of creating hazardous conditions in the control room as a result of a chlorine accident is very small. RG 1.78, Revision 1, states that events of such low frequencies do not need to be considered in the plant design because the resultant low levels of radiological risk are considered acceptable. The probabilistic assessment assumed no automatic or manual action to isolate the control room or to filter outside air before it is discharged in the control room. The evaluation did not rely on any structure, system or component to perform a specific function; therefore, the elimination of the chlorine detection system does not create the potential for a new or different kind of accident from any accident previously evaluated.

3. The change does not involve a significant reduction in the margin of safety.

The elimination of the chlorine detection system will not affect the protection of the control room operators from the hazard of an offsite chlorine release. No significant amounts of chlorine are stored within 5 miles of the plant and the only chlorine accident risk is from a railroad car accident over 3 miles away. The probabilistic evaluation demonstrates the low risk associated with a chlorine accident that would incapacitate the operators such that their functions in mitigating a radiological event are impacted. Since the Regulatory Positions in RG 1.78, Revision 1 are satisfied, deletion of the chlorine detection system will 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: Peter Marquardt, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Section Chief: William D. Reckley, Acting.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: February 5, 2002

Description of amendment request: The proposed amendment would revise the surveillance requirements associated with the Containment Isolation Valves (CIVs), Reactor Building Closed Cooling Water (RBCCW) System, and Service Water (SW) System. The proposed changes would remove redundant testing requirements that are already addressed by the Inservice Testing (IST) Program, which is required pursuant to Technical Specification 4.0.5, and would use Technical Specification 4.0.5 to control the specific acceptance criteria and frequency of test performance. Additional proposed changes would remove the post maintenance testing requirements associated with the CIVs, revise the wording of the RBCCW and SW Systems Limiting Conditions for Operation, and increase the allowed outage times for the RBCCW and SW Systems.

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. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification changes associated with the limiting condition for operation requirements, surveillance requirements, and allowed outage times will not cause an accident to occur and will not result in any change in the operation of the associated accident mitigation equipment. The ability of the equipment associated with the proposed changes to mitigate the design basis accidents will not be affected. The proposed changes to the limiting condition for operation requirements will not affect the equipment operability requirements. The proposed surveillance requirements are adequate to ensure proper operation of the associated accident mitigation equipment. Proper operation of the containment isolation valves will still be verified, as appropriate, following maintenance activities. The proposed allowed outage times are reasonable and consistent with standard industry guidelines to ensure the accident mitigation equipment will be restored in a timely manner. The design basis accidents will remain the same postulated events described in the Millstone Unit No. 2 Final Safety Analysis Report, and the consequences of those events will not be affected. Therefore, the proposed changes will not increase the probability or consequences of an accident previously evaluated.

The additional proposed changes to the Technical Specifications (e.g., combining requirements, deleting an expired footnote, and renumbering a requirement) will not result in any technical changes to the current requirements. Therefore, these additional proposed changes will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the Technical Specifications do not impact any system or component that could cause an accident. The proposed changes will not alter the plant configuration (no new or different type of equipment will be installed) or require any unusual operator actions. The proposed changes will not alter the way any structure, system, or component functions, and will not alter the manner in which the plant is operated. There will be no effect on plant operation or accident mitigation equipment. The response of the plant and the operators following an accident will not be different. In addition, the proposed changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. Involve a significant reduction in a margin of safety.

The proposed Technical Specification changes associated with the limiting condition for operation requirements, surveillance requirements, and allowed outage times will not cause an accident to occur and will not result in any change in the operation of the associated accident mitigation equipment. The equipment associated with the proposed Technical Specification changes will continue to be able to mitigate the design basis accidents as assumed in the safety analysis. The proposed surveillance requirements are adequate to ensure proper operation of the affected accident mitigation equipment. The proposed allowed outage times are reasonable and consistent with standard industry guidelines to ensure the accident

mitigation equipment will be restored in a timely manner. In addition, the proposed changes will not affect equipment design or operation, and there are no changes being made to the Technical Specification required safety limits or safety system settings. The proposed Technical Specification changes, in conjunction with existing administrative controls (e.g., IST Program), will provide adequate control measures to ensure the accident mitigation functions are maintained. Therefore, the proposed changes will not result in a reduction in a margin of safety.

The additional proposed administrative changes to the Technical Specifications (e.g., combining requirements, deleting an expired footnote, and renumbering a requirement) will not result in any technical changes to the current requirements. Therefore, these additional changes will not result in a 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: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Waterford, CT 06385.

NRC Section Chief: James W. Clifford.

Dominion Nuclear Connecticut, Inc., Docket Nos. 50–336 and 50–423, Millstone Nuclear Power Station, Unit Nos. 2 and 3, New London County, Connecticut

Date of amendment request: February 14, 2002.

Description of amendment request: The proposed Technical Specification (TS) changes will relocate selected Millstone Units 2 and 3 TSs related to the Reactor Coolant System (RCS) and Plant Systems to the Technical Requirements Manual (TRM). The proposed TSs for Unit 2 include 3/4.4.9.1, ''Pressure/Temperature Limits,'' 3/4.7.2, ''Steam Generator Pressure/Temperature Limitation,'' 3/4.7.5, ''Flood Level,'' 3/4.7.7, ''Sealed Source Contamination,'' 3/4.7.8, ''Snubbers,'' and related Tables, Figures, and Bases sections. The proposed TSs for Unit 3 include 3/4.4.9.1, ''Pressure/Temperature Limits,'' 3/4.7.2, ''Steam Generator Pressure/Temperature Limitation,'' 3/4.7.6, ''Flood Protection,'' 3/4.7.10, ''Snubbers,'' 3/4.7.11, ''Sealed Source Contamination,'' 3/4.7.14, ''Area Temperature Monitoring,'' and corresponding Tables, Figures, and Bases sections.

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. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed technical specification changes will relocate to the TRM the following items: surveillance requirements for the withdrawal of reactor vessel material irradiation specimens of Millstone Unit Nos. 2 and 3 which are part of the Pressure/Temperature Limits technical specifications, Millstone Unit Nos. 2 and 3 technical specifications covering Steam Generator Pressure/Temperature Limitation, Flood Level, Sealed Source Contamination, and Snubbers. Also the Millstone Unit No. 3 technical specification covering Area Temperature Monitoring will be relocated to the TRM. Since the relocated requirements remain the same, the proposed changes will have no effect on plant operation, or the availability or operation of any accident mitigation equipment. Therefore, the relocation of the requirements associated with these technical specifications will not impact an accident initiator and cannot cause an accident. These changes will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed technical specification changes will relocate the requirements of selected Millstone Unit Nos. 2 and 3 technical specifications as described above to the TRM. The proposed changes do not alter the plant configuration (no new or different type of equipment will be installed) or require any new or unusual operator actions. Since the requirements remain the same, the proposed changes do not alter the way any system, structure, or component functions and do not alter the manner in which the plant is operated. The proposed changes do not introduce any new failure modes. Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed technical specification changes will relocate to the TRM the following items: surveillance requirements for the withdrawal of reactor vessel material irradiation specimens of Millstone Unit Nos. 2 and 3 which are part of the Pressure/Temperature Limits technical specifications, Millstone Unit Nos. 2 and 3 technical specifications covering Steam Generator Pressure/Temperature Limitation, Flood Level, Sealed Source Contamination, and Snubbers. Also the Millstone Unit No. 3 technical specification covering Area Temperature Monitoring will be relocated to the TRM. Since the proposed changes are solely to relocate the existing requirements, the proposed changes will have no effect on plant operation, or the availability or operation of any accident mitigation equipment. The plant response to the Design Basis Accidents will not change. Therefore, there will be no 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: Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Waterford, CT 06141–5127.

NRC Section Chief: James W. Clifford.

Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: March 15, 2002.

Description of amendment request: The proposed amendment would revise the Nine Mile Point Unit 1 Technical Specifications (TSs), Table 4.6.4, ''Shock Suppressors (Snubbers),'' consistent with the model snubber visual inspection and acceptance requirements conveyed in Generic Letter 90–09, ''Alternative Requirements for Snubber Visual Inspection and Corrective Actions.''

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 operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Snubbers are utilized at Nine Mile Point Unit 1 (NMP1) to ensure the

structural integrity of the reactor coolant system and other safety-related (as well as certain non-safety related) systems during and following a seismic event or other event initiating dynamic loads. The proposed change to the snubber visual inspection schedule is based on that delineated in NRC [Nuclear Regulatory Commission] Generic Letter (GL) 90–09, ''Alternative Requirements for Snubber Visual Inspection and Corrective Actions.'' This change does not modify any accident initiators or change any equipment or procedures used to limit the consequences of any accidents previously evaluated.

Accordingly, the proposed amendment will not significantly increase the probability or consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

No physical modifications are being made to any snubbers or to any systems supported by snubbers by this proposed amendment. No method of plant or system operation is varied by use of the alternate snubber visual inspection schedule delineated in GL 90–09. Only the method utilized to determine future surveillance intervals for snubber visual inspections based on the previous inspection results is changed by the proposed amendment. This method was developed and published by the NRC in GL 90–09 for generic application at nuclear power plants.

Accordingly, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of Nine Mile Point Unit 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

In GL 90–09, the NRC staff determined that use of the alternate snubber visual inspection schedule by nuclear power plants will maintain the same level of confidence as the previous schedule required by the plants' Technical Specifications. GL 90–09 also recognized that snubber visual inspection is a complementary process to snubber functional testing and provides additional confidence in snubber operability. Snubber functional testing is not being modified by this proposed amendment.

Therefore, the proposed change will not adversely affect any structure, system, component, or function that is safety-related or important to safety. Accordingly, the proposed amendment will 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: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: Joel Munday, Acting.

Nuclear Management Company, LLC, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: March 19, 2002.

Description of amendment request: The proposed amendment would revise the Kewaunee Nuclear Power Plant accident source term used for design basis radiological analyses.

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. Involve a significant increase in the probability or consequences of an accident previously evaluated.

Differences between the original source term and the proposed AST [accident source term] cannot affect the previously analyzed core damage frequency (CDF) and large early release frequency (LERF). Since there are no modifications proposed with this request for AST, Limiting Safety System Settings and Safety Limits specified in the Technical Specifications remain unchanged. Re-analysis of design basis accidents as described herein demonstrates that regulatory dose acceptance criteria continue to be satisfied. Thus, nothing in this proposal will cause an increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no physical changes to the plant associated with this request, and the plant conditions for which [Nuclear Management Company] (NMC) evaluated design-basis accidents remain valid. Consequently, this proposal introduces no new failure modes. Thus, this proposal does not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

The revised design-basis accident offsite and control-room dose-calculations proposed herein remain within regulatory acceptance criteria set forth in 10 CFR 100 and 10 CFR 50 Appendix A, General Design Criterion 19. They also use the TEDE [total effective dose equivalent] dose acceptance criteria as directed by the Commission. An acceptable margin of safety is inherent in the limits described thereby. Thus, changes proposed by this request 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: Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497.

NRC Section Chief: William D. Reckley, Acting.

Nuclear Management Company, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: February 28, 2002.

Description of amendment request: The proposed amendment would revise technical specifications (TS) 1.1, ''Definitions,'' ''CREFS Actuation Instrumentation,'' TS 3.4.16, ''RCS Specific Activity,'' TS 3.3.5, ''CREFS Actuation Instrumentation,'' TS 3.4.16, ''RCS Specific Activity,'' TS 3.7.9, ''CREFS,'' and TS 3.7.13, ''Secondary Specific Activity,'' and delete TS 3.9.3, ''Containment Penetrations.''

The accident source term used in the selection of the design-basis offsite and control room dose analysis would be replaced by the implementation of an alternative source term.

The specific TS changes would be as follows: (1) TS 1.1, ''Definitions:'' Revise the definition of L_a (containment leakage) by changing 0.4 percent to 0.2 percent. (2) TS 3.3.5, ''CREFS Actuation Instrumentation:'' Revise table 3.3.5–1 to indicate that either RE–101 or RE–235 must be operable to ensure that the control room radiation instrumentation necessary to initiate the CREFS emergency make-up mode is operable. Add the Control Room Area Monitor and Control Room Air Intake trip setpoints to Note ''d'' of table 3.3.5–1.

(3) TS 3.4.16, ''RCS Specific Activity:'' Revise LCO Action Condition A to indicate 1.0 μCi/gm as the maximum reactor coolant dose equivalent iodine 131 (DE I–131) value. Revise Figure 3.4.16–1 to indicate 60 μCi/gm DE I–131 as the maximum RCS limit for operations at or above 80 percent of rated thermal power. Revise SR 3.4.16.2 to verify 1.0 μCi/gm as the maximum reactor coolant DE I–131 value. (4) TS 3.7.9, ''CREFS:'' Delete SR 3.7.9.5. (5) TS 3.7.13, ''Secondary Specific Activity:'' Revise LCO 3.5.13 and SR 3.7.13 to indicate that the secondary specific activity shall be less than or equal to 0.1 μCi/gm. (6) TS 3.9.3, ''Containment Penetrations:'' Delete Section 3.9.3.

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. Involve a significant increase in the probability or consequences of any accident previously evaluated.

The Alternative Source Term (AST) and those plant systems affected by implementing the proposed changes to the TS are not accident initiators and cannot increase the probability of an accident. The AST does not adversely affect the design or operation of the facility in a manner that would create an increase [in] the probability of an accident. Rather, the AST is used to evaluate the dose consequences of a postulated accident. The revised dose calculations, except those for LOCA, use the values in the proposed TS. The limiting design bases accidents at PBNP have been evaluated for implementation of the AST.

These analyses have demonstrated that, with the proposed changes, the dose consequences meet the regulatory acceptance criteria of 10 CFR 50.67 and RG 1.183. A comparison of the current offsite dose calculations to the revised offsite dose calculations indicate that the proposed changes will not result in a significant increase in the predicted dose consequences for any of the analyzed accidents. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any of the selected previously analyzed accidents.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will not create the possibility for a new or different type of accident from any accident previously evaluated. Changes to the allowable activity in the primary and secondary systems do not result in changes to the design or operation of these systems. The evaluation of the effects of the proposed changes indicates that all design standard and applicable safety criteria limits are met.

The systems affected by the changes are used to mitigate the consequences of an accident that has already occurred. The proposed TS changes and modifications do not significantly affect the mitigative function of these systems. Equipment important to safety will continue to operate as designed. Component integrity is not challenged. The changes do not result in any event previously deemed incredible being made credible. The changes do not result in more adverse conditions or result in any increase in the challenges to safety systems.

Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The implementation of the proposed changes does not significantly reduce the margin of safety. These changes have been evaluated in the revisions to the analysis of the consequences of the design basis accidents for PBNP. The radiological analysis results in concert with the proposed TS changes, meet the regulatory acceptance criteria of 10 CFR 50.67 and RG 1.183. These acceptance criteria have been developed for the purpose of use in design basis accident analyses such that meeting these limits demonstrates adequate protection of public health and safety. The proposed changes will not degrade the plant protective boundaries, will not cause a release of fission products to the public and will not degrade the performance of any SSCs important to safety.

Therefore, the proposed changes to the TS would 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: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: William D. Reckley, Acting.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: February 2, 2001, supplemented August 31, 2001.

Description of amendment request: The proposed amendments would revise the technical specifications (TSs) to clarify the plant conditions under which various specifications are applicable. The licensee stated in its amendment request that a literal reading of the current technical specifications wording may result in situations where a routine plant shutdown would seem to be prohibited by TSs and, thereby, require entry into TS 3.0.C. This amendment request also makes several administrative changes to the TSs, including revising references to the Chief Nuclear Corporate Officer, capitalizing defined terms, and updating references to previously relocated TS paragraphs and correcting the List of Figures. The licensee's supplement to the amendment request, dated August 31, 2001, proposed a correction of a typographical error in TS Table 3.5–2B, Action 33.

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 operation of the facility with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes are administrative in nature and clarify existing specifications without reducing or altering the requirements imposed by existing specifications. The proposed changes do not significantly affect any system that is a contributor to initiating events for previously evaluated accidents. Neither do the changes significantly affect any system that is used to mitigate any previously evaluated accidents. Therefore, the proposed changes do not involve any significant increase in the probability or consequence of an accident previously evaluated.

2. Does operation of the facility with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature and clarify existing specifications without reducing or altering the requirements imposed by existing specifications. The proposed

changes do not alter the design, function, or operation of any plant component and do not install any new or different equipment, therefore a possibility of a new or different kind of accident from those previously analyzed has not been created.

3. Does operation of the facility with the proposed amendment involve a significant reduction in a margin of safety?

The proposed changes are administrative in nature and clarify existing specifications without reducing or altering the requirements imposed by existing specifications. Thus, the proposed change[s] do not involve a significant reduction in the margin of safety associated with the safety limits inherent in either the princip[al] barriers to a radiation release (fuel cladding, RCS [reactor coolant system] boundary, and reactor containment), or the maintenance of critical safety functions (subcriticality, core cooling, ultimate heat sink, RCS inventory, RCS boundary integrity, and containment integrity).

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: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: William D. Reckley, Acting.

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 amendment requests: March 11, 2002.

Description of amendment requests: The proposed amendment would revise the Technical Specifications (TSs) for San Onofre Nuclear Generating Station, Units 2 and 3. Specifically, TS Section 1.1, Definitions, would be revised to change the definition of response time testing as it is applied to the Engineered Safety Features, and the Reactor Protective System. The proposed change is based on approved Technical Specification Task Force (TSTF) Traveler TSTF–368, Revision 0, ''Incorporate Combustion Engineering Owners Group (CEOG) Topical Report to Eliminate Pressure Sensor Response Time Testing.''

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:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment to the Technical Specification (TS) Definitions for Engineered Safety Feature (ESF) Response Time and Reactor Protective System (RPS) Response Time allows substitution of an allocated sensor response time in lieu of measuring sensor response time. Response time testing is not an initiator of any accident previously evaluated. Further, overall system response time will continue to meet Technical Specification requirements. The allocated sensor response times allowed in lieu of measurement have been determined to adequately represent the response time of the components such that the safety systems utilizing those components will continue to perform their accident mitigation function as assumed in the safety analysis. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any 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 amendment to TS Section 1.1, ''Definitions,'' allows the substitution of an allocated sensor response time in lieu of sensor response time testing for selected components. 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. 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 proposed amendment to TS Section 1.1, ''Definitions,'' allows the substitution of an allocated sensor response time in lieu of measured sensor response time for certain pressure sensors. The allocated pressure sensor response times allowed in lieu of measurement have been determined to adequately represent the response time of the components such that the safety systems utilizing those components will continue to perform their accident mitigation function as assumed in the safety analysis. 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 requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Section Chief: Stephen Dembek.

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 4, 2002 (TS 00–04).

Brief description of amendments: The proposed amendment would change the Sequoyah (SQN) Unit 1 and 2 Technical Specification (TS) to relocate the current requirements for ice condenser ice bed temperature and inlet door position monitoring systems to the SQN Technical Requirements Manual (TRM). These relocated specifications are consistent with the latest version of the improved Standard TS (NUREG–1431). The affected functions have been evaluated in accordance with Title 10 of the *Code of Federal Regulations,* Section 50.36 (10 CFR 50.36) for applicability to the criteria for requirements that must be retained in the TS. In each case, the four criteria of 10 CFR 50.36 did not apply to these functions. This revision will provide better consistency between the SQN TS and NUREG–1431.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), 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 revision relocates the ice bed temperature monitoring system and the inlet door position monitoring system to the TRM. Relocation to the TRM continues to provide an acceptable level of applicability to plant operation and requires revisions to be processed in accordance with the provisions in 10 CFR 50.59. Evaluations of revisions in accordance with 10 CFR 50.59 will continue to ensure that these specifications adequately control the

functions of ice bed temperature and inlet door positions to maintain safe operation of the plant. These systems are not postulated to be the initiator of a design basis accident. Since there are no changes to these functions and their operation will remain the same, the probability of an accident is not increased by relocating these requirements to the TRM. Additionally, the accident mitigation capability and offsite dose consequences associated with accidents will not change because these functions will not be altered by the proposed relocation. Therefore, the consequences of an accident are not increased by this relocation to the TRM and the control of revisions to these specifications in accordance with 10 FR 50.59.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed revision will not alter the functions for the ice bed temperature or inlet door positions such that accident potential would be changed. The location of these specifications in the TRM and the performance of revisions in accordance with 10 CFR 50.59 will continue to maintain acceptable operability requirements. Therefore, the possibility of an accident of a new or different kind is not created by the proposed relocation and deletion.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed specification relocation will not affect plant setpoints or functions that maintain the margin of safety. This is based on the relocation to the TRM. The TRM continues to maintain the same level of operability requirements and surveillance testing to adequately ensure functionality of the ice bed temperature monitoring system and the inlet door position monitoring system. The TRM is controlled in accordance with requirements of 10 CFR 50.59. Therefore, the proposed relocation and deletion is acceptable and will not reduce the margin of safety.

The NRC 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.

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 4, 2002 (TS 01–03)

Brief description of amendments: The proposed amendment would change the Sequoyah (SQN) Unit 1 and 2 Technical Specifications (TSs) to delete one definition and modify several subsections contained in TS Section 6.0, Administrative Controls. These proposed changes have been prepared based on existing NRC guidance. The changes are being proposed in the following areas:

- Definition 1.17—''Member(s) of the Public.'' (NUREG–1431, Revision 2)
- TS 6.2.2.g, Overtime. (TS Travelers Form (TSTF)–258, Revision 4)
- TS 6.3, Facility Staff Qualifications. (TSTF–258, Revision 4)
- TS 6.8.4.a.ii, Primary Coolant Sources Outside Containment. (TSTF–299)
- TS 6.8.4.f, Radioactive Effluent Controls Program. (TSTF–258, Revision 4 and TSTF–308, Revision 1)
- TS 6.8.4.i, Deletion of the ''Configuration Risk Management Program.'' (10 CFR 50.65)
- The second paragraph in TS 6.9.1.5 associated with specific activity limits. (NUREG–1431, Revision 2)
- TS 6.9.1.14, Monthly Reactor Operating Report contents revision. (TSTF–258, Revision 4)
- TS 6.12, High Radiation Areas revision. (TSTF–258, Revision 4)
- TS 6.15, Deletion of Major Changes To Radioactive Waste Treatment Systems (Liquid, Gaseous, and Solid). (NUREG–1431, Revision 2)

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), 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 changes that involve the rewording or reformatting of the existing TSs do not involve technical changes. Therefore, this change is administrative and does not affect the initiators of analyzed events or assumed mitigation of accidents or transient events.

Three of the changes remove programs from TSs based on present regulatory controls. Specifically 10 CFR 50.59, 10 CFR 50.65, 10 CFR 50.71(e), 10 CFR 50.73, and Performance Indicator data. Based on the requirements residing in existing regulations it is acceptable to remove them from TS. Additionally, any changes to these programs will be evaluated based on regulatory requirements, no significant increase in the probability or consequences of an accident previously evaluated will be allowed.

Therefore, the proposed changes do 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 changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in methods governing normal plant operation. 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 proposed changes will not reduce the margin of safety because they have no effect on any safety analysis assumptions. Additionally, the proposed programs to be removed from TSs are contained in existing plant programs required by existing regulations. Since any future changes to these programs will be evaluated, no significant reduction in a margin of safety will be allowed.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, TVA concludes that the proposed amendment(s) present no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC 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.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: February 21, 2002.

Description of amendment request: The proposed amendment would revise Required Actions for Limiting Conditions for Operation (LCOs) 3.3.1, ''Reactor Trip System (RTS) Instrumentation;'' 3.4.5, ''RCS [Reactor Coolant System] Loops—MODE 3;'' 3.4.6, ''RCS Loops—MODE 4;'' 3.4.7, ''RCS Loops—MODE 5, Loops Filled;'' 3.4.8, ''RCS Loops—MODE 5, Loops Not Filled;'' 3.8.2, ''AC Sources—Shutdown;'' 3.8.5, ''DC Sources—Shutdown;'' 3.8.8, ''Inverters—Shutdown;'' 3.8.10, ''Distribution Systems—Shutdown;'' 3.9.3, ''Nuclear Instrumentation;'' 3.9.5, ''Residual Heat Removal (RHR) and Coolant Circulation—High Water Level;'' and 3.9.6, ''Residual Heat Removal (RHR) and Coolant Circulation—Low Water Level'' in the Wolf Creek Generating Station Technical Specifications (TSs). The Required Actions proposed would suspend operations involving positive reactivity additions or RCS boron concentration reductions. In addition, the proposed amendment would revise Notes, for several of the above LCOs, that preclude reductions in RCS boron concentration. This amendment would revise these Required Actions and LCO Notes to allow small, controlled, safe insertions of positive reactivity, but limit the introduction of positive reactivity such that compliance with the required shutdown margin or refueling boron concentration limits will still be satisfied.

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 change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance will remain within the bounds of the previously performed accident analyses since there are no hardware changes. The RTS instrumentation and reactivity control systems will be unaffected. Protection systems will continue to function in a manner consistent with the plant design basis. All design, material, and construction standards that were applicable prior to the request are maintained.

The probability and consequences of accidents previously evaluated in the USAR [Updated Safety Analysis Report] are not adversely affected because the changes to the Required Actions and LCO Notes assure the limits on SDM [shutdown margin] and refueling boron concentration continue to be met, consistent with the analysis assumptions and initial conditions included within the safety analysis and licensing basis. The activities covered by this amendment application are routine operating evolutions. The proposed changes do not reduce the capability of reborating the RCS.

The equipment and processes used to implement RCS boration or dilution evolutions are unchanged and the equipment and processes are commonly used throughout the applicable MODES under consideration. There will be no degradation in the performance of, or an increase in the number of challenges imposed on, safety-related equipment assumed to function during an accident situation. There will be no change to normal plant operating parameters or accident mitigation performance.

The proposed changes will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the USAR.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no hardware changes nor are there any changes in the method by which any safety-related plant system performs its safety function. This amendment will not affect the normal method of plant operation or change any operating limits. The proposed changes merely permit the conduct of normal operating evolutions when additional controls over core reactivity are imposed by the Technical Specifications. The proposed changes do not introduce any new equipment into the plant or alter the manner in which existing equipment will be operated. The changes to operating procedures are minor, with clarifications provided that required limits must continue to be met. No performance requirements or response time limits will be affected. These changes are consistent with assumptions made in the safety analysis and licensing basis regarding limits on SDM and refueling boron concentration.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

This amendment does not alter the design or performance of the 7300 Process Protection System, Nuclear Instrumentation System, or Solid State Protection System used in the plant protection systems.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not alter the limits on SDM or refueling boron concentration. The nominal trip setpoints specified in the Technical Specifications Bases and the safety analysis limits assumed in the transient and accident analyses are unchanged. None of the acceptance criteria for any accident analysis is changed.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems necessary to assure the accomplishment of protection functions. There will be no impact on the overpower limit, departure from nucleate boiling ratio (DNBR) limits, heat flux hot channel factor (F_Q), nuclear enthalpy rise hot channel factor ($F\Delta H$), loss of coolant accident peak cladding temperature (LOCA PCT), peak local power density, or any other margin of safety. The radiological dose consequence acceptance criteria listed in the Standard Review Plan will continue to be met.

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: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Stephen Dembek.

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/adams.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, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: June 7, 2001.

Brief description of amendment: The amendment revises the Oyster Creek Technical Specifications, Section 6.2.2.2.j, to allow either the Senior Manager-Operations or an Operations Manager to satisfy the Senior Reactor Operator-licensed requirement of this section.

Date of Issuance: March 25, 2002.

Effective date: March 25, 2002, and shall be implemented within 30 days of issuance

Amendment No.: 226.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* July 25, 2001 (66 FR 38757). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 25, 2002.

No significant hazards consideration comments received: No.

AmerGen Energy Company, LLC, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: April 6, 2001.

Brief description of amendment: The amendment allows the 24-month capacity test for the Diesel Generator Starting Batteries to be performed during plant shutdowns or during the 24-month on-line Diesel Generator inspection.

Date of Issuance: March 27, 2002.

Effective date: March 27, 2002 and shall be implemented within 30 days of issuance

Amendment No.: 227.

Facility Operating License No. DPR–16: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* June 12, 2001 (66 FR 31702). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 27, 2002.

No significant hazards consideration comments received: No.

Carolina Power & Light Company, Docket No. 50–325, Brunswick Steam Electric Plant, Unit 1, Brunswick County, North Carolina

Date of amendment request: September 18, 2001, as supplemented December 10, 2001, and March 5, 2002.

Description of amendment request: The amendment revises the Safety Limit Minimum Critical Power Ratio (SLMCPR) values contained in TS 2.1.1.2, and revises the SLMCPR values from 1.10 to 1.12 for two recirculation loop operation, and from 1.11 to 1.14 for single recirculation loop operation.

Date of issuance: March 22, 2002.

Effective date: March 22, 2002.

Amendment No.: 220.

Facility Operating License No. DPR–71: The amendment changes the Technical Specifications.

Date of initial notice in **Federal Register***:* October 17, 2001 (66 FR 52797). The December 10, 2001, and March 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 Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 22, 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: March 29, 2001.

Brief description of amendments: The amendments remove the NOTE that temporarily waived the upper limits of Technical Specifications 3.8.1.9; thus, these amendments restore the original requirements of Surveillance Requirement 3.8.1.9. In addition, these amendments reduce the time delay specified in TS 3.8.1.17 from 12 seconds to 5 seconds. These amendments will be implemented when the digital governor modifications have been implemented on both Keowee Hydroelectric Units.

Date of Issuance: March 20, 2002.

Effective date: As of the date of completion of digital governor modifications on both Keowee Hydroelectric Units, and shall be implemented within 30 days of the date of completion of such modifications, but no later than April 30, 2005.

Amendment Nos.: 322/322/323.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* May 2, 2001 (66 FR 22029). 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.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: October 2, 2001, as supplemented by letter dated January 31, 2002.

Brief description of amendment: The amendment changes the technical specifications definition of reactor trip system response time and engineered safety feature response time to allow use of either an allocated or a measured response time for select sensors in these two systems.

Date of issuance: March 26, 2002.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 239.

Facility Operating License No. NPF–6: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* October 31, 2001 (66 FR 55016). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 2002.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: October 2, 2001.

Brief description of amendment: The amendment relocates the Technical Specification requirement that the reactor core be subcritical for a minimum of 175 hours prior to discharge of more than 70 assemblies to the spent fuel pool, to the technical requirements manual.

Date of issuance: April 1, 2002.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment No.: 240.

Facility Operating License No. NPF–6: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* October 31, 2001 (66 FR 55016). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 2002.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: September 20, 2001.

Brief description of amendment: The amendment allows the one-time extension of the intervals for selected Technical Specification (TS) surveillance requirements associated with the volume control tank, residual heat removal system, emergency diesel generators, and shock suppressors (snubbers). In addition, the amendment: (1) Corrects the channel functional test interval in Items 3 and 4 of TS Table 4.10–2 and Items 4 and 5 of Table 4.10–4, (2) deletes the alternate inspection requirements for the steam generator snubbers, (3) removes the reference to a prior one-time extension of checks, calibrations, and tests for certain instrument channels in TS Table 4.1–1 that is no longer applicable.

The amendment would enable the tests to be performed during the next refueling outage starting no later than November 19, 2002.

Date of issuance: March 27, 2002.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 225.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* October 31, 2001 (66 FR 55014). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 2002.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: December 11, 2000, as supplemented on November 5 and December 7, 2001.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.1.F.2.a, ''Primary to Secondary Leakage,'' and TS 4.13.A.3.f, ''Steam Generator Tube Inservice Surveillance,'' based on the prior replacement of the steam generators (SGs). Specifically, the changes (1) revise the primary to secondary leakage limits and (2) delete the requirements associated with tube sleeve repair, SG tube denting, and F* repair classification and criteria. The associated TS Bases have been modified accordingly. In addition, the amendment includes several related administrative changes.

Date of issuance: April 2, 2002.

Effective date: As of the date of issuance to be implemented within 31 days.

Amendment No.: 226.

Facility Operating License No. DPR–26: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* January 24, 2001 (66 FR 7673). The November 5 and December 7, 2001, letters provided clarifying information that did not expand the application beyond the scope of the notice or change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 2002.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 9, 2001, as supplemented by letters dated October 23, 2001, January 17, and February 1, 2002.

Brief description of amendment: This Technical Specification (TS) change removes TS requirements that will no longer be applicable following replacement of the part-length control element assemblies with five-element full-length control element assemblies (CEAs) and removal of the four-element CEAs on the core periphery.

Date of issuance: March 21, 2002.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 182.

Facility Operating License No. NPF–38: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* August 8, 2001 (66 FR 41617). The supplement letters dated October 23, 2001, January 17, and February 1, 2002, 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 amendment is contained in a Safety Evaluation dated March 21, 2002.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 21, 2001, as supplemented by letters dated December 10, 2001, and January 16 and 21, 2002.

Brief description of amendment: This amendment authorizes changes to the Waterford Steam Electric Station, Unit 3, Operating License and Technical Specifications associated with an increase in the licensed power level from 3,390 Megawatts thermal (MWt) to 3,441 MWt. These changes are made possible by increased feedwater flow measurement accuracy to be achieved by utilizing high accuracy ultrasonic flow measurement instrumentation.

Date of issuance: March 29, 2002.

Effective date: As of the date of issuance and shall be implemented 60 days from the date of issuance.

Amendment No.: 183.

Facility Operating License No. NPF–38: The amendment revised the Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* October 31, 2001 (66 FR 55017). The supplement letters dated December 10, 2001, and January 16 and 21, 2002, 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 amendment is contained in a Safety Evaluation dated March 29, 2002.

No significant hazards consideration comments received: No.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Miami-Dade County, Florida

Date of application for amendments: January 16, 2002 as supplemented February 7, 2002.

Brief description of amendments: The amendments modified Technical Specification Surveillance Requirement 4.8.1.1.2.g.7 to permit performance of the required emergency diesel generator functional testing during power operation as an alternative to its performance during shutdown.

Date of issuance: March 21, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos: 221 and 215.

Facility Operating License Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register****:* February 5, 2002 (67 FR 5328). The licensee's February 7, 2002, supplemental information did not affect the original no significant hazards consideration determination, and did not expand the scope of the request as noticed on February 5, 2002.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 21, 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: August 6, 2001, as supplemented on November 2, 2001, and February 2, 2002.

Description of amendment request: The amendment changes the Technical Specifications Sections 1.9, ''Core Alterations,'' 1.14, ''Engineered Safety Features Response Time,'' and 1.29, ''Reactor Trip Response Time.''

Date of issuance: April 3, 2002.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 81.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register****:* November 28, 2001 (66 FR 59509). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 3, 2002.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: November 1, 2001.

Brief description of amendments: These amendments revise the Technical Specifications to allow a one-time extension of the allowed outage time for the control room emergency filtration system (CREFS) from 7 days to 30 days. The licensee requested this one-time change in order to implement modifications to CREFS.

Date of issuance: March 29, 2002.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos.: 203 and 208.

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register****:* November 28, 2001 (66 FR 59510). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 29, 2002.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhou Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: December 14, 2001.

Brief description of amendment: The amendment removes requirements for having the equipment hatch closed with four (4) bolts, and one door of the personnel access lock (PAL) closed during core alterations and refueling operations. The technical specifications (TS) for other containment penetrations were modified to be closed by an operable ventilation isolation actuation signal from one gaseous radiation monitor during core alterations and refueling operations. The amendment also modified the requirements for radiation monitors during core alterations and refueling operations. The TS Bases that were affected by the changes described above were modified. This amendment is based upon the alternate source term design basis site boundary and control room dose analyses previously reviewed and approved by the staff by Amendment No. 201 on December 14, 2001.

Date of issuance: March 26, 2002.

Effective date: March 26, 2002, and shall be implemented within 60 days from the date of its issuance. The implementation of the amendment requires the commitments made by the licensee in Attachment 4 of its December 14, 2001, letter and as discussed in the staff's safety evaluation. These commitments are to be in place prior to any core alterations or refueling operations.

Amendment No.: 204.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register****:* January 22, 2002 (67 FR 2926). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 26, 2002.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: December 14, 2001, as supplemented by letter dated March 21, 2002.

Brief description of amendment: The amendment revised Technical Specification 3.7(4) to allow the surveillance tests to be performed on a refueling frequency. In addition, the staff reviewed the documentation to correct the docket concerning inconsistencies in the 1973 Fort Calhoun Station (FCS) Safety Evaluation Report (SER) associated with the 13.8 kV transmission line capability associated with TS 3.7(4) in accordance with OPPD's request.

Date of issuance: March 26, 2002.

Effective date: March 26, 2002 , to be implemented within 30 days from the date of issuance.

Amendment No.: 205.

Facility Operating License No. DPR–40: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register****:* January 22, 2002 (67 FR 2927). The March 21, 2002, supplemental letter provided additional information that clarified the application, 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 26, 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: March 21, 2001, as supplemented by letter dated January 11, 2002.

Brief description of amendments: The amendments revise the operating license of each unit to delete those license conditions that have been completed and are no longer required and to make other corrections and editorial changes.

Date of issuance: March 27, 2002.

Effective date: March 27, 2002, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 2–185; Unit 3–176.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Facility Operating Licenses.

Date of initial notice in ***Federal Register****:* April 18, 2001 (66 FR 20009). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 27, 2002. The January 11, 2002, supplemental letter provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: August 25, 2000, as supplemented by letter dated November 2, 2001.

Brief description of amendments: The amendments revise the Updated Final Safety Analysis Report described offsite dose analyses based on changes to the letdown flow rate and iodine spike postulated concurrent with the Main Steam Line Break or a Steam Generator Tube Rupture.

Date of issuance: April 4, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 154/146.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Updated Final Safety Analysis Report.

Date of initial notice in ***Federal Register:*** March 7, 2001 (66 FR 13807). The supplement dated November 2, 2001, provided clarifying information that did not change the scope of the August 5, 2000, application nor the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 4, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of application for amendments: August 17, 2001, as supplemented December 14, 2001, and February 6, 2002.

Brief description of amendments: The amendments revised the pressure-temperature limits for the reactor pressure vessel.

Date of issuance: March 28, 2002.

Effective date: As of date of issuance, to be implemented within 60 days.

Amendment Nos.: 275 and 233.

Facility Operating License Nos. DPR–52 and DPR–68: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 19, 2001 (66 FR 48291). The December 14, 2001, and February 6, 2002, letters provided clarifying information that did not change the initial proposed no significant hazards consideration determination or 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 28, 2002.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of application for amendment: November 1, 2001, as supplemented March 15, 2002.

Brief description of amendment: The amendment revised the safety limit minimum critical power ratio values in Technical Specification 2.1.1.2.

Date of issuance: March 29, 2002.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 234.

Facility Operating License No. DPR–68: Amendment revised the technical specifications.

Date of initial notice in ***Federal Register:*** January 8, 2002 (67 FRN 933). The March 15, 2002, letter provided clarifying information that did not change the scope of the original amendment request or the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 2002.

No significant hazards consideration comments received: No.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: June 19, 2002, as supplemented by letters dated August 15, August 31, November 20, and December 17, 2001.

Brief description of amendments: The application, as supplemented, requested that the antitrust conditions, contained in Appenix C of Facility Operating Licenses Nos. NPF–87 and NPF–89 for Comanche Peak Steam Electric Station, Units 1 and 2, respectively, be deleted.

Date of issuance: March 22, 2002.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 94 and 94.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments delete Appendix C from the Licenses.

Date of initial notice in ***Federal Register:*** August 20, 2001 (66 FR 43595). The supplemental letters provided clarifying information that did not change the staff's proposed no significant hazards consideration determination or expand the application beyond the scope of the **Federal Register** notice.

The Commission's related evaluation of the amendments are contained in a Safety Evaluation dated March 22, 2002, and its attachment.

No significant hazards consideration comments received: No.

TXU Generation Company LP, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: October 25, 2001, as supplemented by letter dated February 18, 2002.

Brief description of amendments: The amendments revise Technical Specification (TS) 4.2.1, ''Fuel Assemblies,'' for Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, to allow the use of ZIRLO™ test assemblies and to further allow, ''* * * A limited number of lead test assemblies * * *be placed in non-limiting core regions.''

Date of issuance: March 26, 2002.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: 95 and 95.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** December 12, 2001 (66 FR

64306). The supplemental letter dated February 18, 2002, provided clarifying information that did not change the staff's original no significant hazards consideration determination or expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 2002.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: April 3, 2001, as supplemented by letters dated October 22 and December 18, 2001, and March 7, 2002.

Brief description of amendment: The amendment relocates certain reactor coolant system cycle-specific parameter limits from the technical specifications (TS) to the Core Operating Limits Report (COLR), and thus expands the COLR. Additionally, TS 5.6.5, ''Core Operating Limits Report (COLR),'' is revised to allow topical reports to be identified by title and number only.

Date of issuance: March 28, 2002.

Effective date: March 28, 2002, and shall be implemented, including relocating the requirements from the TSs to the COLR, as specified in the licensee's letters of April 3, October 22, and December 18, 2001, and March 7, 2002, and the Safety Evaluation attached to Amendment No. 144, prior to the startup from Refueling Outage 12, which is scheduled for the spring of 2002.

Amendment No.: 144.

Facility Operating License No. NPF–42: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register:*** May 2, 2001 (66 FR 22036) and February 5, 2002 (67 FR 5342). The March 7, 2002, supplemental letter provided additional clarifying information that did not expand the scope of the application as noticed and did not change the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 28, 2002.

No significant hazards consideration comments received: No.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

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 for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective 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 application for amendment, (2) the amendment to Facility Operating License, 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 Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.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, 304–415–4737 or by e-mail to *pdr@nrc.gov.*

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By May 16, 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 Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, and electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). 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. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

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 20555–001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, 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 20555–001, 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 the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Calvert Cliffs Nuclear Power Plant, Inc., Docket No. 50–318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of application for amendment: April 1, 2002.

Brief description of amendment: The amendment increases the allowed outage time of one train of the control room emergency ventilation system from 14 to 21 days (for the loss of the emergency power supply only). This is a one-time change to support corrective maintenance and inspections of the 1A diesel generator during the Unit 1 refueling outage.

Date of issuance: April 4, 2002.

Effective date: As of the date of issuance.

Amendment No.: 227.

Renewed License No. DPR–69: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No. The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration, are contained in a Safety Evaluation dated April 4, 2002.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 8th day of April 2002.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–8866 Filed 4–15–02; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27515; 70–10019]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

April 9, 2002.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s)

should submit their views in writing by May 6, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After May 6, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Xcel Energy Inc., et al. (70–10019)

Xcel Energy Inc. (''Xcel''), a registered holding company; Northern States Power Company (Minnesota) (''NSP–M''), Northern States Power Company (Wisconsin) (''NSP–W''), Public Service Company of Colorado (''PSCO''), and Southwestern Public Service Company (''SPS''), four wholly owned public utility subsidiary companies of Xcel; XERS Inc. (''XERS''), a nonutility subsidiary company of Xcel; Xcel Energy Markets Holdings Inc. (''XEMH''), an intermediate holding company of Xcel; and e prime inc. (''e prime''), a nonutility subsidiary company of Xcel, all located at 800 Nicollet Mall, Minneapolis, Minnesota 55402, (collectively, ''Applicants'') have filed an application-declaration (''Application'') with the Commission under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45 and 54 under the Act.

Applicants seek authority for: (a) NSP–M and PSCO to expand their appliance warranty and repair programs offered to residential customers to include home inspections and electrical and plumbing services; (b) NSP–W, SPS and XERS to offer similar home services to residential customers that NSP–M and PSCO offer, including the proposed home inspections and electrical and plumbing services; (c) XEMH, e prime and their current and future subsidiaries to engage in energy marketing and brokering activities in Canada; and XEMH, e prime and Xcel to invest up to $750 million in various energy assets that are incidental and related to their marketing and brokering business.

Expanded Home Services

NSP has operated an appliance warranty and repair program for several years that was approved as part of the Northern States Power/New Century Energies merger (HCAR No. 27212, August 16, 2000) (''Merger Order''). The program, called NSP Advantage Service, provides a warranty and repair program for residential customers for heating and air conditioning systems, water heaters, refrigerators, dishwashers and clothes washers. Similarly, PSCO provides repair services and warranties to residential customers in connection with certain household appliances. Additionally, PSCO may lease certain large appliances, such as heating, ventilation and air conditioning systems, lighting systems and chillers to industrial customers. PSCO's services were approved in a prior Commission order (HCAR No. 26748, August 1, 1997).

NSP–W and SPS desire to engage in residential services similar to those currently provided by NSP–M and PSCO; and all four of the utility subsidiaries, NSP–M, NSP–W, PSCO and SPS, desire to expand these services to include electrical and plumbing services as well as associated home inspections for customers in their service territories. Applicants state that the provision of electrical and plumbing services and home inspections is a logical extension of the current services they provide.

Applicants state that it may become desirable at some point to have these same types of residential services provided by an unregulated affiliate, such as XERS, either in lieu of, or in addition to, the utility subsidiaries providing these services. To the extent the provision of these services by XERS would not otherwise already be permitted under the Act, Applicants request authority for XERS to engage in the same residential services.

Energy Marketing and Brokering

In the Merger Order, the Commission authorized the retention of e prime's energy marketing and brokering business in the United States. At that time, e prime committed that it would not directly or indirectly engage in energy marketing and brokering activities outside the United States without separate Commission authorization. E prime is now seeking authority to engage in brokering and marketing of electricity, natural gas and other energy commodities in Canada.

Acquisition of Energy Assets

Xcel, XEMH and e prime request authority to invest, from time to time, directly or indirectly through their current or future subsidiaries up to $750 million (''Investment Limitation'') through December 31, 2005 (''Authorization Period'') to construct or acquire gas and other energy assets that are incidental and related to their energy marketing and brokering business (''Energy Assets'') or to acquire one or more existing or new companies substantially all of whose physical properties consist or will consist of Energy Assets. Applicants state that Energy Assets include, but are not limited to, natural gas production, gathering, processing, storage and transportation facilities and equipment; liquid oil reserves and storage facilities; and associated facilities. Energy Assets (or equity assets of companies owning Energy Assets) may be acquired for cash or in exchange for common stock of Xcel or other securities of Xcel or e prime or any combination of these. If common stock of Xcel is used as consideration for an acquisition, the market value of the stock on the date of issuance will be counted against the proposed Investment Limitation. Applicants state that under no circumstances will the acquisition and ownership of Energy Assets cause e prime or any subsidiary of e prime to be or become an ''electric utility company'' or a ''gas utility company,'' as defined in section 2(a)(3) and 2(a)(4) of the Act. Applicants state that gas marketers today must be able to offer their customers a variety of value-added, or ''bundled'' services, such as gas storage and processing, and must have the flexibility to acquire or construct such supply facilities in order to compete in today's market.

Applicants state that it is the intention of e prime to add to e prime's and its subsidiaries' existing base of non-utility, marketing-related assets as and when market conditions warrant, whether through acquisitions of specific assets or groups of assets that are offered for sale or by acquiring existing companies (for example, other gas or power marketing companies which own significant physical assets in the areas of gas production, processing, storage, transportation or generation). Applicants state that it is e prime's objective to control a substantial portfolio of Energy Assets that would provide the Xcel system with the flexibility and capacity to compete for sales in all major markets in the United States and in Canada.

Xcel requests authorization to issue securities in order to finance the purchase or construction of Energy Assets or the purchase of the securities of companies owning Energy Assets in an aggregate amount not to exceed the Investment Limitation. These securities might consist of any combination of (i) shares of common stock of Xcel, (ii) borrowings by Xcel from banks or other financial institutions under credit lines

or otherwise, (iii) guarantees by Xcel of indebtedness issued by e prime or any existing or new subsidiary of e prime, or (iv) guarantees by Xcel of securities issued by any special purpose financing subsidiary of Xcel organized specifically for the purpose of financing any such acquisition. The maturity dates, interest rates, and other provisions of any securities issued and sold as well as any associated commitment, placement, underwriting or selling agent fees, commissions and discounts will be established by negotiation or competitive bidding and will be reflected in the applicable documentation setting forth the terms. Xcel, however, will not issue and sell any securities at interest rates in excess of those generally obtainable at the time of pricing or repricing for securities having the same or reasonably similar maturities; having reasonably similar terms, conditions and features; and being issued by utility companies or utility holding companies of the same or reasonably comparable credit quality as determined by the competitive capital markets.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9148 Filed 4–15–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25517; 812–12414]

AssetMark Funds and AssetMark Investment Services, Inc.; Notice of Application

April 9, 2002.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 15(a) of the Act and rule 18f-2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF THE APPLICATION: AssetMark Funds (the ''Trust'') and AssetMark Investment Services, Inc. (the ''Advisor'') (together, ''Applicants'') request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and grant relief from certain disclosure requirements.

FILING DATES: The application was filed on January 16, 2001, and amended on April 9, 2002.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 3, 2002, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW, Washington, DC 20549–0609. Applicants, 2300 Contra Costa Blvd., Suite 425, Pleasant Hill, CA 94523–3967.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 942–0581, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW, Washington, DC 20549–0102 (telephone (202 942–8090).

Applicants' Representations

1. The Trust, a Delaware business trust, is registered under the Act as an open-end management investment company. The Trust currently is comprised of eight series (each a ''Fund,'' collectively, the ''Funds''), each with its own investment objectives and policies.[1]

2. The Advisor, registered under the Investment Advisers Act of 1940 (the ''Advisers Act''), serves as the investment adviser to the Funds pursuant to an investment advisory agreement with the Trust (''Advisory Agreement'') that was approved by the board of trustees of the Trust (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Trustees''), and by each Fund's initial shareholder. Under the terms of the Advisory Agreement, the Advisor provides investment advisory services for each Fund and may hire one or more subadvisers (''Managers'') to exercise day-to-day investment discretion over the assets of the Fund pursuant to separate investment advisory agreements (''Management Agreements''). All current and future Managers will be registered under the Advisers Act or exempt from registration. Managers are recommended to the Board by the Advisor and selected and approved by the Board, including a majority of the Independent Trustees. The Advisor compensates each Manager out of the fees paid to the Advisor by the applicable Fund.

3. Subject to Board review, the Advisor selects Managers for the Funds, monitors and evaluates Manager performance, and oversees Manager compliance with the Funds' investment objectives, policies, and restrictions. The Advisor recommends Managers based upon research, the recommendations of consultants, and a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives. The Advisor also recommends to the Board whether a Manager's Management Agreement should be renewed, modified or terminated.

4. Applicants request relief to permit the Advisor, subject to Board approval, to enter into and materially amend Management Agreements without shareholder approval. The requested relief will not extend to a Manager that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or the Advisor, other than by reason of serving as a Manager to one or more of the Funds (an ''Affiliated Manager'').

5. Applicants also request an exemption from the various disclosure provisions described below that may require the Funds to disclose the fees paid by the Advisor to the Managers. An exemption is requested to permit the Trust to disclose for each Fund (as both a dollar amount and as a percentage of a Fund's net assets): (a) aggregate fees paid to the Advisor and Affiliated Managers; and (b) aggregate fees paid to Managers other than Affiliated Managers (''Aggregate Fee Disclosure''). For any Fund that employs an Affiliated

[1] Applicants also request relief with respect to future series of the Trust and any other registered open-end management investment companies and their series that in the future (a) are advised by the Advisor or any entity controlling, controlled by, or under common control with the Advisor; (b) use the Advisor/Manager structure described in the application; and (c) comply with the terms and conditions in the application (''Future Funds,'' included in the term ''Funds''). The Trust is the only existing registered open-end management investment company that currently intends to rely on the requested order. If the name of any Fund contains the name of a Manager (as defined below), it will be preceded by the name of the Advisor.

Manager, the Fund will provide separate disclosure of any fees paid to the Affiliated Manager.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 15(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to an investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (the ''1934 Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8), and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of ''the terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Form N–SAR is the semi-annual report filed with the Commission by registered investment companies. Item 48 of Form N–SAR requires investment companies to disclose the rate schedule for fees paid to their investment advisers, including the Managers.

5. Regulation S–X sets forth the requirements for financial statements required to be included as part of investment company registration statements and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require that investment companies include in their financial statements information about investment advisory fees.

6. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard for the reasons discussed below.

7. Applicants assert that investors choose the Funds because of the Advisor's expertise in evaluating, selecting and supervising Managers. Applicants contend that permitting the Advisor to perform those duties for which the shareholders are paying the Advisor, namely the selection, supervision and evaluation of Managers, will allow each Fund to operate more efficiently. Applicants contend that requiring shareholder approval of the Management Agreements would impose unnecessary costs and delays on the Funds, and may preclude the Advisor from acting promptly in a manner considered advisable by the Board. Applicants note that the Advisory Agreement will remain subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

8. Applicants assert that many Managers set their fees for advisory services according to a ''posted'' rate schedule. Applicants state that while Managers are willing to negotiate fees lower than those posted in the rate schedule, particularly with large institutional clients, they are reluctant to do so when the fees are disclosed to other prospective and existing customers. Applicants submit that the relief will encourage Managers to negotiate lower advisory fees with the Advisor, the benefits of which may be passed on to Fund shareholders.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in the application will be approved by a majority of the outstanding voting securities of the Fund, as defined in the Act, or in the case of a Fund whose shareholders purchase shares in a public offering on the basis of a prospectus containing the disclosure contemplated by condition 3 below, by the initial shareholder(s) before the shares of the Fund are offered to the public.

2. Within 90 days of the hiring of any new Manager, the Advisor will furnish the shareholders of the applicable Fund all the information about a new Manager that would have been included in a proxy statement, except as modified to permit Aggregate Fee Disclosure. Such information will include Aggregate Fee Disclosure and any changes in such disclosure caused by the addition of a new Manager. To meet this obligation, the Advisor will provide the shareholders of the applicable Fund, within 90 days of the hiring of a Manager, with an Information Statement meeting the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act, except as modified by the order to permit Aggregate Fee Disclosure.

3. The Trust's prospectus will disclose the existence, substance and effect of any order granted pursuant to the application. In addition, the Funds will hold themselves out to the public as employing the Advisor/Manager approach described in the application. The Trust's prospectus will prominently disclose that the Advisor has ultimate responsibility (subject to oversight by the Board) to oversee the Managers and recommend their hiring, termination and replacement.

4. The Advisor will provide general management services to the Trust and its Funds, including overall supervisory responsibility for the general management and investment of each Fund's securities portfolio, and, subject to review and approval by the Board will: (i) Set the Fund's overall investment strategies; (ii) evaluate, select, and recommend Managers to manage all or part of a Fund's assets; (iii) when appropriate, allocate and reallocate a Fund's assets among Managers; (iv) monitor and evaluate the performance of Managers, including their compliance with the investment objectives, policies, and restrictions of the Funds; and (v) implement procedures to ensure that the Managers comply with the Fund's investment objectives, policies, and restrictions.

5. At all times, a majority of the Board will be Independent Trustees, and the nomination of new or additional Independent Trustees will be at the discretion of the then-existing Independent Trustees.

6. The Advisor will not enter into a Management Agreement with any Affiliated Manager, without such Management Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

7. No trustee or officer of the Trust or director or officer of the Advisor will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that trustee, director or officer) any interest in a Manager except for: (i) ownership of interests in the Advisor or any entity that controls, is controlled by, or is under common control with the

Advisor, or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Manager or an entity that controls, is controlled by or is under common control with a Manager.

8. When a change in Manager is proposed for a Fund with an Affiliated Manager, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Fund's Board minutes, that the change is in the best interests of the Fund and its shareholders and does not involve a conflict of interest from which the Advisor or the Affiliated Manager derives an inappropriate advantage.

9. Each Fund will include in its registration statement the Aggregate Fee Disclosure.

10. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

11. The Advisor will provide the Board, no less frequently than quarterly, with information about the Advisor's profitability on a per-Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Manager during the applicable quarter.

12. Whenever a Manager is hired or terminated, the Advisor will provide the Board with information showing the expected impact on the Advisor's profitability.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9147 Filed 4–15–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45719; File No. SR–Amex–2002–28]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to the Implementation of a Start-Up Fee for Specialist Participants in the Exchange's Program To Trade Nasdaq Securities on an Unlisted Basis

April 9, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 3, 2002, the American Stock Exchange LLC (''Amex'' 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 charge a one-time start-up fee to specialist participants in the Exchange's program to trade Nasdaq securities on an unlisted basis. The text of the proposed rule change is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is implementing a program to trade Nasdaq securities on an unlisted basis, which, according to the Exchange, involves significant technology enhancements, Trading Floor renovations, marketing expenses and other start-up costs. To defray the Exchange's costs of establishing the Nasdaq Unlisted Trading Privileges (''UTP'') program, the Exchange proposes to assess a start-up fee on the specialist firms participating in the program.

The Exchange plans to list approximately 100 Nasdaq securities, and it anticipates that these securities will be equally allocated among five participating specialist firms so that each firm has a critical mass of securities (approximately 20 apiece) to dedicate sufficient resources to the program to make it a success. The Exchange, consequently, would divide the approximately $5 million cost of the program equally among the participating specialists.

In the event that there are fewer than five specialist firms in the UTP program, the Exchange still would admit approximately 100 securities to dealings and would allocate more than 20 stocks to one or more specialists. The Exchange, in this circumstance, would raise the $5 million needed to fund the program by dividing the cost of the program among the participating specialist firms in proportion to the number of securities that they are allocated, provided, however, that the start-up fee would be at least $1 million per specialist firm.

In the event that there are six qualified specialists that participate in the program or if the Exchange so decides, the Exchange would admit approximately 120 Nasdaq securities to dealings. The cost of the program would increase to approximately $6 million as a result of this expansion to include more securities. If the Exchange expands the program to approximately 120 securities, the Exchange anticipates that these securities would be allocated so that each specialist firm has at least the critical mass of securities to dedicate sufficient resources to make the program a success (approximately 20 securities apiece). In addition, it is possible that one or more firms might be allocated more than 20 securities if the Exchange determines to admit approximately 120 securities to dealings. The Exchange would divide the $6 million cost of the expanded program among the participating specialists in proportion to the number of securities that they are allocated, provided, however, that the start-up fee would be at least $1 million per specialist firm.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[3] in general, and furthers the objectives of section 6(b)(4)[4] in particular, because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4).

any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act [5] and subparagraph (f)(2) of Rule 19b–4 thereunder [6] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2002–28 and should be submitted by May 7, 2002.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. [7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9191 Filed 4–15–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45721; File No. SR–NASD–2002–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to the Establishment of a Subordination Agreement Investor Disclosure Document

April 10, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 17, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') through its wholly owned subsidiary NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. The Association filed Amendment No. 1 to the proposed rule change on March 21, 2002.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation has filed with the Commission a proposed rule change that would require, as part of a subordination agreement, the execution of a Subordination Agreement Investor Disclosure Document (''Disclosure Document''). The proposed form of the Disclocure Document is as follows:

SUBORDINATION AGREEMENT

INVESTOR DISCLOSURE DOCUMENT

PLEASE READ THIS DOCUMENT CAREFULLY BEFORE DECIDING TO ENTER INTO A SUBORDINATION AGREEMENT WITH A BROKER/DEALER. SUBORDINATION AGREEMENTS ARE AN INVESTMENT. THESE INVESTMENTS CAN BE RISKY AND ARE NOT SUITABLE FOR ALL INVESTORS. AN INVESTOR SHOULD NEVER ENTER INTO A SUBORDINATION AGREEMENT WITH A BROKER/DEALER UNLESS HE/SHE CAN BEAR THE LOSS OF THE TOTAL INVESTMENT.

Subordination agreements are complicated investments. A subordination agreement is a contract between a broker/dealer (the borrower) and a lender (the investor), pursuant to which the lender lends money and/or securities to the broker/dealer. The proceeds of this loan can be used by the broker/dealer almost entirely without restriction. The lender agrees that if the broker/dealer does not meet its contractual obligations, his/her claim against the broker/dealer will be subordinate to the claims of other parties, including claims for unpaid wages. Lenders may wish to seek legal advice before entering into a subordination agreement.

KEY RISKS

All investors who enter into Subordination Agreements with broker/dealers should be aware of the following *key risks*:

Money or securities loaned under subordination agreements are not customer assets and are not subject to the protection of the Securities Investor Protection Corporation (SIPC). In other words, your investment in the broker/dealer is *not* covered by SIPC. Nor are subordination agreements generally covered by any private insurance policy held by the broker/dealer. Thus, if the broker/dealer defaults on the loan, the investor can lose all of his/her investment.

- The funds or securities lent to a broker/dealer under a subordination agreement can be used by the broker/dealer almost entirely without restriction.
- Subordination agreements cause the lender to be subordinate to other parties if the broker/dealer goes out of business. In other words, you, as an investor, would be paid after the other parties are paid, assuming the broker/dealer has any assets remaining.
- The NASD Regulation approval of subordination agreements is a regulatory function.

It does *not* include an opinion regarding the viability or suitability of the investment. Therefore, NASD Regulation approval of a subordination agreement does not mean that NASD Regulation has passed judgment on the

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On March 21, 2002, the Association filed, pursuant to Rule 19b–4 of the Act, an amendment to its initial Form 19b–4, which made certain clarifications to the proposed disclosure document.

soundness of the investment or its suitability as an investment for a particular investor.

SIPC COVERAGE

Q. *In general, what is SIPC coverage?*

A. SIPC is a non-profit, non-government, membership corporation created to protect customer funds and securities held by a broker/dealer if the broker/dealer closes because of bankruptcy or other financial difficulties. SIPC defines customers as persons who have securities or cash on deposit with a SIPC member for the purpose of, or as a result of, securities transactions.

Q. *Is an investor who enters into a subordination agreement covered by SIPC?*

A. No. SIPC considers these agreements to be investments in the broker/dealer. Once a customer signs a Subordinated Loan Agreement (SLA) or Secured Demand Note Agreement (SDN), he or she is no longer considered a customer of the broker/dealer relative to this investment. (These agreements are explained in further detail below.) For example, Mr. Jones has an IRA rollover account and a separate investment account with a broker/dealer. Mr. Jones enters into a subordination agreement with the broker/dealer and uses the investment account as collateral. This action would cause Mr. Jones to lose SIPC coverage for the investment account but not for his IRA account. If Mr. Jones pledges physical shares (i.e., certificates) as collateral for his subordination agreement, as opposed to pledging an account, he will lose SIPC coverage for the shares pledged.

OTHER INSURANCE COVERAGE

Q. *If my broker/dealer tells me that the firm has Fidelity Bond Coverage, will this coverage insure my investment?*

A. Fidelity Bond Coverage provides limited protection that generally would not benefit a subordinated lender (investor) under an SLA or SDN. In addition, NASD Regulation is not aware of any other insurance product that will protect an investor in this situation. If a broker/dealer claims that an SLA or SDN is covered by any type of insurance, the investor should insist on receiving that representation in writing from the insurance company.

GENERAL INFORMATION ABOUT SUBORDINATION AGREEMENTS

Q. *Why would a broker/dealer ask an investor to enter into a subordination agreement?*

A. Subordination agreements add to the firm's capital and thereby strengthen the broker/dealer's financial condition.

Q. *What are the advantages and disadvantages for an investor to enter into a subordination agreement with a broker/dealer?*

A. An investor may be able to obtain a higher interest rate than from other investments. There are, however, key disadvantages. If the broker/dealer goes out of business, the investor's claims are subordinated to the claims of other parties, i.e., customer and creditor claims will be paid before investors' claims. Thus, the subordinated investor may or may not get his/her funds or securities back, depending on the financial condition of the broker/dealer. FINALLY, MONEY OR SECURITIES LOANED UNDER SUBORDINATION AGREEMENTS ARE NOT CUSTOMER ASSETS AND ARE NOT COVERED BY SIPC, OR IN GENERAL, ANY OTHER PRIVATE INSURANCE.

Q. *Per the Lender's Attestation, the broker/dealer is required to give the prospective lender copies of various financial documents, including a certified audit. Why is this necessary?*

A. A subordination agreement is an investment in the broker/dealer. Therefore, the investor, as a prospective lender, should assess the firm's financial condition to determine whether the loan makes good business sense. Financial documents can be complicated and the investor should consider consulting with an attorney or accountant.

Q. *Outside counsel can be expensive. What if my broker/dealer provides an attorney for me at its expense?*

A. It may not be desirable to use a broker/dealer's attorney to assist you in the transaction. To ensure independent, objective representation, an investor should retain his/her own attorney.

Q. *How many types of subordination agreements are there?*

A. In general, there are only two, the Subordinated Loan Agreement and the Secured Demand Note Agreement.

SUBORDINATED LOAN AGREEMENTS (SLA)

Q. *What is an SLA?*

A. If an investor lends cash to a broker/dealer, the investor will usually do this as part of an SLA. The SLA discloses the terms of the loan, including the identities of the broker/dealer and investor, the amount of the loan, the interest rate, and the date on which the loan is to be repaid.

Q. *Can the lender restrict the broker/dealer's use of the loan?*

A. No. Language in the SLA precludes the lender from placing restrictions on how the broker/dealer may use the funds. Therefore, lenders should not rely on side agreements with a broker/dealer that purport to limit the use of the loan proceeds. These agreements are inconsistent with the SLA and may not be enforceable.

SECURED DEMAND NOTE AGREEMENTS (SDN)

Q. *What is an SDN?*

A. An SDN is a promissory note, in which the lender agrees to give cash to the broker/dealer on demand during the term of the SDN. This ''promissory note'' must be backed by collateral, generally the lender's securities. The lender retains his/her status as beneficial owner of the collateral, but the securities must be in the possession of the broker/dealer and registered in its name. As securities can fluctuate in value, the lender must give sufficient securities to the broker/dealer so that when the securities are discounted, the net value of the securities will be equal to or greater than the amount of the SDN. This ''discounting'' is required by regulation. The rate of the discount varies and can be as high as 30 percent in the event common stock is used as collateral.

For example, assuming common stock is used as collateral, for every $1,000 of face amount of the SDN, the investor must give the broker/dealer collateral that has a market value of at least $1,429. Therefore, collateral for a $15,000 SDN would require common stock that has a current market value of at least $21,435.

Q. *What happens to the securities that I pledge as collateral under an SDN?*

A.• The investor gives up the right to sell or otherwise use the securities that have been pledged to the broker/dealer under an SDN. Once securities are pledged as collateral for an SDN, the broker/dealer has exclusive use of the securities.

- The investor may exchange or substitute the securities that have been pledged to the broker/dealer with different securities, but the value of the new securities (after applying the appropriate discount) must be sufficient to collateralize the SDN.
- The broker/dealer may use them as collateral, i.e., the broker/dealer may borrow money from another party using the securities the investor has pledged as collateral under the SDN as collateral for the new loan.
- If the securities pledged as collateral decline in value so that their discounted value is less than the face amount of the SDN, the investor must deposit additional securities with the broker/dealer to keep the SDN at the

proper collateral level. If the investor does not give the broker/dealer additional collateral, the broker/dealer may sell some or all of the investor's securities.

• If the broker/dealer makes a demand for cash under an SDN, and the investor does not provide the broker/dealer with the cash, the broker/dealer has discretion to sell some or all of the investor's collateral (or securities). The SDN gives the broker/dealer the discretion to choose which of the investor's collateral to sell.

• All securities pledged as collateral for the SDN, including excess collateral, are subordinated to the claims of the broker/dealer's customers and creditors. Thus, if the firm becomes insolvent, the investor's ability to retrieve his/her collateral may be at risk.

THE NASD REGULATION APPROVAL PROCESS

Q. *What is involved in the NASD Regulation approval process?*

A. NASD Regulation will review the subordination agreement to ensure that it meets all technical requirements of Appendix D of SEC Rule 15c3–1 and to verify and that the broker/dealer has actually received the investor's funds or securities. This review is done to enable the borrower broker/dealer to use the subordination agreement as part of its regulatory capital. As previously stated, NASD Regulation does not review subordination agreements to determine whether the investment is viable or suitable for the investor (lender). The investor must make this determination.

By signing below, the investor attests to the fact that he/she has read this Subordination Agreement Investor Disclosure Document.

Investor Name

Investor Signature Date

FOR NASD USE ONLY

Effective Date:
LOAN Number:
NASD ID Number:
Date Filed:

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

In order to receive benefit under the Commission's net capital rule,[4] funds or securities loaned by an investor to a broker-dealer must be the subject of a satisfactory subordination agreement. Rule 15c3–1d under the Act[5] sets forth the minimum and non-exclusive requirements for satisfactory subordination agreements. Rule 15c3–1d(a)(1)[6] also provides that the ''Examining Authority'' may require ''such other provisions as deemed necessary or appropriate to the extent such provisions do not cause the subordination agreement to fail to meet the minimum requirements of [Exchange Act Rule 15c3–1d].'' Under Rule 15c3–1d(c)(6)(i),[7] ''[n]o proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the Examining Authority has found the agreement acceptable and such agreement has become effective in the form found acceptable.'' As an Examining Authority,[8] NASD Regulation proposes a rule change that would require each of its members that is a ''lender'' under Rule 15c3–1d[9] to execute a Disclosure Document as part of every subordination agreement. NASD Regulation states that the purpose of the Disclosure Document is to help lenders understand the risks associated with subordination agreements.

NASD Regulation states that it is concerned that an increasing number of retail investors may be entering into subordination agreements with broker-dealers without fully appreciating the risks or implications of such arrangements. For example, NASD Regulation notes that a number of investors in two recently failed firms found that entering into subordination agreements affected their rights to the protection of the Securities Investor Protection Corporation (''SIPC''). The proposed rule change would require members to make the Disclosure Document a part of the subordination agreement, and NASD Regulation staff would not consider a subordination agreement to be satisfactory under Rule 15c3–1d unless it includes a signed copy of the Disclosure Document.[10] NASD Regulation states that it would advise Members of this requirement in the instructions for subordination agreements.

NASD Regulation believes that the proposed Disclosure Document outlines in ''plain English'' the risks to an investor of entering into a subordination agreement. The Disclosure Document first reviews the ''key risks'' associated with subordination agreements and then, in question and answer form, provides the prospective investor with additional information to heighten his or her understanding of what it means to enter into a subordination agreement.

NASD Regulation states that, among other things, the Disclosure Document explains that money or securities loaned under subordination agreements are no longer customer assets that are subject to the protection of SIPC or, generally, any other insurance. The Disclosure Document would also advise investors that once they invest in a broker-dealer, they would have no say in how the broker-dealer uses the funds. In addition, it would advise investors that if they enter into a secured demand note agreement, the broker-dealer may borrow against any securities that are used to collateralize the note. It would further explain that if the broker-dealer closes because of bankruptcy or other financial difficulties, the claims of investors who have entered into subordination agreements are subordinate to the claims of other parties, including customers, creditors, and employees of the firm. Because NASD Regulation staff review of subordination agreements is merely to ensure that the terms of such agreements are consistent with the requirements of Rule 15c3–1d, the Disclosure Document would also advise prospective investors that they may wish to seek legal advice before entering into subordination agreements.

(2) Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of sections 15A(b)(6) of

[4] Rule 15c3–1 under the Act, 17 CFR 240.15c3–1.

[5] 17 CFR. 240.15c3–1d.

[6] 17 CFR. 240.15c3–1d(a)(1).

[7] 17 CFR. 240.15c3–1d(c)(6)(i).

[8] The term ''Examining Authority'' is defined in Rule 15c3–1(d) under the Act. 17 CFR 240.15c3–1(d).

[9] The term ''lender'' is defined in Rule 15c3–1d(a)(2)(v)(f) under the Act. 17 CFR 240.15c3–1d(a)(2)(v)(f).

[10] The NASD states that it issued a Notice to Members announcing this proposed rule change and urged its members that enter into subordination agreements to adopt immediately, as a ''best practice,'' procedures to deliver the Disclosure Document to, and obtain a signed copy from, all lenders.

the Act,[11] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change is designed to accomplish these ends by disclosing to investors certain key risks associated with subordination agreements.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received. The proposed rule change was not noticed for comment by the NASD through its Notice to Members process.

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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR–NASD–2002–12 and should be submitted by May 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Secretary.

[FR Doc. 02–9193 Filed 4–15–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78*o*–3(b)(5).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45720; File No. SR–NFA–2002–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Futures Association Regarding Broker-Dealer Registration, Fair Commissions, and Best Execution Obligations with Respect to Security Futures Products

April 10, 2002.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–7 under the Exchange Act,[2] notice is hereby given that on March 20, 2002, National Futures Association (''NFA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared by NFA. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

On March 19, 2002, NFA submitted the proposed rule change to the Commodity Futures Trading Commission (''CFTC'') for approval. Under section 19(b)(7)(B) of the Act,[3] the proposed rule change may take effect upon approval by the CFTC.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

Section 15A(k) of the Exchange Act[4] makes NFA a national securities association for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products under section 15(b)(11) of the Exchange Act.[5] The proposed ''Interpretive Notice to NFA Compliance Rule 2–4 Regarding the Registration Requirements for Trading Security Futures Products' clarifies that it is a violation of NFA rules for an NFA member to act as a broker-dealer for security futures products unless the member is properly registered as a broker-dealer. Proposed NFA Compliance Rule 2–37(g) and the proposed interpretive notices regarding fair commissions and best execution are in keeping with the SEC's August 21, 2001 Order, which requires NFA to adopt customer protection rules comparable to the rules of the National Association of Securities Dealers, Inc. (''NASD'').[6] Proposed NFA Compliance Rule 2–37(g) and its ''Interpretive Notice Regarding Fair Commissions'' specifically require notice-registered broker-dealers to charge fair commissions. The proposed ''Interpretive Notice to NFA Compliance Rule 2–4 Regarding Best Execution'' sets forth a notice-registered broker-dealer's best execution obligation for security futures orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NFA has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below. The text of the proposed rule change is available for inspection at the Office of the Secretary, the NFA, the Commission's Public Reference Room, and on the Commission's Web site (*http://www.sec.gov*).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Proposed Interpretive Notice to NFA Compliance Rule 2–4 Regarding the Registration Requirements for Trading Security Futures Products

The CFMA provides that security futures products are securities as well as futures and therefore are subject to

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 15 U.S.C. 78s(b)(7)(B).

[4] 15 U.S.C. 78o–3(k).

[5] 15 U.S.C. 78o(b)(11).

[6] *See* Securities Exchange Act Release No. 44729.

regulation in both the futures and securities industries. As a result, NFA members that solicit or accept orders or carry accounts for security futures products are also required to be registered as broker-dealers under the Exchange Act. Any NFA member that is not currently registered as a full broker-dealer under the Exchange Act may notice-register as a broker-dealer by filing form BD–N with NFA. The proposed interpretive notice clarifies that it is a violation of NFA rules for an NFA member to solicit or accept orders, carry accounts or otherwise act as a broker-dealer for security futures products unless the Member is properly registered as a broker-dealer under the Exchange Act.

Proposed NFA Compliance Rule 2–37(g) and Its Proposed Interpretive Notice Relating to Fair Commissions for Security Futures Products

NFA believes that NFA Compliance Rule 2–37(g) is almost identical to the provisions of NASD Rule 2440 relating to agency transactions. Its proposed interpretive notice discusses these provisions in more detail and reassures NFA members that most members' current commission practices already comply with these requirements. For example, the interpretive notice explicitly notes that the following practices are acceptable under Compliance Rule 2–37(g): charging commissions based on costs plus a reasonable profit, taking the services provided by the member into consideration when setting commissions, and negotiating commissions with institutional customers based on volume or similar measures. NFA represents that the interpretive notice is also consistent with NFA's traditional approach, which requires full disclosure of fees and commissions.

As with most of the other security futures rules, NFA states that proposed Compliance Rule 2–37(g) and its interpretive notice would apply only to FCMs and IBs who notice-register as broker-dealers under section 15(b)(11) of the Exchange Act.[7] According to NFA, dual registrants would presumably be subject to the NASD's requirements (*i.e.,* NASD Rule 2440 and NASD IM–2440).

Proposed Interpretive Notice to NFA Compliance Rule 2–4 Regarding the Best Execution Obligation of NFA Members Registered as Broker-Dealers Under section 15(b)(11) of the Securities Exchange Act of 1934

The SEC's August 21, 2001 Order also requires NFA to adopt a best execution rule. Given the complexity of the issues relating to best execution, NFA staff formed a working group with representatives from the futures exchanges, FCMs, end users, a securities options exchange, and an alternative trading system to help formulate a best execution interpretive notice. In formulating NFA's approach to best execution, NFA states that the working group analyzed NASD Rule 2320's terms, how best execution works in the equity options markets, and the SEC's rules relating to order execution and routing. From the outset, the working group felt that NFA's approach to best execution should be an interpretation of NFA Compliance Rule 2–4, which imposes an obligation upon members to put their customers' interests before their own when soliciting and executing futures transactions.

The proposed interpretive notice is designed to set forth a member's best execution obligation yet provide members with flexibility in meeting this obligation. The interpretive notice reiterates NFA Compliance Rule 2–4's obligation of all members and associates to put their customers' interests before their own when soliciting and executing futures transactions. In those cases where a customer's order may be executed on two or more markets trading security futures contracts that are not materially different, members and associates have an obligation to use reasonable diligence to ascertain the market in which the customer's security futures order will receive the most favorable terms and, in particular, the best price available under prevailing market conditions. The interpretive notice provides guidance on how to fulfill that obligation.

First, the interpretive notice makes clear that if a customer or customer's designee requests that a security futures order be directed to a particular market, then the member or associate is required to follow the customer's or designee's instructions. However, in the absence of customer instructions, a member or associate must consider the relevant facts and circumstances including, at a minimum, the following factors in discharging its obligation to use reasonable diligence in ascertaining where a customer's security futures order would receive the most favorable execution available:

- The character of the market including, but not limited to, price, volatility, liquidity, depth, speed of execution, and pressure on available communications;
- The size and type of transaction, including the type of order; and
- The location, reliability and accessibility to the customer's intermediary of primary markets and quotation sources.

Members and associates must also consider differences in the fees and costs to customers (*e.g.,* transaction fees, clearing costs and expenses) associated with executing transactions in each market. Unless specifically instructed by a customer or customer's designee or necessary to obtain the execution of an order, a member shall not channel an order through a third party unless the member can show that by doing so the total cost or proceeds of the transaction were better than if the member decided not to channel the order through the third party.

The interpretive notice also recognizes that it may be impracticable for members and associates to make order routing decisions for retail orders on an order-by-order basis. Members and associates that do not make order routing decisions for retail orders on an order-by-order basis should, at a minimum, consider the above factors and the materiality of any differences among contracts traded on different markets when establishing their retail order-routing practices and perform a regular and rigorous review of those practices to ensure that their best execution obligation is fulfilled.

As with most of the other security futures rules, NFA represents that the proposed interpretive notice would apply only to FCMs and IBs who notice-register as broker-dealers under section 15(b)(11) of the Exchange Act.[8] Dual registrants would presumably be subject to the NASD's requirements (*i.e.,* NASD Rule 2320).

2. Statutory Basis

The rule change is authorized by, and consistent with, section 15A(k) of the Exchange Act.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act and the CEA. Any burdens imposed are

[7] 15 U.S.C. 78o(b)(11).

[8] 15 U.S.C. 78o(b)(11).

[9] 15 U.S.C. 78o–3(k).

necessary and appropriate in order to protect customers.

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

NFA worked with industry representatives in developing the rule changes. NFA did not, however, publish the rule changes to the membership for comment. NFA did not receive comment letters concerning the rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become effective upon approval by the CFTC. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Exchange Act.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Exchange Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* 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 these filings also will be available for inspection and copying at the principal office of NFA. Electronically submitted comments will be posted on the Commission's Web site (*http://www.sec.gov*). All submissions should refer to File No. SR–NFA–2002–02 and should be submitted by May 7, 2002.

[10] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9192 Filed 4–15–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(75).

DEPARTMENT OF STATE

[Public Notice 3959]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The Department of State announces the meeting of the U.S. Advisory Commission on Public Diplomacy on Thursday, April 25, 2002, in Room 600, 301 4th St., SW., Washington, DC from 8:30 a.m. to 10:30 a.m.

The Commission, reauthorized pursuant to Public Law 106–113 (H.R. 3194, Consolidated Appropriations Act, 2000), will provide a general update on the effectiveness of public diplomacy initiatives as well as discuss potential areas of examination for the remainder of the Commissioners' terms of office.

Members of the general public may attend the meeting, though attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees.

The U.S. Advisory Commission on Public Diplomacy is a bipartisan, Presidentially-appointed panel created by Congress in 1948 to provide oversight of U.S. Government activities intended to understand, inform and influence foreign publics. The Commission reports its findings and recommendations to the President, the Congress and the Secretary of State and the American people. Current commission members include Harold Pachios of Maine, who is the chairman; Charles Dolan of Virginia, who is the vice chairman; Penne Percy Korth of Washington, DC, Lewis Manilow of Illinois and Maria Elena Torano of Florida.

For more information, please contact Matt Lauer at (202) 619–4463.

Dated: April 10, 2002.

Matthew Lauer,

Executive Director, U.S. Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 02–9227 Filed 4–15–02; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

Office of the Spokesman

[Public Notice 3964]

U.S. Advisory Commission on Public Diplomacy Endorses Freedom Protection Act of 2002

To promote a stronger communications effort abroad to educate and inform foreign publics, the U.S. Advisory Commission on Public Diplomacy announced on April 8, 2002, its support for the Freedom Promotion Act of 2002 (H.R. 3969). The bill has been introduced by Rep. Henry Hyde (R–Il), chairman of the House International Relations Committee.

The Commission specifically endorsed Section 105 of the bill, which significantly enhances the consultative and reporting roles of the Commission through specific new requirements, which include collaboration with the Government Accounting Office and mandated support to the Commission from the Department of State, International Broadcasting Agency and other agencies.

''The Hyde bill enables the Commission to fulfill its mission as an oversight authority of the activities that inform and influence foreign publics,'' said Harold C. Pachios, chairman of the Commission. ''In order to properly develop the reports and the insight necessary to support American public diplomacy efforts, the Commission needs the strong collaboration of the agencies that it helps to oversee.''

Section 105 of the bill also requires that at least four of the seven Commission members have substantial experience in the field of public diplomacy.

''To enable our nation to effectively connect with foreign audiences, we need the best minds in opinion research, public relations, diplomacy and advertising,'' said Pachios. ''By requiring that at least a majority of the Commission members have substantial experience communicating with mass audiences, we will ensure that the Commission will always have the necessary expertise to cast the critical, yet helpful, eye on our public diplomacy initiatives.''

The U.S. Advisory Commission on Public Diplomacy is a bipartisan Presidentially appointed panel created by Congress in 1948 to provide oversight of U.S. Government activities intended to understand, inform and influence foreign publics. The Commission reports its findings and recommendations to the President, the Congress and the Secretary of State and

the American people. Current commission members include Pachios of Maine, Charles Dolan of Virginia, Penne Percy Korth of Washington, DC, Lewis Manilow of Illinois and Maria Elena Torano of Florida.

Dated: April 10, 2002.

Matthew Lauer,

Executive Director, U.S. Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 02–9228 Filed 4–15–02; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–02–009]

Houston/Galveston Navigation Safety Advisory Committee Meetings

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Houston / Galveston Navigation Safety Advisory Committee (HOGANSAC) and its working groups will meet to discuss waterway improvements, aids to navigation, area projects impacting safety on the Houston Ship Channel, and various other navigation safety matters in the Galveston Bay area. All meetings will be open to the public.

DATES: The next meeting of HOGANSAC will be held on Thursday, May 23, 2002 from 9 a.m. to 12 a.m. (noon). The meeting of the Committee's working groups will be held on Thursday, May 9, 2002 at 9 a.m. to 11 a.m. The meetings may adjourn early if all business is finished. Members of the public may present written or oral statements at either meeting.

ADDRESSES: The full Committee meeting will be held at the Houston Yacht Club, 3620 Miramar Drive, La Porte, Texas (281–471–1255). The working groups' meeting will be held at the Offices of the Houston Pilots, 8150 South Loop East, Houston, Texas (713–645–9620).

FOR FURTHER INFORMATION CONTACT: Captain Kevin Cook, Executive Director of HOGANSAC, telephone (713) 671–5199, Commander Peter Simons, Executive Secretary of HOGANSAC, telephone (713) 671–5164, or Lieutenant Junior Grade Kelly Tobey, assistant to the Executive Secretary of HOGANSAC, telephone (713) 671–5103, e-mail *katobey@vtshouston.uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of the Meetings

Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC). The tentative agenda includes the following:

(1) Opening remarks by the Committee Sponsor (RADM Casto) (or the Committee Sponsor's representative), Executive Director (CAPT Cook) and Chairman (Tim Leitzell).

(2) Approval of the February 7, 2002 minutes.

(3) Old Business:

(a) Dredging projects.

(b) Electronic navigation.

(c) AtoN Knockdown Working Group.

(d) Mooring subcommittee report.

(e) Bolivar Roads anchorage areas.

(f) Recreational boating education initiative.

(g) Port Security Subcommittee report.

(h) Bridge Allision Working Group.

(i) Hurricane Port Condition Management.

(4) New Business:

(a) Swimmers near Lynchburg.

(b) Corps of Engineers survey data reporting.

Working Groups Meeting. The tentative agenda for the working groups meeting includes the following:

(1) Presentation by each working group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each working group.

Procedural

Working groups have been formed to examine the following issues: dredging and related issues, electronic navigation systems, AtoN knockdowns, impact of passing vessels on moored ships, recreational boater education issues, and port security. Not all working groups will necessarily report out at this session, however, working group discussions not reported out at this May meeting will be addressed at a future meeting of HOGANSAC. Further, working group reports may not necessarily include discussions on all issues within the particular working group's area of responsibility. All meetings are open to the public. Please note that the meetings may adjourn early if all business is finished. Members of the public may make presentations, oral or written, at either meeting.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meetings, contact the Executive Director, Executive Secretary, or assistant to the Executive Secretary.

Dated: April 4, 2002.

Roy J. Casto,

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

[FR Doc. 02–9133 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) 20–97B, Aircraft Tire Maintenance and Operational Practices

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed AC and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed AC that describes the minimum recommended tire care and maintenance practices needed to assure the safety of support personnel and the continued airworthiness of aircraft. The AC sets forth criteria for the installation, inflation, inspection, maintenance, and removal of aircraft tires, as well as criteria for the maintenance of the operating environment needed to maintain safe aircraft operations. This notice is necessary to give all interested persons the opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before June 17, 2002.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Continuous Airworthiness Maintenance Division (Attention: AFS–306), 800 Independence Avenue SW, Washington, DC 20591, or electronically to *Leo.Weston@faa.gov*.

FOR FURTHER INFORMATION CONTACT: Leo Weston, AFS–306, at the address above, by e-mail at *Leo.Weston@faa.gov*, or telephone at (202) 267–3811.

SUPPLEMENTARY INFORMATION:

Comments Invited

The proposed AC is available on the FAA Web site at *http://www.faa.gov/avr/afs/acs/ac-idx.htm*, under AC No. 20–97B. Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments, as they may desire. Please identify AC 20–97B, Aircraft Tire Maintenance and Operational Practices, and submit comments, either hard copy or electronic, to the appropriate address listed above. Comments may be inspected at the above address between 9 a.m. and 4 p.m. weekdays, except Federal holidays.

Issued in Washington, DC, on April 4, 2002.

Louis C. Cusimano,

Deputy Director, Flight Standards Service, AFS–2.

[FR Doc. 02–9121 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 14, 2001, page 57149.

DATES: Comments must be submitted on or before May 16, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Certification of Airports.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0063.

Form(s): FAA 5280–1.

Affected Public: A total of 563 airport operators.

Abstract: To operate an airport serving certain air carriers, a person must obtain and maintain an Airport Operating Certificate. The application initiates the certification process including airport inspection and documentation of required airport operations and equipment. The certification remains valid if safety standards are maintained as verified by inspections, records, and reports.

Estimated Annual Burden Hours: An estimated 173,869 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on April 8, 2002.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 02–9120 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program, San Antonio International Airport, San Antonio, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announced that it is reviewing a proposed noise compatibility program that was submitted for the San Antonio International Airport under the provisions of Title 49, USC, Chapter 475 (hereinafter referred to as ''Title 49'') and 14 CFR part 150 by the City of San Antonio, Texas. This program was submitted subsequent to a determination by the FAA that associated noise exposure maps submitted under 14 CFR part 150 for the San Antonio International Airport were in compliance with applicable requirements effective January 16, 2002. The proposed noise compatibility program will be approved or disapproved on or before September 30, 2002.

EFFECTIVE DATE: The effective date of the start of FAA's review of the noise compatibility program is April 3, 2002. The public comment period ends June 2, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Nan L. Terry, Department of Transportation, Federal Aviation Administration, Texas Airports Development Office, Fort Worth, Texas, 76193–0650, (817) 222–5607. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for the San Antonio International Airport that will be approved or disapproved on or before September 30, 2002. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of the Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title 49, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for the San Antonio International Airport, effective on April 3, 2002. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding commuties, be approved as a noise compatibility program under Title 49. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before September 30, 2002.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, section 150.33. The primary consideration in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden in interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Airports Division, 2601 Meacham Boulevard, Fort Worth, Texas 76137.
City of San Antonio, Aviation Department, 9800 Airport Boulevard, San Antonio, Texas 78216.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, April 3, 2002.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 02–9126 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–27]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

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 a petition seeking relief from specified requirements of 14 CFR. 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.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 6, 2002.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–11998 at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Vanessa Wilkins (202) 267–8029, 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 April 8, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2002–11998.
Petitioner: Bombardier Aerospace.
Section of 14 CFR Affected: 14 CFR 25.785(b).
Description of Relief Sought: An exemption from the general occupant protection required by 14 CFR 25.785(b) for occupants of side-facing seats that are occupied for takeoff and landing.

[FR Doc. 02–9128 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–29]

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 II 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 of any petition.

FOR FURTHER INFORMATION CONTACT: Denise Emrick (202) 267–5174, or Sandy Buchanan-Sumter (202) 267–7271, 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.

Dated: Issued in Washington, DC, on April 8, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–11509.
Petitioner: Atlantic Southeast Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1), 121.440, and 121.463(a)(2)
Description of Relief Sought/Disposition: To permit Atlantic Southeast Airlines to allow observations and flight checks to be accomplished in an approved simulator or by qualified and authorized check airmen rather than an FAA inspector.

Grant, 03/26/2002, Exemption No. 7135A

Docket No.: FAA–2001–9874.
Petitioner: Civil Air Patrol.
Section of 14 CFR Affected: 14 CFR 61.113(e) and 119.1(a)(1).
Description of Relief Sought/Disposition: To permit Civil Air Patrol (CAP) to reimburse members for service and maintenance expenses incurred while serving on official U.S. Air Force assigned missions, and to permit CAP/Air Force Reserve Officers' Training Corps cadet orientation flights.

Partial Grant, 03/19/2002, Exemption No. 6771B

[FR Doc. 02–9130 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–30]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

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 a certain petition seeking relief from specified requirements of 14 CFR. 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.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 6, 2002.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–11552 at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* Your may review the public docket containing the petition, any comments received, and any final disposition in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

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 April 10, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2002–11552.

Petitioner: Zantop International Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 25.795(a)(1) and (2)

Description of Relief Sought: To provide Zantop with relief from the requirement to install or modify cockpit doors to withstand forcible intrusion and resist penetration of small arms and fragmentation devices.

[FR Doc. 02–9135 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for May 1, 2002, from 11 a.m. to 12:30 p.m. Arrange for oral presentations by April 26.

ADDRESSES: Federal Aviation Administration, 800 Independence Avenue, Room 810, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075, or e-mail at *effie.upshaw@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. Ill), notice is given of an ARAC meeting to be held May 1, in Washington, DC. The purpose of the meeting is to review and approve proposed rulemaking and advisory material addressing design and construction of control surfaces. The documents were prepared by the Flight Controls Harmonization Working Group.

Attendance is open to the public but will be limited to the availability of the meeting room space and telephone lines. The meeting is being held in a Federal building with enhanced security procedures since the September 11, 2001 events. Those persons planning to attend in person should provide their name and company/affiliation to the person listed under the heading **FOR FURTHER INFORMATION** no later than April 26.

Details for participating by telephone will be available after April 22 on the ARAC calendar at *http://www.faa.gov.avr/arm/araccal.htm*, or by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Callers outside the Washington metropolitan area will be responsible for paying long-distance charges.

The public must make arrangements by April 26 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the person listed under the heading **FOR FURTHER INFORMATION CONTACT** or by providing copies at the meeting. Copies of the documents to be presented to ARAC for decision or as recommendations to the FAA may be made available by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on April 8, 2002.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–9114 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; General Aviation Certification and Operations Issues; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee to discuss general aviation certification and operations issues. Specifically, the committee will review its current tasks.

DATE: The meeting will be held on May 7, 2002, at 10 a.m.

ADDRESSES: The meeting will be held at the Helicopter Association International, 1635 Prince Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Noreen Hannigan, Federal Aviation Administration, Office of Rulemaking (ARM–106), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–7476; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: The Aviation Rulemaking Advisory Committee for General Aviation Certification and Operations Issues (GACO) currently has five tasks: (1) Update Certification Requirements (Propulsion/Jet); (2) Occupant Protection Standards; (3) Enhanced Stall Characteristics; (4) Miscellaneous

Systems and Part 23; and (5) Dihedral Effect. These can be reviewed on the FAA's web site at *http://www.faa.gov/avr/arm.*

The agenda for the meeting will include:

(1) Review current tasks under General Aviation Certification and Operations Issues (GACO);

(2) Discuss where tasks fit into the FAA's overall Aircraft Certification Service rulemaking activities.

(3) Clarify the scope of the Turbofan/Jet Installations portion of the ''Update Certification Requirements'' task. This includes all configurations of jet airplanes less than 19,000 pounds, including recommendations for distinguishing different classes of jets. This also includes a thorough review of the Subpart B performance requirements.

(4) Possible approaches to those portions of the ''Update Certification Requirements'' task that are not limited to jets but would apply to all airplane configurations.

(5) Possible approaches to the portions of the ''Occupant Protection'' task that could be grouped with the ''Update Certification Requirements'' task for general safety in part 91 operations.

(6) Possible approaches to portions of the ''Occupant Protection Standards'' task that are necessary for part 121 operations.

(7) Review the current state of JAA harmonization activities pertaining to GACO's tasks.

This meeting is announced pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II).

Attendance is open to the public but will be limited to the space available. The FAA will arrange teleconference capability for individuals wishing to participate by teleconference if the FAA receives notification no later than 3 business days before the meeting. Arrangements to participate by teleconference can be made by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. Callers outside the Washington metropolitan area will be responsible for paying long distance charges.

To present oral statements at the meeting, members of the public must make arrangements no later than 3 business days before the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director, or by bringing the copies to the meeting.

Requests for sign or oral interpretation, or for a listening device, may be made by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** at least 10 calendar days before the meeting.

Issued in Washington, DC, on April 8, 2002.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 02–9116 Filed 4–12–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Open Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Advisory Committee open meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 2), notice is hereby given of a meeting of the Commercial Space Transportation Advisory Committee (COMSTAC). The meeting will take place on Thursday, May 23, 2002, from 8 a.m. to 1 p.m. at the Federal Aviation Administration Headquarters Building, 800 Independence Avenue SW, Washington, DC, in the Bessie Coleman Conference Center (second floor). This will be the thirty-fifth meeting of the COMSTAC.

The agenda for the meeting will include an industry update on the Evolved Expendable Launch Vehicle program; an activities report from FAA's Associate Administrator for Commercial Space Transportation (formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995]); and a status report on the FAA Supplemental Notice of Proposed Rulemaking on Licensing and Safety Requirements for Launch.

Meetings of the COMSTAC Working Groups (Technology and Innovation, Reusable Launch Vehicle, Risk Management, and Launch Operations and Support) will be held on Wednesday, May 22, 2002. For specific information concerning the times and locations of these meetings, contact the Contact Person listed below.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Michelle Murray (AST–100), Office of the Associate Administrator for Commercial Space Transportation (AST), 800 Independence Avenue SW, Room 331, Washington, DC 20591, telephone (202) 267–7892; e-mail *michelle.murray@faa.dot.gov.*

Issued in Washington, DC, April 8, 2002.

Patricia G. Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 02–9134 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–04–C–00–TLH To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Tallahassee Regional Airport. Tallahassee, FL

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 Tallahassee Regional Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 16, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, Suite 400, 5950 Hazeltine National Drive, Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Kenneth Austin, Airport Director of the City of Tallahassee at the following address: Tallahassee Regional Airport, 3300 Capital Circle, SW, Suite 1, Tallahassee, Florida 32310.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Tallahassee under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Farris, Program Manager, Orlando Airports District Office, Suite 400, 5950 Hazeltine National Drive, Orlando Florida 32822, (407) 812–6331, extension 25. 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 Tallahassee Regional Airport under the provisions of the 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 2, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Tallahassee 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 July 16, 2002.

The following is a brief overview of the application.

Proposed charge effective date: October 1, 2002.

Proposed charge expiration date: October 1, 2006.

Level of the proposed PFC: $ 4.50.

Total estimated PFC revenue: $ 8,314,445.

Brief description of proposed project(s): Impose Only: Terminal Security Improvements, Crisis Command/Communications Center, Taxiway N Rehabilitation, Taxiway P Rehabilitation, General Aviation Taxiway Overlays, Interactive Training System Improvements, New General Aviation Central Apron Construction, General Aviation South Apron Rehabilitation, Terminal Apron Access, Terminal Apron Lighting Improvements, Automated Vehicle Identification System, Old Terminal Apron Rehabilitation, ADA Passenger Lift, Taxiway S Extension, Airport Stormwater Drainage Improvements, General Aviation Apron Lighting, ILS/GPS Installation; Impose and Use Terminal Second Floor Accessibility, Integrated Communications Systems, Airport Layout Plan Update, Security System Upgrade, Former Landfill Remediation, Air Carrier Taxiway Rehabilitation, Terminal Apron Security Fencing, Runway 9/27 Safety Area Improvements, Master Plan Update, Passenger Loading Bridges, Terminal Improvement Program (Multi-year), Runway 18/36 Safety Area Improvements, Terminal Apron Rehabilitation, Taxiway J Extension, Sinkhole Stabilization and Taxiway S Repair, Airside Perimeter/Service Road, Security Fencing and Gate Improvements, Taxiway J Rehabilitation and Widening, Electrical Vault Upgrade, Runway 9/27 Lighting Upgrade, General Aviation Access Taxiway R Construction, Air Cargo Apron Expansion, Runway 18/36 Shoulder Improvements, Security CCTV Camera System Rehabilitation and Improvements, Terminal Access Road, North Apron Overlay.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: non-scheduled/on-demand air carriers filing Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration Southern Region Headquarters/ASO–600, 1701 Columbia Ave., College Park, Georgia 30337.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Tallahassee.

Issued in Orlando, Florida on April 2, 2002.

John W. Reynolds, Jr.,

Acting Manager, Airports District Office.

[FR Doc. 02–9127 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 02–05–C–00–TPA To Impose and Use The Revenue From a Passenger Facility Charge (PFC) at Tampa International Airport, Tampa, FL

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 Tampa International Airport under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 16, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400; Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Louis E. Miller, Executive Director of the Hillsborough County Aviation Authority at the following address: P.O. Box 22287, Tampa, Florida 33622.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Hillsborough County Aviation Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Vernon P. Rupinta, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400; Orlando, Florida 32822, (407) 812–6331, extension 24. 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 Tampa 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 April 5, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by Hillsborough County Aviation Authority 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 July 20, 2002.

The following is a brief overview of the application.

Proposed charge effective date: June 1, 2002.

Proposed charge expiration date: July 31, 2002.

Level of the proposed PFC: $3.00.

Total estimated net PFC revenue: $2,050,000.

Brief description of proposed project(s): Acquire North Hillsborough Avenue Property.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators Filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Hillsborough County Aviation Authority.

Issued in Orlando, Florida on April 3, 2002.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 02–9125 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreement Program To Support Implementation of the National Strategies for Advancing Bicycle Safety Agenda

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of a discretionary cooperative agreement program to support efforts to implement the strategies and goals of the National Strategies for Advancing Bicycle Safety agenda.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to provide funding to individuals and organizations in support of the implementation of the National Strategies for Advancing Bicycle Safety, a document designed to reduce the incidence of bicycle related fatalities and injuries. The National Strategies for Advancing Bicycle Safety was developed by a diverse group of bicycle advocates, injury prevention specialists, and government representatives working together at a conference in July 2000. The conference was sponsored by NHTSA, the Centers for Disease Control and Prevention (CDC), Federal Highway Administration (FHWA) and the Pedestrian and Bicycle Information Center. The bicycle safety ''agenda'' addresses five key goals: (1) Motorists will share the road; (2) Bicyclists will ride safely; (3) Bicyclists will wear helmets; (4) The legal system will support safe bicycling; (5) Roads and paths will safely accommodate bicyclists. These goals are designed to be a road map for policy makers, safety specialists, educators, and the bicycling community as they undertake national, state and local efforts to increase safe bicycling.

NHTSA anticipates funding approximately five (5) demonstration projects for a minimum period of one year and a maximum period of two years. To this end, this cooperative agreement will support projects that foster implementation of the National Strategies for Advancing Bicycle Safety.

This notice solicits applications from public and private, non-profit and not-for-profit organizations, State and local governments and their agencies or a consortium of the above. Interested applicants must submit an application packet as further described in the application section of this notice. The application will be evaluated to determine the proposals that will receive funding under this announcement.

DATES: Applications must be received in the office designated below on or before 3 p.m. (EDT), on May 24, 2002.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), Attention: April Jennings, 400 Seventh Street SW., Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program Number DTNH22–02–H–05097.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to April Jennings, Office of Contracts and Procurement at 202–366–9571, or by email at *ajennings@nhtsa.dot.gov.* Programmatic questions relating to this cooperative agreement program should be directed to Marietta Y. Bowen, Safety Countermeasures Division, NHTSA, 400 Seventh Street, SW. (NTS–15), Washington, DC 20590, by email at *mbowen@nhtsa.dot.gov,* or by phone at (202) 366–1739. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

SUPPLEMENTARY INFORMATION:

Background

About 85 million adults and children ride their bikes every year. For children and teens, the bicycle is a primary means of transportation when traveling independently. In addition, every morning an estimated half million people bike to work in the United States. However, injuries do occur. Each year, more than 500,000 bicyclists of all ages sustain a cycling injury that requires emergency department care. Of the approximately 800 bicyclists killed annually, about 700 are killed in traffic crashes. Perhaps not surprisingly, more than half of the bicyclists riding in or near traffic report feeling unsafe. In July 2000, a group of safety experts and advocates, bicycling enthusiasts, and government agency representatives met to develop a national agenda for bicycling safety. Safety, not use, was the central theme for the conference, as conference planners believed that increasing bicycle use had coverage in other forums, whereas safety and public health issues associated with bicycling were not adequately covered in other efforts. No one present at the July 2000 conference could recall a time when such a diverse group had been convened or when government representatives had worked with the cycling community to plan significant policy and strategies around bicycling and bicycle safety. The conference focused discussion on five issues that, once accomplished, would advance the safety of all bicyclists, regardless of age. These topics emerged as goals in the outcome document of the conference: The National Strategies for Advancing Bicycle Safety.

The National Strategies for Advancing Bicycle Safety is a call to action. It reflects the thoughts and visions of the Bicycle Safety Conference 2000 participants who, together, developed an agenda that addresses bicycle safety on a variety of fronts. The publication, a result of the conference, is the first step in beginning the process of changing the cycling environment in significant ways by addressing five key goals: (1) Motorists will share the road; (2) Bicyclists will ride safely; (3) Bicyclists will wear helmets; (4) The legal system will support safe bicycling; (5) Roads and paths will safely accommodate bicyclists. Under each goal is a series of strategies and initial action steps for achieving the overall goal.

The strategies outlined in the National Strategies for Advancing Bicycle Safety are considered to be those that can be initiated and completed within a three to five year time frame. Moreover, these strategies are expected to build local support and capacity for efforts to improve safe bicycling. Finally, the National Strategies for Advancing Bicycle Safety provides guidance and direction to those seeking to improve bicycle safety. The challenge now before us is implementation—turning a document into action. The National Strategies for Advancing Bicycle Safety must not sit on a shelf. Rather the goals, strategies and action steps articulated in the document must be put into action to make bicycling safe for all. To help facilitate implementation efforts, NHTSA proposes to support approximately five (5) mini-grant programs aimed at putting into action one or more of the strategies outlined under Goals 1–4 of the National Strategies for Advancing Bicycle Safety.

Copies of the National Strategies for Advancing Bicycle Safety are available on the NHTSA Website at *http://www.nhtsa.dot.gov/people/injury/pedbimot/bike/index.html* or at the Bike Hub Website at *http://www.cdc.gov/ncipc/bike*

Purpose

The purpose of this cooperative agreement program is to support implementation of aspects of the National Strategies for Advancing

Bicycle Safety. Under each of the goals in the National Strategies for Advancing Bicycle Safety is a series of strategies and initial action steps. Approximately five mini-projects addressing one or more strategies outlined under the National Strategies for Advancing Bicycle will be supported. Each cooperative agreement recipient will be expected to coordinate an effort that supports one or more of the strategies outlined in the agenda. Project length will vary depending on the scope of the proposed effort. However, projects will be considered for a minimum of one year and a maximum of two years.

The objective is to provide seed monies to stakeholders for the purpose of implementing aspects of Goals 1–4 of the National Strategies for Advancing Bicycle Safety. Proposals may address any strategy or strategies listed in Goals 1–4. Examples of possible projects include:

1. Identify the key components of a ''Share the Road'' campaign for motorists and bicyclists and pilot-test a program built on these. Innovative methods are encouraged.

2. Are there ways, other than a major public information campaign, of teaching motorists about sharing the road with bicyclists? If so, identify and pilot test innovative approaches.

3. Survey/review existing programs to determine the extent to which bicycle safety is incorporated into driver education for beginning drivers and license renewals in all states.

4. Identify and pilot test innovative ways to teach bicyclists safe riding techniques.

5. Develop and test programs to encourage new partners, especially business and industry, to embrace and promote bicycle safety.

6. Identify and evaluate the effectiveness of existing bicycle safety education resources, especially after school programs, rodeos, health and safety fairs, and bicycle safety materials. Who is the audience? Who uses them? How effective are they?

7. Identify and evaluate bicycle safety materials specifically designed to address nontraditional and diverse populations (i.e., different ethnicities; disabilities; ages; geographical locations; etc.)

8. Identify and evaluate national or statewide bicycle helmet safety campaigns (large, public information and education campaigns designed to reach large audiences). Who was the targeted population? What are the delivery channels? How effective were the campaigns?

9. Identify and evaluate bicycle helmet safety materials, resources and programs. How are these materials, programs, etc. generally used? What are the messages? What messages are most effective? Is the material developmentally and culturally appropriate for the intended audience?

10. Identify and evaluate existing efforts to improve bicycle safety enforcement.

11. Identify and evaluate innovative enforcement efforts to enforce existing bicycle helmet laws. What methods of enforcement are most effective? Is there an association between enforcement and a decrease or increase in injuries and/or fatalities, or between enforcement and ridership?

12. Identify and evaluate how bicycle crash data are collected and recorded by law enforcement. What are the data collection procedures and practices? How do these affect the determination of fault between the driver and rider?

13. Identify and evaluate bicycle safety enforcement tools used to enforce bicycle safety traffic laws aimed at bicyclists and motorists. Who uses the tools? How are the tools used? Are the tools effective? What additional tools might be needed? How might these tools best be disseminated?

14. Investigate how courts are currently adjudicating bicycle-related incidents. Include judicial outcomes.

15. Assess the availability and adequacy of bicycle-related data and reporting systems used by courts.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of this cooperative agreement and to coordinate activities between the Grantee and NHTSA.

2. Provide information and technical assistance from government sources within available resources and as determined appropriate by the COTR.

3. Serve as a liaison between NHTSA Headquarters, Regional Offices, and others (Federal, State and local) interested in reducing bicycle-related injuries and fatalities and promoting the activities of the grantee.

4. Review and provide comments on program content, materials, and evaluation activities.

5. Stimulate the transfer of information among grant recipients and others engaged in bicycle safety activities.

Availability of Funds

The strategies outlined in the National Strategies for Advancing Bicycle Safety are considered to be those that can be initiated and largely completed within a three-to five-year time frame. This grant program solicits proposals for efforts that can be accomplished within a minimum of one year and a maximum of two years. Approximately $250,000 is available to fund a number of projects for up to $50,000 each. The total number of awards will depend on the quality of the proposals submitted for consideration. Given the amount of funds available for this effort, applicants are strongly encouraged to seek other funding opportunities to supplement the Federal funds. Depending on the number and quality of the proposals received NHTSA reserves the right to fully fund the cooperative agreement at the time of award or incrementally over the period of the cooperative agreement.

Period of Performance

The period of performance for this cooperative agreement is up to two (2) years from the effective date of award.

Eligibility Requirements

Applications may be submitted by public and private, non-profit and not-for-profit organizations, and governments and their agencies or a consortium of the above. Thus, universities, colleges, research institutions, hospitals, other public and private (non-or not-for-profit) organizations, and state and local governments are eligible to apply. Interested applicants are advised that no fee or profit will be allowed under this cooperative agreement program.

Application Procedure

Each applicant must submit one (1) original and two (2) copies of the application package to: NHTSA, Office of Contracts and Procurement (NAD–30), 400 Seventh Street SW., Room 5301, Washington DC 20590. Applications must include a completed Application for Federal Assistance (Standard Form 424—Revised 4/88). An additional two copies will facilitate the review process, but are not required.

Only complete packages received on or before 3:00 p.m., May 24, 2002 will be considered. No facsimile transmissions will be accepted. Applications must be typed on one side of the page only and contain a reference to NHTSA Cooperative Agreement Number DTNH22–02-H–05097. Unnecessarily elaborate applications beyond what is sufficient to present a complete and effective response to this invitation are not desired. Please direct cooperative agreement application questions to April Jennings, at (202) 366–9571 or by email address

ajennings@nhtsa.dot.gov. Programmatic questions should be directed to Marietta Bowen, by email at *mbowen@nhtsa.dot.gov* or by phone at (202) 366–1739.

Application Contents

1. The application package must be submitted with OMB Standard Form 424, (Rev 4–88, including 424A and 424B), Application for Federal Assistance, including 424A, Budget Information-Non-construction Program, and 424B, Assurances-Non-construction Programs, with the required information provided and the certified assurances included. Forms are electronically available for downloading at *www.whitehouse.gov/omb/grants/index.html.* While the Form 424–A deals with budget information, and Section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed costs. A supplemental sheet should be provided which presents a detailed breakout of the proposed costs (detail labor, including labor category, level of effort, and rate; direct materials, including itemized equipment; travel and transportation, including projected trips and number of people traveling; subcontractors/subgrants, with similar detail, if known; and overhead), as well as any costs the applicant proposes to contribute or obtain from other sources in support of the projects in the project plan. The estimated costs should be separated and proposed by year.

2. Funding sources other than the funds being provided through this cooperative agreement are encouraged. Since activities may be performed with a variety of financial resources, applicants need to fully identify all project costs and their funding sources in the proposed budget. The proposed budget must identify all funding sources in sufficient detail to demonstrate that the overall objectives of the project will be met.

3. Program Narrative Statement: Proposal must fully describe the scope of the project, detailing the activities and costs for which funding is being requested. Also, applications for this program must include the following information in the program narrative statement:

(a) A table of contents including page number references.

(b) If applicable to effort proposed by grantee a description of the community in which the grantee proposes to implement or pilot test a bicycle safety program effort in support of the selected goal identified in the National Strategies for Advancing Bicycle Safety should be provided. For the purpose of this program a community includes a city, town or county, small metropolitan area or a group of cities, towns or counties in particular region. It should be large enough so that the program can have a demonstrable effect on bicycling and bicycle safety. The description of the community should include, at a minimum, community demographics including bicycle population, the community's bicycle safety problems, data sources available, existing traffic safety programs, bicycle helmet laws, bicycle education programs and community resources.

(c) A description of the project's or program goal and how the grantee plans to meet the goal. The grantee must be *specific* with respect to the particular problem being addressed and how the grantee will successfully address the issues. For example, if the grantee is proposing to review and evaluate existing materials, how will the materials be identified? What partnerships may be necessary? What criteria will be used to evaluate the materials? How will the results be reported? Include letters of agreement and support, as appropriate.

(d) A description of the specific activity proposed by the grantee. What actions will be undertaken to support the proposed project? What partners need to be involved in the effort to ensure success? To what degree has the buy-in of these groups been secured? How does the proposed project contribute to improving bicycle safety? What is ''success'' and how will it be determined?

(e) A description of the analytic plan, including how information (data) will be obtained, compiled, analyzed, and reported.

(f) A description of how the proposed project will be managed. The application shall identify the proposed project manager and other personnel considered critical to the successful accomplishment of the project, including a brief description of their qualifications and respective organizations responsibilities. The role and responsibilities of the grantee and any others included in the application package shall be specified. The proposed level of efforts in performing the various activities shall also be identified.

(g) A detailed explanation of time schedules, milestones, and product deliverables, including quarterly reports and draft and final reports. (See Terms and Conditions of Award.)

(h) A separately-labeled section with information demonstrating that the applicant meets all of the special competencies listed below:

(i) Demonstrate expertise in traffic safety, program development and implementation, and knowledge and experience in bicycle safety issues, especially related to the specific goal(s) addressed by applicant. If proposing a community intervention, demonstrate knowledge and familiarity with data sources (including local data) needed to determine the incidence of bicycle-related injuries.

(ii) Demonstrate capability of technical and management skills to successfully administer and complete projects in a timely manner. Include a narrative description of the documented experience, clearly indicating the relationship to this project and providing details such as project description and sponsoring agency. References to completed final project reports should include author's name.

(iii) Demonstrate capacity to:

A. Design, implement and evaluate innovative approaches for addressing difficult problems related to issues associated with bicycle safety, crashes and injuries;

B. Work successfully with bicycling and other community groups;

C. Collect and analyze both quantitative and qualitative data; and

D. Synthesize, summarize, and report results, which are useable and decision-oriented.

(iv) Demonstrate experience in working in partnership with others, for example, law enforcement, health care systems, government agencies, the media, etc.

4. *Commitment and Support:* When other sources and organizations are required to complete the proposed effort, the grantee shall provide proof of said organization's willingness to cooperate on the effort. Such proof can be a letter of support or buy-in indicating what the organization will supply to the grantee.

Application Review Process and Criteria

Each application package will be reviewed initially to confirm that the applicant is an eligible recipient, and has included all of the items specified in the Application Procedures section of this announcement. Each complete application from an eligible recipient will then be evaluated by an Evaluation Committee. The applications will be evaluated using the following criteria:

1. Program Approach (30 percent)

The extent to which the applicant is knowledgeable about bicycle safety efforts and programs. The extent to

which the applicant clearly identifies and explains creative approaches to address bicycle-related injuries and fatalities.

If building on an existing approach or program, what are the innovative, new, or creative features that make this project different from what has been tried in the past? Has the applicant identified potential barriers associated with developing and implementing the new, creative approach? Has the applicant offered solutions for addressing the barriers? Has the applicant demonstrated how the project may be adaptable to other jurisdictions at a reasonable cost? Has the applicant identified partners and groups to work on the proposed project? Has the applicant specified who will be involved and what each will contribute to the project? What new or non-traditional partners has the applicant involved in the project?

2. Goals, Objectives, and Work Plan (30 percent)

The extent to which the applicant's goals are clearly articulated and the objectives are time-phased, specific, action-oriented, measurable, and achievable. The extent to which the work plan will achieve an outcome-oriented result that ultimately will reduce bicycle-related crashes, injuries, and fatalities. The applicant will describe how an ''outcome-oriented'' result will be measured. The work plan must address what the applicant proposes to develop and implement; how this will be accomplished; and must include the major tasks/milestones necessary to complete the project. This involves identification of, and solutions to, potential technical problems and critical issues related to successful completion of the project. The work plan will be evaluated with respect to its feasibility, realism, and ability to achieve desired outcomes.

The work plan must also clearly describe how ''an outcome-oriented result'' will be measured. This should be articulated in an analytic plan, which clearly defines the project's potential to make a significant impact on improving bicycle safety or reducing bicycle crashes, and associated injuries and fatalities. The analytic plan may differ depending on whether the focus of the effort is a community or examination of data. Issues that need to be considered in the analytic plan include how the information/data collected in the project will be compiled, analyzed, interpreted and reported. When information is qualitative, what criteria will be used to analyze it? Are there sufficient data/information sources and is access ensured from appropriate owners or collectors of data to obtain and appropriately analyze the quantitative and qualitative information needed on the proposed project?

3. Special Competencies (20 percent)

The extent to which the applicant has met the special competencies including knowledge and familiarity with bicycle safety issues associated with the proposed intervention or effort; technical and management skills needed to successfully design, conduct, and evaluate the proposed effort; ability to work with various organizations and the bicycling community to implement programs or compile data; ability to design and implement approaches for addressing bicycle safety related problems; and experience in fostering new partnership with nontraditional partners.

4. Project Management and Staffing (20 percent)

The extent to which the proposed staff are clearly described, appropriately assigned, and have adequate skills and experience. The extent to which the applicant has the capacity and facilities to administer and execute the proposed project. The extent to which the applicant has provided details regarding the level of effort and allocation of time for each staff position. The applicant must furnish an organizational chart and resumes of each proposed staff member. Is the applicant's staffing plan reasonable for accomplishing the objectives of the project within the time frame set forth in the announcement? Is the timeline submitted by the grantee reasonable? Has the applicant's financial budget provided sufficient detail to allow NHTSA to determine that the estimated costs are reasonable and necessary to perform the proposed effort? Has financial or in-kind commitment of resources by the applicant's organization or other supporting organizations been clearly identified?

Special Award Selection Factors

Applicants are strongly urged to seek funds from other Federal, State, local, and private sources to augment those available under this announcement. Among proposals of equal merit preference may be given to those that have proposed cost-sharing strategies and/or other proposed funding sources in addition to those in this announcement.

Terms and Conditions of Award

1. Prior to award, each grantee must comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation government wide Debarment and Suspension (Non-procurement) and Government-wide Requirement for Drug Free Work Place (Grants).

2. Reporting Requirements and Deliverables:

(a) Quarterly Progress Reports must include a summary of the previous quarter's activities and accomplishments, as well as the proposed activities for the upcoming quarter. Any decisions and actions required in the upcoming quarter should be included in the report. Any problems and issues that may arise and need the Contracting Officer's Technical Representative (COTR) or Contracting Officer (CO) attention should be clearly identified in the quarterly report in a specific, identified section. The grantee shall supply the progress report to the COTR every ninety (90) days, following date of award.

(b) Initial and Subsequent Meetings with COTR: The grantee will meet with the COTR and appropriate NHTSA staff at NHTSA's offices in Washington D.C. to discuss and refine the development, implementation, and evaluation of the project. The grantee will prepare a 20 to 30 minute presentation describing the project and will be prepared to answer questions from the COTR and others present at the briefing. After this initial meeting with the COTR, the grantee should meet at least once a year with the COTR in Washington D.C. at NHTSA's offices to discuss the project's progress and results. These meetings will be a minimum of 4 hours in length.

(c) *Revised Project Plan:* If needed, the grantee will submit a revised project plan incorporating verbal and written comments from the COTR. This revised plan is due no more than one (1) month from date of the initial meeting with COTR.

(d) *Draft Final Report:* The grantee will prepare a Draft Final Report that includes a description of the project, issue addressed, program implementation (if relevant), analytic strategies, findings and recommendations. With regard to technology transfer, it is important to know what worked and what did not work, under what circumstances, what can be done to enhance replication in similar communities, and what can be done to avoid potential problems for future replication of the project. This is true even if the applicant reviewed and documented existing programs. The grantee will submit the Draft Final Report to the COTR 60 days prior to the

end of the performance period. The COTR will review the Draft Final Report and provide comments to the grantee within 30 days of receipt of the document.

(e) *Final Report:* The grantee will revise the Draft Final Report to reflect the COTR's comments. The revised final report will be delivered to the COTR 15 days before the end of the performance period.

(f) *Requirements for Printed Material:* The print materials shall be provided to NHTSA in both camera ready and appropriate media formats (disk, CD-rom) with graphics and printing specifications to guide NHTSA's printing office and any outside organization implementing the program. Printing Specifications follow.

(i) Digital artwork for printing shall be provided to NHTSA on diskette (100MG Zip disk or 1GB Jaz disk). Files should be in current desktop design and publication programs, for example, Adobe Illustrator, Adobe Photoshop, Adobe Pagemaker, Macromedia Freehand, QuarkXPress. The grantee shall provide all supporting files and fonts (both screen and printers) needed for successful output, black and white laser separations of all pages, disk directory(s) with printing specifications provided to the Government Printing Office (GPO) on GPO Form 952 to guide NHTSA's printing office, GPO, and any outside organizations assisting with program production. The grantee shall confer with the COTR to verify all media format and language.

(ii) Additionally, the program materials shall be submitted in the following format for placement on NHTSA's website on the World Wide Web.

- Original application format, for example, *pm5; *.doc; *.ppt; etc
- HTML level 3.2 or later
- A PDF file for viewing with Adobe Acrobat

(iii) All HTML deliverables must be delivered on either a standard 3.5″ floppy disk or on a Windows 95 compatible formatted Iomega zip disk and labeled with the following information:

- Grantee's name and phone number
- Names of relevant files
- Application program and version used to create the file(s).
- If the files exceed the capacity of a high density floppy, a Windows 95 compatible formatted Iomega zip disk is acceptable.

(iv) Graphics must be saved in *Graphic Interchange Format (GIF) or Joint Photographic Expert Group (JPEG).* Graphics should be prepared in the smallest size possible, without reducing the usefulness or the readability of the figure on the screen. Use GIF for solid color or black and white images, such as bar charts, maps, or diagrams. Use JPEG (highest resolution and lowest compression) for photographic images having a wider range of color or grey-scale tones. When in doubt, try both formats and use the one that gives the best image quality for the smallest file size. Graphic files can be embedded in the body of the text or linked from the body text in their own files: the latter is preferable when a figure needs to be viewed full screen (640 x 480 pixels) to be readable.

- Tabular data must be displayed in HTML table format.
- List data must be displayed in HTML list format.
- Pre-formatted text is not acceptable.
- Currently, frames are not acceptable.
- JAVA, if used, must not affect the readability or usefulness of the document, only enhance it.
- Table background colors may be used, but must not be relied upon (for example, a white document background with a table with colored background may look nice with white text, but the colored background doesn't show up on the user's browser the text shall be white against white and unreadable.)
- All HTML documents must be saved in PC format and tested on a PC before delivery.

(v) During all phases of program development, draft program content and materials shall be provided to the COTR, as appropriate, for approval and coordination within NHTSA.

(vi) All HTML deliverables rendered under this cooperative agreement must comply with the accessibility standards at 36 CFR 1194.22 which implements Section 508 of the Rehabilitation Act of 1973, as amended. This standard is available for viewing at the Access Board web site at: *http://www.access-board.gov/sec508/guide/1194.22.htm*

Unless otherwise indicated, the grantee represents by signature of this cooperative agreement that all deliverables comply with the accessibility standards.

(g) Final project briefing to NHTSA and a presentation to a national meeting: The grantee will deliver a briefing in Washington, DC at NHTSA's offices to the COTR and appropriate NHTSA staff to review the project implementation, evaluation, and results. This presentation shall last no less than 30 minutes and the grantee shall be prepared to answer questions from the briefing's attendees.

In consultation with the COTR, the grantee will select a national meeting to deliver a presentation of the project and its effectiveness.

(h) The grantee will deliver an electronic Microsoft PowerPoint (97) presentation that NHTSA staff shall be able to use to brief senior staff or bicycle partners at various meetings and conference.

3. During the effective performance period of the cooperative agreements awarded as a result of this announcement, the agreements shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreement, dated July 1995.

Issued on: April 9, 2002.

Rose A. McMurray,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 02–9137 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP01–004

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

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. § 30162, requesting that the agency commence a proceeding to determine the existence of a defect related to motor vehicle safety. The petition is hereinafter identified as DP01–004.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Squire, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC, 20590. Telephone 202–493–0212.

SUPPLEMENTARY INFORMATION: Mr. Douglas Fabish submitted a petition to NHTSA by letter dated July 23, 2001, requesting that an investigation be initiated to determine whether to issue an order concerning safety defects in model year 1997 WIA-series Volvo Class 8 truck tractors (subject trucks). The petition alleges that the frame rail cross members are ineffective in maintaining alignment of the two longitudinal frame rails and that the subsequent misalignment creates vehicle control problems, excessive vibration, and increased wear of axle components. The petitioner alleges that the frame rail cross members flex as the vehicle is maneuvered through a turn. The flexing

allegedly creates a misalignment of the frame that in turn creates a ''temporary breech (sic)'' between the frame and axle positioning components. The petitioner asserts that as a result of this breach, or gap, between the frame and axle, inordinate stress is placed on the axle components leading to premature wear of the components and excessive vehicle vibration.

In support of the petition, the petitioner made available to ODI a copy of an engineering analysis he commissioned for his truck. Although the report offered some explanation for the problems the petitioner experienced with his vehicle, ODI has included that the analysis does not support the petitioner's allegations. Specifically, the petitioner's engineering analysis concluded that the frame rails were misaligned and ''over-stressed.'' The analysis failed to explain the methodology used to reach this conclusion or what effect such conditions would have on the vehicle.

A review of complaints filed with NHTSA, regarding all Volvo trucks, revealed none that allege characteristics similar to those expressed by the petitioner. NHTSA has received eight complaints regarding the subject trucks; only one made reference to the frame, and this complaint was related to the vehicle's suspension. Review of additional documentation provided by the petitioner, including his engineering analysis, failed to conclusively identify a cause for the problems exhibited by his vehicle. None of the complaints reviewed, nor personal contacts established by ODI, corroborated the petitioner's conclusion regarding ineffective frame rail cross members.

ODI has no information indicating that misalignment of the truck's frame rails as described by the petitioner has contributed to a collision or injury.

It is unlikely that NHTSA would issue an order for the notification and remedy of alleged frame rail misalignment as described by the petitioner at the conclusion of the investigation requested in the petition. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: April 4, 2002.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 02–9136 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–12048]

Notice of Receipt of Petition for Decision That Nonconforming 1999–2001 Mercedes Benz CLK Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1999–2001 Mercedes Benz CLK passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1999–2001 Mercedes Benz CLK passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 16, 2002.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, L.L.C. of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1999–2001 Mercedes Benz CLK passenger cars are eligible for importation into the United States. The vehicles which J.K. believes are substantially similar are 1999–2001 Mercedes Benz CLK passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1999–2001 Mercedes Benz CLK passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 1999–2001 Mercedes Benz CLK passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1999–2001 Mercedes Benz CLK passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly*

Anchorages, 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials*.

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: replacement of the instrument cluster and the cruise control lever, when necessary, with U.S.-model components.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamps and front sidemarker lamps, and (b) installation of U.S.-model taillamp assemblies that incorporate rear sidemarker lamps.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirror*: replacement of the passenger side rearview mirror with a U.S.-model component, or inscription of the required warning statement on that mirror.

Standard No. 114 *Theft Protection*: reprogramming to activate the theft prevention warning system.

Standard No. 118 *Power Window Systems:* reprogramming to meet the standard.

Standard No. 208 *Occupant Crash Protection*: (a) reprogramming of the seat belt warning system so that it actuates in the proper manner; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. Petitioner states that the front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton. Petitioner further states that the vehicles are equipped with a seat belt warning lamp that is identical to the lamp installed on U.S.-certified models.

The petitioner states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

The petitioner also states that all vehicles must be inspected for compliance with the Theft Prevention Standard in 49 CFR part 541, and that required markings must be added to vehicles that are not already marked in compliance with that standard.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 10, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–9111 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–12047]

Notice of Receipt of Petition for Decision That Nonconforming 2001 Jeep Grand Cherokee Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of receipt of petition for decision that nonconforming 2001 Jeep Grand Cherokee multipurpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2001 Jeep Grand Cherokee MPVs that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 16, 2002.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (''WETL'') (Registered Importer 90–005) has petitioned NHTSA to decide whether 2001 Jeep Grand Cherokee MPVs originally manufactured for sale in the European market are eligible for importation into the United States. The vehicles which WETL believes are substantially similar are 2001 Jeep Grand Cherokee MPVs that were manufactured for importation into, and sale in, the United States and certified

by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2001 Jeep Grand Cherokee MPVs to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

WETL submitted information with its petition intended to demonstrate that non-U.S. certified 2001 Jeep Grand Cherokee MPVs, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2001 Jeep Grand Cherokee MPVs are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 113 *Hood Latch Systems,* 114 *Theft Protection,* 116 *Motor Vehicle Brake Fluids,* 118 *Power Window Systems,* 119 *New Pneumatic Tires for Vehicles other than Passenger Cars,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 208 *Occupant Crash Protection,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 2001 Jeep Grand Cherokee MPVs comply with the Vehicle Identification Number plate requirement of 49 CFR part 565.

Petitioner further contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* addition of brake warning indicator symbol that conforms to the standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* replacement of headlight assemblies with U.S.-model components that include sidemarker lights.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with one that has the required warning statement permanently etched into the glass.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles other than Passenger Cars:* installation of a tire information placard.

The petitioner states that all vehicles must be inspected prior to importation for compliance with the Theft Prevention Standard found in 49 CFR Part 541, and that U.S.-model anti-theft devices must be installed on all vehicles lacking that equipment.

The petitioner also states that a certification label must be affixed to the driver's side doorjamb to meet the requirements of 49 CFR Part 567.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 10, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–9112 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2002–12046]

Notice of Receipt of Petition for Decision That Nonconforming 2000–2001 Mercedes Benz SLK Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2000–2001 Mercedes Benz SLK passenger cars are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2000–2001 Mercedes Benz SLK passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is May 16, 2002.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, L.L.C. of Baltimore, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 2000–2001 Mercedes Benz SLK passenger cars are eligible for

importation into the United States. The vehicles which J.K. believes are substantially similar are 2000–2001 Mercedes Benz SLK passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2000–2001 Mercedes Benz SLK passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2000–2001 Mercedes Benz SLK passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2000–2001 Mercedes Benz SLK passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 135 *Passenger Car Brake Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the instrument cluster and the cruise control lever, when necessary, with U.S.-model components.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamps and front sidemarker lamps, and (b) installation of U.S.-model taillamp assemblies that incorporate rear sidemarker lamps.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component, or inscription of the required warning statement on that mirror.

Standard No. 114 *Theft Protection:* reprogramming to activate the theft prevention warning system.

Standard No. 118 *Power Window Systems:* reprogramming to meet the standard.

Standard No. 208 *Occupant Crash Protection:*

(a) reprogramming of the seat belt warning system so that it actuates in the proper manner; (b) inspection of all vehicles and replacement of the driver's and passenger's side air bags, knee bolsters, control units, sensors, and seat belts with U.S.-model components on vehicles that are not already so equipped. Petitioner states that the front and rear outboard designated seating positions have combination lap and shoulder belts that are self-tensioning and that release by means of a single red pushbutton. Petitioner further states that the vehicles are equipped with a seat belt warning lamp that is identical to the lamp installed on U.S.-certified models.

The petitioner states that a vehicle identification plate must be affixed to the vehicles near the left windshield post and a reference and certification label must be affixed in the area of the left front door post to meet the requirements of 49 CFR part 565.

The petitioner also states that all vehicles must be inspected for compliance with the Theft Prevention Standard in 49 CFR part 541, and that required markings must be added to vehicles that are not already marked in compliance with that standard.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 am to 5 pm]. It is requested but not required that 10 copies be submitted.

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 at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: April 10, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 02–9113 Filed 4–15–02; 8:45 am]

BILLING CODE 4910–59–P

Federal Register

Tuesday,
April 16, 2002

Part II

Postal Service

39 CFR Part 111

Changes to the Domestic Mail Manual to Implement Docket No. R20011; Final Rule

POSTAL SERVICE

39 CFR Part 111

Changes to the Domestic Mail Manual to Implement Docket No. R2001–1

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the rate, fee, and classification changes for all classes of mail and special services included in the Decision of the Governors of the Postal Service in Postal Rate Commission Docket No. R2001–1.

EFFECTIVE DATE: This final rule is effective at 12:01 a.m. on June 30, 2002.

FOR FURTHER INFORMATION CONTACT: Sherry Freda, Mail Preparation and Standards, 703–292–3648.

SUPPLEMENTARY INFORMATION: On September 24, 2001, the United States Postal Service, in conformance with sections 3622 and 3623 of the Postal Reorganization Act (39 U.S.C. 101 *et. seq.*), filed a request for a recommended decision by the Postal Rate Commission (PRC) on proposed rate, fee, and classification changes. The PRC designated this filing as Docket No. R2001–1 and issued a notice of filing in Order No. 1324 on September 26, 2001.

On October 25, 2001, the PRC directed the participants to consider the possibility of a settlement. Noting the extraordinary national events experienced during September, and the potential effects that changed circumstances might have on the Postal Service's request, the PRC requested all participants consider whether substantial agreement on issues and objectives might permit a beneficial resolution of the proceeding.

Counsel for the Postal Service, the Office of the Consumer Advocate, and participating intervenors discussed the issues presented by this case at conferences on October 30 and November 16, 2001, to which all intervenors and the Office of the Consumer Advocate were invited. The Postal Service also consulted with intervenors individually and in smaller groups.

On December 17, 2001, the Postal Service filed a Stipulation and Agreement for settlement of Docket No. R2001–1, together with a motion for the establishment of preliminary procedures and a schedule. On December 26, 2001, the Postal Service with concurrence of its Board of Governors agreed to changes in the terms of the Stipulation and Agreement. These changes included specifying June 30, 2002, rather than June 2, 2002, as the earliest effective date for rate, fee, and classification changes. The revision also restored the rates for intra- and inter-BMC Parcel Post back to the levels originally proposed in the September 24, 2001, request. Between December 26, 2001, and January 17, 2002, 50 parties adhered to the terms of the revised settlement by signing the agreement.

On January 17, 2002, the Postal Service filed a second revised Stipulation and Agreement that included several relatively minor changes in the rates proposed for the Enhanced Carrier Route (ECR) subclass of Standard Mail. In all other respects, the Stipulation and Agreement remained the same. Subsequently, six additional parties adhered to the settlement agreement. Only one participant opposed the settlement.

On January 30, 2002, the Postal Service published for comment in the **Federal Register** a proposed rule (67 FR 4562) that provided information on the implementation rules for the rate, fee, and classification changes the Postal Service proposed to adopt if the requested changes in Docket No. R2001–1 were recommended by the PRC and approved by the Board of Governors of the Postal Service.

On February 13, 2002, the Postal Service filed a third revised Stipulation and Agreement that withdrew certain proposed changes concerning the listings of combinations of special services. In all other respects, the Stipulation and Agreement remained the same.

On March 6, 2002, the Postal Service filed the original signatures of the participants in Docket No. R2001–1 who signed the Stipulation and Agreement. A total of 57 parties including the Postal Service signed the settlement agreement. Six parties of record did not sign the agreement, but did not oppose it. Only one party opposed the settlement.

On March 22, 2002, pursuant to 39 U.S.C. 3624, the PRC issued its recommended decision on the Postal Service's request to the Governors of the Postal Service. On April 8, 2002, the Board of Governors approved the recommended decision and established an implementation date of June 30, 2002, on which the adopted rates, fees, and classifications will take effect. This final rule contains the DMM standards adopted by the Postal Service to implement the decision of the Governors.

A notice announcing the Governors' decision and the issuance of final Domestic Mail Classification Schedule and Rate Schedule changes is contained in a separate notice to be published in the **Federal Register**.

Part A of this document identifies and responds to the comments received on the proposed rule and also summarizes the changes contained in this final rule that were not part of the proposed rule. Part B of this document summarizes the revisions to the DMM by class of mail and special service category. Part C summarizes the changes by DMM module and section. The actual changes to the DMM, which will take effect on June 30, 2002, appear at the end of this final rule.

As information, the DMM language in this final rule incorporates all revisions to the DMM from previously published **Federal Register** final rules that have taken effect on or before March 31, 2002. As a result, the numbering and the language of the DMM sections in this final rule have been synchronized with the language in the current DMM 56.

Mailers are advised that the Postal Service is providing a 6-month phase-in period through January 1, 2003, for meeting the requirements for mail preparation and tray labeling of nonmachinable First-Class Mail and Standard Mail.

Part A—Comments on the Proposed Rule and Changes in the Final Rule

On January 30, 2002, the Postal Service published a proposed rule in the **Federal Register** (67 FR 4562) that provided information on the implementation rules for the rate, fee, and classification changes that the Postal Service proposed to adopt if its requested changes in Docket No. R2001–1 were approved. The Postal Service solicited comments on the proposed rule from members of the general public and responses from 12 parties were received. The parties providing responses represented two industry associations, two mailers, six mailing agents, and two individuals. A summary of the comments received by subject matter is detailed in items 1 through 7. Item 8 summarizes the changes contained in the final rule that were not part of the proposed rule.

1. Express Mail

Only one comment related to Express Mail. The commenter emphasized that the wording in DMM D500.1.5 pertaining to Express Mail refunds must not be misapplied to transportation failures of a routine nature (e.g., equipment failures, canceled flights). For Express Mail refunds that are denied due to a transportation breakdown, the commenter maintained that the breakdown must occur in a

substantial portion of the network (causing a massive disruption) and not be an isolated or routine incident. The Postal Service agrees with this comment and notes that this was the intent of the text in the proposed rule, which is also adopted in this final rule.

2. Periodicals

Three of the commenters, who represented one mailer, one mailing agent, and one industry association, provided comments on several items related to Periodicals.

One commenter requested a clarification of the new per piece pallet discounts, asking whether the discounts are cumulative or exclusive. To clarify, the pallet discounts are exclusive and cannot be applied to the same addressed piece. A $0.005 discount applies to each addressed nonletter piece on nondestination entry pallets and a $0.015 discount applies to each addressed nonletter piece on destination entry pallets. However, a per piece pallet discount may be claimed in addition to any destination entry rate and discount (DADC, DSCF, DDU) for which an addressed piece may also qualify.

Regarding the Ride-Along classification, two commenters expressed an opinion that while they are pleased that the Ride-Along classification will become a permanent classification, the $0.024 per piece increase was too high. It is important to note the experimental rate of $0.10 had been in place since February 2000. The $0.024 increase represents the cumulative increases in rates for R2000–1 implemented in January 2001, the modified rates implemented in July 2001, and the implementation of R2001–1. It must also be noted that modifying the Ride-Along rate would require action by the Postal Rate Commission, which is outside the scope of this rulemaking.

One commenter asked about the eligibility of multiple sheets enclosed in an envelope mailed at the Ride-Along rate. To clarify, multiple sheets (e.g., coupons) can be enclosed within an envelope and mailed at the Ride-Along rate, providing all other standards for Ride-Along are met. The same commenter asked, for multiple editions, if the required marking could be included in the identification statement so long as the editions in which a Ride-Along is included are defined in the identification statement. This was allowed during the experiment and will continue to be allowed.

A further comment on Ride-Along asked for clarification to the standard for Ride-Along pieces contained within unbound publications. The DMM text in this final rule has been amended to clarify that a loose Ride-Along enclosure with an unbound publication does not have to be glued or permanently fastened within the host piece but must be combined with and inserted within the publication.

One commenter recommended that co-located SCF/ADC facilities be defined and designated. As information, the Postal Service did not intend to allow DSCF rate eligibility for mail on DADC pallets. The proposed standard for DSCF rate eligibility published in the January 30, 2002, **Federal Register** (67 FR 4562) indicated that the DSCF rate was applicable to mail on DADC pallets at co-located SCF and ADC facilities. The standards in E250 reflect this rate eligibility for addressed pieces deposited at such facilities. However, the Postal Service plans to change this standard appropriately in the next rate case.

One commenter expressed support for the revision that will no longer require mailers to present hard copy Form 3553, *Coding Accuracy Support System (CASS) Summary Report,* with each postage statement. The commenter further suggested a similar revision be extended to the requirements for standardized presort documentation and the documentation required for Periodicals mailings using the simplified address format. While the Postal Service understands that the mailing lists for Periodicals mailings are generally consistent from issue to issue, standardized documentation is needed to support the postage rates and discounts claimed on the postage statements. It should be noted that documentation of postage is not required if the pieces are separated by rate and zone when presented for acceptance. For mailings using simplified address, the required documentation shows that the mailer is using up-to-date saturation density information. Therefore, the Postal Service does not intend to change the standards for the submission of postage and saturation density documentation at this time.

One commenter raised issues regarding drop shipment discount eligibility in circumstances when the mail is not entered at the destination facility. The Postal Service recognizes that there are circumstances when the entry discount would apply even though the mail is not entered at the destination facility. For example, for barcoded letter-size Periodicals, the ADC entry discount would apply for mail entered at an ADC listed in L004 or a facility listed in L801. Another example of this may occur when 5-digit sacks are entered at the delivery unit. In this example, providing the mail is sorted to carrier routes at the local office (e.g., because either the ZIP Code is not an AFSM 100 automated zone or the pieces are not compatible with AFSM 100 processing) and does not have to be taken to another facility for sorting, the mail would qualify for the SCF discount.

One commenter expressed concern that the proposed rule changed eligibility standards for residential customer simplified address mailings. The Postal Service does not intend to change the standards for simplified address mailings in DMM E230.3.4.

One commenter questioned the legal responsibilities of mailers when they sign a postage statement certifying that address quality and other rate requirements have been met. The responsibilities of mailers have not changed. Postage statements have always required that mailers sign the form to certify that their mailings meet postal eligibility standards.

3. Standard Mail

Eight respondents provided comments related to Standard Mail. These commenters represented one mailer, five mailing agents, and one industry association. Comments related to the nonmachinable surcharge are discussed separately in item 6.

a. Automation Requirements for High Density and Saturation Letters

The Postal Service received six comments regarding the new requirement that pieces mailed at Enhanced Carrier Route (ECR) high density and saturation letter rates be automation-compatible and bear a delivery point barcode. Mailers who choose not to make their letter-size pieces automation-compatible or choose not to barcode will pay the ECR high density or saturation nonletter rate.

The proposed classification changes for high density and saturation letters were submitted to the Postal Rate Commission as part of the original rate case filing and are factored into the overall rate design for ECR letters. The new requirements are specified in the Domestic Mail Classification Schedule (DMCS), which is the legal document that supports the standards in the DMM. Comments about rate design and DMCS language are handled as part of the proceedings of the Postal Rate Commission and are outside the scope of this rulemaking. However, we will address some of the concerns raised by the commenters.

As a whole, the commenters opposed the additional requirements for high density and saturation rate letters, and they questioned the operational justifications behind including this requirement in the rate case filing. Some commenters predicted that the additional costs of installing barcoding technology or tabbing machines is greater than the ''penalty'' imposed by paying the nonletter rate. Therefore, mailers will find it more cost efficient to pay the nonletter rate. Commenters asserted that this rate structure will not give mailers an incentive to produce automation-compatible mailpieces. One commenter asked if mailers were consulted on this classification change before it was proposed to the Postal Rate Commission and asked that implementation be postponed to provide the mailing industry with more time to comment and respond to the changes.

Two commenters asked that the automation requirements be waived for pieces entered at the destination delivery unit (DDU). It is the understanding of these commenters that very little automated sortation is performed at delivery units.

The cost savings and operational efficiencies that will be captured through these automation requirements have been factored into the rate design for all high density and saturation rate letters, including those that receive the DDU discount. While it is true that little automated sortation is performed at the delivery unit, a significant volume of ECR letters is backhauled to the sectional center facility (SCF) for processing and sequencing. Therefore, the Postal Service receives operational benefits from these pieces being barcoded and automation-compatible.

No comments were received in response to the proposed DMM language for implementing these changes. Therefore, effective with rate implementation, all pieces claimed at high density or saturation letter rates must be automation-compatible and must bear a delivery point barcode. Letters that do not meet these requirements may be mailed at high density or saturation nonletter rates.

b. Automation Heavy Letters

The Postal Service received two comments asking for clarification on issues related to raising the weight limit for Standard Mail automation letters to 3.5 ounces.

Two commenters asked for clarification on the weight increments for calculating postage for pieces between 3.3 and 3.5 ounces. As for all postage calculations, the single-piece weight is expressed in decimal weights and rounded off to four digits (see DMM P013.1.3). For example, if a piece weighs 3.444411 ounces, then the pound rate postage would be calculated using 3.4444 ounces as the weight.

The same two commenters asked how residual (nonbarcoded) pieces from a regular Standard Mail heavy automation letter mailing would be treated. Pieces in a heavy automation mailing that cannot be barcoded will be treated as under current standards for automation letters. Pieces that are not barcoded cannot be mailed at automation rates and must be mailed at Presorted rates. Because there is no provision to apply the 3.5 ounce weight limit to Presorted letters, pieces that weigh more than 3.3 ounces must be mailed at the Presorted piece/pound rates. These residual pieces would be reported on a separate postage statement but, like today, they will not need to meet a separate 200-piece or 50-pound minimum (see DMM E620.1.2). Mailers also have the option of mailing residual pieces at the First-Class Mail single-piece rate.

Raising the weight limit for Presorted letters to 3.5 ounces would require action by the Postal Rate Commission and is outside the scope of this rulemaking.

Current DMM E620.1.2 requires that residual pieces be part of the same mailing job and reported on the same postage statement as the rest of the ECR or automation rate mailing. The Postal Service has developed new postage statements for heavy automation letters (Forms 3602–HR, –HP, –NHR, and –NHP) that do not include space for calculating postage for residual pieces mailed at Presorted rates. Therefore, a mailing job that contains heavy automation or heavy ECR letters and Presorted piece/pound rate letters would be reported on separate postage statements (although some facsimiles produced by presort software will combine these two into one). To accommodate this change, DMM E620.1.2 has been revised as part of this final rule to remove the requirement that residual pieces be reported on the same postage statement.

4. Package Services

Two commenters, who represented one mailing agent and one industry organization, provided comments on four items related to Package Services. Three of the items concerned Bound Printed Matter and the other involved Media Mail.

a. Bound Printed Matter

One commenter proposed that the Postal Service define a Bound Printed Matter (BPM) parcel as any piece that is more than 1–1/4 inches thick at its thickest point. The definition quoted by the commenter was a BPM parcel is defined as ''any piece that is in a box or, if not in a box, is more than 1 ¼-inch thick at its thickest point.'' This definition is applicable only when Delivery Confirmation or Signature Confirmation service is added to a First-Class Mail or Package Services parcel (see DMM C100.5.0 and C700.1.0h). In all other circumstances, the existing criteria in DMM C050 will continue to be used to define a parcel, including a BPM parcel.

One commenter raised a question about the requirement that BPM pieces be sorted to the 5-digit level to qualify for DSCF rates. The Postal Service maintains its position that BPM must be sorted to 5-digits in order to qualify for DSCF rates.

The Postal Service proposed that BPM flats meet the standards in DMM C820 for flat sorting machine (FSM) 881 processing. One commenter stated that the standards in DMM C820 for FSM 1000 processing are not included in the formulation of the automated flat sorting machine (AFSM) 100 standards and that they should be. The Postal Service did not include the standards in DMM C820 for FSM 1000 processing in the eligibility requirements for the barcode discount for automation BPM flats because FSM 1000 standards are not consistent with the design of the AFSM 100. As information, the DMM language in this final rule does not incorporate revisions to the DMM standards for automation flats because this issue was not filed as part of Docket No. R2001–1. Therefore, the comment is outside the scope of this rulemaking. At a future date, the Postal Service will publish standards for the AFSM 100 in a separate **Federal Register** notice for public comment.

One commenter stated that upon completion of the testing of the AFSM 100, new standards are likely to be used for defining when BPM flats can be processed on the FSM 881. It is anticipated this change would affect the weight maximum for flats in particular. Since this issue was not filed as part of Docket No. R2001–1, the comment is outside the scope of this rule making. However, the Postal Service will publish for public comment the maximum weight for BPM flats at a future date in a separate **Federal Register** notice.

b. Media Mail and Library Mail

One commenter believes the Postal Service should reinstate the option for preparing Media Mail in sacks to qualify

for Presorted 5-digit or basic rates based on a minimum 1,000 cubic inches of mail. This option was eliminated for both Media Mail and Library Mail with the implementation of Docket No. R2000–1, which took effect on January 7, 2001. The Postal Service is not opposed to this suggestion and as part of this final rule reinstates the option for preparing sacks based on a minimum of 1,000 cubic inches of mail for both Media Mail and Library Mail.

5. Special Services

The two individuals who responded both commented on items related to the proposal for adding an electronic option for return receipt service.

Unrelated to these comments, the Postal Service has decided to delay implementation of the proposed electronic option until a future date. Consequently, the electronic option will not be available as proposed, and it is not included in this final rule.

6. Nonmachinable Surcharge

Three respondents representing one individual, one mailing agent, and one industry association provided comments on the nonmachinable surcharge. One commenter asked for clarification of some of the criteria for nonmachinable letters published as proposed DMM C050.2.2.

For item 2.2d, the commenter asked if a key that is affixed to a card or piece of cardboard inserted in an envelope would be nonmachinable and requested that the standard be reworded to read ''loose keys and coins.''

The Postal Service agrees that loose keys in an envelope would cause a piece to be nonmachinable and has made the suggested change to DMM C050.2.2d in this final rule. Mailers should note that a ''non-bulky key'' (such as a house key) firmly affixed to a piece of stiff paper inserted into an envelope would be machinable; no surcharge would apply. A bulky key (such as a vehicle key with thick plastic at the top) in an envelope would pay the surcharge, regardless of whether or not that key was affixed to anything, due to the uneven thickness of the piece.

For item 2.2f, the commenter requested that the standard be reworded to show that the minimum thickness requirement should apply to the ''majority of the surface area of a mailpiece.'' The commenter cited an example of a piece of business correspondence inserted into a #10 envelope. The majority of the surface of the piece is greater than .009 inches thick, but there is a small margin around the edges of the piece that is less than .009 inches thick. The commenter also questioned why the minimum thickness criteria applies to pieces of a certain size (as proposed, pieces more than 4 ¼ inches high or 6 inches long would have to be at least 0.009 inches thick).

The Postal Service included a minimum thickness criteria because very flimsy mailpieces (such as a single sheet of unenveloped newsprint) cannot be processed efficiently on automated sorting equipment. This is especially true as pieces increase in height and length. These pieces must be handled manually. We believe that the standard as written is adequate to achieve this goal. The Postal Service does not measure the thickness of a mailpiece at the very edge. We will monitor the implementation of this criterion to ensure that mailers are not being assessed the surcharge on pieces that meet the thickness requirement for machinable pieces.

Two commenters asked if the nonmachinable surcharge would apply to residual pieces from a Standard Mail automation flats mailing.

Any piece mailed at the Presorted letter piece rate that meets one or more of the criteria in C050.2.2 would be subject to the nonmachinable surcharge. This includes pieces that are residual pieces from any automation mailing, including a mailing of automation flats.

For example, a barcoded piece that is 8½ by 5½ inches and bears an address parallel to the shorter edge could be mailed as a Standard Mail automation flat. Pieces in this mailing that cannot be barcoded can be mailed at Presorted rates; the mailer would then have the option of paying the letter piece rate plus the nonmachinable surcharge (because the address is parallel to the shorter dimension) or the nonletter piece rate. Like today, these residual pieces will not need to meet a separate 200-piece or 50-pound minimum (see DMM E620.1.2). Mailers also have the option of mailing residual pieces at the First-Class Mail single-piece rate.

7. Pallet Load Minimum for Trays

One commenter stated that the proposed change to DMM M041.5.0 has the effect of raising the minimum number of letter trays needed to make a pallet. The commenter believes that today's standard (three layers of letter trays) can be met with 14 2-foot trays (28 linear feet).

The intent of this rule change is to create a measurement that mailers and postal employees can use to objectively determine whether the pallet minimum has been met. Under the current standard, mailers use a combination of 1-foot and 2-foot trays to create three full layers of letter trays on a pallet. Analysis by the Postal Service has determined that the minimum number of trays to create three layers is 36 linear feet. We understand that some mailers do not properly layer letter trays and can create three layers with fewer than 36 linear feet (by stacking trays around the edges of the pallet with a hole in the middle). Stacking trays this way gives the appearance of meeting the requirement of three layers but, in fact, does not.

We believe that a measurement that is objective and easy to understand, such as linear feet, will ensure that the pallet minimum is applied more consistently. However, in consideration of comments from the mailing industry, we will retain the current standard and add the linear feet measurement as an option. Therefore, in this final rule, DMM M041.5.0 has been revised to show that the pallet minimum is three layers of trays or 36 linear feet of trays. A mailer must make a pallet for a particular presort destination when they have six layers of trays or 72 linear feet of trays.

8. Other Changes and Clarifications in the Final Rule

The following information summarizes the DMM changes contained in the final rule, but which were not published as part of the proposed rule.

a. First-Class Mail

M032.2.4b was revised to replace references to upgradable mail with references to machinable mail. Barcoded tray labels will be allowed, but will not be required, for trays of First-Class Mail machinable letters. Zebra codes must not be used on trays of First-Class Mail machinable letters. Zebra codes indicate that the tray contains automation rate prebarcoded mail.

b. Standard Mail

M032 was revised to show that barcoded tray labels will be required on trays of Enhanced Carrier Route (ECR) high-density and saturation letters. Barcoded tray labels will not be required for letter-size pieces mailed at the nonletter rate.

M032.2.4b was revised to replace references to upgradable mail with references to machinable mail. Barcoded tray labels will be allowed, but will not be required, for trays of Standard Mail machinable letters. Zebra codes must not be used on trays of Standard Mail machinable letters. Zebra codes indicate that the tray contains automation rate prebarcoded mail.

The rate tables in DMM R600.1.1 and 3.1 were changed to eliminate the rate

cell for mixed AADC automation letters entered at the destination sectional center facility (DSCF). This is because mixed or working trays must be entered at the origin facility, and not all of the pieces in the mixed AADC tray would be addressed for delivery within the SCF service area. In addition, the DSCF discount is available for pieces mailed at the AADC rate only when those pieces are in a 3-digit tray (e.g., a less-than-full 3-digit origin tray). It is not available for pieces mailed at the AADC rate that are in an AADC tray. No changes to DMM E650.6.0 are required to implement this change.

The proposed rule stated that ECR high density and saturation letter rate pieces that are not automation-compatible and are not barcoded could be mailed at the high density and saturation nonletter rates, or at the basic rate. Our intention in offering the basic rate was to give mailers more options, but after additional analysis it seems unlikely, given the rate differentials, that a mailer would ever choose to mail these letters at the basic rate. Therefore, we have eliminated that option from DMM E630.3.2 and E630.4.2.

The option to allow mailers to qualify for ECR high density rates on routes with fewer than 125 possible deliveries has been added back into DMM E630.3.0. That option was removed in the proposed rule because we thought that any mailer covering 100% of a carrier route would choose to claim the lower saturation rates. We have since learned that some mailers use this method to qualify for high density rates (they forgo the saturation rate because of operational efficiencies such as preparing pieces with identical markings).

c. Special Services

A service enhancement for registered mail and certified mail is included in the final rule. Mailers will be able to access delivery information over the Internet at www.usps.com by entering the article number shown on the mailing receipt. No delivery record will be provided by the Postal Service.

d. Postage Payment

In P910.3.3, the manifest rate category abbreviations for First-Class Mail and Standard Mail were changed.

In P960.3.2, the MLOCR rate and postage markings were changed for First-Class Mail pieces that weigh between 10 and 13 ounces.

Part B—Summary of Changes by Class of Mail

The following information details the R2001–1 changes organized by class of mail or special service category. This information is intended as an overview only and should not be viewed as defining every DMM revision adopted in this final rule.

1. Express Mail

a. Express Mail Rate Highlights

Overall, Express Mail rates will increase an average of 9.4%. The most significant change to the Express Mail rate structure will be to the flat-rate envelope. Currently, the rate for the Express Mail flat-rate envelope is the same as the applicable 2-pound rate. The rate for the flat-rate envelope will be the ½ pound rate, which is the lowest available rate for each Express Mail service offering. The rate for the flat-rate envelope will decrease for Post Office to Addressee service from $16.25 to $13.65, but the size of the envelope will remain the same. The Express Mail flat-rate envelope will continue to be the EP 13F envelope that is available from the Postal Service.

The indemnity included in the price of Express Mail will be reduced from $500 to $100 for both merchandise and document reconstruction. This adjustment will more closely align with general industry practice. The fee for every $100 increment of additional merchandise insurance desired above the standard $100 and up to $5,000 will be $1.00.

b. Express Mail Rate Structure

There will be no changes to the rate structure of Express Mail.

c. Express Mail Preparation Changes

There will be no changes to mail preparation requirements for Express Mail.

2. Priority Mail

a. Priority Mail Rate Highlights

Overall, Priority Mail rates will increase an average of 13.5%. Currently, the rate for the Priority Mail flat-rate envelope is the same as the 2-pound rate. Because of the rezoning of all rates from 2 to 5 pounds, the rate for the flat-rate envelope will be tied to the 1-pound rate. The 1-pound rate will increase from $3.50 to $3.85 and remain an unzoned rate. The rate for the flat-rate envelope will decrease from $3.95 to $3.85, but the size of the envelope will remain the same. The Priority Mail flat-rate envelope will continue to be the EP 14F envelope that is available from the Postal Service.

b. Priority Mail Rate Structure

Currently, Priority Mail rates are not zoned for pieces weighing 5 pounds and under, but they are zoned for pieces weighing more than 5 pounds. Weight increments over 1 pound and up to 5 pounds will be zoned to more accurately reflect actual costs to the Postal Service for transportation and handling.

c. Priority Mail Preparation Changes

There will be no changes to mail preparation requirements for Priority Mail.

3. First-Class Mail

a. First-Class Mail Rate Highlights

Overall, First-Class Mail rates will increase an average of 7.9%. The single-piece 1-ounce First-Class Mail rate will increase from $0.34 to $0.37, and the single-piece card rate from $0.21 to $0.23. The additional ounce rate for single-piece First-Class Mail will remain at $0.23. There will be a lower additional ounce rate for Presorted and automation First-Class Mail.

Business mailers will see larger automation presort discounts. The carrier route automation discount and the nonautomation presort discount will remain at current levels. The proposed increase in automation discounts and the proposed half-cent reduction in the workshare additional-ounce rate will result in more attractive rate incentives, especially for large-volume First-Class Mail users who presort and mail heavier pieces.

The presort mailing fee will increase from $125 to $150.

b. First-Class Mail Rate Structure and Mail Preparation

(1) Lower Additional Ounce for Presorted and Automation Rates

Currently, there is a single additional ounce rate for all pieces mailed at First-Class Mail rates. For Presorted and automation pieces weighing more than two ounces, a heavy piece discount is deducted.

The Postal Service will implement a lower additional ounce rate for workshare First-Class Mail. Pieces mailed at single-piece rates will pay $0.23 for each additional ounce; pieces mailed at any workshare rate will pay $0.225 for each additional ounce. This change affects only postage rates.

(2) Automation Basic Rate Split Into Two New Rates

For automation cards and letters, the current rate structure contains a 5-digit, 3-digit, and basic rate. The new rate structure will split the basic rate into an automated area distribution center (AADC) rate (for all pieces in an AADC tray) and a mixed AADC rate (for all pieces in a mixed AADC tray). The

AADC rate also will apply to pieces in a less-than-full 3-digit tray. There are no sortation changes for automation cards and letters. The 5-digit sort level will still be optional; all other sort levels will be required.

For automation flats, the current rate structure contains a 5-digit, 3-digit, and basic rate. The new rate structure will split the basic rate into an area distribution center (ADC) rate (for all pieces in an ADC package or tray) and a mixed ADC rate (for all pieces in a mixed ADC package or tray). The ADC rate also will apply to pieces in a less-than-full 3-digit tray. There are no sortation changes for automation flats. The 5-digit sort level still will be optional; all other sort levels will be required.

(3) Nonmachinable Surcharge

The definition of the current nonstandard surcharge will be expanded to include certain physical criteria that could make a mailpiece nonmachinable. Pieces that are nonmachinable are excluded from automated processing and must be handled manually. Nonmachinable pieces also may impede mail flow or damage the mail or mail processing equipment. Manual pieces are considerably more costly to process than machinable letters.

The criteria for nonmachinable letter-size pieces will be listed in DMM C050.2.2. The nonmachinable surcharge will apply to single-piece and Presorted rate letters that weigh 1 ounce or less and meets one or more of the criteria in that section. Machinable pieces are not subject to any restrictions regarding the OCR read area or barcode clear zone.

The nonmachinable surcharge also will apply to single-piece, Presorted, and automation rate nonletters (flats and parcels) that weigh 1 ounce or less if any one of the following applies:

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

The nonmachinable surcharge will be $0.12 for single-piece rate pieces and $0.055 for Presorted and automation rate pieces.

The nonmachinable criteria in C050.2.2 do not apply to pieces mailed at any card rate.

The nonmachinable surcharge will apply to letter-size pieces (but not card rate pieces) for which the mailer has chosen the manual only (''do not automate'') option. For card rate pieces, a mailer can specify manual handling, but they will not be charged a surcharge.

This change is consistent with the addition of a nonmachinable surcharge for Standard Mail.

In conjunction with this change, trays of machinable and nonmachinable letters will be prepared and labeled differently. The preparation for machinable letters will be similar to the current preparation for upgradable letters (e.g., no packaging, optional 5-digit sort level); the preparation for nonmachinable pieces will be similar to the current package-based preparation for Presorted letters. The current weight limit for upgradable letters (2.5 ounces) will be replaced with a weight limit of 3.3 ounces for machinable letters. Letters heavier than 3.3 ounces and less than ¼-inch thick will use the nonmachinable preparation and labeling but will not pay the surcharge (because it applies only to pieces that weigh 1 ounce or less).

On tray labels, the current ''NON BC'' (''not barcoded'') designation will be replaced with one of two designations: ''MACH'' for machinable pieces or ''MANUAL'' for nonmachinable pieces. Although card rate pieces will not be subject to the surcharge, mailers will be required to show on the tray label whether or not those pieces are machinable (for instance, a double card that is not tabbed is not machinable). The ''MANUAL'' designation will help the Postal Service direct trays of mail to the appropriate mail processing operation. As is currently required, mailers who choose the ''do not automate'' option will show ''MANUAL'' on Line 2 of the tray label.

Barcoded tray labels are allowed, but are not required, for trays of First-Class Mail machinable letters. Zebra codes must not be used on trays of First-Class Mail machinable letters (zebra codes indicate that the tray contains automation rate prebarcoded mail).

Software vendors should note that machinable and nonmachinable (manual) letters will use different content identifier numbers (CINs) (see M032 Exhibit 1.3a).

There are no preparation or labeling changes for Presorted flats or parcels subject to the surcharge.

Mail preparation instructions for Presorted letter-size pieces subject to the nonmachinable surcharge will be included in DMM M130. Preparation instructions for automation flats subject to the nonmachinable surcharge will not change (see current DMM M820).

The nonmachinable surcharge will be assessed on any piece mailed out as a different class of mail and returned as First-Class Mail (for instance, Standard Mail endorsed ''Return Service Requested'') if the piece weighs 1 ounce or less and meets the criteria for nonmachinability in C050.2.2. Pieces returned at First-Class Mail card rates will not be subject to the nonmachinable surcharge.

The nonmachinable surcharge will take effect when new rates are implemented; however, mailers have until January 1, 2003, to comply with the mail preparation and tray labeling changes.

(4) Delivery Confirmation and Signature Confirmation for First-Class Mail Parcels

The Postal Service will add two new special service options for First-Class Mail parcels: Delivery Confirmation and Signature Confirmation. Both services will be available in manual (retail) and electronic options. The fees for Delivery Confirmation will be $0.55 (retail) and $0.13 (electronic). The fees for Signature Confirmation will be $1.80 (retail) and $1.30 (electronic).

For the purposes of adding Delivery Confirmation or Signature Confirmation, a First-Class Mail parcel is defined as any piece that:

(a) Has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label; and

(b) Is in a box or, if not in a box, is greater than ¾-inch thick at its thickest point.

This definition will provide mailers many different packaging options for their First-Class Mail parcels.

(5) Containerization and Labeling

For letter-size pieces, a full tray will be defined as one that is 100% full, with a range between 75% and 100%. The recommended default for presort software will be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow will be optional for all sort levels of letter trays. Also, mailers will be required to use as few trays as possible: Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards will result in the preparation of a single less-than-full 2-foot tray.

On all First-Class Mail letter trays, ''LTRS'' will change to ''LTR'' and ''CR–RTS'' will change to ''CR–RT.'' This change is necessary to allow more room for other information on the tray label. Mailers have until January 1, 2003, to comply with these labeling changes.

(6) Documentation

Mailers will no longer be required to present a hard copy Form 3553, *Coding Accuracy Support System (CASS) Summary Report,* with their mailings. Instead, mailers or mailer agents will continue to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

Software vendors and mailers should note that changes will be made to manifest keyline rate codes (DMM P910.3.0) and MLOCR rate markings (DMM P960.3.0) to reflect the new First-Class Mail rate categories.

4. Periodicals

a. Periodicals Rate and Fees Highlights

The overall average increase for Periodicals will be 10.0%. Outside-County postage will increase on average 10.3%, while In-County postage will increase on average 1.7%. The destination delivery unit (DDU) discount will increase (from $0.017 to $0.018), while the destination sectional center facility (DSCF) discount will remain at $0.008. The new destination area distribution center (DADC) discount will be $0.002. The new pallet discount will be $0.015 per addressed piece for destination entry pallets and $0.005 per addressed piece for all other pallets (nondestination entry).

Original entry and additional entry application fees will increase from $350 to $375 and from $50 to $60, respectively, while the fees for reentry and news agent registry will remain at $40.

b. Periodicals Rate Structure

(1) Changes

Changes to the rate design for Periodicals are as follows:

(a) New destination area distribution (DADC) advertising pound rate and a per piece discount for each Outside-County addressed piece.

(b) Destination rates and discounts will be limited to mail entered at the actual destination entry facility (DADC, DSCF, and DDU), unless designated otherwise by the Postal Service.

(c) A new per piece pallet discount for each addressed nonletter-size piece (flat-size or irregular parcels) prepared in packages on pallets (nondestination entry) that contain at least 250 pounds of mail. This discount will apply to all pallet levels. The discount will not apply to pieces in sacks on pallets or in trays on pallets.

(d) A new destination entry per piece pallet discount will apply to each addressed piece of nonletter-size mail (flat-size or irregular parcels) prepared in packages on any destination entry pallet of at least 250 pounds of mail. The discount is not available for pieces in sacks or trays on pallets. For destination delivery units that cannot accept pallets, mailers may claim the pallet discount on DDU mail of at least 250 pounds to the DDU when presented as prescribed by the USPS.

In conjunction with the nonmachinable surcharge, a Periodicals mailpiece returned to the sender at First-Class Mail rates is subject to the nonmachinable surcharge if the piece weighs 1 ounce or less and meets one or more of the nonmachinable characteristics in C050.2.2.

(2) Periodicals Ride-Along

The Ride-Along experiment will become a permanent classification. There will be no changes in the current eligibility standards. However, publishers will no longer be required to complete a data collection questionnaire, provide a sample mailpiece in addition to the marked copy, or submit Form 3541–X (postage statement). Form 3541–X will be discontinued and mailers will use Form 3541. The standards for Ride-Along will be relocated to new DMM E260. The Ride-Along rate will increase from $0.10 to $0.124 per piece.

(3) Containerization

For letter-size pieces, a full tray will be defined as one that is 100% full, with a range between 75% and 100%.The recommended default for presort software will be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow will be optional for all sort levels of letter trays. Also, mailers will be required to use as few trays as possible. Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards will result in the preparation of a single less-than-full 2-foot tray.

We have added an option to measure the minimum volume of trays on pallets in linear feet. The pallet minimum can be met with three layers of trays or 36 linear feet of trays. A mailer must make a pallet for a particular presort destination when they have six layers of trays or 72 linear feet of trays.

(4) Documentation

Mailers will no longer be required to present a hard copy Form 3553, Coding Accuracy Support System (CASS) Summary Report, with their mailings. Instead, mailers or mailer agents will continue to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

5. Standard Mail

a. Standard Mail Rate Highlights

Overall, Standard Mail rates will increase an average of 7.1%. On average, rates for flat-size mail will increase more than rates for letter-size mail. Regular and nonprofit rates will increase an average of 7.5% and Enhanced Carrier Route (ECR) rates will increase an average of 6.2%. Greater destination entry discounts will provide an incentive for mailers to use their own or third-party transportation to move Standard Mail closer to the point of delivery.

The annual mailing fee will increase from $125 to $150.

b. Standard Mail Rate Structure and Mail Preparation

(1) Automation Basic Letter Rate Split Into Two New Rates

For automation letter-size pieces, the current rate structure contains 5-digit, 3-digit, and basic rates. The new rate structure splits the basic rate into an AADC rate (for all pieces in an AADC tray) and a mixed AADC rate (for all pieces in a mixed AADC tray). The AADC rate also will apply to all pieces in any less-than-full origin or entry 3-digit or 3-digit scheme tray. There will not be any sortation changes for automation letter-size pieces. The 5-digit sort level will still be optional; all other sort levels will be required.

The destination sectional center facility (DSCF) discount is not available for pieces mailed at the mixed AADC rate. This is because mixed or working trays must be entered at the origin facility, and no pieces in the mixed AADC tray would be addressed for delivery within the SCF service area. In addition, the DSCF discount is available for pieces mailed at the AADC rate only when those pieces are in an origin or entry 3-digit tray. It is not available for pieces mailed at the AADC rate that are in an AADC tray.

Unlike in First-Class Mail, where the ADC and mixed ADC rates will apply to automation flats, there will not be any changes to the rate structure for Standard Mail automation flats.

(2) Nonmachinable Surcharge

A nonmachinable surcharge will apply to some Standard Mail letter-size pieces mailed at Presorted rates; the definition will include certain physical criteria that could make a mailpiece nonmachinable. Pieces that are nonmachinable are excluded from automated processing and must be

handled manually. Nonmachinable pieces also may impede mail flow or damage the mail or mail processing equipment. Manual letters are considerably more costly to process than machinable letters.

The criteria for nonmachinable letter-size pieces will be listed in DMM C050.2.2. The nonmachinable surcharge will apply to Presorted rate letter-size pieces (including cards) that weigh 3.3 ounces or less and meet one or more of the criteria in that section. Machinable pieces are not subject to any restrictions regarding the OCR read area or barcode clear zone. This classification change is consistent with the nonmachinable surcharge for First-Class Mail.

Unlike First-Class Mail, where the nonmachinable surcharge will apply to flats, the Postal Service is not adding a nonmachinable surcharge to Standard Mail flats. The Standard Mail rate structure includes separate rates for letters and nonletters and factors in the extra costs of handling nonmachinable nonletters.

The nonmachinable surcharge will be $0.04 per piece for regular Presorted rate pieces and $0.02 per piece for nonprofit Presorted rate pieces (see DMM R600).

The nonmachinable surcharge will apply to Presorted rate letter-size pieces for which the mailer has chosen the ''manual only'' (do not automate) option.

The nonmachinable surcharge will not apply to pieces mailed at any ECR rate or to automation rate letters (which are by definition machinable).

In conjunction with this change, trays of machinable and nonmachinable letters will be prepared and labeled differently.

The preparation for machinable letters will be similar to the current preparation for upgradable letters (e.g., no packaging, optional 5-digit sort level); the preparation for nonmachinable pieces will be similar to the current package-based preparation for Presorted letters. The current weight limit for upgradable letters (2.5 ounces) will be replaced with a weight limit of 3.3 ounces for machinable letters.

On tray labels, the current ''NON BC'' (''not barcoded'') designation will be replaced with one of two designations: ''MACH'' for machinable pieces or ''MANUAL'' for nonmachinable pieces. The ''MANUAL'' designation will help the Postal Service direct the trays of mail to the appropriate mail processing operation. As is currently required, mailers who choose the ''do not automate'' option will show ''MANUAL'' on Line 2 of the tray label.

Barcoded tray labels are allowed, but are not required, for trays of Standard Mail machinable letters. Zebra codes must not be used on trays of Standard Mail machinable letters (zebra codes indicate that the tray contains automation rate prebarcoded mail).

Software vendors should note that machinable and nonmachinable (manual) letters will use different content identifier numbers (CINs) (see M032 Exhibit 1.3a).

Mail preparation instructions for Standard Mail pieces subject to the nonmachinable surcharge will be included in DMM M610.

In a mailing of nonmachinable letter-size pieces, residual Standard Mail pieces sent at First-Class Mail rates will be subject to the First-Class Mail nonmachinable surcharge only if the pieces weigh 1 ounce or less. Heavier pieces will not be subject to the First-Class Mail nonmachinable surcharge, even though those same pieces would have been subject to the Standard Mail nonmachinable surcharge if they had remained in the Standard Mail mailing. Additionally, residual Standard Mail pieces mailed at First-Class Mail card rates will not be subject to the nonmachinable surcharge.

Mailers should note that residual pieces from a Standard Mail automation flats mailing could be subject to the nonmachinable surcharge if the residual is mailed at Presorted letter piece rates. For example, a barcoded piece that is 8½'' by 5½'' inches and bears an address parallel to the shorter edge could be mailed as an automation flat. Pieces in this job that cannot be barcoded would fall to Presorted rates; the mailer would then have the option of paying the letter piece rate plus the nonmachinable surcharge (because the address is parallel to the shorter dimension) or the nonletter piece rate.

Standard Mail pieces that are returned as First-Class Mail (for instance, an undeliverable piece endorsed ''Return Service Requested'') will be charged the nonmachinable surcharge if the piece weighs 1 ounce or less and meets the criteria for nonmachinability in C050.2.2. The nonmachinable surcharge also will be figured into the calculation for the weighted fee for pieces that weigh 1 ounce or less. The nonmachinable surcharge will not be charged on pieces returned at First-Class Mail card rates.

The nonmachinable surcharge will take effect when new rates are implemented; however, mailers have until January 1, 2003, to comply with the mail preparation and tray labeling changes.

(3) Heavier Letters Are Eligible for Automation Rates

The maximum weight limit for automation letters will increase from 3.3 ounces to 3.5 ounces (inclusive). These pieces will be charged postage equal to the automation piece/pound rate and receive a discount equal to the automation nonletter piece rate (3.3 ounces or less) minus the corresponding automation letter piece rate (3.3 ounces or less) for the appropriate sort level. This change applies to regular and nonprofit automation letters, and to automation carrier route letters.

Mailers who choose to take this discount for heavy automation letters will be required to use a new postage statement designed for this purpose. On the permit imprint postage statement, the discount is precalculated and has been deducted from the piece rate. The example below follows that same model. Mailers should note that for nonprofit 5-digit automation letters the discount is larger than the piece rate; therefore, subtracting the discount from the piece rate results in a negative number.

Mailers who choose the postage affixed (metered postage) option will be required to affix the full postage amount to each piece (see DMM P600.2.2).

As an example, a regular automation letter weighing 3.45 ounces that is sorted in a 3-digit tray for DSCF entry will be charged:

	Calculation for 1 piece	Calculation for 10,000 pieces
Nonletter piece rate (more than 3.3 ounces), ⅗ rate	$0.115	$1,150.00
Minus		
A discount that equals the ⅗ nonletter piece rate (3.3 ounces or less) for DSCF entry minus the 3-digit letter piece rate (3.3 ounces or less) for DSCF entry (0.235 minus 0.177)	−.058	−580.00
Equals		
Adjusted piece rate (as will appear on permit imprint postage statement)	0.057	570.00

	Calculation for 1 piece	Calculation for 10,000 pieces
Plus	.....	.....
Pound rate (more than 3.3 ounces), 3/5 rate, DSCF entry (3.45 ounces divided by 16 ounces equals 0.215625 pounds, rounded to 0.2156 pounds, multiplied by $0.583 per pound)	0.1256948	1,256.948
Equals total postage	0.1827	1,826.948

This change will allow mailers to avoid the substantial rate increase for letter-size pieces exceeding 3.3 ounces. Under the current rate schedule, once an automation letter exceeds the 3.3-ounce maximum weight, the piece becomes subject to the piece/pound rates.

There are no mail preparation changes that accompany this change; these heavy letters will be required to meet the current standards for heavy automation letters in DMM C810.7.5 and will use the existing mail preparation sequence and labeling for automation letters. Current standards for mixed-rate mailings will not change. Residual pieces from a heavy automation letter mailing that cannot be barcoded can be mailed at single-piece First-Class Mail rates or prepared as a Presorted Standard Mail letter mailing with postage paid at the piece/pound rate (for pieces over 3.3 ounces). Like today, these residual pieces will not need to meet a separate 200-piece or 50-pound minimum (see DMM E620.1.2) and will be reported on separate postage statements.

(4) Barcode Requirement for ECR Letter-Size Pieces

ECR letter-size pieces mailed at high-density and saturation piece (letter) rates will be required to meet the physical standards for automation-compatible mail in DMM C810 and will be required to have a delivery point barcode. Pieces using simplified address will not be required to have a delivery point barcode and therefore will not need to meet the physical standards for automation'compatible mail to qualify for letter rates.

This change will apply to both ECR and Nonprofit ECR.

Requiring high density and saturation letters to be prebarcoded gives the Postal Service operational flexibility and eliminates the need to barcode these pieces if they are sent to delivery point sequencing (DPS). The requirement for automation-compatibility corresponds to the requirement for a delivery point barcode'for the Postal Service to read the barcode, the piece must be compatible with automated mail sorting equipment. These requirements will not apply to detached address labels (DALs) that accompany flat-size pieces or irregular parcels. Even though the DAL itself is letter-size, technically it is the label for the larger piece.

Pieces that do not meet the physical standards in C810 or that do not contain a delivery point barcode will be subject to the corresponding ECR high density or saturation nonletter rate. Pieces that are letter-size but claimed at the nonletter rates will be marked, sorted, and trayed as letters.

There are no changes to the sequencing requirements, markings, or sortation for Enhanced Carrier Route pieces. Tray labels will change to reflect whether the pieces in the tray are barcoded (''BC''), not barcoded but machinable (''MACH''), or nonmachinable, regardless of whether the pieces are barcoded (''MANUAL'' or ''MAN''). These designations help the Postal Service direct the trays of mail to the appropriate mail processing operation. Mailers will be required to use barcoded tray labels.

Pieces with a simplified address format do not contain the necessary address elements to generate a delivery point barcode. To qualify for the saturation letter rate, those pieces will not have to bear a delivery point barcode, will not have to be automation-compatible, and will be labeled ''MAN'' (even if the pieces are machinable).

Pieces with exceptional or ''occupant'' addresses (A040) do contain enough address elements to generate a delivery point barcode and therefore must be automation-compatible and must bear a delivery point barcode in order to claim the high density or saturation letter rates.

Software vendors should note that within each of the three processing options (BC/MACH/MAN), the same content identifier number (CIN) will be used for all direct carrier route trays (see DMM Exhibit M032.1.3a).

Mailers will not be permitted to combine barcoded and nonbarcoded pieces into the same mailing. Therefore, nonbarcoded pieces will have to be presented as a separate mailing, but will not need to meet a separate 200-piece or 50-pound minimum volume requirement.

The new requirements for high density and saturation letter rates will take effect the day new rates are implemented; however, mailers have until January 1, 2003, to comply with the tray labeling changes.

(5) Heavier Automation-Compatible ECR Letters Are Eligible for Letter Rates

The maximum weight limit for automation-compatible ECR letters will increase from 3.3 ounces to 3.5 ounces (inclusive). These pieces will be charged postage equal to the nonletter piece/pound rate and receive a discount equal to the nonletter piece rate (3.3 ounces or less) minus the corresponding letter piece rate (3.3 ounces or less) for the appropriate sort level. This change applies to regular and nonprofit ECR saturation and high density letters.

For regular ECR, the discount will be $0.005 per piece for high density letters and $0.008 per piece for saturation letters. For nonprofit ECR, the discount will be $0.008 per piece for high density letters and $0.009 per piece for saturation letters.

This change also will apply to pieces mailed at the ECR automation basic rate, but the calculation is slightly different because there are no corresponding piece/pound and nonletter rates with which to perform the calculation. These pieces will be charged postage equal to the basic ECR piece/pound rate and receive a discount equal to the basic nonletter rate minus the automation basic letter rate. For regular ECR, the discount will be $0.023 per piece. For nonprofit ECR, the discount will be $0.015 per piece.

As a result of other classification changes (see item 4 above), all pieces mailed at high density and saturation letter rates will be barcoded and automation-compatible; therefore, this change is consistent with the change for regular Standard Mail regular automation letters. This change will not apply to letter-size pieces that are mailed at the nonletter rates (i.e., pieces that are not automation-compatible or do not have a barcode).

This change will not apply to pieces mailed at the ECR basic letter rate (because the letter and nonletter rates are the same, there is no discount to subtract).

Mailers who choose to take this discount for heavy ECR letters will be required to use a new postage statement designed for this purpose. On the permit imprint postage statement, the discount is precalculated and has been deducted from the piece rate. The example below follows that same model.

Mailers who choose the postage affixed (metered postage) option will be required to affix the full postage amount to each piece (see P600.2.2).

As an example, a high density letter weighing 3.45 ounces that is prepared for DSCF entry will be charged:

	Calculation for 1 piece	Calculation or 10,000 pieces
Nonletter piece rate (more than 3.3 ounces), high density	$0.043	$430.00
Minus		
A discount that equals the high density nonletter piece rate (3.3 ounces or less) for DSCF entry minus the high density letter piece rate (3.3 ounces or less) for DSCF entry (0.143 minus 0.138)	−.005	−50.00
Equals		
Adjusted piece rate (as will appear on permit imprint postage statement)	0.038	380.00
Plus		
Pound rate (more than 3.3 ounces), high density, DSCF entry (3.45 ounces divided by 16 ounces equals 0.215625 pounds, rounded to 0.2156, multiplied by $0.485 per pound)	0.104566	1,045.66
Equals postage per piece	0.1426	1,425.66

This change will allow mailers to avoid the substantial rate increase for letter-size pieces exceeding 3.3 ounces. Under the current rate schedule, once an ECR letter exceeds the 3.3-ounce maximum weight, the piece becomes subject to the piece/pound rates.

There are no mail preparation changes that accompany this change; these heavy letters will be required to meet the current standards for heavy automation letters in DMM C810.7.5 and will use the existing mail preparation sequence and labeling for ECR letters.

(6) Containerization and Labeling

For letter-size pieces, the definition of a full tray will change from the current threshold of 75% to 100%, with a range between 75% and 100%. The recommended default for presort software will be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow will be optional for all sort levels of letter trays. Also, mailers will be required to use as few trays as possible. Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards will result in the preparation of a single less-than-full 2-foot tray.

We have added an option to measure the minimum volume of trays on pallets in linear feet. The pallet minimum can be met with three layers of trays or 36 linear feet of trays. A mailer must make a pallet for a particular presort destination when they have six layers of trays or 72 linear feet of trays.

On all Standard Mail letter trays, ''LTRS'' will change to ''LTR'' and ''CR–RTS'' will change to ''CR–RT.'' This change is necessary to allow more room for other information on the tray label. Mailers have until January 1, 2003, to comply with these labeling changes.

(7) Documentation

Mailers will no longer be required to present a hard copy Form 3553, *Coding Accuracy Support System (CASS) Summary Report,* with their mailings. Instead, mailers or mailer agents will continue to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

Software vendors and mailers should note that changes are proposed for manifest keyline rate codes (DMM P910.3.0) and MLOCR rate markings (DMM P960.3.0) to reflect the new Standard Mail rate categories.

6. Package Services

There are four subclasses of Package Services: Parcel Post, Bound Printed Matter, Media Mail, and Library Mail. Each subclass is addressed separately in items 7 through 10.

7. Parcel Post

a. Parcel Post Rate Highlights

Parcel Post rates will increase an average of 6.4%. The nonmachinable surcharge for Inter-BMC Parcel Post will increase from $2.00 to $2.75 per parcel. The Intra-BMC and DBMC nonmachinable surcharges will remain at their current levels: $1.35 for Intra-BMC parcels and $1.45 for DBMC parcels. The Parcel Post Origin BMC Presort and BMC Presort discounts will increase from $0.90 to $1.17 and $0.23 to $0.28 per piece, respectively. The barcoded discount for qualifying Parcel Post (including Parcel Select) machinable parcels will remain at $0.03 per piece. The destination entry mailing fee will increase from $125.00 to $150.00. The Parcel Post pickup fee will increase from $10.25 to $12.50.

b. Parcel Post Rate Structure

Three changes will be made. First, a separate rate will be available for parcels weighing less than 1-pound. Second, Parcel Select pieces will be eligible for no-fee electronic Delivery Confirmation. The final change will create a DSCF rate for nonmachinable parcels sorted to 3-digit ZIP Code prefixes and entered at destination SCFs. Nonmachinable DSCF Parcel Select pieces will be subject to a surcharge of $1.09 per parcel in addition to the applicable DSCF rate.

c. Parcel Post Mail Preparation Changes

Except for a new 3-digit nonmachinable parcel preparation option added for DSCF rate mail, there will be no other changes to the preparation requirements for Parcel Post and Parcel Select.

8. Bound Printed Matter

a. Bound Printed Matter Rate Highlights

The Bound Printed Matter (BPM) rates will increase an average of 9.0%. There are two major changes to BPM rates: separate rates for BPM flats and parcels, and a new POSTNET barcoded discount for single-piece rate and Presorted rate BPM flats. The parcel barcode discount for BPM single-piece and Presorted rate machinable parcels will remain at $0.03 per piece. The destination entry mailing fee will increase from $125.00 to $150.00.

b. Bound Printed Matter Rate Structure

Rates for flat-size BPM will be lower than the rates for BPM parcels in all three rate categories (single-piece, Presorted, and carrier route) and in the three available destination entry rates (DDU, DSCF, and DBMC). A $0.03 discount will be available for single-piece and Presorted rate BPM flats

prepared with a POSTNET barcode. To qualify for the barcoded discount, BPM flats will be required to meet the standards in DMM C820 for flat sorting machine (FSM) 881 processing.

c. Bound Printed Matter Mail Preparation Changes

BPM barcoded flats will be prepared using the standards in DMM M820.

9. Media Mail

a. Media Mail Rate Highlights

Media Mail rates will increase an average of 4.0%. The mailing fee for Presorted Media Mail will increase from $125.00 to $150.00.

b. Media Mail Rate Structure

There will be one fundamental change to the Media Mail rate structure. The 5-digit rate will be retained, but the BMC rate will be renamed the basic rate.

c. Media Mail Preparation Changes

There will be three changes to the preparation requirements for Media Mail. First, Media Mail will no longer be sorted to the 5-digit and BMC levels. Media Mail will now be sorted to the 5-digit, 3-digit, ADC or BMC, and mixed ADC or mixed BMC levels, as appropriate. This adjusts the presort requirements for Media Mail to reflect current postal processing. Machinable parcels will continue to be presorted to BMCs using the new basic rate level.

The second change eliminates the requirement for separate minimum volumes for each presort level and reduces the minimum volume requirement for a mailing from 500 to 300 pieces. To qualify for Presorted Media Mail rates, mailers will be required to have a minimum of 300 properly prepared and presorted pieces. Pieces in the mailing that meet 5-digit rate requirements will be eligible for the 5-digit rate. The remaining pieces in the mailing will be eligible for the basic rate.

The last change reinstates the option to allow mailers to prepare sacks of Media Mail using a minimum of 1,000 cubic inches of mail.

10. Library Mail

a. Library Mail Rate Highlights

Library Mail rates will increase an average of 3.3%. The mailing fee for Presorted Library Mail will increase from $125.00 to $150.00.

b. Library Mail Rate Structure

There will be one fundamental change to the Library Mail rate structure. The 5-digit rate will be retained, but the BMC rate will be renamed the basic rate.

c. Library Mail Preparation Changes

There will be three changes to the preparation requirements for Library Mail. First, Library Mail will no longer be sorted to the 5-digit and BMC levels. Library Mail will now be sorted to the 5-digit, 3-digit, ADC or BMC, and mixed ADC or mixed BMC levels, as appropriate. This adjusts the presort requirements for Library Mail to reflect current postal processing. Machinable parcels will continue to be presorted to BMCs using the new basic rate level.

The second change eliminates the requirement for separate minimum volumes for each presort level and reduces the minimum volume requirement for a mailing from 500 to 300 pieces. To qualify for Presorted Library Mail, mailers will be required to have a minimum of 300 properly prepared and Presorted pieces. Pieces in the mailing that meet the 5-digit rate requirements will be eligible for the 5-digit rate. The remaining pieces in the mailing will be eligible for the basic rate.

The last change reinstates the option to allow mailers to prepare sacks of Library Mail using a minimum of 1,000 cubic inches of mail.

11. Special Services and Other Services

a. Special Services Highlights

(1) Bulk Parcel Return Service (DMM S924)

The annual accounting fee for bulk parcel return service (BPRS) will increase from $375 to $475. The annual permit fee will increase from $125 to $150 and the per piece charge will increase from $1.62 to $1.80. See DMM R900.3.0.

(2) Business Reply Mail (DMM S922)

The per piece charge for the high volume Qualified Business Reply Mail (QBRM) category with the quarterly fee will decrease from $0.01 to $0.008. The QBRM quarterly fee of $1,800 for that category will remain the same. The basic QBRM per piece charge for the category without the quarterly fee will increase from $0.05 to $0.06. The non-QBRM per piece fee with an advance deposit account will remain at $0.10. The annual permit fee for all business reply mail (BRM) will increase from $125 to $150. The monthly fee for bulk weight averaged nonletter-size BRM will increase from $600 to $750, while the per piece charge of $0.01 will remain the same. The annual accounting fee for advanced deposit accounts will increase from $375 to $475. The regular BRM per piece charge without an annual accounting fee will increase from $0.35 to $0.60 per piece. See DMM R900.4.0.

(3) Certificate of Mailing (DMM S914)

Certificate of mailing fees will increase. For individual pieces, the original certificate will increase from $0.75 to $0.90, the firm mailing book (Form 3877) will increase from $0.25 to $0.30 for each piece listed, and the charge for a duplicate copy will increase from $0.75 to $0.90.

For bulk pieces (Form 3606), fees for the first 1,000 pieces or fraction thereof will increase from $3.50 to $4.50. Each additional 1,000 pieces or fraction thereof will increase from $0.40 to $0.50, and the charge for a duplicate copy will increase from $0.75 to $0.90. Additionally, mailpieces listed on Form 3877 and having postage paid with permit imprint will be permitted to pay the certificate of mailing fee using the permit imprint account. Under this option mailers will no longer be required to affix the fees to Form 3877. See DMM R900.6.0.

(4) Certified Mail (DMM S912)

The certified mail fee will increase from $2.10 to $2.30. A service enhancement will allow mailers to access delivery information over the Internet at *www.usps.com.* See DMM R900.7.0.

(5) Collect on Delivery (DMM S921)

There will be no change to the current collect on delivery (COD) fees. See DMM R900.8.0.

(6) Delivery Confirmation (DMM S918)

Retail (manual) and electronic Delivery Confirmation options will be extended to First-Class Mail parcels. For Package Services, Delivery Confirmation will be restricted to parcels only and will no longer be available for flat-size mail. For First-Class Mail parcels, the fee will be $0.13 for the electronic option and $0.55 for the retail option. The fee for the retail option for Priority Mail will increase from $0.40 to $0.45. For Standard Mail, the fee for the electronic option will increase from $0.12 to $0.13. For Parcel Select, the electronic option will be included in postage. For all other Package Services, the fee will increase from $0.12 to $0.13 for the electronic option and from $0.50 to $0.55 for the retail option. See DMM R900.9.0.

For the purposes of adding Delivery Confirmation to First-Class Mail or Package Services, a parcel will be defined as any piece that has an address side with sufficient surface area to fully display the delivery address, return address, postage, markings and endorsements, and Delivery Confirmation label. The parcel will be required to be in a box or, if not in a

box, will be required to be more than ¾-inch thick at its thickest point.

(7) Express Mail Insurance (DMM S500)

Insurance coverage included with Express Mail service will be lowered from $500 to $100. Incremental fees will be applied at $1.00 per each $100 of desired merchandise insurance coverage over $100. Document reconstruction maximum liability will decrease from $500 to $100. See DMM R900.11.0.

(8) Insurance (DMM S913)

The fee for unnumbered insurance (value up to $50) with no insured number applied will increase from $1.10 to $1.30. The fee for numbered insurance service over $50 and up to $100 (insured number applied) will increase from $2.00 to $2.20. The incremental fee of $1.00 for each $100 in value over $100 and up to $5,000 will remain the same. See DMM R900.12.0.

(9) Merchandise Return Service (DMM S923)

The annual accounting fee for merchandise return service will increase from $375 to $475. The annual permit fee will increase from $125 to $150. See DMM R900.14.0.

(10) Money Orders (DMM S020)

There will be two classification changes for money orders. The first change will increase the maximum amount from $700 to $1,000 for both domestic and APO/FPO money orders. The second change will introduce a two-level fee structure for domestic money orders. The fee for amounts of $0.01 to $500 will be $0.90, and the fee for amounts of $500.01 to $1,000 will be $1.25. The inquiry fee will increase from $2.75 to $3.00. The $0.25 fee for APO/FPO money orders will remain the same. See DMM R900.16.0.

(11) Parcel Airlift (DMM S930)

Parcel Airlift (PAL) fees will increase. For parcels weighing not more than 2 pounds, the fee will increase from $0.40 to $0.45. For parcels not more than 3 pounds, the fee will increase from $0.75 to $0.85. For parcels not more than 4 pounds, the fee will increase from $1.15 to $1.25. For parcels over 4 pounds but not more than 30 pounds, the fee will increase from $1.55 to $1.70. See DMM R900.17.0.

(12) Registered Mail (DMM S911)

All registered mail fees will increase. The fee for registered mail with no declared value will increase from $7.25 to $7.50. The fee for registered mail valued between $0.01 and $100 will increase from $7.50 to $8.00. The incremental fee for registered mail with insurance per declared value level will increase from $0.75 to $0.85. The handling charge per $1,000 in value or fraction thereof for items valued over $25,000 also will increase from $0.75 to $0.85. A service enhancement will allow mailers to access delivery information over the Internet at *www.usps.com.* See DMM R900.21.0

(13) Restricted Delivery (DMM S916)

The fee for restricted delivery will increase from $3.20 to $3.50. See DMM R900.22.0.

(14) Return Receipt (DMM S915)

The fee for regular return receipt service will increase from $1.50 to $1.75. The fee for return receipt after mailing will decrease from $3.50 to $3.25. See DMM R900.23.0.

(15) Return Receipt for Merchandise (DMM S917)

The fee for return receipt for merchandise will increase from $2.35 to $3.00. See DMM R900.24.0.

(16) Signature Confirmation (DMM S919)

Retail (manual) and electronic Signature Confirmation options will be extended to First-Class Mail parcels. For Package Services, Signature Confirmation will be restricted to parcels only and will no longer be available for flat-size mail. The fees will increase from $1.25 to $1.30 for the electronic option and from $1.75 to $1.80 for the retail option.

For the purposes of adding Signature Confirmation to First-Class Mail or Packages Services, a parcel will be defined as any piece that has an address side with sufficient surface area to fully display the delivery address, return address, postage, markings and endorsements, and Signature Confirmation label. The parcel will be required to be in a box or, if not in a box, will be required to be more than ¾-inch thick at its thickest point. See DMM R900.26.0.

(17) Special Handling (DMM S930)

The fees for special handling will increase from $5.40 to $5.95 for pieces weighing up to 10 pounds and from $7.50 to $8.25 for pieces weighing over 10 pounds. See DMM R900.27.0.

b. Other Services Highlights

(1) Address Correction Service (DMM F030)

The fee for manual address correction service (ACS) notices will increase from $0.60 to $0.70. The fee for automated ACS will remain the same at $0.20. See DMM R900.1.0.

(2) Address Sequencing Service (DMM A920)

The fee for carrier sequencing of address cards service will increase from $0.25 to $0.30 per card. See DMM R900.2.0.

(3) Caller Service (DMM D920)

The caller service fee for each separation provided per semiannual period will increase from $375 to $412. The fee for each reserved call number per calendar year will increase from $30 to $32. See DMM R900.5.0.

(4) Mailing List Services (DMM A910)

The charge for correction of mailing lists will increase from $0.25 to $0.30 per correction. The minimum per list charge also will increase from $7.50 to $9.00 per list. The charge for sortation of mailing lists on cards into groups labeled by 5-digit ZIP Code will increase from $73 to $100. The charge for address changes for election boards will increase from $0.23 to $0.27. See DMM R900.13.0.

(5) Meter Service (DMM P030)

The fee for on-site meter service (per employee, per visit) will increase from $31 to $35. The fee for meter resetting and/or examination will increase from $4.00 to $5.00 per meter. The $4.00 fee for checking in or out of service (per meter) will remain the same. See DMM R900.15.0.

(6) Permit Imprint (DMM P040)

The permit imprint application fee will increase from $125 to $150.

(7) Pickup Service (DMM D010)

The fee for pickup service, available for Express Mail, Priority Mail, and Parcel Post, will increase from $10.25 to $12.50 (per pickup). See DMM R900.18.0.

(8) Post Office Box Service (DMM D910)

Overall, post office (PO) box fees will increase. A new PO box fee category will be introduced for PO box service in the lowest-cost cities and highest-cost rural areas. This new fee group will provide a bridge to eventually move high-cost and low-cost ZIP Codes toward more appropriate fee assignments. PO box key duplication or replacement (after first two keys) will increase from $4.00 to $4.40 each. PO box lock replacement will increase from $10 to $11.

There will be no change to the no-fee PO box service (Group E). See DMM R900.20.0.

(9) Shipper Paid Forwarding (DMM F010)

The accounting fee will increase from $375 to $475. See DMM R900.25.0.

(10) Stamped Cards and Stamped Envelopes

The fee for stamped cards will remain the same. Special stamped envelopes (i.e., those with holograms or patch-in stamps) are no longer offered. The fees for the other types of available stamped envelopes will remain the same.

Part C—Summary of Changes to the Domestic Mail Manual

The following information details the R2001–1 changes organized by DMM module. This information is intended as an overview only and should not be viewed as defining every DMM change adopted in this final rule. The actual DMM changes appear in this notice after Part C.

A Addressing

A010 will be amended to remove references to upgradable mail and to include a preferred location for addresses on letter-size pieces.

The title of A800 will be changed to show the standards apply to all automation-compatible mail, not just mail claimed at automation rates.

A950 will be revised to clarify that the mailer's signature on a postage statement certifies the mail meets the requirements for the rates claimed and to change the requirements for filing Form 3553, *Coding Accuracy Support System (CASS) Summary Report.* Mailers will no longer be required to submit Form 3553 with each mailing. They will have to retain the form on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

C Characteristics and Content

C010 will be amended to show that Standard Mail Enhanced Carrier Route (ECR) letters are subject to the standards for mailpiece dimensions and to remove information about the First-Class Mail nonstandard surcharge. C050 will be amended to add the nonmachinable characteristics for letters. Exhibit C050.2.0 will be renumbered as Exhibit C050.1.0.

C100.2.7 will be amended to implement the change to the Domestic Mail Classification Schedule (DMCS) for pieces eligible for the First-Class Mail card rates. C100.4.0 will be revised to reflect changes to the nonmachinable surcharge (formerly the nonstandard surcharge) for some First-Class Mail letters and flats.

C700 will be amended to note that mailpieces meeting any of the characteristics listed in C700.2.0 and that are mailed at the DSCF Parcel Select rate will be subject to the $1.09 nonmachinable surcharge listed in R700.1.6.

C810 will be amended to remove references to upgradable First-Class Mail and Standard Mail, to increase the weight limit for Standard Mail automation and ECR letters to 3.5 ounces, and to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

C820 will be amended to add a weight limit for Bound Printed Matter flats claimed at automation flat rates.

C830 will be deleted. C830 contains standards for upgradable mail, including address placement, OCR read area, fonts, and reflectance. Effective June 30, 2002, the upgradable preparation for letters will be replaced with a machinable preparation; the machinable preparation has no requirements for address placement, OCR read area, etc.

C840 will be amended to remove references to upgradable mail.

D Deposit, Collection, and Delivery

D210.3.4 will be amended to reflect the change that the destination sectional center facility (DSCF) rate will apply to eligible mail entered at the DSCF under exceptional dispatch. D210.4.0 will be revised to show that the DSCF rate will not apply to mail entered at airport mail facilities (AMFs).

The provisions for Periodicals contingency entries will be deleted in D230.2.2 and 4.6.

D500 will be amended to include several additional provisions that affect postage refund requests for Express Mail when the service guarantee is not met.

E Eligibility

E100

E110.3.0 will be amended to clarify the eligibility of pieces mailed at First-Class Mail card rates.

E120.2.2 will be amended to change the current Priority Mail flat rate from the 2-pound rate to a 1-pound rate, regardless of the weight of the material placed in the flat-rate envelope. E120.2.4 reflects changes to the postage for keys and identification devices. When they weigh more than 13 ounces but not more than 1 pound, they will be returned at the 1-pound Priority Mail rate plus the fee shown in R100.10.0. Keys and identification devices that weigh more than 1 pound but not more than 2 pounds will be charged the 2-pound Priority Mail rate for zone 4 plus the fee in R100.10.0.

E130 will be amended to show that the nonmachinable surcharge will apply to keys and identification devices, certain letter-size and flat-size pieces mailed at single-piece and Presorted rates, and all pieces where the mailer chooses the ''manual only'' (do not automate) preparation option. It also will be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E140 will be amended to reorganize the information about rate application into two separate sections: one for cards and letter-size mail (2.0) and one for flat-size mail (3.0). E140.2.0, Rate Application for Cards and Letters, will be amended to replace the basic rate with the new AADC and mixed AADC rates. E140.3.0, Rate Application for Flats, will be amended to replace the basic rate with the new ADC and mixed ADC rates and to clarify the definition of a piece that is subject to the nonmachinable surcharge. E140 will be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E200

E217.1.0 and 3.0 will be amended to reflect references to the new destination area distribution center (DADC) rates and discounts for Outside-County and Outside-County Science-of-Agriculture rates. E217.5.0 will be restructured for clarity and amended to include standards for the new per piece pallet and per piece destination entry pallet discounts.

The standards for combining multiple publications or editions in E220.3.0 and E230.4.0 will be consolidated into new M230. E220 and E240 will be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E250 is revised in its entirety to clarify standards for all destination entry Periodicals mailings; to include the new destination area distribution center (DADC) entry rates and discounts; and to reflect that for rate eligibility DSCF pieces must be deposited at the DSCF or a USPS-designated facility. E250.1.1 clarifies that for rate eligibility, an individual package, tray, sack, or pallet may contain pieces claimed at different destination entry rates and discounts.

New E260 (former G094) will describe the standards for the Periodicals Ride-Along classification and rate, which will become a permanent classification. All of G094 will be moved except for 2.0

and 3.0. Former 2.0, which contains the rate information, will appear as part of R200. Former 3.0 will be deleted, as publishers will no longer be required to submit additional documentation with Ride-Along mailings.

E500

E500 will be amended to change the current 2-pound Express Mail flat rate to the new ½-pound rate regardless of the weight of the material placed in the flat-rate envelope.

E600

E610.8.0 will be amended to remove references to upgradable Standard Mail.

E620 will be amended to remove references to upgradable mail and to show that the nonmachinable surcharge may apply to letter-size pieces that weigh 3.3 ounces or less and to all pieces where the mailer chooses the ''manual only'' (do not automate) option. E620.1.2 is amended to remove the requirement that residual volumes must appear on the same postage statement.

E630 will be reorganized for clarity. Standards will be added to show that letter-size pieces mailed at saturation and high density letter rates must be automation-compatible and must have a delivery point barcode. New language will be added to explain the discount for automation-compatible pieces that weigh between 3.3 and 3.5 ounces.

E640 will be amended to replace the basic automation letter rate with the new AADC and mixed AADC rates and to add the discount for automation letters that weigh between 3.3 and 3.5 ounces. E640.2.0 will be amended to add the discount for ECR basic automation letters that weigh between 3.3 and 3.5 ounces.

E620 and E640 will be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E700

E712.1.1b will be revised to add a weight limit for BPM flats claiming the barcoded discount. E712.1.4, which excluded BPM flats from eligibility to receive an automation rate, will be removed. E712.2.0 will be amended to add a new standard for BPM automation flats. E712.2.0e will be added to include a barcoded discount for automation flats. E712.3.0 will be amended to clarify that the mailer's signature on the postage statement certifies the mail meets the requirements for the rates claimed.

E713 and E714 will be revised in their entirety to reflect the format used for BPM in E712. E713 and E714 will be amended to change references from ''BMC rate'' to ''basic rate'' and from ''500 pieces'' to ''300 pieces.''

E751.1.1 will be amended to add provisions to require mail on pallets for 3-digit ZIP Code prefixes to be entered at the SCF. E751.1.4a will be amended to clarify that nonmachinable parcels sorted to 3-digit ZIP Code prefixes must be entered at a designated SCF. In E751.2.2c, d, and e, references will be added to allow the preparation of ''3-digit sacks'' and ''3-digit pallets.'' E751.5.0 and E753 will be amended to change the references from ''BMC rate'' to ''basic rate.''

F Forwarding and Related Services

F010.4.0 will be amended to remove references to nonstandard mail. F010.5.2 will be amended to show that the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates. F010.5.3 will be amended to show that the First-Class Mail single-piece nonmachinable surcharge is included in the calculation of the weighted fee for returned pieces and is charged on some returned Standard Mail pieces. F010.6.0 will be amended to include these same changes.

F030.1.6 will be amended to clarify the circumstances under which address notices are not provided by the Postal Service.

G General Information

G091.4.0 will be revised to clarify that First-Class Mail automation letter-size pieces and parcels, First-Class Mail automation cards, Standard Mail automation letter-size pieces, and Standard Mail nonprofit automation letter-size pieces using NetPost Mailing Online will be eligible for the mixed AADC rate. First-Class Mail automation flat-size pieces will be eligible for the mixed ADC rate. Flat-size pieces at the regular and nonprofit Standard Mail automation rates will be eligible for the basic rates. First-Class Mail that is not eligible for any automation rate will be subject to the applicable single-piece rates.

The Ride-Along classification will be made a permanent classification. Therefore, the standards currently in G094 will be relocated to new E260.

L Labeling Lists

The titles and summaries, as appropriate, of labeling lists L001, L800, L802, and L803 will be amended to reflect new mail preparation options.

Note: New labeling list L006 and the accompanying 5-digit metro pallet sort for packages of flats took effect on March 31, 2002. Notice of this change was published in Postal Bulletin 22066 (12–27–01).

M Mail Preparation and Sortation

M000

M011.1.3 will be amended to show that a full letter tray is defined as one that is between 75% and 100% full. M011.1.4 will be amended to remove references to upgradable mailings, to show that machinable and nonmachinable pieces cannot be part of the same mailing, and to show that ECR letter rate pieces cannot be part of the same mailing as nonletter rate pieces. M012.2.0 will be revised to update information about multi-line optical character reader (MLOCR) markings. M012.3.3 will be revised to include additional rate markings for BPM Presorted automation flats and BPM carrier route flats. M012.4.5 will be deleted to remove references to upgradable mail.

The summary for M020 will be amended to include references to Media Mail and Library Mail. M020.1.6 will be amended to include Media Mail and Library Mail in the package size requirements. In addition, the maximum weight for packages in sacks will be 20 pounds unless otherwise noted, and packages of BPM automation flats must meet the preparation requirements in M820. M020.2.0 will be amended to include additional standards for packaging Media Mail and Library Mail. M020.2.1 will be amended to remove references to the upgradable preparation for First-Class Mail and Standard Mail and to show that nonmachinable and ''manual only'' pieces must be packaged. M020.2.2 will be amended to require that Media Mail and Library Mail pieces meet specific weight limits when placed in sacks or on pallets.

The container labeling requirements in M031.5.0 will be amended to revise the Line 2 codes for ''carrier routes,'' ''letters,'' and ''machinable'' and to add a new Line 2 code for ''manual.'' Exhibit M032.1.3a will be amended to change the content identifier number (CIN) codes for the new machinable and nonmachinable preparation for First-Class Mail and Standard Mail letter-size pieces. The exhibit also will be amended to add new CIN codes for Standard Mail ECR letters and designate CIN codes for certain Package Services flat-size pieces. M033.2.0 will be amended to clarify standards for filling letter trays.

M041.5.0 will be amended to show that the minimum volume for letter trays on pallets is measured in linear feet, not by the number of layers of tray on the pallet. M041.5.5 will be amended to clarify the maximum load of a pallet. M045.3.2 will be amended to show that pallets with carrier route mail must

show whether the mail is barcoded, machinable, or manual. M045.3.3 through 3.5 will show revised titles that will additionally encompass Media Mail and Library Mail. M045.6.0 will be removed and included in the aforementioned sections. M050.4.1 will be amended to show that signing a postage statement certifies the mail meets the requirements for the rates claimed.

M100

M130 will be substantially revised to show the packaging, traying, and labeling standards for machinable, nonmachinable, and ''manual only'' letter-size mail.

M200

To reduce redundancy, the standards for combining multiple publications or editions in M210.6.0 and M220.6.0 will be consolidated and relocated in new M230.

M600

M610 will be substantially revised to show the packaging, traying, and labeling standards for machinable, nonmachinable, and ''manual only'' letter-size mail. M630 will be revised to show the new Line 2 labeling for trays of ECR letter-size pieces.

M700

M710.2.1 will be revised to add provisions for a 3-digit sort level for nonmachinable parcels claiming DSCF rates.

M730 and M740 will be amended to change references from ''BMC rate'' to ''basic rate'' and to include separate preparation standards for Media Mail and Library Mail flats, irregular parcels, and machinable parcels. The option to prepare sacks based on a minimum of 1,000 cubic inches of mail is restored for both Media Mail and Library Mail and is reflected in M730 and M740.

M800

M810.1.0 will be amended to replace references to the automation basic rate for letter-size pieces with the new AADC and mixed AADC rates. M810.2.0 will be amended to show the new Line 2 labeling format for First-Class Mail and Standard Mail carrier route automation letters.

M820.1.0 will be amended to replace references to the automation basic rate for flat-size pieces with the new ADC and mixed ADC rates. M820.6.1 will be revised to provide packaging and sacking standards for flat-size pieces eligible for the Bound Printed Matter automation rates.

P Postage and Payment Methods

P000

P011.1.0 will be amended to reflect that the nonstandard surcharge will be replaced with the new nonmachinable surcharge. P012.2.0 will be amended to require standardized documentation for Bound Printed Matter flats entered at automation rates. P012.2.0 will be amended to add new rate level abbreviations for the AADC, ADC, mixed AADC, and mixed ADC rates. P012.3.0 will be amended to reflect references to the new DADC rate for Periodicals.

P012.4.0 will be amended to clarify the standards for facsimile postage statements. P013.1.0 is amended to clarify the rate calculation and computation standards. P013.2.0 will be amended to reflect the new zoning of Priority Mail rates affecting all pieces over 1 pound and up to 5 pounds. This section will also be amended to reflect that each addressed Express Mail or Priority Mail flat-rate envelope will be charged the Express Mail rate for 1/2-pound or the Priority Mail rate for 1 pound, as applicable, regardless of the actual weight.

P013.8.0 will be amended to show how to calculate postage for Standard Mail automation rate letter-size pieces and ECR automation-compatible letter-size pieces that weigh more than 3.3 ounces.

P014.5.0 will be amended to expand the circumstances under which the Postal Service may deny Express Mail postage refund requests when the service guarantee is not met.

P021.3.1 will be amended to note the availability of stamped cards.

P100

P100.4.0 and 5.0 will be amended to change ''nonstandard surcharge'' to ''nonmachinable surcharge.''

P200

P200.1.5 will be amended to include requirements for separating DADC entry pieces if the mailing is not presented with mailing documentation at the time of postal verification. New P200.1.8 will contain the standards relocated from P200.2.4 for the waiving of the nonadvertising rates.

P600

P600.2.0 will be amended to include standards for the new nonmachinable surcharge for Standard Mail and to add calculations for automation and ECR heavy letters.

P900

P910 will be amended to add new rate category abbreviations for the AADC, ADC, mixed AADC, and mixed ADC rates for First-Class Mail and Standard Mail.

P950 will be revised in its entirety to clarify the standards that apply to plant-verified drop shipment (PVDS).

P960 will be amended to clarify when MLOCR markings must appear on mailpieces and to add new markings for the AADC, ADC, mixed AADC, and mixed ADC rates for First-Class Mail and Standard Mail.

R Rates and Fees

The entire R Module will be revised to reflect the new rates and fees for all classes of mail and special services.

S Special Services

S020 will be amended to increase the maximum amount of a single money order from $700 to $1,000.

S010 and S500 will be amended to reduce the indemnity included in the base price of Express Mail service from $500 to $100.

S911 and S912 will be amended to include the new service enhancement for registered mail and certified mail. This enhancement will allow mailers to obtain delivery information over the Internet at www.usps.com by entering the article number shown on the mailing receipt.

S918 and S919 will be amended to extend Delivery Confirmation and Signature Confirmation to First-Class Mail parcels, and also to limit this service to parcels only in the Package Services mail class. S918 and S919 will also specify that for the purposes of adding Delivery Confirmation or Signature Confirmation service to First-Class Mail or Package Services, a parcel will be required to meet the definition in C100.5.0 or C700.1.0, as appropriate.

List of Subjects in 39 CFR Part 111

Postal Service.

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

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) as follows:

A Addressing

A000 Basic Addressing

A010 General Addressing Standards

1.0 ADDRESS CONTENT AND PLACEMENT

* * * * *

[Renumber 1.3 through 1.6 as 1.4 through 1.7, respectively. Add new 1.3 to show the preferred location for an address on a letter-size piece (this information has been pulled out of C830.1.1). Also renumber Exhibit A010.4.5 as A010.1.3 and rename it as ''Recommended Address Placement.'']

1.3 Recommended Placement

On a letter-size piece, the recommended address placement is within the optical character reader (OCR) read area, which is a space on the address side of the mailpiece defined by these boundaries (see Exhibit 1.3):

a. Left: ½ inch from the left edge of the piece.

b. Right: ½ inch from the right edge of the piece.

c. Top: 2–¾ inches from the bottom edge of the piece.

d. Bottom: ⅝ inch from the bottom edge of the piece.

[In renumbered 1.4, amend the title and content of to replace ''nonstandard'' with ''nonmachinable.'' No other changes to the text.]

* * * * *

2.0 ZIP CODE

* * * * *

[Amend the title and text of 2.3 to remove obsolete information about the DPBC numeric equivalent.]

2.3 Numeric DPBC

A numeric equivalent of a delivery point barcode (DPBC) consists of five digits followed by a hyphen and seven digits as specified in C840. The numeric equivalent is formed by adding three digits directly after the ZIP+4 code.

[Remove 2.4, Class and Rate Standards.]

* * * * *

4.0 RETURN ADDRESS

* * * * *

[Remove 4.5, Upgradable Mail.]

* * * * *

[Amend the title of A800 to show that the unit contains standards that apply to any barcoded pieces, not just mail claimed at automation rates.]

A800 Addressing for Barcoding

1.0 ACCURACY

* * * * *

1.3 Numeric DPBC

[Amend 1.3 to remove obsolete information about the DPBC numeric equivalent.]

A numeric equivalent of the delivery point barcode (DPBC) consists of five digits followed by a hyphen and seven digits as specified in C840. The numeric equivalent is formed by adding three digits directly after the ZIP+4 code.

* * * * *

A950 Coding Accuracy Support System (CASS)

* * * * *

3.0 DATE OF ADDRESS MATCHING AND CODING

3.1 Update Standards

[Amend 3.1 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

Unless Z4CHANGE is used, all automation and carrier route mailings bearing addresses coded by any AIS product must be coded with current CASS-certified software and the current USPS database. Coding must be done within 90 days before the mailing date for all carrier route mailings and within 180 days before the mailing date for all non-carrier route automation rate mailings. All AIS products may be used immediately on release. New product releases must be included in address matching systems no later than 45 days after the release date. The overlap in dates for product use allows mailers adequate time to install the new data files and test their systems. Mailers are expected to update their systems with the latest data files as soon as practicable and need not wait until the ''last permissible use'' date to include the new information in their address matching systems. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. The ''current USPS database'' product cycle is defined by the following matrix.

* * * * *

5.0 DOCUMENTATION

5.1 Form 3553

[Amend 5.1 to show that mailers must complete and retain Form 3553 and annotate the postage statement with the date that address matching is performed, and to show that signing a postage statement certifies that the mail meets the requirements for the rates claimed.]

Unless excepted by standard, the mailer must complete a Form 3553 for each mailing claimed at all automation rates and all carrier route rates. A computer-generated facsimile may be used if it contains the required data elements in a format similar to the USPS form. The data recorded on Form 3553 must refer only to the address list used to produce the mailing with which it is presented. The postage statement must be annotated in the block(s) provided to reflect the date when address matching and coding were performed. When a mailing is produced using multiple lists, the mailer must show the earliest (oldest) date of address matching and coding (this information is shown on Form 3553, Section B2). The mailer certifies compliance with this standard when signing the corresponding postage statement.

5.2 Retention Period

[Amend 5.2 to show that Form 3553 does not have to be submitted with the mailing, but must be retained by the mailer or mailer's agent for 1 year.]

Form 3553 and other documentation must be retained by the mailer or the mailer's agent for 1 year from the date of mailing and be made available to the USPS on 24-hour notice.

* * * * *

5.5 Using a Single List

[Amend 5.5 by adding retention requirements to read as follows:]

When a mailing is produced using all or part of a single address list, the mailer must retain one Form 3553 and other required documentation reflecting the summary output information for the entire list, as obtained when the list was coded. When the same address list is used for other mailings within 180 days of the date it was matched and coded, a copy of the Form 3553 must be retained with the documentation for each mailing.

5.6 Using Multiple Lists

[Amend 5.6 by adding retention requirements to read as follows:]

When a mailing is produced using multiple address lists, the mailer must retain a consolidated Form 3553 summarizing the individual summary output and/or facsimile Forms 3553 for each list used (and other required documentation). As an alternative, the mailer may combine the addresses selected from the multiple lists into a single new list, reprocess the addresses using CASS-certified address matching software, and retain one Form 3553 for the summary output generated by that process. [Remove current 5.7, redesignate 5.8 as 5.7, and revise to read as follows:]

5.7 Using CASS Certificate

If the name of the CASS-certified company entered on Form 3553 does not appear on the list published by the USPS, a copy of the CASS certificate for the software used also must be retained by the mailer with the documentation.

* * * * *

C Characteristics and Content

C000 General Information

C010 General Mailability Standards

1.0 MINIMUM AND MAXIMUM DIMENSIONS

* * * * *

1.3 Length and Height

[Delete item b and renumber current item c as item b. There are no other changes to the text. Standard Mail Enhanced Carrier Route pieces will be subject to the standards pertaining to length and height.]

* * * * *

[Remove 1.6, Nonstandard Surcharge.]

* * * * *

6.0 SPECIAL MAILING ENVELOPES

6.1 Window Envelope

[Amend 6.1 to remove references to upgradable mail:]

Any window envelope used for letter-size or flat-size mail must meet the following standards and, for automation-compatible mail, the physical standards in C800:

* * * * *

C020 Restricted or Nonmailable Articles and Substances

* * * * *

C024 Other Restricted or Nonmailable Matter

* * * * *

[Delete 18.0, Odd-Shaped Items in Letter-Size Mailpieces. Renumber 19.0 and 20.0 as 18.0 and 19.0, respectively.]

* * * * *

C050 Mail Processing Categories

1.0 BASIC INFORMATION

[Amend 1.0 to add a reference to new Exhibit 1.0 (redesignated Exhibit 2.0).]

Every mailpiece is assigned to one of the mail processing categories in the following sections. These categories are based on the physical dimensions of the piece, regardless of the placement (orientation) of the delivery address on the piece. Exhibit 1.0 shows the minimum and maximum dimensions for some mail processing categories.

[Redesignate Exhibit 2.0, Mail Dimensions, as Exhibit 1.0.]

[Amend section 2.0 to add the characteristics for nonmachinable letters and to clarify the requirements for automation letters to read as follows:]

2.0 LETTER-SIZE MAIL

2.1 Minimum and Maximum Size

Letter-size mail is:

a. Not less than 5 inches long, 3½ inches high, and 0.007-inch thick.

b. Not more than 11½ inches long, 6⅛ inches high, and ¼-inch thick.

2.2 Nonmachinable Criteria

A letter-size piece is nonmachinable if it has one or more of the following characteristics (see C010.1.1 for how to determine the length, height, top, bottom, and sides of a mailpiece):

a. Has an aspect ratio (length divided by height) of less than 1.3 or more than 2.5.

b. Is polybagged, polywrapped, or enclosed in any plastic material.

c. Has clasps, strings, buttons, or similar closure devices.

d. Contains items such as pens, pencils, or loose keys or coins that cause the thickness of the mailpiece to be uneven.

e. Is too rigid (does not bend easily when subjected to a transport belt tension of 40 pounds around an 11-inch diameter turn).

f. For pieces more than 4¼ inches high or 6 inches long, the thickness is less than 0.009 inch.

g. Has a delivery address parallel to the shorter dimension of the mailpiece.

h. For folded self-mailers, the folded edge is perpendicular to the address, regardless of the use of tabs, wafer seals, or other fasteners.

i. For booklet-type pieces, the bound edge (spine) is the shorter dimension of the piece or is at the top, regardless of the use of tabs, wafer seals, or other fasteners.

2.3 Automation Rates

Letters and cards mailed at automation rates must meet the standards in C810.

* * * * *

C100 First-Class Mail

* * * * *

2.0 CARDS CLAIMED AT CARD RATES

[Amend 2.7 to read as follows:]

2.7 Tearing Guides

A card may have perforations as long as they do not eliminate or interfere with any address element, postage, or postal markings and do not compromise the physical integrity of the card.

* * * * *

[Amend the title and content of 4.0 to reflect the new nonmachinable surcharge for some First-Class Mail letters and flats to read as follows:]

4.0 NONMACHINABLE PIECES

Letter-size pieces that weigh 1 ounce or less and meet one or more of the nonmachinable characteristics in C050.2.2 may be subject to the nonmachinable surcharge (see E130 and E140). Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the nonmachinable surcharge if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

[Redesignate section 5.0, Facing Identification Mark (FIM), as 6.0. Add new 5.0, Parcels, to read as follows:]

5.0 PARCELS

For the purposes of adding Delivery Confirmation or Signature Confirmation, a First-Class Mail parcel is defined as any piece that:

a. Has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label; and,

b. Is in a box or, if not in a box, is more than ¾-inch thick at its thickest point.

* * * * *

C200 Periodicals

Summary

[Revise the summary in C200 to read as follows:]

C200 describes permissible mailpiece components (e.g., enclosures, attachments, and supplements), impermissible or prohibited components, and mailpiece construction.

* * * * *

C600 Standard Mail

1.0 DIMENSIONS

1.1 Basic Standards

These standards apply to Standard Mail:

* * * * *

[Redesignate items 1.1c and 1.1d as items 1.1d and 1.1e, respectively. Redesignate Exhibit 1.1d as Exhibit 1.1e. Add new item 1.1c to require that Enhanced Carrier Route letters must meet the physical standards for

automation-compatible mail in C810 and barcode readability in C840.]

c. ECR pieces mailed at high-density and saturation letter rates must meet the standards for automation-compatible mail in C810 and barcoding in C840.

* * * * *

[Redesignate 3.0, Postal Inspection, and 4.0, Enclosures, as 4.0 and 5.0, respectively. Add new 3.0, Nonmachinable Pieces, to reflect the new nonmachinable surcharge for some Standard Mail letters to read as follows:]

3.0 NONMACHINABLE PIECES

Letter-size pieces that weigh 3.3 ounces or less and meet one or more of the nonmachinable characteristics in C050.2.2 may be subject to the nonmachinable surcharge (see E620).

* * * * *

C700 Package Services

1.0 PACKAGE SERVICES

* * * * *

[insert new item 1.0h to read as follows:]

h. For the purposes of adding Delivery Confirmation or Signature Confirmation, a Package Services parcel is defined as any piece that:

(1) Has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label; and,

(2) Is in a box or, if not in a box, is more than ¾-inch thick at its thickest point.

* * * * *

[Amend the title of 2.0 to read as follows:]

2.0 NONMACHINABLE SURCHARGE

[Amend the first sentence of 2.0 to read as follows:]

Mailpieces described in this section that are mailed at the Inter-BMC/ASF Parcel Post, Intra-BMC/ASF Parcel Post, DSCF Parcel Select, or DBMC Parcel Select rates are subject to the applicable nonmachinable surcharge in R700 unless the applicable special handling fee is paid.* * *

* * * * *

[Amend the title of C800 by adding ''Machinable'' to read as follows:]

C800 Automation-Compatible and Machinable Mail

C810 Letters and Cards

1.0 BASIC STANDARDS

[Amend 1.0 to show that some ECR letters must meet the standards for automation-compatible mail in this unit.]

Letters and cards claimed at automation rates and at some Standard Mail Enhanced Carrier Route rates must meet the standards in 2.0 through 8.0. Pieces claimed at First-Class Mail automation card rates also must meet the standards in C100. Unless prepared under 7.2 through 7.4, each mailpiece must be prepared either as a sealed envelope (the preferred method) or, if unenveloped, must be sealed or glued on all four sides.

2.0 DIMENSIONS

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2.4 Maximum Weight

[Amend 2.4 to replace the weight limit for upgradable letters with the weight limit for machinable letters, to raise the weight limit for Standard Mail automation heavy letters and ECR heavy letters to 3.5 ounces, and to add a weight limit for ECR high density and saturation letters.]

Maximum weight limits are as follows:

a. First-Class Mail:

(1) Machinable Presorted: 3.3 ounces (0.2063 pound).

(2) Automation (see 7.5 for pieces heavier than 3 ounces): 3.3 ounces (0.2063 pound).

b. Periodicals automation (see 7.5 for pieces heavier than 3 ounces): 3.3 ounces (0.2063 pound).

c. Standard Mail:

(1) Machinable Presorted: 3.3 ounces (0.2063 pound).

(2) Automation (see 7.5 for pieces heavier than 3 ounces): 3.5 ounces (0.2188 pound).

(3) Enhanced Carrier Route high density and saturation and automation carrier route (see 7.5 for pieces heavier than 3 ounces): 3.5 ounces (0.2188 pound).

* * * * *

8.0 ENCLOSED REPLY CARDS AND ENVELOPES

8.1 Basic Standard

Amend the first paragraph of 8.1 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All letter-size reply cards and envelopes (business reply mail (BRM), courtesy reply mail (CRM), and meter reply mail (MRM)) provided as enclosures in automation First-Class Mail, Periodicals, and Standard Mail and addressed for return to a domestic delivery address must meet the applicable standards for automation-compatible mail in C810. The mailer's signature on the postage statement certifies that this standard, and the standards listed below, have been met when the corresponding mail is presented to the USPS:

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C820 Flats

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2.0 DIMENSIONS AND CRITERIA FOR FSM 881 PROCESSING

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2.4 Maximum Weight

[Amend 2.4 to add a weight limit for BPM flats by adding new item d to read as follows:]

d. For Bound Printed Matter flat-size pieces claiming the barcode discount, 16 ounces.

* * * * *

[Delete C830 in its entirety. C830 contains standards for upgradable mail, including address placement, OCR read area, fonts, and reflectance. Effective June 30, 2002, the upgradable preparation for letters will be replaced with a machinable preparation; the machinable preparation has no requirements for address placement, OCR read area, etc. References to C830 throughout the DMM will be amended.]

C840 Barcoding Standards for Letters and Flats

* * * * *

2.0 BARCODE LOCATION FOR LETTER-SIZE PIECES

2.1 Barcode Clear Zone

[Amend the first paragraph in 2.1 to remove references to show that Standard Mail Enhanced Carrier Route pieces must have a barcode clear zone and to remove references to upgradable mail.]

Each letter-size piece in an automation rate mailing or claimed at an Enhanced Carrier Route saturation or high density rate must have a barcode clear zone unless the piece bears a DPBC in the address block. The barcode clear zone and all printing and material in the clear zone must meet the reflectance standards in 5.0. The barcode clear zone is a rectangular area in the lower right corner of the address side of cards and letter-size pieces defined by these boundaries:

* * * * *

2.2 General Standards

[Amend 2.2 to show that these standards for delivery point barcodes also would apply to Enhanced Carrier Route saturation and high density rate pieces.]

Automation rate pieces and pieces claimed at an Enhanced Carrier Route saturation or high density rate that weigh 3 ounces or less may bear a DPBC either in the address block or in the barcode clear zone. Pieces that weigh more than 3 ounces must bear a DPBC in the address block.

* * * * *

5.0 Reflectance

5.1 Background Reflectance

[Amend 5.1 to delete item c to remove references to upgradable mail. No other changes to the text.]

* * * * *

5.4 Dark Fibers and Background Patterns

[Amend 5.4 to include references to Enhanced Carrier Route saturation and high density rate pieces. Delete item c to remove references to upgradable mail.]

Dark fibers or background patterns (e.g., checks) that produce a print contrast ratio of more than 15% when measured in the red and green portions of the optical spectrum are prohibited in these locations:

a. The area of the address block or the barcode clear zone where the barcode appears on a card-size or a letter-size piece mailed at automation rates or at Enhanced Carrier Route saturation or high density rates.

b. The area of the address block or the area of the mailpiece where the barcode appears on a flat-size piece in an automation rate mailing.

* * * * *

[Amend the title and summary text of C850 by replacing ''Standard Mail'' and ''Package Services'' with ''Parcels'' to read as follows:]

C850 Barcoding Standards for Parcels

Summary

C850 describes the technical standards for barcoded parcels. It defines parcel barcode characteristics, location, and content.

1.0 General

1.1 Basic Requirement

[Amend 1.1 to remove references to specific classes of mail to read as follows:]

Every parcel eligible for a barcode discount must bear a properly prepared barcode that represents the correct ZIP Code information for the delivery address on the mailpiece plus the appropriate verifier character suffix or application identifier prefix characters as described in 1.0 through 4.0. The combination of appropriate ZIP Code and verifier or application identifier characters uniquely identifies the barcode as the postal routing code.

* * * * *

1.4 Use With Delivery Confirmation and Signature Confirmation Services

[Amend 1.4 to remove references to specific classes of mail to read as follows:]

A mailer may qualify for the machinable parcel barcode discount and may apply Delivery Confirmation and Signature Confirmation barcodes in one of the following ways:

* * * * *

[Amend item 1.4c to delete references to specific classes of mail (to allow integrated barcodes for First-Class Mail parcels) to read as follows:]

c. A single integrated barcode may be used by Delivery Confirmation electronic option mailers who choose to combine Delivery Confirmation or Signature Confirmation service with insurance. Mailers printing their own barcodes and using the electronic option must meet the specifications in S918, S919, and Publication 91 with these modifications:

(1) The text above the barcode must identify the other service requested.

(2) The service-type code in the barcode must identify the class of mail and/or type of special service combined with Delivery Confirmation or Signature Confirmation.

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D Deposit, Collection, and Delivery

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D200 Periodicals

D210 Basic Information

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3.0 EXCEPTIONAL DISPATCH

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3.4 Destination Rates

[Amend 3.4 by deleting the first sentence and revising the remaining sentence to read as follows:]

Copies of Periodicals publications deposited under exceptional dispatch may be eligible for and claimed at the destination sectional center facility (DSCF) or destination delivery unit (DDU) rates if the applicable standards in E250 are met.

* * * * *

4.0 DEPOSIT AT AMF

4.1 General

[Amend 4.1 by deleting the reference to SCF rates to read as follows:]

A publisher that airfreights copies of a Periodicals publication to an airport mail facility (AMF) must be authorized additional entry at the verifying office (i.e., the post office where the copies are presented for postal verification). Postage must be paid at that office unless an alternative postage payment method is authorized. Copies presented at an AMF may be eligible for the delivery unit rate, subject to the applicable standards.

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D230 Additional Entry

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2.0 Distribution plan

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[Remove 2.2, Contingency Entries, and redesignate 2.1 as 2.0.]

* * * * *

4.0 USE OF ENTRY

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[Remove 4.6, Contingency Entry and redesignate 4.7 as 4.6.]

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D500 Express Mail

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1.0 SERVICE OBJECTIVES AND REFUND CONDITIONS

1.1 Express Mail Same Day Airport Service

[Revise 1.1 to read as follows:]

For Express Mail Same Day Airport Service, the USPS refunds the postage for an item not available for customer pickup at destination by the time specified when the item was accepted at origin, unless the delay was caused by one of the situations in 1.6.

1.2 Express Mail Custom Designed Service

[Revise 1.2 to read as follows:]

For Express Mail Custom Designed Service, the USPS refunds the postage for an item not available for customer pickup at destination or not delivered to the addressee within 24 hours of mailing, unless the item was mailed under a service agreement that provides for delivery more than 24 hours after scheduled presentation at the point of origin or if the delay was caused by one of the situations in 1.6.

1.3 Express Mail Next Day and Second Day Services

[Revise 1.3 to read as follows:]

For Express Mail Next Day Service, the USPS refunds the postage for an item not available for customer pickup at destination or for which delivery to the addressee was not attempted, subject to the standards for this service, unless the delay was caused by one of the situations in 1.6.

1.4 Express Mail Military Service

[Revise 1.4 to read as follows:]

For Express Mail Military Service (EMMS) items presented at APO/FPO facilities before the published cutoff time are delivered the second day after acceptance. If presented after the published cut-off time, such items are delivered the third day after acceptance. For EMMS, the USPS refunds postage for an item not available for customer pickup at the APO/FPO of address or for which delivery to the addressee was not attempted domestically within the times specified by the standards for this service, unless the item was delayed by Customs; the item was destined for an APO/FPO that was closed on the intended day of delivery (delivery is attempted the next business day); or the delay was caused by one of the situations in 1.6.

* * * * *

1.6 Postage Not Refunded

[Revise 1.6 to add the additional limitations for Express Mail refunds to read as follows:]

Postage refunds may not be available if delivery was attempted within the times required for the specific service, or if the delay of the item was caused by any of the following reasons:

a. Properly detained for law enforcement purpose; strike or work stoppage; delayed because of an incorrect ZIP Code or address; forwarding or return service was provided after the item was made available for claim; delivery was attempted within the times required for the specific service; delay or cancellation of flights. Attempted delivery occurs under any of these situations when the delivery is physically attempted, but cannot be made; the shipment is available for delivery, but the addressee made a written request that the shipment be held for a specific day or days; the delivery employee discovers that the shipment is undeliverable as addressed before leaving on the delivery route.

b. As authorized by USPS headquarters, when the delay was caused by governmental action beyond the control of the USPS or air carriers; war, insurrection, or civil disturbance; breakdown of a substantial portion of the USPS transportation network resulting from events or factors outside the control of the USPS; or acts of God.

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E Eligibility

E000 Special Eligibility Standards

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E070 Mixed Classes

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2.0 ATTACHMENTS OF DIFFERENT CLASSES

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2.2 Rate Qualification

If a Periodicals, Standard Mail, or Package Services host piece qualifies for:

* * * * *

[Amend item d by revising the first sentence and removing the second sentence to read as follows:]

d. A destination entry rate (DDU, DSCF, DADC, or DBMC), a Standard Mail attachment is eligible for the comparable destination entry rate. The attachment need not meet the volume standard that would apply if mailed separately. A rate including a destination entry discount may not be claimed for an attachment unless a similar rate is available and claimed for the host piece.

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E100 First-Class Mail

E110 Basic Standards

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[Revise 3.0 to read as follows:]

3.0 CARD RATE

To be eligible for a card rate, a stamped card, postcard, and each part of a double (reply) card must meet the physical standards in C100. The reply half of a double card need not bear postage when originally mailed, but it must bear postage at the applicable rate when returned, unless prepared as business reply mail (S922) or as a merchandise return service label (S923.5.4).

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E120 Priority Mail

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2.0 RATES

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2.2 Flat-Rate Envelope

[Amend 2.2 by changing ''2-pound'' to ''1-pound'' to read as follows:]

Any amount of material that can be mailed in the special flat-rate envelope available from the USPS is subject to the 1-pound Priority Mail rate, regardless of the actual weight of the mailpiece.

* * * * *

2.4 Keys and Identification Devices

[Amend 2.4 to show that the 2-pound rate is a zoned rate, to read as follows:]

Keys and identification devices (e.g., identification cards or uncovered identification tags) that weigh more than 13 ounces but not more than 1 pound are returned at the 1-pound Priority Mail rate plus the fee shown in R100.10.0. Keys and identification devices weighing more than 1 pound but not more than 2 pounds are mailed at the 2-pound Priority Mail rate for zone 4 plus the fee in R100.10.0. The key or identification device must bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return the key or identification device to that address and a statement guaranteeing payment of postage due on delivery.

E130 Nonautomation Rates

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2.0 SINGLE-PIECE RATE

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2.2 Keys and Identification Devices

[Amend 2.2 to change ''nonstandard'' to ''nonmachinable'' to read as follows:]

Keys and identification devices (e.g., identification cards or uncovered identification tags) that weigh 13 ounces or less are mailed at the applicable single-piece letter rate plus the fee in R100.10.0, and if applicable, the nonmachinable surcharge. The keys and identification devices must bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return the piece to that address and a statement guaranteeing payment of postage due on delivery.

* * * * *

[Add new 2.4 to show that letter-size pieces may be subject to the nonmachinable surcharge to read as follows:]

2.4 Nonmachinable Surcharge—Letter-Size Pieces

The nonmachinable surcharge in R100.11.0 applies to letter-size pieces:

a. That weigh 1 ounce or less and meet one or more of the nonmachinable characteristics in C050.2.2. Pieces mailed at the card rate are not subject to the nonmachinable surcharge.

b. For which the mailer chooses the manual only (''do not automate'') option. Pieces mailed at the card rate may choose this option but are not subject to the surcharge.

[Add new 2.5 to show that flats may be subject to the nonmachinable surcharge to read as follows:]

2.5 Nonmachinable Surcharge—Nonletters

Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the

nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

3.0 PRESORTED RATE

* * * * *

3.3 Address Quality

[Amend the first paragraph of 3.3 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed. There are no other changes to this section.]

The move update standards for address quality are listed below. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS: * * *

3.4 ZIP Code Accuracy

[Amend 3.4 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at the Presorted rate must be verified and corrected within 12 months before the mailing date using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies during the 12-month period after its most recent update.

[Add new 3.5 to show that letter-size pieces may be subject to the nonmachinable surcharge to read as follows:]

3.5 Nonmachinable Surcharge—Letter-Size Pieces

Letter-size pieces that weigh 1 ounce or less and meet one or more of the nonmachinable characteristics in C050.2.2 are subject to the nonmachinable surcharge in R100.11.0. Pieces mailed at the card rate are not subject to the nonmachinable surcharge. Double cards that are not prepared in accordance with C810 are considered nonmachinable; they are not charged the surcharge but must be prepared according to the standards for nonmachinable pieces in M130. Pieces that weigh more than 3.3 ounces but still meet the dimensions for a letter must be prepared according to the standards for nonmachinable pieces in M130.

[Add new 3.6 to show that flat-size pieces may be subject to the nonmachinable surcharge:]

3.6 Nonmachinable Surcharge—Nonletters

Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

[Add new 3.7 to show that the nonmachinable surcharge applies to pieces where the mailer chooses the manual only option to read as follows:]

3.7 Manual Only Option

The nonmachinable surcharge in R100.11.0 applies to any letter-size piece (except card rate pieces) for which a mailer chooses the manual only (''do not automate'') option. For card rate pieces, a mailer can specify manual handling, but a surcharge does not apply.

[Remove 4.0, Nonstandard Surcharge.]

E140 Automation Rates

1.0 BASIC STANDARDS

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1.3 Address Quality

[Amend the first paragraph of 1.3 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

The move update standards for address quality are listed below. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS: * * *

1.4 Carrier Route Presort

[Amend 1.4 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

Carrier route rates are available only for letter-size mail and only for those 5-digit ZIP Code areas identified with an ''A'' or ''B'' in the Carrier Route Indicators field of the USPS City State File used for address coding. Carrier route codes must be applied to mailings using CASS-certified software and the current USPS Carrier Route File scheme or another AIS product containing carrier route information, subject to A930 and A950. Carrier route and City State File information must be updated within 90 days before the mailing date. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

* * * * *

[Remove 1.6, Nonstandard Surcharge.]

[Amend the title and text of 2.0 to reorganize rate application information for letters and to replace the basic rate with the AADC and mixed AADC rates.]

2.0 RATE APPLICATION—CARDS AND LETTERS

Automation rates apply to each piece that is sorted under M810 into the corresponding qualifying groups:

a. Pieces in full carrier route trays, in carrier route groups of 10 or more pieces each placed in 5-digit carrier routes trays, or in carrier route packages of 10 or more pieces each placed in 3-digit carrier routes trays qualify for the carrier route rate. Preparation to qualify for the carrier route rate is optional and need not be done for all carrier routes in a 5-digit area.

b. Groups of 150 or more pieces in 5-digit or 5-digit scheme trays qualify for the 5-digit rate. Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit or 5-digit scheme destinations.

c. Groups of 150 or more pieces in 3-digit or 3-digit scheme trays qualify for the 3-digit rate.

d. Groups of fewer than 150 pieces in origin 3-digit or origin 3-digit scheme trays and all pieces in AADC trays qualify for the AADC rate.

e. All pieces in mixed AADC trays qualify for the mixed AADC rate.

[Redesignate 2.2 and 2.3, describing rate application for flats, as new 3.0 and revise to replace the basic automation rate with the new AADC and mixed AADC rates and to add the nonmachinable surcharge.]

3.0 RATE APPLICATION—FLATS AND OTHER NONLETTERS

3.1 Package-Based Preparation

Automation rates apply to each piece that is sorted under M820.2.0 or M910.1.0 into the corresponding qualifying groups:

a. Pieces in 5-digit packages of 10 or more pieces qualify for the 5-digit rate.

Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit destinations.

b. Pieces in 3-digit packages of 10 or more pieces qualify for the 3-digit rate.

c. Pieces in ADC packages of 10 or more pieces qualify for the ADC rate.

d. Pieces in mixed ADC packages qualify for the mixed ADC rate.

3.2 Tray-Based Preparation

Automation rates apply to each piece that is sorted under M820.4.0 into the corresponding qualifying groups:

a. Groups of 90 or more pieces in 5-digit trays qualify for the 5-digit rate. Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit destinations.

b. Groups of 90 or more pieces in 3-digit trays qualify for the 3-digit rate.

c. Groups of fewer than 90 pieces in origin 3-digit trays and all pieces in ADC trays qualify for the ADC rate.

d. All pieces in mixed ADC trays qualify for the mixed ADC rate.

[Add new 3.3 to show that flats may be subject to the nonmachinable surcharge to read as follows:]

3.3 Nonmachinable Surcharge

Pieces that weigh 1 ounce or less are subject to the nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

* * * * *

E200 Periodicals

E210 Basic Standards

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E217 Basic Rate Eligibility

[Amend 1.0 by subdividing the section and revising the text for clarity to read as follows:]

1.0 OUTSIDE-COUNTY RATES

1.1 Description

Outside-County rates apply to copies of an authorized Periodicals publication mailed by a publisher or news agent that are not eligible for In-County rates under 4.0. Outside-County rates consist of an addressed per piece charge, a zoned charge for the weight of the advertising portion of the publication, and a unzoned charge for the weight of the nonadvertising portion.

1.2 Nonrequester and Nonsubscriber Copies

For excess noncommingled mailings under E215, nonrequester and nonsubscriber copies are not eligible for Periodicals rates unless the publication is authorized under E212.2.0 and is not authorized to contain general advertising. Nonrequester and nonsubscriber copies in excess of the 10% allowance under E215 are subject to Outside-County rates when commingled with requester or subscriber copies, as appropriate.

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3.0 OUTSIDE-COUNTY SCIENCE-OF-AGRICULTURE RATES

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3.3 Other Rates

[Amend 3.3 by adding the new destination ADC rate, removing the last sentence, and rearranging sentences two and three to read as follows:]

All Outside-County rates and discounts apply, except for separate rates for DDU, DSCF, DADC, and zones 1 and 2. Nonsubscriber copies are subject to E215. Each piece must meet the standards for the rates or discounts claimed.

[Remove 3.4, Nonadvertising Discount, and redesignate 3.5 as 3.4.]

* * * * *

5.0 DISCOUNTS

[Amend 5.0 by restructuring for clarity and adding a reference for the new per piece pallet discounts for nonletter-size mail to read as follows:]

The following discounts are available:

a. Nonadvertising. The nonadvertising discount applies to the Outside-County piece rate and is computed under P013.

b. Destination Entry. Destination entry discounts are available under E250 for copies entered at specific USPS facilities.

c. Pallet. Outside-County rate nonletters (flats and irregular parcels) packaged and placed directly on pallets under the applicable standards in M045 are eligible for one of the pallet discounts in R200. Except for overflow pallets, each pallet must contain a minimum of 250 pounds of addressed pieces. Pieces taken to destination delivery units (DDUs) under the applicable standards in E250, that cannot accept pallets, need only meet the minimum weight requirement. To determine whether a 5-digit delivery facility can handle pallets, refer to the Drop Shipment Product maintained by the National Customer Support Center (NCSC) (see G043).

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E220 Presorted Rates

1.0 BASIC INFORMATION

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1.3 ZIP Code Accuracy

[Amend 1.3 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes in addresses on pieces claimed at the 5-digit, 3-digit, or basic rates must be verified and corrected within 12 months before the mailing date by a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies during the 12-month period after its most recent update.

* * * * *

[Remove 3.0, Combining Multiple Publications or Editions. This section has moved to M230.]

* * * * *

E240 Automation Rates

1.0 BASIC STANDARDS

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1.2 Enclosed Reply Cards and Envelopes

[Amend 1.2 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All letter-size reply cards and envelopes provided as enclosures in automation rate Periodicals and addressed for return to a domestic delivery address must meet the standards in C810 for enclosed reply cards and envelopes. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

* * * * *

[Revise E250 in its entirety to clarify standards for all destination entry Periodicals mailings; to include the new destination area distribution center (DADC) entry rates and discounts; and to reflect that DSCF pieces must be deposited at the DSCF or a USPS-designated facility.]

E250 Destination Entry

1.0 BASIC STANDARDS

1.1 Rate Application

Outside-County addressed pieces may qualify for destination area distribution center (DADC) or destination sectional center facility (DSCF) rates and discounts subject to the standards in 2.0 and 3.0, respectively. Carrier route rate addressed pieces may qualify for destination delivery unit (DDU) rates and discounts subject to the standards in 4.0. Any advertising portion may be eligible for DADC, DSCF, or DDU advertising pound rates based on the entry facility and the address on the piece. For each addressed piece, only one destination entry discount may be claimed. An individual package, tray, sack, or pallet may contain pieces claimed at different destination entry rates and discounts. Addressed pieces may also qualify for the destination entry pallet per piece discount in E217. In-County carrier route rate addressed pieces may qualify for the DDU discount subject to the standards in 4.0.

1.2 Documentation of Postage

Subject to P012, the mailer must be able to show compliance with eligibility requirements (e.g., by package, tray, sack, or pallet), and list the number of addressed pieces by presort level for each 5-digit and 3-digit ZIP Code destination as appropriate for the rates and discounts claimed. Documentation is not required if each addressed piece in the mailing is of identical weight, and are separated by zone, rate, and destination entry (if applicable), when presented for mailing.

2.0 DESTINATION AREA DISTRIBUTION CENTER (DADC)

2.1 Definition

For this standard, DADC includes the facilities listed in L004, or a USPS-designated facility.

2.2 General Eligibility

Addressed pieces meeting the standards in 1.0 and 2.0 are eligible for DADC rates when deposited at an ADC (or USPS-designated facility), and are addressed for delivery to one of the 3-digit ZIP Codes served by the facility where deposited.

2.3 Rates

DADC rates include a per piece discount off the addressed piece rate and, if applicable, an advertising pound rate. Pieces must meet the standards for any other rate and discount claimed.

3.0 DESTINATION SECTIONAL CENTER FACILITY (DSCF)

3.1 Definition

For this standard, DSCF includes the facilities listed in L005 and L006, or a USPS-designated facility.

3.2 General Eligibility

Addressed pieces meeting the standards in 1.0 and 3.0 are eligible for DSCF rates when deposited at an SCF (or USPS-designated facility), and are addressed for delivery to one of the 3-digit ZIP Codes served by the facility where deposited.

3.3 Rates

DSCF rates include a per piece discount off the addressed piece rate and, if applicable, an advertising pound rate. Pieces must meet the standards for any other rate and discount claimed.

4.0 DESTINATION DELIVERY UNIT (DDU)

4.1 Definition

For this standard, the DDU is the facility where the carrier cases mail for delivery to the addresses on the pieces in the mailing.

4.2 General Eligibility

Addressed pieces, including pieces under exceptional dispatch, meeting the standards in 1.0 and 4.0 are eligible for DDU rates when deposited at the facility where the carrier serving the delivery address on the mail is located.

4.3 Rates

DDU rates for Outside-County include a per piece discount off the addressed piece rate and, if applicable, an advertising pound rate. DDU rates for In-County consist of a per piece discount off the addressed piece rate and a pound charge. Outside-County and In-County pieces must meet the standards for any other rate and discount claimed.

4.4 Maximum Volume

The same mailer may not present for deposit more than four DDU rate mailings at the same delivery unit (or another acting as its agent) in any 24-hour period. This limit may be waived if local conditions permit. A mailer may ask for such a waiver when scheduling deposit of the mailings. There is no maximum for plant-verified drop shipments made under P950. This standard does not apply to mailings presented to the publication's authorized original entry, or additional entry, serving the place where the pieces were prepared for mailing, if that entry post office is also the facility at which the DDU rate pieces must be deposited.

4.5 Deposit Schedule

The mailer may schedule deposit of DDU rate mailings at least 24 hours in advance by contacting the district office in whose service area the destination facility is located. The mailer must follow the scheduled deposit time provided. The mailer may request standing appointments for renewable 6-month periods by written application to the district office in whose service area the destination facility is located. Mixed loads of Periodicals and Standard Mail or Package Services mail require advance appointments for deposit. For mail entered under exceptional dispatch, the application for exceptional dispatch required under D210 also serves as a request for standing appointments.

E260 Ride-Along

Summary

E260 describes the standards for the Periodicals Ride-Along classification.

1.0 BASIC ELIGIBILITY

1.1 Description

The standards in E260 apply to Standard Mail material paid at the Periodicals Ride-Along rate that is attached to or enclosed with Periodicals mail. All Periodicals subclasses may enclose eligible matter at the Ride-Along rate.

1.2 Basic Standards

Only one Ride-Along piece may be attached to or enclosed with an individual copy of Periodicals mail. The Ride-Along rate must be paid on each copy in the mailing, not addressed copies. If more than one Ride-Along piece is attached or enclosed, mailers have the option of paying Standard Mail postage for all the enclosures or attachments, or paying the Ride-Along rate for the first attachment or enclosure and Standard Mail rates for subsequent attachments and enclosures. Ride-Along pieces eligible under E260 must be eligible as Standard Mail and must:

a. Not exceed any dimension of the host publication.

b. Not exceed 3.3 ounces and must not exceed the weight of the host publication.

c. Not obscure the title of the publication or the address label.

1.3 Physical Characteristics

The host Periodicals piece and the Ride-Along piece must meet the following physical characteristics:

a. Construction:

(1) Bound publications. If contained within the host publication the Ride-Along piece must be securely affixed to prevent detachment during postal processing. If loose, the Ride-Along piece and publication must be enclosed together in a full wrapper, polybag, or envelope.

(2) Unbound publications. A loose Ride-Along enclosure with an unbound publication must be combined with and inserted within the publication in a manner that prevents detachment during postal processing. If the Ride-Along piece is included outside the unbound publication, the publication and the Ride-Along piece must be enclosed in a full wrapper, polybag, or envelope.

b. A Periodicals piece (automation and nonautomation) with the addition of a Ride-Along piece must remain uniformly thick and remain in the same processing category as before the addition of the Ride-Along attachment or enclosure.

c. A Periodicals piece with a Ride-Along that claims automation rates must meet the appropriate automation requirements in C810 or C820, must maintain the same processing category as before the addition of the Ride-Along attachment or enclosure and, for flat-size mail, must meet the flat sorting machine criteria under C820 (FSM 881 or FSM 1000). For example:

(1) If, due to the inclusion of a Ride-Along piece, an FSM 881-compatible host piece can no longer be processed on the FSM 881, but must be processed on an FSM 1000, then that piece must pay either the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals automation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

(2) If, due to the inclusion of a Ride-Along piece, an FSM 1000-compatible host piece can no longer be processed on the FSM 1000, but must be processed manually, then that piece must pay either the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals nonautomation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

(3) If, due to the inclusion of a Ride-Along piece, an automation letter host piece can no longer be processed as an automation letter, then that piece must pay the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals nonautomation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

1.4 Marking

The marking ''Ride-Along Enclosed'' must be placed on or in the host publication if it contains an enclosure or attachment paid at the Ride-Along rate. If placed on the outer wrapper, polybag, envelope, or cover of the host publication, the marking must be set in type no smaller than any used in the required ''POSTMASTER: Send change of address * * *'' statement. If placed in the identification statement, the marking must meet the applicable standards. The marking must not be on or in copies not accompanied by a Ride-Along attachment or enclosure.

* * * * *

E500 Express Mail

1.0 STANDARDS FOR ALL EXPRESS MAIL

* * * * *

1.6 Flat-Rate Envelope

[Amend 1.6 by changing ''2-pound'' to ''½-pound'' to read as follows:]

Material mailed in the special flat-rate envelope available from the USPS is subject to the postage rate for a ½-pound piece at the service level requested by the customer, regardless of the actual weight of the piece.

* * * * *

E600 Standard Mail

E610 Basic Standards

* * * * *

8.0 PREPARATION

Each Standard Mail mailing is subject to these general standards:

* * * * *

[Amend 8.0e to remove references to upgradable preparation to read as follows:]

e. Each piece must bear the addressee's name and delivery address, including the correct ZIP Code or ZIP+4 code, unless an alternative address format is used subject to A040. Detached address labels may be used subject to A060.

* * * * *

E620 Presorted Rates

1.0 BASIC STANDARDS

1.1 General

All pieces in a Presorted Regular or Presorted Nonprofit Standard Mail mailing must:

* * * * *

[Amend 1.1c to remove references to upgradable mailings:]

c. Bear a delivery address that includes the correct ZIP Code or ZIP+4 code, unless an alternative address format is used subject to A040. Pieces prepared with detached address labels are subject to additional standards in A060.

1.2 Residual Volume Requirement

[Amend 1.2 to remove the requirement that residual volumes must appear on the same postage statement.]

Pieces in an Enhanced Carrier Route rate mailing that has separately met a 200-piece or 50-pound minimum quantity requirement may be counted toward the minimum quantity requirement for a Presorted rate mailing, provided that the Enhanced Carrier Route rate mailing and the Presorted rate mailing are part of the same mailing job. Likewise, pieces in an automation rate mailing that has separately met a 200-piece or 50-pound minimum quantity requirement may be counted toward the minimum quantity requirement for a Presorted rate mailing, provided that the automation rate mailing and the Presorted mailing are part of the same mailing job. Pieces mailed at Presorted Standard Mail rates must not be counted toward the minimum volume requirements for an Enhanced Carrier Route rate or an automation rate mailing.

* * * * *

1.4 ZIP Code Accuracy

[Amend 1.4 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at Presorted Regular and Presorted Nonprofit rates must be verified and corrected within 12 months before the mailing date, using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

2.0 RATES

[Amend 2.0 by combining i2.0a and 2.0b into new 2.0a and renumbering the remaining items accordingly. This is revised to remove references to upgradable mailings.]

Presorted Regular or Nonprofit Standard Mail rates apply to Regular or Nonprofit Standard Mail letters, flats, and machinable and irregular parcels weighing less than 16 ounces that are

prepared under M045, M610, or (flat-size mail only) under M910, M920, M930, or M940. Basic Presorted rates apply to pieces that do not meet the standards for the 3/5 Presorted rates described below. Basic rate and 3/5 rate pieces prepared as part of the same mailing are subject to a single minimum volume standard. Pieces that do not qualify for the 3/5 rate must be paid at the basic rate and prepared accordingly. Pieces may qualify for the 3/5 rate if they are presented:

a. In quantities of 150 or more letter-size pieces for a single 3-digit area, prepared in 5-digit or 3-digit trays.

* * * * *

[Redesignate 4.0, Barcoded Discount, as 5.0. Add new 4.0 to show that some Presorted letters are subject to the nonmachinable surcharge to read as follows:]

4.0 NONMACHINABLE SURCHARGE

The nonmachinable surcharge in R600.6.0 applies to any letter-size piece (including cards):

a. That weighs 3.3 ounces or less and meets one or more of the nonmachinable characteristics in C050.2.2.

b. For which a mailer chooses the manual only (''do not automate'') option.

* * * * *

E630 Enhanced Carrier Route Rates

[Revise E630 in its entirety to reorganize and clarify the current standards and to add standards that require letter-size pieces claimed at high density or saturation rates to be automation-compatible and have delivery point barcodes. Please note that the exception to the sack minimum for saturation rate pieces currently in E630 has been moved to M620.4.1.]

1.0 BASIC STANDARDS

1.1 General

All pieces in an Enhanced Carrier Route Standard Mail mailing must:

a. Meet the basic standards for Standard Mail in E610.

b. Be part of a single mailing of at least 200 pieces or 50 pounds of pieces of Enhanced Carrier Route Standard Mail. Automation basic carrier route rate pieces are subject to a separate 200-piece or 50-pound minimum volume standard and may not be included in the same mailing as other Enhanced Carrier Route mail. Regular and Nonprofit mailings must meet separate minimum volumes.

c. Be sorted to carrier routes, marked, and documented under M045 (if palletized), M620, M920, M930, or M940.

d. Have a complete delivery address or an alternate address format.

e. Meet the address quality and coding standards in A800 and A950.

1.2 Maximum Size

Enhanced Carrier Route rate mail may not be more than 11¾ inches high, 14 inches long, or ¾-inch thick. Exception: Merchandise samples with detached address labels (DALs) may exceed these dimensions if the labels meet the standards in A060.

1.3 Preparation

Preparation to qualify for any Enhanced Carrier Route rate is optional and need not be performed for all carrier routes in a 5-digit area. An Enhanced Carrier Route mailing may include pieces at basic, high density, and saturation Enhanced Carrier Route rates. Automation basic carrier route rate pieces must be prepared as a separate mailing (see E640).

1.4 Carrier Route Information

Except for mailings prepared with a simplified address under A040, a carrier route code must be applied to each piece in the mailing using CASS-certified software and the current USPS Carrier Route File scheme, hard copy Carrier Route Files, or another AIS product containing carrier route information, subject to A930 and A950. Carrier route information must be updated within 90 days before the mailing date.

2.0 BASIC RATES

2.1 All Pieces

All pieces mailed at basic rates must be prepared in walk sequence or in line-of-travel (LOT) sequence according to LOT schemes prescribed by the USPS (see M050).

2.2 Letter-Size Pieces

Basic rates apply to each piece sorted under M045 or M620 and in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray.

2.3 Flat-Size Pieces

Basic rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

2.4 Irregular Parcels

Basic rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

3.0 HIGH DENSITY RATES

3.1 All Pieces

All pieces mailed at high density rates must:

a. Be prepared in walk sequence according to schemes prescribed by the USPS (see M050).

b. Meet the density requirement of at least 125 pieces for each carrier route. Multiple pieces per delivery address can count toward this density standard. Fewer pieces may be prepared for routes with fewer than 125 possible deliveries if a piece is addressed to every possible delivery on the route.

3.2 Letter-Size Pieces

High density rates apply to each piece that is automation-compatible according to C810, has a delivery point barcode under C840, and is in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray. Pieces that are not automation-compatible or are not barcoded are mailable at the high density nonletter rate. Pieces bearing a simplified address do not need to meet the standards in C810 and are not required to have a delivery point barcode.

3.3 Discount for Heavy Letters

Pieces that otherwise qualify for the high density letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the piece/pound rate and receive a discount equal to the high density nonletter piece rate (3.3 ounces or less) minus the high density letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

3.4 Flat-Size Pieces

High density rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

3.5 Irregular Parcels

High density rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

4.0 SATURATION RATES

4.1 All Pieces

All pieces mailed at saturation rates must:

a. Be prepared in walk sequence according to schemes prescribed by the USPS (see M050).

b. Meet the density requirement of at least 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses on each carrier route receiving this mail. Pieces bearing a simplified address must meet the coverage standards in A040. Multiple pieces per delivery address do not count toward this density standard.

4.2 Letter-Size Pieces

Saturation rates apply to each piece that is automation-compatible according to C810, has a delivery point barcode under C840, and is in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray. Pieces that are not automation-compatible or are not barcoded are mailable at the saturation nonletter rate. Pieces bearing a simplified address do not need to meet the standards in C810 and are not required to have a delivery point barcode.

4.3 Discount for Heavy Letters

Pieces that otherwise qualify for the saturation letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the piece/pound rate and receive a discount equal to the saturation nonletter piece rate (3.3 ounces or less) minus the saturation letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

4.4 Flat-Size Pieces

Saturation rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

4.5 Irregular Parcels

Saturation rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

5.0 RESIDUAL SHAPE SURCHARGE

Any piece that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to the residual shape surcharge.

E640 Automation Rates

1.0 REGULAR AND NONPROFIT RATES

* * * * *

1.2 Enclosed Reply Cards and Envelopes

[Amend 1.2 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.]

All letter-size reply cards and envelopes (business reply, courtesy reply, and meter reply mail) provided as enclosures in automation Regular or Nonprofit Standard Mail, and addressed for return to a domestic delivery address, must meet the standards in C810 for enclosed reply cards and envelopes. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

1.3 Rate Application—Letter-Size Pieces

[Amend 1.3 to replace the basic rate with the AADC and mixed AADC rates.]

Automation rates apply to each piece that is sorted under M810 into the corresponding qualifying groups:

a. Groups of 150 or more pieces in 5-digit or 5-digit scheme trays qualify for the 5-digit rate. Preparation to qualify for that rate is optional and need not be done for all 5-digit or 5-digit scheme destinations.

b. Groups of 150 or more pieces in 3-digit or 3-digit scheme trays qualify for the 3-digit rate.

c. Groups of fewer than 150 pieces in origin or entry 3-digit or 3-digit scheme trays and groups of 150 or more pieces in AADC trays qualify for the AADC rate.

d. All pieces in mixed AADC trays qualify for the mixed AADC rate.

[Redesignate 1.4, Rate Application—Flats, as 1.5. Add new 1.4 for heavy automation letters to read as follows:]

1.4 Discount for Heavy Automation Letters

Automation letters that weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the automation piece/pound rate and receive a discount equal to the automation nonletter piece rate (3.3 ounces or less) minus the automation letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

* * * * *

2.0 ENHANCED CARRIER ROUTE RATES

* * * * *

[Add new 2.6 to include the discount for ECR automation basic letters that weigh between 3.3 and 3.5 ounces.]

2.6 Discount for Heavy Letters

Pieces that otherwise qualify for the ECR automation basic letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the ECR regular basic nonletter piece/pound rate and receive a discount equal to the regular basic nonletter piece rate (3.3 ounces or less) minus the automation basic letter piece rate. If claiming a destination entry rate, the discount is calculated using the corresponding rates.

E700 Package Services

E710 Basic Standards

* * * * *

E712 Bound Printed Matter

1.0 BASIC STANDARDS

1.1 Description

* * * * *

[Amend 1.1b to read as follows:]

b. Weigh no more than 15 pounds. Pieces might be subject to other minimum weights or dimensions based on the standards for specific rates.

* * * * *

[Remove 1.4, POSTNET Barcodes or Flats.]

2.0 RATES

BPM rates are based on the weight of a single addressed piece or 1 pound, whichever is higher, and the zone (where applicable) to which the piece is addressed. Rate categories are as follows:

* * * * *

[Amend the heading of item 2.0 by adding ''Machinable Parcels'' and revise the text to read as follows:]

d. Barcoded Discount—Machinable Parcels. The barcoded discount applies only to BPM machinable parcels (see C050.4.1) that bear a correct, readable barcode under C850 for the ZIP Code of the delivery address. The pieces must be part of a single-piece rate mailing of 50 or more BPM parcels or part of a presort rate mailing of at least 300 BPM parcels prepared under M045 and M720. The barcoded discount is not available for parcels mailed at Presorted DDU or DSCF rates, or for Presorted DBMC rate mailings entered at an ASF other than the Phoenix, AZ, ASF. Carrier route rate mail is not eligible for the barcoded discount.

[Add new item 2.0e to read as follows:]

e. Barcoded Discount—Flats. The barcoded discount applies only to BPM flat-size pieces that bear a correct, readable ZIP+4 or delivery point barcode (DPBC) under C840 for the ZIP+4 Code, or numeric DPBC of the delivery address. The pieces must be part of a single-piece rate mailing of 50 or more flat-size pieces or part of a presort rate mailing of at least 300 BPM flat-size pieces prepared under M045 and M820. The barcoded discount is not available for flat-size pieces mailed at Presorted DDU rates or carrier route rates. To qualify for the barcoded discount, the flat-size piece must meet the flat sorting machine requirements under C820.2.0.

3.0 ADDITIONAL STANDARDS FOR PRESORTED RATES

3.1 ZIP Code Accuracy

[Amend 3.1 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at Presorted rates must be verified and corrected within 12 months before the mailing date using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

[Redesignate current 3.2 as 3.3 and add new 3.2 to show CASS certification for automation rate mailings to read as follows:]

3.2 CASS Certification

Pieces claiming the barcode discount for flat-size mail must meet the address quality and coding standards in A800 and A950.

[Amend redesignated 3.3 by adding reference to flats to read as follows:]

3.3 Preparation

Pieces claiming the Presorted rates must be prepared under M045 or M722 or, for flats claiming the barcode discount under M820.

* * * * *

E713 Media Mail

[Redesignate former 2.0 as new 1.0.]

[Redesignate former 1.0 as new 2.0 and revise the title and text to read as follows:]

2.0 RATES

Media Mail rates are based on the weight of the piece without regard to zone. The rate categories and discounts are as follows:

a. Single-Piece Rate. The single-piece rate applies to pieces not mailed at a 5-digit or basic rate.

b. 5-Digit Presort Rate. The 5-digit rate applies to pieces that meet the additional requirements in 3.0 and are prepared and presorted to 5-digit scheme (machinable parcels only) or 5-digit destinations as specified in M730 or M041 and M045.

c. Basic Presort Rate. The basic rate applies to pieces that meet the additional requirements in 3.0 and are prepared and presorted as specified in M730 or M041 and M045.

d. Barcoded Discount. The barcoded discount applies to Media Mail machinable parcels (see C050.4.1) that are included in a mailing of at least 50 pieces of Media Mail. The pieces must be entered either at single-piece rates or basic rates and bear a correct, readable barcode for the ZIP Code shown in the delivery address as required by C850. The barcoded discount is not available for pieces mailed at 5-digit rates.

[Revise the title of 3.0 to read as follows:]

3.0 ADDITIONAL STANDARDS FOR PRESORTED RATES

3.1 Basic Information

[Amend 3.1 to read as follows:]

A Presorted Media Mail mailing must contain a minimum of 300 pieces claimed at any combination of 5-digit and basic rates. Those pieces in the mailing that meet the 5-digit presort requirements are eligible for the 5-digit presort rate and those pieces that meet the basic presort requirements are eligible for the basic rates, subject to the preparation standards in M730 or M045. Pieces in a mailing do not need to be identical in size and content. Such nonidentical pieces may be merged, sorted together, and presented as a single mailing either with the correct postage affixed to each piece in the mailing or with postage paid with a permit imprint if authorized by Business Mailer Support (BMS), USPS headquarters.

* * * * *

[Revise the title and text of 3.3 to read as follows:]

3.3 5-Digit Rate

To qualify for the 5-digit rate, a piece must be prepared and sorted to either 5-digit scheme (machinable parcels only) and 5-digit sacks under M730 or to 5-digit scheme (machinable parcels only) and 5-digit pallets under M045. All logical 5-digit packages on pallets must contain at least 10 pieces. Nonmachinable parcels may qualify for the 5-digit rate if prepared to preserve sortation by 5-digit ZIP Code as prescribed by the postmaster of the mailing office.

[Revise the title and text of 3.4 to read as follows:]

3.4 Basic Rate

All pieces prepared and sorted under M730 or M045 that are not eligible for the 5-digit rate qualify for the basic rate. Nonmachinable parcels may qualify for the basic rate if prepared to preserve sortation by BMC as prescribed by the postmaster of the mailing office.

[Remove former 3.5 and 3.6.]

E714 Library Mail

[Redesignate former 2.0 as 1.0.]

[Redesignate former 1.0 as new 2.0 and revise title and text to read as follows:]

2.0 RATES

Library Mail rates are based on the weight of the piece without regard to zone. The rate categories and discounts are as follows:

a. Single-Piece Rate. The single-piece rate applies to pieces not mailed at a 5-digit or basic rate.

b. 5-Digit Presort Rate. The 5-digit rate applies to pieces that meet the additional requirements of 3.0 and are prepared and presorted to 5-digit scheme (machinable parcels only) and 5-digit destinations as specified in M740 or M041 and M045.

c. Basic Presort Rate. The basic rate applies to pieces that meet the additional requirement in 3.0 and are prepared and presorted as specified in M740 or M041 and M045.

d. Barcoded Discount. The barcoded discount applies to Library Mail

machinable parcels (see C050.4.1) that are included in a mailing of at least 50 pieces of Library Mail. The pieces must be entered either at single-piece rates or basic rates and bear a correct, readable barcode for the ZIP Code shown in the delivery address as required by C850. The barcoded discount is not available for pieces mailed at 5-digit rates.

[Revise the title of 3.0 to read as follows:]

3.0 ADDITIONAL STANDARDS FOR PRESORTED RATES

3.1 Basic Information

[Amend 3.1 to read as follows:]

A Presorted Library Mail mailing must contain a minimum of 300 pieces claimed at any combination of 5-digit and basic rates. Those pieces in the mailing that meet the 5-digit presort requirements are eligible for the 5-digit presort rate, and those pieces that meet the basic presort requirements are eligible for the basic rate, subject to the preparation standards in M740 or M045. Pieces in a mailing do not need to be identical in size and content. Such nonidentical pieces may be merged, sorted together, and presented as a single mailing either with the correct postage affixed to each piece in the mailing or with postage paid with a permit imprint if authorized by Business Mailer Support (BMS), USPS headquarters.

* * * * *

[Revise the title and text of 3.3 to read as follows:]

3.3 5-Digit Rate

To qualify for the 5-digit rate, a piece must be prepared and sorted to either 5-digit scheme (machinable parcels only) and 5-digit sacks under M740 or to 5-digit scheme (machinable parcels only) and 5-digit pallets under M045. All logical 5-digit packages on pallets must contain at least 10 pieces. Nonmachinable parcels may qualify for the 5-digit rate if prepared to preserve sortation by 5-digit ZIP Code as prescribed by the postmaster of the mailing office.

[Revise the title and text of 3.4 to read as follows:]

3.4 Basic Rate

All pieces prepared and sorted under M740 or M045 that are not eligible for the 5-digit rate qualify for the basic rate. Nonmachinable parcels may qualify for the basic rate if prepared to preserve sortation by BMC as prescribed by the postmaster.

[Remove former 3.5 and 3.6.]

[Remove E715, Bulk Parcel Post.]

E751 Parcel Select

1.0 BASIC STANDARDS

1.1 Definitions

[Amend item 1.1b by adding a sentence after the first one to read as follows:]

b. * * * Those 5-digit machinable parcels not required to be entered at a BMC under Exhibit 6.0 and all 3-digit nonmachinable parcels sorted to the 3-digit level and claimed at the DSCF rate must be deposited at an SCF listed in L005. * * *

* * * * *

1.4 DSCF and DDU Rates

For DSCF and DDU rates, pieces must meet the applicable standards in 1.0 through 6.0 and the following criteria:

[Amend item 1.4a by adding ''5-digit scheme'' and ''5-digit'' to the first sentence and adding a new sentence between the first and second sentences, to read as follows. The remainder of the text is unchanged.]

a. For DSCF rates, be part of a mailing of parcels sorted to 5-digit scheme or 5-digit destinations and deposited at a designated SCF under L005 (or at a BMC under Exhibit 6.0); addressed for delivery within the ZIP Code service area of that SCF under L005; and prepared under M041, M045, or M710. Nonmachinable parcels sorted to 3-digit ZIP Code prefixes and claimed at a DSCF rate must be entered at a designated SCF under L005 and are subject to the surcharge in R700.1.6. * * *

* * * * *

2.0 PREPARATION

* * * * *

2.2 Containers

[Amend 2.2c, 2.2d, and 2.2e by adding ''3-digit sack'' after each occurrence of ''5-digit sack'' and adding ''3-digit pallet'' after each occurrence of ''5-digit pallet'' to clarify the eligibility of these presort levels for nonmachinable parcels.]

* * * * *

E752 Bound Printed Matter

* * * * *

3.0 DESTINATION SECTIONAL CENTER FACILITY (DSCF) RATES

* * * * *

[Amend the title and text of 3.2 to add eligibility standards for Presorted automation flats to read as follows:]

3.2 Presorted and Automation Flats

Presorted flats and automation flats in sacks for the 5-digit, 3-digit, and SCF sort levels or on pallets at the 5-digit scheme, 5-digit, 3-digit, SCF, and ASF sort levels may claim DSCF rates. The mail must be entered at the appropriate facility under 3.1.

* * * * *

E753 Combining Package Services Parcels

[Amend 1.1 by replacing ''BMC rates'' with ''basic rates.'']

* * * * *

F Forwarding and Related Services

F000 Basic Services

F010 Basic Information

* * * * *

4.0 BASIC TREATMENT

4.1 General

[Amend 4.1 to remove references to nonstandard mail to read as follows:]

Mail that is undeliverable as addressed is forwarded, returned to the sender, or treated as dead mail, as authorized for the particular class of mail. Undeliverable-as-addressed mail is endorsed by the USPS with the reason for nondelivery as shown in Exhibit 4.1. All nonmailable pieces are returned to the sender.

* * * * *

5.0 CLASS TREATMENT FOR ANCILLARY SERVICES

* * * * *

5.2 Periodicals

Undeliverable Periodicals (including publications pending Periodicals authorization) are treated as described in the chart below and under these conditions:

* * * * *

[Amend item 5.2e to show that the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates to read as follows:]

e. The publisher may request the return of copies of undelivered Periodicals by printing the endorsement ''Address Service Requested'' on the envelopes or wrappers, or on one of the outside covers of unwrapped copies, immediately preceded by the sender's name, address, and ZIP+4 or 5-digit ZIP Code. This endorsement obligates the publisher to pay return postage. Each returned piece is charged the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable

surcharge if it applies (see E130). When the address correction is provided incidental to the return of the piece, there is no charge for the correction.

* * * * *

5.3 Standard Mail

Undeliverable Standard Mail is treated as described in the chart below and under these conditions:

* * * * *

[Amend item 5.3g to show that the nonmachinable surcharge is included in the calculation of the weighted fee for returned pieces to read as follows:]

g. A weighted fee is charged when an unforwardable or undeliverable piece is returned to the sender and the piece is endorsed ''Address Service Requested'' or ''Forwarding Service Requested.'' The weighted fee is the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130), multiplied by 2.472 and rounded up to the next whole cent (if the computation yields a fraction of a cent). The weighted fee is computed (and rounded if necessary) for each piece individually. Using ''Address Service Requested'' or ''Forwarding Service Requested'' obligates the sender to pay the weighted fee on all returned pieces.

[Redesignate current item 5.3h as 5.3i, and add new item 5.3h to show that the First-Class Mail nonmachinable surcharge is charged on some returned pieces to read as follows:]

h. Returned pieces endorsed ''Return Service Requested,'' are charged the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130).

* * * * *

6.0 ENCLOSURES AND ATTACHMENTS

6.1 Periodicals

[Amend 6.1 to show that the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates to read as follows:]

Undeliverable Periodicals (including publications pending Periodicals authorization) with a nonincidental First-Class Mail attachment or enclosure are returned at the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130). The weight of the attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable Periodicals (including publications pending Periodicals authorization) with an incidental First-Class Mail attachment or enclosure are treated as dead mail unless endorsed ''Address Service Requested.''

6.2 Standard Mail

[Amend 6.2 to show that the nonmachinable surcharge can be charged on Standard Mail returned at First-Class Mail single-piece rates to read as follows:]

Undeliverable, unendorsed Standard Mail with a nonincidental First-Class Mail attachment or enclosure is returned at the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130). The weight of the First-Class Mail attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable, unendorsed Standard Mail with an incidental First-Class Mail attachment or enclosure is treated as dead mail.

* * * * *

F030 Address Correction, Address Change, FASTforward, and Return Services

1.0 ADDRESS CORRECTION SERVICE

1.1 Purposes

[Add a new sentence after the first sentence in 1.1 to clarify the conditions under which address notices are provided to read as follows:]

* * * Address corrections and notices are not provided for customers who file a temporary change of address or for individuals at a business address (see F020.1.0). * * *

* * * * *

G General Information

G000 The USPS and Mailing Standards

* * * * *

G020 Mailing Standards

* * * * *

2.0 MAILER COMPLIANCE WITH STANDARDS

[Amend 2.1 to clarify that signing a postage statement certifies that the mail meets all standards for the rates claimed.]

2.1 Mailer Responsibility

A mailer must comply with all applicable postal standards. Despite any statement in this document or by any USPS employee, the burden rests with the mailer to comply with the laws and standards governing domestic mail. For mailings that require a postage statement, the mailer certifies compliance with all applicable postal standards when signing the corresponding postage statement. Questions on mail classification and special mail services may be directed to local USPS representatives (e.g., business mail entry managers). Rates and classification service centers (RCSCs) can help local post offices answer customer questions on mailing standards (G042 lists the areas served by the RCSCs).

* * * * *

G090 Experimental Classifications and Rates

G091 NetPost Mailing Online

* * * * *

4.0 POSTAGE AND FEES

4.1 Postage

[Revise 4.1 to show the new automation rate categories for First-Class Mail and Standard Mail.] Documents mailed during the experiment are eligible for the following rate categories only:

a. First-Class Mail automation letters and cards mixed AADC rates.

b. First-Class Mail automation flats mixed ADC rates.

c. First-Class Mail single-piece rates.

d. Regular Standard Mail automation letters mixed AADC rates.

e. Regular Standard Mail automation flats basic rates.

f. Nonprofit Standard Mail automation letters mixed AADC rates.

g. Nonprofit Standard Mail automation flats basic rates.

* * * * *

[Delete G094 in its entirety. The Ride-Along becomes a permanent classification; the standards are moved to new E260.]

* * * * *

L Labeling Lists

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L800 Automation Rate Mailings

* * * * *

[Amend the title and the first sentence in the summary of L802 by adding ''Bound Printed Matter'' to read as follows:]

L802 BMC/ASF Entry—Periodicals, Standard Mail, and Bound Printed Matter

Summary

L802 describes the service area by individual 3-digit ZIP Code prefix for mixed automation rate Periodicals, Standard Mail, and Bound Printed Matter mailings entered at an ASF or BMC. * * *

[Amend the title and the first sentence in the summary of L803 by adding ''Bound Printed Matter'' to read as follows:]

L803 Non-BMC/ASF Entry—Periodicals, Standard Mail, and Bound Printed Matter

Summary

L803 describes the service area by individual 3-digit ZIP Code prefix for mixed automation rate Periodicals, Standard Mail, and Bound Printed Matter mailings. * * *

* * * * *

M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

* * * * *

1.2 Presort Levels

* * * * *

[Amend 1.2e and f by inserting ''Bound Printed Matter flats'' to read as follows:]

e. 5-digit scheme carrier routes (sacks) for Periodicals flats and irregular parcels, Standard Mail flats and Bound Printed Matter flats: * * *

f. 5-digit scheme (pallets) for Periodicals flats and irregular parcels, Standard Mail flats, and Bound Printed Matter flats: * * *

1.3 Preparation Instructions

For purposes of preparing mail:

* * * * *

[Amend item 1.3b to show that a full letter tray can be anywhere between 75% and 100% full (the preferred default for presort software is 85%):]

b. A full letter tray is one in which faced, upright pieces fill the length of the tray between 75% and 100% full.

* * * * *

1.4 Mailing

Mailings are defined as:

* * * * *

[Amend item 1.4b to remove references to the upgradable preparation and to show that machinable and nonmachinable pieces cannot be part of the same mailing. Combine item 1.4c, First-Class Cards, with item 1.4b. Redesignate items 1.4d through 1.4f as 1.4c through 1.4e, respectively.]

b. First-Class Mail. Cards and letters must be prepared as separate mailings except that they may be sorted together if each meets separate minimum volume mailing requirements. The following types of First-Class Mail may not be part of the same mailing despite being in the same processing category:

(1) Automation rate and any other type of mail.

(2) Presorted rate and any other type of mail.

(3) Single-piece rate and any other type of mail.

(4) Machinable and nonmachinable pieces.

* * * * *

[Amend redesignated item 1.4d, Standard Mail, to remove references to the upgradable preparation, to show that machinable and nonmachinable pieces cannot be part of the same mailing, and to show that ECR letter rate pieces and ECR nonletter rate pieces cannot be part of the same mailing.]

d. Standard Mail. Except as provided in E620.1.2, the types of Standard Mail listed below may not be part of the same mailing. See M041, M045, M610, and M620 for copalletized, combined, or mixed-rate mailings.

(1) Automation Enhanced Carrier Route and any other type of mail.

(2) Automation rate and any other type of mail.

(3) Enhanced Carrier Route and any other type of mail.

(4) Enhanced Carrier Route letter rate pieces and Enhanced Carrier Route nonletter rate pieces.

(5) Presorted rate mail and any other type of mail.

(6) Machinable and nonmachinable pieces.

(7) Except as provided by standard, Regular mail may not be in the same mailing as Nonprofit mail, and Enhanced Carrier Route mail may not be in the same mailing as Nonprofit Enhanced Carrier Route mail.

* * * * *

M012 Markings and Endorsements

* * * * *

2.0 MARKINGS—FIRST-CLASS MAIL AND STANDARD MAIL

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2.2 Exceptions to Markings

[Amend item 2.2d to update the required MLOCR markings:]

Exceptions are as follows:

* * * * *

d. MLOCR Prepared Automation Mailings. The basic marking must appear in the postage area on each piece as required in 2.1a. The other ''AUTO'' marking described in 2.1b must be replaced by the appropriate identifier/rate code marking described in P960 on those pieces that have the marking applied by an MLOCR. This seven-character marking provides a description of the Product Month Designator, MASS/FASTforward System Identifier, postage payment method, and the rate of postage affixed for metered and precanceled stamp mail or other postage information for permit imprint mail.

3.0 MARKINGS—PACKAGE SERVICES

* * * * *

[Revise 3.3 to read as follows:]

3.3 Additional Bound Printed Matter Markings

In addition to the basic marking in 3.1, each piece of Bound Printed Matter mailed at a presorted or carrier route rate must bear additional rate markings. The additional markings may be placed in the postage area as specified in 3.1. Alternatively, these markings may be placed in the address area on the line directly above or two lines above the address if the marking appears alone, or if no other information appears on the line with the marking except postal optional endorsement line information under M013 or postal carrier route package information under M014. The additional rate markings are:

a. For Presorted rate mail, the additional required marking is ''Presorted'' (or ''PRSRT''). For presorted flats claiming the barcoded discount prepared under M820, the optional marking ''AUTO'' may be used in place of ''Presorted'' (or ''PRSRT''). If the ''AUTO'' marking is not used, the automation rate flats must bear the ''Presorted'' (or ''PRSRT'') rate marking.

b. For carrier route rate mail, the additional required marking is ''Carrier Route Presort'' (or ''CAR–RT SORT'').

* * * * *

4.0 ENDORSEMENTS—DELIVERY AND ANCILLARY SERVICES

* * * * *

[Remove 4.5, OCR Read Area.]

* * * * *

M020 Packages

1.0 BASIC STANDARDS

* * * * *

[Amend the title of 1.6 to include Media Mail and Library Mail to read as follows:]

1.6 Package Size—Bound Printed Matter, Media Mail, and Library Mail

[Amend 1.6 to read as follows:]

Each logical package (the total group of pieces for a package destination) of Bound Printed Matter, Media Mail, and Library Mail must meet the applicable minimum and maximum package size

standards in M045, M722, M730, M740, or M820. The pieces in the logical package must then be secured in a physical package or packages. Wherever possible, each physical package for a logical package destination should contain at least the minimum package size. The size of each physical package for a specific logical package destination may, however, contain the exact package minimum, more pieces than the package minimum, or fewer pieces than the package minimum depending on the size of the pieces in the mailing or the total quantity of the pieces to that destination. Unless otherwise noted, the maximum weight for packages in sacks is 20 pounds. Except for mixed ADC packages and for carrier route packages prepared in sacks, each physical package of Bound Printed Matter must contain at least two pieces. For carrier route rate Bound Printed Matter prepared in sacks, the last physical package to an individual carrier route may consist of a single addressed piece, provided that all other packages to that carrier route destination contain at least two addressed pieces, and that the total group of pieces to that carrier route (the logical package) meets the carrier route rate eligibility minimum in E712. Packages prepared on pallets must meet the additional packaging requirements under M045 and each physical package, including carrier route rate mail, must always contain at least two pieces.

* * * * *

[Amend the title in 2.0 to show that the standards apply to all classes of mail.]

2.0 ADDITIONAL STANDARDS

2.1 Cards and Letter-Size Pieces

Cards and letter-size pieces are subject to these packaging standards:

* * * * *

[Amend item 2.1c to remove references to the upgradable preparation for First-Class Mail and Standard Mail and to show that nonmachinable and ''manual only'' pieces must be packaged to read as follows:]

c. Packages must be prepared for mail in all less-than-full trays and 3-digit carrier routes trays; for nonmachinable Presorted First-Class Mail; for nonmachinable Presorted Standard Mail; for First-Class Mail and Standard Mail pieces where the mailer has requested ''manual only'' processing; and for nonautomation Periodicals.

* * * * *

2.2 Flat-Size Pieces

[Amend 2.2 to add references to Media Mail and Library Mail to read as follows:]

Packages of flat-size pieces must be secure and stable subject to the following:

a. If placed on pallets, the specific weight limits in M045.

b. If placed in sacks:

(1) For Periodicals and Standard Mail, the specific weight and height limits in 1.8.

(2) For Bound Printed Matter, the specific weight limits in M720.

(3) For Media Mail and Library Mail, the specific weight limits in M730 and M740, as applicable.

* * * * *

M030 Containers

M031 Labels

* * * * *

4.0 PALLET LABELS

* * * * *

[Amend the title and contents of 4.9 for clarity.]

4.9 Barcoded Status

Pallet labels must indicate whether the mail on the pallet is barcoded, or not barcoded, or both. Specific Line 2 label information is in M045, M920, M930, and M940.

* * * * *

5.0 SECOND LINE CODES

The codes shown below must be used as appropriate on Line 2 of sack, tray, and pallet labels.

[Amend the table in 5.0 to add a second line code for manual letter-size pieces and nonmachinable parcels and to revise the entries for carrier routes, letters, and machinable parcels. The entries should be inserted in alphabetical order to read as follows:]

Content type	Code
[Revise the code for Carrier Routes to add a new code:]	
Carrier Routes	CR–RT or CR–RTS
[Revise the code for Letters to add a new code:]	
Letters	LTR or LTRS
[Revise the entry for Machinable to apply to all classes and processing categories:]	
Machinable	MACH
[Add a new entry for manual processing:]	
Manual (cannot be processed on automated equipment or mailer requests manual processing)	MAN or MANUAL
Nonmachinable	NON MACH

M032 Barcoded Labels

1.0 BASIC STANDARDS—TRAY AND SACK LABELS

1.1 Use

[Amend 1.1 to reorganize the section and to show that barcoded tray labels are required for Enhanced Carrier Route high-density and saturation letters. Add new ''e'' for Barcoded Bound Printed Matter flats.]

Only tray labels may be used for trays; only sack labels may be used for sacks. Mailer-produced barcoded tray and sack labels must meet the standards in M032. Information on labels must be machine-printed. Revisions to preprinted barcoded labels (e.g., handwritten changes) are not permitted. Labels must be inserted completely into the label holder to ensure that they do not fall out during processing. The following types of mail must have barcoded tray or sack labels:

a. Automation First-Class Mail, Periodicals, and Standard Mail letter-size and flat-size pieces.

b. First-Class Mail flat-size pieces co-trayed under M910.

c. Periodicals and Standard Mail flat-size pieces co-sacked under M910 or M920.

d. Standard Mail Enhanced Carrier Route high-density and saturation letter-size pieces. (Barcoded tray labels are not required for letter-size pieces mailed at the nonletter rate.)

e. Barcoded Bound Printed Matter flat-size pieces.

* * * * *

Exhibit 1.3a 3-Digit Content Identifier Numbers

[Amend Exhibit 1.3a by adding new categories and Content Identifier Numbers. Also, in the human-readable content line for First-Class Mail and Standard Mail letters, replace ''LTRS''

with ''LTR'' and ''CR–RTS'' with ''CR–RT.'' The footnotes are unchanged.]

Class and mailing	CIN	Human-readable content line
FIRST–CLASS MAIL		
[For ''FCM Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' and ''CR–RTS'' with ''CR–RT'' for all entries. Amend the human-readable content line for the 5-digit carrier routes tray for consistency:].		
5-digit carrier routes trays	264	FCM LTR 5D CR–RT BC
[For ''FCM Letters—Presorted (Basic Preparation),'' change the title and human-readable content line information.]		
FCM Letters—Presorted Nonmachinable (requires or requests manual processing):		
5-digit trays	267	FCM LTR 5D MANUAL
3-digit trays	269	FCM LTR 3D MANUAL
ADC trays	270	FCM LTR ADC MANUAL
Mixed ADC trays	268	FCM LTR MANUAL WKG
[Delete the entry for ''FCM Letters—Presorted(Nonautomation Processing).'']		
[For ''FCM Letters—Presorted (Upgradable Preparation),'' change the title and human-readable content line information to read as follows:]		
FCM Letters—Presorted Machinable:		
5-digit trays	252	FCM LTR 5D MACH
3-digit trays	255	FCM LTR 3D MACH
AADC trays	258	FCM LTR AADC MACH
Mixed AADC trays	260	FCM LTR MACH WKG
STANDARD MAIL		
[For ''Enhanced Carrier Route Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' and ''CR–RTS'' with ''CR–RT'' for all entries. Amend the human-readable content line for the 5-digit carrier routes tray for consistency:]		
5-digit carrier routes trays	564	STD LTR 5D CR–RT BC
[For ''Enhanced Carrier Route Letters—Nonautomation,'' change the title and human-readable content line information to show that saturation and high-density letters must be barcoded to read as follows:]		
Enhanced Carrier Route Letters—Barcoded:		
Saturation rate trays	557	STD LTR BC WSS (1)
High density rate trays	557	STD LTR BC WSS (1)
Basic rate trays	557	STD LTR BC LOT (1)
5-digit carrier routes trays	564	STD LTR 5D CR–RT BC
3-digit carrier routes trays	565	STD LTR 3D CR–RT BC
[Add the following entry for ECR letters that are not barcoded but are machinable (for mailers who choose not to barcode their machinable pieces):]		
Enhanced Carrier Route Letters—Nonautomation (Not Barcoded but Machinable):		
Saturation rate trays	569	STD LTR MACH WSS (1)
High density rate trays	569	STD LTR MACH WSH (1)
Basic rate trays	569	STD LTR MACH LOT (1)
5-digit carrier routes trays	567	STD LTR 5D CR–RT MACH
3-digit carrier routes trays	568	STD LTR 3D CR–RT MACH
[Add the following entry for ECR letters that are not machinable (regardless of whether the pieces are barcoded):]		
Enhanced Carrier Route Letters—Nonautomation (Nonmachinable):		
Saturation rate trays	608	STD LTR MAN WSS (1)
High density rate trays	608	STD LTR MAN WSH (1)

Class and mailing	CIN	Human-readable content line
Basic rate trays	608	STD LTR MAN LOT (1)
5-digit carrier routes trays	609	STD LTR 5D CR–RT MAN
3-digit carrier routes trays	611	STD LTR 3D CR–RT MAN
[For ''STD Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' for all entries.]		
[For ''STD Letters—Presorted (Basic Preparation)'' change the title and the human-readable content line information to read as follows:]		
STD Letters—Presorted Nonmachinable (requires or requests manual processing):		
5-digit trays	604	STD LTR 5D MANUAL
3-digit trays	606	STD LTR 3D MANUAL
ADC trays	607	STD LTR ADC MANUAL
Mixed ADC trays	605	STD LTR MANUAL WKG
[Delete the entry for ''STD Letters—Presorted (Nonautomation Processing).'']		
[For ''STD Letters—Presorted (Upgradable Preparation),'' change the title and the human-readable content lines information to read as follows:]		
STD Letters—Presorted Machinable:		
5-digit trays	552	STD LTR 5D MACH
3-digit trays	555	STD LTR 3D MACH
AADC trays	558	STD LTR AADC MACH
Mixed AADC trays	560	STD LTR MACH WKG
PACKAGES SERVICES		
[Add the following entries for ''Bound Printed Matter Flats—Automation'' to read as follows:]		
Bound Printed Matter Flats—Automation:		
5-digit sacks	635	PSVC FLTS 5D BC
3-digit sacks	636	PSVC FLTS 3D BC
SCF sacks	637	PSVC FLTS SCF BC
ADC sacks	638	PSVC FLTS ADC BC
Mixed ADC sacks	639	PSVC FLTS BC WKG
[Replace the entries for Media Mail and Library Mail Flats to read as follows:]		
Media Mail and Library Mail Flats—Presorted:		
5-digit sacks	649	PSVC FLTS 5D NON BC
3-digit sacks	650	PSVC FLTS 3D NON
ADC sacks	651	PSVC FLTS ADC NON BC
Mixed ADC sacks	653	PSVC FLTS NON BC WKG
[Replace the entries for Media Mail and Library Mail Irregular Parcels to read as follows:]		
Media Mail and Library Mail Irregular Parcels—Presorted:		
5-digit scheme sacks	690	PSVC IRREG 5D SCH
5-digit sacks	690	PSVC IRREG 5D
3-digit sacks	691	PSVC IRREG 3D
ADC sacks	692	PSVC IRREG ADC
Mixed ADC sacks	694	PSVC IRREG WKG
[Replace the entries for Media Mail and Library Mail Machinable Parcels to read as follows:]		
Media Mail and Library Mail Machinable Parcels—Presorted:		
5-digit scheme sacks	680	PSVC MACH 5D SCH
5-digit scheme	680	PSVC MACH 5D
ASF sacks	682	PSVC MACH ASF
BMC sacks	683	PSVC MACH BMC
Mixed BMC sacks	684	PSVC MACH WKG
[Add the following entry for ''Parcel Post—Irregular (Nonmachinable) Parcels'' to read as follows:]		
3-digit sacks	691	PSVC IRREG 3D

* * * * *

2.0 ADDITIONAL STANDARDS—BARCODED TRAY LABELS

* * * * *

2.4 Barcode

The label barcode must meet these specifications:

[Amend item 2.4b to replace references to upgradable mail with references to machinable mail.]

b. Information. The barcode must represent:

(1) The 5-digit ZIP Code destination of the tray (for trays with a 3-digit destination, this is the 3-digit ZIP Code prefix followed by two zeros);

(2) The 3-digit content identifier number (CIN) applicable to the content of the tray in Exhibit 1.3a; and

(3) The applicable 2-digit USPS processing code. The 2-digit processing code ''01'' is used for automation rate and machinable letters. The 2-digit processing code ''01'' also is used for First-Class Mail automation rate flats and for First-Class Mail co-trayed automation rate and Presorted rate flats. The processing code ''07'' is used for all other mail.

M033 Sacks and Trays

* * * * *

2.0 FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL

2.1 Letter Tray Preparation

[Revise 2.1 in its entirety to reorganize and clarify the standards for letter trays to read as follows:]

Letter trays are prepared as follows:

a. Subject to availability of equipment, standard managed mail (MM) trays must be used for all letter-size mail, except that extended MM (EMM) trays must be used when available for letter-size mail that exceeds the inside dimensions of MM trays defined in 1.3. When EMM trays are not available for those larger pieces, they must be placed in MM trays, angled back, or placed upright perpendicular to the length of the tray in row(s) to preserve their orientation.

b. Pieces must be ''faced'' (oriented with all addresses in the same direction with the postage area in the upper right).

c. Each tray prepared must be filled before filling the next tray, with the contents in multiple trays relatively balanced. When preparing full trays, mailers must fill all possible 2-foot trays first; if there is mail remaining for the presort destination, then mailers must use a combination of 1-foot and 2-foot trays that results in the fewest total number of trays.

d. For presort destinations that do not require full trays, pieces are placed in a less-than-full tray.

e. Mailers must use as few trays as possible without jeopardizing rate eligibility. For instance, a mailer will never have two 1-foot trays to a single destination; instead, that mail must be placed in a single 2-foot tray. A 1-foot tray is prepared only if it is a full tray with no overflow; or if there is less than 1 foot of mail for that destination; or if the overflow from a full 2-foot tray is less than 1 foot of mail.

f. Each tray must bear the correct tray label.

g. Each tray must be sleeved and strapped under 1.5 and 1.6.

h. If a mailing is prepared using an MLOCR/barcode sorter and is submitted with standardized documentation, then pieces do not have to be grouped by 3-digit ZIP Code prefix (or by 3-digit scheme, if applicable) in AADC trays, or by AADC in mixed AADC trays.

* * * * *

M040 Pallets

M041 General Standards

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5.0 PREPARATION

* * * * *

5.2 Required Preparation

These standards apply to:

[Amend item 5.2a to show that letter trays on pallets can be measured by linear feet in addition to the number of layers of trays.]

a. Periodicals, Standard Mail, and Package Services (except for Parcel Post mailed at BMC Presort, OBMC Presort, DSCF, and DDU rates). A pallet must be prepared to a required sortation level when there are 500 pounds of packages, sacks, or parcels or 72 linear feet or 6 layers of letter trays. For packages of Periodicals flats and irregular parcels and packages of Standard Mail flats on pallets that are prepared under the standards for package reallocation to protect the SCF pallet (M045.4.0), not all mail for a 5-digit scheme carrier routes, 5-digit scheme, 5-digit carrier routes, or 5-digit pallet or for a merged 5-digit scheme, merged 5-digit, or 3-digit pallet is required to be on that corresponding pallet level. For packages of Standard Mail flats on pallets prepared under the standards for package reallocation to protect the BMC pallet (M045.5.0), not all mail for a required ASF pallet must be on an ASF pallet. Mixed ADC or mixed BMC pallets of sacks, trays, or machinable parcels, as appropriate, must be labeled to the BMC or ADC (as appropriate) serving the post office where mailings are entered into the mailstream. The processing and distribution manager of that facility may issue a written authorization to the mailer to label mixed BMC or mixed ADC pallets to the post office or processing and distribution center serving the post office where mailings are entered. These pallets contain all mail remaining after required and optional pallets are prepared to finer sortation levels under M045, as appropriate.

* * * * *

5.3 Minimum Load

These standards apply to:

[Revise item 5.3a to show that letter trays on pallets can be measured by linear feet in addition to the number of layers of trays.]

a. Periodicals, Standard Mail, and Package Services (except for Parcel Post mailed at BMC Presort, OBMC Presort, DSCF, and DDU rates). In a single mailing, the minimum load per pallet is 250 pounds of packages, parcels, or sacks; or 36 linear feet or three layers of letter trays. In a mailing or mailing job presented for acceptance at a single postal facility, one overflow pallet with less than the required minimum may be prepared for mail destinating in the service area of the entry facility; that pallet must be properly labeled under M045. Exceptions: There is no minimum load for pallets entered at a destination delivery unit if the mail on those pallets is for that unit's service area. For mail entered at an SCF, the SCF manager must authorize in writing preparation of any 5-digit, 3-digit, or SCF pallet containing less than the minimum required load if the mail on those pallets is for that SCF's service area.

* * * * *

5.6 Mail on Pallets

These standards apply to mail on pallets:

* * * * *

[Redesignate items 5.6d through 5.6h as items 5.6e through 5.6i, respectively. Add new item 5.6d to show that letter trays on pallets are measured by linear feet or by the number of layers of trays.]

d. For determining minimum pallet volume, mail in letter trays is measured in full layers of trays or in linear feet. A 2-foot tray equals 2 linear feet; a 1-foot tray equals 1 linear foot.

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M045 Palletized Mailings

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3.0 PALLET PRESORT AND LABELING

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3.2 Standard Mail Packages, Sacks, Irregular Parcels, or Trays on Pallets

Mailers must prepare pallets in the sequence listed below, except that mailings of sacks and trays must be prepared beginning with 3.2c (because scheme sort is not permitted). Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031. At the mailer's option, packages of Standard Mail flats may be palletized using the advanced presort options under M920, M930, or M940.

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[Amend item 3.2c to show that pallets of carrier route letters must show on Line 2 of the pallet label whether the pieces are barcoded or not barcoded to read as follows:]

c. 5-Digit Carrier Routes. Required for sacks and packages; optional for trays. May contain only carrier route rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code destination (see M031 for military mail).

(2) Line 2: For flats and irregulars, ''STD FLTS'' or ''STD IRREG''; followed by ''CARRIER ROUTES'' or ''CR–RTS.'' For trays, ''STD LTRS''; followed by ''CARRIER ROUTES'' or ''CR–RTS''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

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[Amend items 3.2f through 3.2j to show that pallets that trays of letters must indicate on Line 2 of the pallet label whether the pieces are barcoded (''BC''), machinable (''MACH''), or nonmachinable (''MAN''):]

f. 3-Digit. Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column A.

(2) Line 2: For flats and irregulars, ''STD FLTS 3D'' or ''STD IRREG 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS 3D''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

g. SCF. Required. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column C.

(2) Line 2: For flats and irregulars, ''STD FLTS SCF'' or ''STD IRREG SCF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS SCF''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

h. ASF. Required, except that an ASF sort may not be required if using package reallocation for flats to protect the BMC pallet under 5.0. May contain carrier route rate, automation rate, and/or Presorted rate mail. Sort ADC packages, trays, or sacks to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package, tray, or sack in L004 (letters or flats) or L603 (irregular parcels). Sort AADC trays to ASF pallets based on the ''label to'' ZIP Code for the AADC destination of the tray in L801. See E650.5.0 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: For flats and irregulars, ''STD FLTS ASF'' or ''STD IRREG ASF''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS ASF''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

i. BMC. Required. May contain carrier route rate, automation rate, and/or Presorted rate mail. Sort ADC packages, trays, or sacks to BMC pallets based on the ''label to'' ZIP Code for the ADC destination of the package, tray, or sack in L004 (letters or flats) or L603 (irregular parcels). Sort AADC trays to BMC pallets based on the ''label to'' ZIP Code for the AADC destination of the tray in L801. See E650.5.0 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L601.

(2) Line 2: For flats and irregulars, ''STD FLTS BMC'' or ''STD IRREG BMC''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS BMC''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

j. Mixed BMC (for sacks and trays on pallets only). Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: For flats and irregulars, ''STD FLTS'' or ''STD IRREG''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail; followed by ''WKG.'' For letters, ''STD LTRS''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters; followed by ''WKG.''

[Revise title of 3.3 to read as follows and amend items a, b, c, and e to add BPM in the first sentence in front of flats to show that this sort level is for Bound Printed Matter only:]

3.3 Package Service Flats—Packages and Sacks on Pallets

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[Revise the title of 3.4 to read as follows:]

3.4 Package Services Irregular Parcels—Packages and Sacks on Pallets

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[Revise the title of 3.5 to read as follows:]

3.5 Machinable Parcels—Standard Mail and Package Services

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[Remove 3.6, Presorted Media Mail and Library Mail.]

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[Amend 12.0 by adding ''and 3-digit'' following each mention of 5-digit scheme or 5-digit and revise to read as follows:]

12.0 PARCEL POST DSCF RATES—PARCELS ON PALLETS

12.1 Basic Preparation, Parcels on Pallets

Unless prepared under 12.2, or in sacks under M710, mail must be prepared for the DSCF rate as follows:

a. General. Parcels for each SCF area must be sorted to 5-digit scheme, 5-digit, or 3-digit (nonmachinable) destinations on pallets. For purposes of this section, the term ''pallets'' includes preparation of parcels directly on pallets

and in pallet boxes on pallets. Except when prepared under 12.2, each 5-digit scheme, 5-digit, and 3-digit pallet must meet a minimum volume requirement under one of the criteria in 12.2b. Machinable and nonmachinable pieces may be combined on the same pallet or in the same overflow sack when sorted to 5-digit scheme or 5-digit destinations. In a single mailing mailers may prepare some pallets under the minimum volume requirement in 12.1b(1) and some pallets under the minimum volume requirement in 12.1b(2). A mailing entered at a destination SCF facility containing pallets prepared under 12.1 also may include mail that is sacked for the DSCF rate under M710. Double stacking is permitted if the requirements of M041 are met.

b. Minimum volume. The minimum volume per 5-digit scheme, 5-digit, and 3-digit pallet can be met in one of the following ways:

(1) Pieces may be placed on 5-digit scheme, 5-digit, and 3-digit pallets, each containing at least 50 pieces and 250 pounds.

(2) Pieces may be placed on 5-digit scheme, 5-digit, and 3-digit pallets, each having a minimum height of 36 inches of mail (excluding the height of the pallet) (see M041).

c. Overflow. After filling a pallet(s) to a 5-digit scheme, 5-digit, or 3-digit destination, any remaining pieces that do not meet the minimum pallet requirements may be prepared in one of the following ways. One or both methods may be used in a single mailing:

(1) Placed in 5-digit scheme, 5-digit, or 3-digit overflow sacks (no minimum number of pieces per sack) that are labeled in accordance with the 5-digit scheme, 5-digit or 3-digit sacking requirements for the DSCF rate in M710. Overflow pieces sacked in this manner are eligible for the DSCF rates.

(2) Placed on a 5-digit scheme, 5-digit, or 3-digit pallet labeled under 12.1d that does not meet the minimums for the DSCF rate. Overflow pieces palletized in this manner are not eligible for the DSCF rates but are eligible for the DBMC rates.

d. 5-digit scheme pallet labeling:

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC PARCELS 5D SCH.''

e. 5-digit pallet labeling:

(1) Line 1: city, state, and 5-digit ZIP Code destination of contents.

(2) Line 2: ''PSVC PARCELS 5D.''

f. 3-digit pallet labeling:

(1) Line 1: use L002, Column C.

(2) Line 2: ''PSVC PARCELS 3D.''

g. Separation. If sacks prepared under M710 are included in the same mailing as pallets prepared under this section, at the time of acceptance the mailer must separate sacks that are overflow from palletized mail from those sacks that are prepared under the provisions of M710.

12.2 Alternate Preparation, Parcels on Pallets

DSCF rate mailings not prepared under 12.1 may be prepared as follows:

a. General. All DSCF rate mail in the mailing must be sorted to 5-digit-scheme, 5-digit, or 3-digit (nonmachinable) destinations under 12.2 (i.e., mail prepared under 12.1 and mail sacked under M710 must not be included in a mailing prepared under 12.2). For purposes of this section, the term ''pallets'' includes preparation of parcels directly on pallets and preparation of parcels in pallet boxes on pallets. Machinable and nonmachinable pieces may be combined on the same pallet when sorted to 5-digit scheme or 5-digit destinations. Double stacking is permitted if the requirements of M041 are met.

b. Minimum volume. To qualify for the DSCF rate, no pallet may contain fewer than 35 pieces and 200 pounds, and for the entire mailing the average number of DSCF rate pieces per 5-digit scheme, 5-digit, or 3-digit (nonmachinable) must be at least 50.

c. Overflow. After filling pallets to a 5-digit scheme, 5-digit or 3-digit destinations, any remaining pieces that do not meet the minimum pallet requirements may be prepared in one of the following ways. One or both methods may be used in a single mailing:

(1) Placed in 5-digit scheme, 5-digit, or 3-digit overflow sacks (no minimum number of pieces per sack) that are labeled in accordance with the DSCF sacking requirements in M710. Overflow pieces sacked in this manner are eligible for the DSCF rates.

(2) Placed on a 5-digit scheme, 5-digit, or 3-digit pallet labeled under 12.2d that does not meet the minimums for the DSCF rate. Overflow pieces palletized in this manner are not eligible for the DSCF rates but are eligible for the DBMC rates.

d. 5-digit scheme pallet labeling:

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC PARCELS 5D SCH.''

(3) In the mailer area below Line 3: use the pallet ID number.

e. 5-digit pallet labeling:

(1) Line 1: city, state, and 5-digit ZIP Code destination of contents.

(2) Line 2: ''PSVC PARCELS 5D.''

(3) In the mailer area below Line 3: use the pallet ID number.

f. 3-digit pallet labeling:

(1) Line 1: use L002, Column C.

(2) Line 2: ''PSVC PARCELS 3D.''

(3) In the mailer area below Line 3: use the pallet ID number.

g. Documentation. A list of each 5-digit scheme, 5-digit, and 3-digit pallet in the mailing that qualifies for the DSCF rate must be submitted. The pallets in the mailing that qualify for the DSCF rate must be renumbered sequentially, and this pallet identification number must be printed below Line 3 on the pallet label. The documentation must list each pallet in sequential order by pallet identification number. For each pallet, the listing must show: the pallet identification number; the applicable 5-digit scheme, 5-digit, or 3-digit destination of the pallet; the total weight of pieces on the pallet; the total number of pieces on the pallet; and the running total pieces (i.e., the number equal to the number of pieces for that pallet plus the sum of the pieces on all pallets listed before it). This documentation must not include pieces prepared in overflow sacks at the DSCF rates, pieces prepared on overflow pallets at the DBMC rates, or pieces claimed at any other rate in the mailing.

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M050 Delivery Sequence Changes

1.0 BASIC STANDARDS

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[Amend 1.2 to reinstate the option of placing pieces that cannot be sequenced in ascending order by ZIP+4 sector segments.]

1.2 Missing Addresses

If mailpieces cannot be sequenced because an exact match for a name or address cannot be obtained, then these pieces may be included in a sequenced mailing only if they are placed behind or after the sequenced mail. These pieces must be sequenced alphabetically by complete street name, numerically for numbered streets, and then either in ascending order by ZIP+4 Code sector segments, or numerically in ascending order by primary address.

* * * * *

4.0 DOCUMENTATION

4.1 General

[Amend the first paragraph of 4.1 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

The postage statement must be annotated in the ''Carrier Route Sequencing Date'' block on page 1. The mailer must annotate the postage statement to show the earliest (oldest) date of the method (in 4.1a through 4.1e) used to obtain sequencing

information for the mailing. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. The mailer must maintain documentation to substantiate compliance with the standards for carrier route sequencing. Unless submitted with each corresponding mailing, the mailer must be able to provide the USPS with documentation (if requested) of accurate sequencing or delivery statistics for each carrier route to which pieces are mailed. Acceptable forms of documentation are:* * *

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M100 First-Class Mail (Nonautomation)

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M130 Presorted First-Class Mail

1.0 BASIC STANDARDS

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[Amend the title and contents of 1.5 to account for the new preparation for nonmachinable pieces.]

1.5 Nonmachinable Pieces

Nonmachinable cards and letters must use the preparation sequence and tray labeling in 3.0. Nonmachinable flats must use the preparation sequence and tray labeling in 4.0.

[Redesignate 1.6, Co-Traying With Automation Rate Mail, as 1.7. Add new 1.6 for the manual only option to read as follows:]

1.6 Manual Only Option

Mailers who prefer that the USPS not automate letter-size pieces (including cards) must use the preparation sequence and tray labeling for nonmachinable pieces in 3.0. The manual only option is not available for flats.

[Replace section 2.0 with the preparation for cards and machinable letters to read as follows (this preparation is very similar to the current upgradable preparation). Machinable pieces are packaged only to maintain their orientation in the tray.]

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

2.1 Packaging

Machinable pieces are not packaged, except for (see M020):

a. Card-size pieces.

b. All pieces in a less-than-full origin 3-digit tray.

c. All pieces in a less-than-full mixed AADC tray.

2.2 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. 5-digit: optional; full trays only; no overflow.

(1) Line 1: use city, state, and 5-digit ZIP Code on mail, preceded for military mail by prefixes under M031.

(2) Line 2: ''FCM LTR 5D MACH.''

b. 3-digit: required; full trays only, except for one less-than-full tray for each origin 3-digit(s); no overflow.

(1) Line 1: use L002, Column A.

(2) Line 2: ''FCM LTR 3D MACH.''

c. AADC: required; full trays only; no overflow.

(1) Line 1: use L801, Column B.

(2) Line 2: ''FCM LTR AADC MACH.''

d. Mixed AADC: required; no minimum.

(1) Line 1: use ''MXD'' followed by city, state, and ZIP of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM LTR MACH WKG.''

[Replace section 3.0, Upgradable Preparation, with the preparation instructions for nonmachinable and manual only pieces to read as follows:]

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

3.1 Packaging

Packaging is required. Mailers who prefer that the USPS not automate letter-size pieces must identify each package with a facing slip on which ''MANUAL ONLY'' is printed or with a ''MANUAL ONLY'' optional endorsement line (see M013). Preparation sequence, package size, and labeling:

a. 5-digit: required (10-piece minimum); red Label D or optional endorsement line (OEL); labeling is not required for pieces in full 5-digit trays.

b. 3-digit: required (10-piece minimum); green Label 3 or OEL.

c. ADC: required (10-piece minimum); pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.2 Exception to Packaging

Under certain conditions, nonmachinable pieces may not need to be packaged (see M020.1.9).

3.3 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. 5-digit: required; full trays only; no overflow.

(1) Line 1: use 5-digit city, state, and ZIP Code on mail, preceded for military mail by prefixes under M031.

(2) Line 2: ''FCM LTR 5D MANUAL.''

b. 3-digit: required; full trays only, except for one less-than-full tray for each origin 3-digit(s); no overflow.

(1) Line 1: use L002, Column A.

(2) Line 2: ''FCM LTR 3D MANUAL.''

c. ADC: required; full trays only; no overflow.

(1) Line 1: use L004, Column B.

(2) Line 2: ''FCM LTR ADC MANUAL.''

d. Mixed ADC: required; no minimum.

(1) Line 1: use ''MXD'' followed by city, state, and ZIP of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM LTR MANUAL WKG.''

[Revise the title of 4.0 to read as follows:]

4.0 PREPARATION—FLATS

* * * * *

[Redesignate 4.2 and 4.3 as 4.3 and 4.4, respectively. Add new 4.2 to show that flats do not have to be packaged under certain conditions:]

4.2 Exception to Packaging

Under certain conditions, flat-size pieces may not need to be packaged (see M020.1.9).

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M200 Periodicals (Nonautomation)

M210 Presort Rates

[Remove 5.0, Combining Multiple Publications or Editions. This section has moved to M230.]

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M220 Carrier Route Rates

[Remove 5.0, Combining Multiple Publications or Editions. This section has moved to M230.]

* * * * *

[Add new M230 to read as follows:]

M230 Combining Multiple Editions or Publications of the Same Publisher

1.0 DESCRIPTION

A combined mailing is a mailing in which two or more Periodicals publications or editions are merged into a single mailstream, during production or after finished copies are produced, and all copies of all the publications or editions are presorted together into packages to achieve the finest presort level possible for the combined mailing.

2.0 VOLUME

More than one Periodicals publication, or edition of a publication, may be combined to meet the volume standard per tray, sack, or package for the rate claimed.

3.0 EACH PIECE

Each piece must meet the basic standards in E211 and the specific standards for the rate claimed.

4.0 DOCUMENTATION

Presort documentation required under P012 must also show the total number of addressed pieces and copies of each publication or edition mailed to each carrier route, 5-digit, and 3-digit destination. The publisher must also provide a list, by 3-digit ZIP Code prefix, of the number of addressed pieces and copies of each publication or edition qualifying for each destination rate.

5.0 SEPARATE POSTAGE STATEMENTS

A separate postage statement must be prepared for the per pound postage computations for each publication or edition that is part of the combined mailing. The title and issue date of the publications with which each publication or edition was combined must be noted on, or attached to, the postage statements. The per piece postage computations for all other than preferred rate publications must be calculated on the postage statement for the publication containing the higher (or highest) amount of advertising. The per piece postage computations for all preferred rate publications must be calculated on the postage statement for the publication containing the higher (or highest) amount of advertising. The nonadvertising adjustment must be computed on the appropriate postage statement for each rate category based on the publication (or edition, if applicable) containing the higher (or highest) amount of advertising matter for that rate category.

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M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

1.0 BASIC STANDARDS

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[Redesignate 1.5 and 1.6 as 1.6 and 1.7, respectively. Add new 1.5 to account for the new preparation for nonmachinable pieces to read as follows:]

1.5 Nonmachinable Pieces

Nonmachinable cards and letters must use the preparation sequence and tray labeling in 3.0.

[Revise the title and contents of redesignated 1.6 to read as follows:]

1.6 Manual Only Option

Mailers who prefer that the USPS not automate letter-size pieces (including cards) must use the packaging and tray preparation sequence for nonmachinable pieces in 3.0. The manual only option is not available for flats.

* * * * *

[Replace section 2.0 with the preparation for machinable cards and letters (this preparation is very similar to the current upgradable preparation). Machinable pieces are packaged only to maintain their orientation in the tray.]

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

2.1 Packaging

Machinable pieces are not packaged, except for (see M020):

a. Card-size pieces.

b. All pieces in a less-than-full origin or entry 3-digit tray.

c. All pieces in a less-than-full mixed AADC tray.

2.2 Tray Preparation and Labeling

Only mail eligible for the 3/5 rate (i.e., 150 or more pieces for the 3-digit area) may be prepared in 5-digit and 3-digit trays. Preparation sequence, tray size, and labeling:

a. 5-digit: optional (full trays); no overflow.

(1) Line 1: use city, state, and 5-digit ZIP Code on mail, preceded for military mail by correct prefix under M031.

(2) Line 2: ''STD LTR 5D MACH.''

b. 3-digit: required (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MACH.''

c. Origin 3-digit(s): required (no minimum); optional for entry 3-digit(s) (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MACH.''

d. AADC: required (full trays); no overflow; group pieces by 3-digit ZIP Code prefix.

(1) Line 1: use L801.

(2) Line 2: ''STD LTR AADC MACH.''

e. Mixed AADC: required (no minimum); group pieces by AADC.

(1) Line 1: use L802 (mail entered at an ASF or BMC) or L803.

(2) Line 2: ''STD LTR MACH WKG.''

[Replace 3.0, Upgradable Preparation, with the new preparation for nonmachinable pieces:]

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

3.1 Packaging

Packaging is required. Mailers who prefer that the USPS not automate their pieces must identify each package with a facing slip on which ''MANUAL ONLY'' is printed or with a ''MANUAL ONLY'' optional endorsement line (see M013). Preparation sequence, package size, and labeling:

a. 5-digit: required (10-piece minimum); red Label D or optional endorsement line (OEL); labeling is not required for pieces in full 5-digit trays.

b. 3-digit: required (10-piece minimum); green Label 3 or OEL.

c. ADC: required (10-piece minimum); pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.2 Exception to Packaging

Under certain conditions, nonmachinable pieces may not need to be packaged (see M020.1.9).

3.3 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. 5-digit: required (full trays); no overflow.

(1) Line 1: use city, state, and 5-digit ZIP Code on mail, preceded for military mail by correct prefix under M031.

(2) Line 2: ''STD LTR 5D MANUAL.''

b. 3-digit: required (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MANUAL.''

c. Origin 3-digit(s): required (one-package minimum); optional for entry 3-digit(s) (no minimum).

(1) Line 1, use L002, Column A.

(2) Line 2: ''STD LTR 3D MANUAL.''

d. ADC: required (full trays); no overflow.

(1) Line 1, use L004.

(2) Line 2: ''STD LTR ADC MANUAL.''

e. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city, state, and ZIP of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''STD LTR MANUAL WKG.''

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M620 Enhanced Carrier Route Standard Mail

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3.0 PREPARATION—LETTER-SIZE PIECES

[Revise current 3.1 and 3.2 into a single section 3.1 and amend the Line 2 information to show the barcoded status:]

3.1 Required Tray Preparation

Preparation sequence, tray size, and labeling:

a. Carrier route: required; full trays only, no overflow.

(1) Line 1: use city, state, and 5-digit ZIP Code on package, preceded for

military mail by correct prefix under M031.

(2) Line 2:

(a) Saturation: ''STD LTR BC WSS,'' followed by route type and number.

(b) High density: ''STD LTR BC WSH,'' followed by route type and number.

(c) Basic: ''STD LTR BC LOT,'' followed by route type and number.

b. 5-digit carrier routes: required if full tray, optional with minimum one 10-piece package.

(1) Line 1: use city, state, and 5-digit ZIP Code on package, preceded for military mail by prefix under M031.

(2) Line 2: ''STD LTR 5D CR-RT BC.''

c. 3-digit carrier routes: optional with minimum one 10-piece package for each of two or more 5-digit areas.

(1) Line 1: use city, state, and ZIP shown in L002, Column A, that corresponds to 3-digit ZIP Code prefix on package.

(2) Line 2: ''STD LTR 3D CR-RT BC.''

[Add new 3.2 to show the Line 2 information for trays containing mail that is machinable but is not barcoded.]

3.2 Tray Line 2 for Machinable Nonbarcoded Pieces

For trays that contain letter-size pieces that are machinable but not barcoded, use ''MACH'' on Line 2 in place of ''BC.''

[Add new 3.3 to show the Line 2 information for trays containing mail that is nonmachinable (barcoded or not):]

3.3 Tray Line 2 for Nonmachinable Pieces

For trays that contain letter-size pieces that are nonmachinable, use ''MAN'' on Line 2 in place of ''BC.''

[Add new 3.4 to show the Line 2 information for trays containing mail with a simplified address:]

3.4 Tray Line 2 for Pieces with Simplified Address

For trays that contain letter-size pieces with a simplified address, use ''MAN'' on Line 2 in place of ''BC.''

4.0 SACK PREPARATION—FLATS

4.1 Required Sack Minimums

A sack must be prepared when the quantity of mail for a required presort destination reaches either 125 pieces or 15 pounds of pieces, whichever occurs first, subject to these conditions:

[Add new item d to show an exception to the sack minimum for saturation rate pieces. This standard was moved from E630.4.1.]

d. Sacks with fewer than 125 pieces or less than 15 pounds of pieces may be prepared to a carrier route when the saturation rate is claimed for the contents and the applicable density standard is met.

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M700 Package Services

M710 Parcel Post

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2.0 DSCF RATE

[Amend 2.1 to add DSCF rate 3-digit nonmachinable parcels to read as follows:]

2.1 General

To qualify for the DSCF rate, pieces must be for the same SCF area under L005 and must be prepared as follows:

a. Sorted to optional 5-digit scheme destinations under L606, Column B, and 5-digit destinations, either in sacks under 2.2 or directly on pallets or in pallet boxes on pallets under M041 and M045. Pieces must be part of a mailing of at least 50 Parcel Post pieces. They must be entered at the designated SCF under L005 that serves the 5-digit ZIP Code destinations of the pieces except when palletized and entry is required at a BMC (see Exhibit E751.6.0). The DSCF rate is not available for palletized mail for facilities that are unable to handle palletized mailings. Refer to the Drop Shipment Product available from the National Customer Support Center (NCSC) (see G043) and Exhibits E751.7.0 and E751.8.0 to determine if the facility serving the 5-digit destination can handle pallets. There is a charge for the Drop Shipment Product.

b. Any remaining nonmachinable parcels (as defined in C700.2.0) sorted to 3-digit ZIP Code prefixes in L002, Column C. Machinable parcels may not be sorted to the 3-digit level.

* * * * *

[Amend 2.2 by redesignating ''e'' as ''f'' and adding new ''e'' and revising ''f'' to add sack preparation requirements for DSCF rate nonmachinable parcels to read as follows:]

e. 3-digit nonmachinable sack labeling: Line 1, use L002, Column A; for Line 2, ''PSVC IRREG 3D.''

f. See M045 for option to place 5-digit scheme and 5-digit DSCF sacks and 3-digit nonmachinable sacks on an SCF pallet.

* * * * *

M720 Bound Printed Matter

M721 Single-Piece Bound Printed Matter

1.0 BASIC STANDARDS

1.1 General

[Amend 1.1 by adding a sentence at the end for barcoded single-piece rate Bound Printed Matter to read as follows:]

* * * Bound Printed Matter claiming a barcoded discount must meet the applicable standards in E712.

* * * * *

M730 Media Mail

[Revise 1.0 to read as follows:]

1.0 BASIC STANDARDS

1.1 General

There are no presort, sacking, or labeling standards for single-piece Media Mail. All mailings of Presorted Media Mail are subject to the standards in 2.0 through 4.0 and to these general requirements:

a. Each mailing must meet the applicable standards in E710, E713, and in M010, M020, and M030.

b. All pieces in a mailing must be within the same processing category as described in C050. A Media Mail irregular parcel is a piece that is not a machinable parcel as defined in C050.4.1 or a flat as defined in C050.3.1. Pieces that meet the size and weight standards for a machinable parcel but are not individually boxed or packaged to withstand processing on BMC parcel sorters under C010 also are irregular parcels.

c. All pieces must be sorted to the finest extent possible under 2.0 through 4.0 or palletized under M045.

d. Each piece claimed at Media Mail rates must be marked ''Media Mail'' under M012. Each piece claimed at Presorted Media Mail rates also must be marked ''Presorted'' or ''PRSRT'' under M012.

1.2 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight, and the pieces are separated by rate level at the time of mailing.

[Revise 2.0 to read as follows:]

2.0 PREPARATION—FLATS

2.1 Packaging

A package must be prepared when the quantity of addressed pieces for a

required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces.

2.2 Package Preparation

Packages must be prepared and labeled in the following required sequence:

a. 5-digit: optional, but required for 5-digit rate eligibility; red Label D or optional endorsement line (OEL).

b. 3-digit: required; green Label 3 or OEL.

c. ADC: required; pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

2.3 Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches the minimums specified in 2.4 or 1,000 cubic inches. Smaller volumes are not permitted (except in mixed ADC sacks).

2.4 Sack Preparation

Sacks must be prepared and labeled in the following sequence:

a. 5-digit: optional, but required for 5-digit rate eligibility (10-piece minimum).

(1) Line 1: use city, state, and 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC FLTS 5D NON BC.''

b. 3-digit: required (20-piece minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC FLTS 3D NON BC.''

c. ADC: required (20-piece minimum).

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC FLTS ADC NON BC.''

d. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC FLTS NON BC WKG.''

[Add new 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS

3.1 Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces, except that packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces. Packaging is also subject to these conditions:

a. Identical-weight pieces that weigh 1 pound or less must be prepared using the 10-piece minimum; those that weigh more than 1 pound must be prepared using the 10-pound minimum.

b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 10-pound minimum applies), or package by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces in each package and their total weight.

c. Mailers must note on the postage statement which sacking method was used.

3.2 Package Preparation

Packages must be prepared and labeled in the following sequence:

a. 5-digit: optional, but required for 5-digit rate eligibility; red Label D or optional endorsement line (OEL).

b. 3-digit: required; green Label 3 or OEL.

c. ADC: required; pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.3 Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches 10 addressed pieces or 20 pounds, whichever occurs first. At the mailer's option, a sack may be prepared when the quantity of mail reaches 1,000 cubic inches. Smaller volumes are not permitted (except in mixed ADC sacks). Optional 5-digit scheme sacks may be prepared only when there are at least 10 addressed pieces or 20 pounds. Smaller volumes are not permitted (except in mixed ADC sacks). Sacking is also subject to these conditions:

a. Identical-weight pieces weighing 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound or 1,000 cubic inch minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies). Alternatively, mailers may sack by the actual piece count, mail weight for each destination, or 1,000 cubic inch minimum, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces in each sack and their total weight.

c. Mailers must note on the postage statement which sacking method was used.

3.4 Sack Preparation

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit: optional, but required for 5-digit rate eligibility.

(1) Line 1: use city, state, and 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. ADC: required.

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC IRREG ADC.''

e. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC IRREG WKG.''

[Add new 4.0 to read as follows:]

4.0 PREPARATION—MACHINABLE PARCELS

4.1 Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches 10 addressed pieces or 20 pounds, whichever occurs first. At the mailer's option, a sack may be prepared when the quantity of mail reaches 1,000 cubic inches. Smaller volumes are not permitted (except in mixed BMC sacks). Sacking also is subject to these conditions:

a. Identical-weight pieces that weigh 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound or 1,000 cubic inch minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum

that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies). Alternately, mailers may sack by the actual piece count, mail weight for each package destination, or 1,000 cubic inch minimum, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the postage statement which sacking method was used.

4.2 Sack Preparation

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit: optional, but required for 5-digit rate eligibility.

(1) Line 1: use city, state, and 5-digit ZIP Code on parcels, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC MACH 5D.''

c. BMC: required.

(1) Line 1: use L601, Column B.

(2) Line 2: ''PSVC MACH BMC.''

d. Mixed BMC: required (no minimum).

(1) Line 1: ''MXD'' followed by information in L601, Column B, for BMC serving 3-digit ZIP Code of entry post office.

(2) Line 2: ''PSVC MACH WKG.''

M740 Library Mail

[Revise 1.0 to read as follows:]

1.0 BASIC STANDARDS

1.1 General

There are no presort, sacking, or labeling standards for single-piece Library Mail. All mailings of Presorted Library Mail are subject to the standards in 2.0 through 4.0 and to these general standards:

a. Each mailing must meet the applicable standards in E710, E714, and in M010, M020, and M030.

b. All pieces in a mailing must be within the same processing category as described in C050. A Library Mail irregular parcel is a piece that is not a machinable parcel as defined in C050.4.1 or a flat as defined in C050.3.1. Pieces that meet the size and weight standards for a machinable parcel but are not individually boxed or packaged to withstand processing on BMC parcel sorters under C010 are also considered irregular parcels.

c. All pieces must be sorted to the finest extent possible under 2.0 through 4.0 or palletized under M045.

d. Each piece claimed at Library Mail rates must be marked ''Library Mail'' under M012. Each piece claimed at Presorted Library Mail rates also must be marked ''Presorted'' or ''PRSRT'' under M012.

1.2 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight, and the pieces are separated by rate level at the time of mailing.

[Revise 2.0 to read as follows:]

2.0 PREPARATION—FLATS

2.1 Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted. The maximum weight of each physical package is 20 pounds, except that 5-digit packages, placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces.

2.2 Package Preparation

Packages must be prepared and labeled in the following sequence:

a. 5-digit: optional, but required for 5-digit rate eligibility; red Label D or optional endorsement line (OEL).

b. 3-digit: required; green Label 3 or OEL.

c. ADC: required; pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

2.3 Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches the minimums specified in 2.4 or 1,000 cubic inches. Smaller volumes are not permitted (except in mixed ADC sacks).

2.4 Sack Preparation

Sacks must be prepared and labeled in the following sequence:

a. 5-digit: optional, but required for 5-digit rate eligibility (10-piece minimum).

(1) Line 1, use city, state, and 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC FLTS 5D NON BC.''

b. 3-digit: required (20-piece minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC FLTS 3D NON BC.''

c. ADC: required (20-piece minimum).

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC FLTS ADC NON BC.''

d. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC FLTS NON BC WKG.''

[Add new 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS

3.1 Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces, except that packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces. Packaging is also subject to these conditions:

a. Identical-weight pieces that weigh 1 pound or less must be prepared using the 10-piece minimum; those that weigh more than 1 pound must be prepared using the 10-pound minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 10-pound minimum applies) or package by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the postage statement which sacking method was used.

3.2 Package Preparation

Packages must be prepared and labeled in the following sequence:

a. 5-digit: optional, but required for 5-digit rate eligibility; red Label D or optional endorsement line (OEL).

b. 3-digit: required; green Label 3 or OEL.

c. ADC: required; pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.3 Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches 10 addressed pieces or 20 pounds, whichever occurs first. At the mailer's option, a sack may be prepared when the quantity of mail reaches 1,000 cubic inches. Smaller volumes are not permitted (except in mixed ADC sacks). Sacking is also subject to these conditions:

a. Identical-weight pieces weighing 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound or 1,000 cubic inch minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies). Alternatively, mailers may sack by the actual piece count, mail weight for each package destination, or 1,000 cubic inch minimum, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the postage statement which sacking method was used.

3.4 Sack Preparation

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit: optional, but required for 5-digit rate eligibility.

(1) Line 1: use city, state, and 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. ADC: required.

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC IRREG ADC.''

e. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city, state, and ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC IRREG WKG.''

[Add new 4.0 to read as follows:]

4.0 PREPARATION—MACHINABLE PARCELS

4.1 Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches 10 addressed pieces or 20 pounds, whichever occurs first. At the mailer's option, a sack may be prepared when the quantity of mail reaches 1,000 cubic inches. Smaller volumes are not permitted (except in mixed BMC sacks). Sacking also is subject to these conditions:

a. Identical-weight pieces that weigh 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound or 1,000 cubic inch minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies). Alternately, mailers may sack by the actual piece count, mail weight for each package destination, or 1,000 cubic inch minimum, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the postage statement which sacking method was used.

4.2 Sack Preparation

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit: optional, but required for 5-digit rate eligibility.

(1) Line 1: use city, state, and 5-digit ZIP Code on parcels, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC MACH 5D.''

c. BMC: required.

(1) Line 1: use L601, Column B.

(2) Line 2: ''PSVC MACH BMC.''

d. Mixed BMC: required (no minimum).

(1) Line 1: ''MXD'' followed by information in L601, Column B, for BMC serving 3-digit ZIP Code of entry post office.

(2) Line 2: ''PSVC MACH WKG.''

M800 All Automation Mail

M810 Letter-Size Mail

1.0 BASIC STANDARDS

* * * * *

1.2 Mailings

The requirements for mailings are as follows:

* * * * *

[Amend items 1.2b and 1.2d to replace the automation basic rate with the new AADC and mixed AADC rates.]

* * * * *

b. First-Class. A single automation rate First-Class Mail mailing may include pieces prepared at carrier route, 5-digit, 3-digit, AADC, and mixed AADC rates.

* * * * *

d. Standard Mail. Automation carrier route pieces must be prepared as a separate mailing (and meet a separate minimum volume requirement) from pieces prepared at 5-digit, 3-digit, AADC, and mixed AADC rates.

1.3 Documentation

[Amend 1.3 to remove references to the basic rate.]

A complete postage statement must accompany each mailing. Each mailing also must be accompanied by presort and rate documentation produced by PAVE-certified or MAC-certified software or by standardized documentation under P012. Exception: For mailings of fewer than 10,000 pieces, presort and rate documentation is not required if postage at the correct rate is affixed to each piece or if each piece is of identical weight and the pieces are separated by rate when presented for acceptance. Mailers may use a single postage statement and a single documentation report for all rate levels in a single mailing. Standard Mail mailers may use a single postage statement and a single documentation report (with a separate summary for carrier route and a separate summary for all other rate levels) for both an automation carrier route mailing and a mailing containing pieces prepared at other automation rates when both mailings are submitted for entry at the same time. Combined mailings of more than one Periodicals publication also must be documented under M210 and M220. First-Class Mail and Standard Mail mailings prepared under the value added refund procedures or as combined mailings must meet additional standardized documentation requirements under P014 and P960.

* * * * *

2.0 FIRST-CLASS MAIL AND STANDARD MAIL

* * * * *

2.3 Tray Line 2

[In 2.3, amend the introduction and items b and c to change ''LTRS'' to

''LTR,'' to change ''CR–RTS'' to ''CR–RT,'' and to add ''5D'' to the 5-digit carrier routes tray:]

* * * * *

Line 2: ''FCM LTR'' or ''STD LTR'' and:

* * * * *

b. 5-digit carrier routes: ''5D CR–RT BC.''

c. 3-digit carrier routes: ''3D CR–RT BC.''

* * * * *

M820 Flat-Size Mail

[Amend Summary to include Bound Printed Matter to read as follows:]

Summary

M820 describes the preparation standards for flat-size automation rate First-Class Mail, Periodicals, Standard Mail, and Bound Printed Matter.

1.0 BASIC STANDARDS

1.1 Standards

[Amend the first sentence of 1.1 by adding text for Bound Printed Matter flats to read as follows:]

Flat-size Bound Printed Matter pieces claiming the barcoded discount and flat-size automation rate First-Class Mail, Periodicals, and Standard Mail must be prepared under M820 and the eligibility standards for the rate claimed.* * *

1.2 Mailings

[Amend 1.2 to replace the First-Class Mail automation basic rate with the new ADC and mixed ADC rates to read as follows:]

All pieces in a mailing must meet the standards in C820 and must be sorted together to the finest extent required. First-Class Mail mailings may include pieces prepared at automation 5-digit, 3-digit, ADC, and mixed ADC rates. Periodicals mailings may include pieces prepared at automation 5-digit, 3-digit, and basic rates. Standard Mail mailings may include pieces prepared at automation 3/5 and basic rates. The definitions of a mailing and permissible combinations are in M011. Bound Printed Matter mailings may include presorted pieces claiming the barcode discount.

* * * * *

1.4 Marking

[Amend the last sentence of 1.4 by adding reference P700 to read as follows:]

* * * Pieces not claimed at an automation rate must not bear ''AUTO'' unless single-piece rate postage is affixed or a corrective single-piece rate marking is applied under P100, P600, or P700.

* * * * *

[Add new 6.0 for Bound Printed Matter to read as follows:]

6.0 BOUND PRINTED MATTER

6.1 Package Preparation

Packages must be prepared and labeled in the following sequence:

a. 5-digit: (minimum 10 pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); red Label D or optional endorsement line (OEL).

b. 3-digit: (minimum 10 pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); green Label 3 or OEL.

c. ADC: (minimum 10 pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); pink Label A or OEL.

d. Mixed ADC: (no minimum, maximum weight 20 pounds); tan Label MXD or OEL.

6.2 Sack Preparation and Labeling

A sack must be prepared when the quantity of mail for a required presort destination reaches 20 addressed pieces. Preparation sequence, tray size, and labeling:

a. 5-digit: required.

(1) Line 1: use city, state, and 5-digit ZIP Code on packages.

(2) Line 2: ''PSVC FLTS 5D BC.''

b. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC FLTS 3D BC.''

c. SCF: optional.

(1) Line 1: use L005, Column B.

(2) Line 2: ''PSVC FLTS SCF BC.''

d. ADC: required.

(1) Line 1: use L004.

(2) Line 2: ''PSVC FLTS ADC BC.''

e. Mixed ADC: required.

(1) Line 1: use ''MXD'' followed by origin facility in L802 or L803 as appropriate.

(2) Line 2: ''PSVC FLTS BC WKG.''

* * * * *

P Postage and Payment Methods

P000 Basic Information

P010 General Standards

P011 Payment

1.0 PREPAYMENT AND POSTAGE DUE

* * * * *

[Amend 1.5 to replaced references to the nonstandard surcharge to the nonmachinable surcharge.]

1.5 Shortpaid Mail—Basic Standards

Mail of any class, including mail indicating special services (except Express Mail, registered mail, and nonmachinable First-Class Mail), that is received at either the office of mailing or office of address without enough postage is marked to show the total (rounded off) deficiency of postage and fees. Individual such pieces (or quantities fewer than 10) are delivered to the addressee on payment of the charges marked on the mail. For quantity mailings of 10 or more pieces, the mailer is notified so that the postage charges may be adjusted before dispatch.

* * * * *

[Amend title and text of 1.8 to show that the nonstandard surcharge is replaced by the nonmachinable surcharge to read as follows:]

1.8 Shortpaid Nonmachinable Mail

Shortpaid nonmachinable First-Class Mail is returned to the sender for additional postage.

* * * * *

P012 Documentation

* * * * *

[Amend title and text of 2.0 to add Bound Printed Matter flats to read as follows:]

2.0 STANDARDIZED DOCUMENTATION—FIRST-CLASS MAIL, PERIODICALS, STANDARD MAIL AND BOUND PRINTED MATTER FLATS

2.1 Basic Standards

For First-Class Mail, Periodicals, Standard Mail, and Bound Printed Matter Flats, * * *

2.2 Format and Content

For First-Class Mail, Periodicals, Standard Mail, and Bound Printed Matter Flats, * * *

* * * * *

2.3 Rate Level Column Headings

The actual name of the rate level (or corresponding abbreviation) is used for column headings required by 2.2 and shown below:

[Amend 2.3a to add the AADC and mixed AADC rates for automation letters and the ADC and mixed ADC rates automation for flats]

a. Automation First-Class Mail, Periodicals, and Standard Mail:

Rate	Abbreviation
* * * * * * *	
AADC [First-Class Mail letters/cards and Standard Mail letters]	AB
ADC [First-Class Mail flats]	AB
Mixed AADC [First-Class Mail letters/cards and Standard Mail letters]	MB
Mixed ADC [First-Class Mail flats]	MB
[Amend the entry for basic as follows:]	
Basic [flats]	BB
* * * * * * *	

* * * * *

3.0 DETAILED ZONE LISTING FOR PERIODICALS

3.1 Definition and Retention

[Amend the first sentence of 3.1 by making minor edits and adding DADC rates to read as follows:]

The publisher must be able to present documentation to support the actual number of copies of each edition of an issue, by entry point, mailed to each zone, at DDU, DSCF, DADC, and In-County rates.* * *

3.2 Characteristics

Report the number of copies mailed to each 3-digit ZIP Code prefix at applicable zone rates using one of the following formats:

* * * * *

[Amend the first sentence of item 3.2b by making minor edits and adding DADC to read as follows:]

Report copies by zone (In-County DDU, In-County others, Outside-County DDU, Outside-County DSCF, and Outside-County DADC) and by 3-digit ZIP Code prefix, listed in ascending numeric order, for each zone.* * *

3.3 Zone Abbreviations

Use the actual rate name or the authorized zone abbreviation in the listings in 2.0 and 3.2:

[Amend the table in 3.3 to include the zone abbreviation, ''ADC'' and rate equivalent, ''outside-county, DADC'' to read as follows:]

Zone abbreviation	Rate equivalent
* * * * *	
SCF	Outside-County, DSCF.
ADC	Outside-County, DADC.
1–2 or 1/2	zones 1 and 2.
* * * * *	

4.0 POSTAGE STATEMENT

* * * * *

[Revise 4.2 for clarity adding relocated P950.5.5 and 6.11. Add new 4.3 to clarify what is required for facsimile postage statements.]

4.2 Completing Postage Statements

Any mailing claiming a discount, and all permit imprint mailings must be accompanied by a postage statement completed and signed by the mailer. The mailer may submit a computer-generated facsimile (see 4.3). A change made to any postage statement requires the mailer (agent) to correct the postage statement accordingly and document the correction.

[Add new 4.3 as follows.]

4.3 Facsimile Postage Statements

Facsimile postage statements must contain data and elements in locations as close as possible to where they appear on the USPS form. Data fields that do not pertain to information and rates claimed in the mailing and other extraneous information that appears on the USPS form do not have to be included. Facsimiles must include all other information pertaining to the mailing, including the class of mail (or subclass as appropriate), postage payment method (e.g., permit imprint), and four-digit form number (hyphen and suffix, optional). All parts, and line numbers within each part, must reflect those on the USPS form(s). In some cases, this can include fields from multiple USPS forms onto a single facsimile. For example: Part A, lines A5, A6, and total—Part A from Form 3602–R, and Part F, lines F1, F2 and total—Part F from Form 3602–RS, can be consolidated onto a single Form 3602 (Facsimile). Most importantly, the facsimile must fully and exactly reproduce the ''Certification'' and ''USPS Use Only'' fields that appear on the USPS form. A facsimile postage statement produced by software certified by the USPS Presort Accuracy Validation and Evaluation (PAVE) or Manifest Analysis and Certification (MAC) program is considered a USPS-approved form for these standards. Others may be approved by the entry office postmaster. Periodicals mailers authorized centralized postage payment (CPP) procedures receive approval from the New York RCSC.

* * * * *

P013 Rate Application and Computation

* * * * *

1.0 BASIC STANDARDS

* * * * *

[Revise 1.2 by adding new d and e, as follows.]

1.2 Expression

For these standards, express:

a. Piece counts in whole numbers.

b. Weights in decimal pounds (e.g., 1.125 pounds) rounded as shown below.

c. Postage in decimal dollars (e.g., $0.162) rounded as shown below.

d. Intermediate postage figures on all permit imprint and Periodicals statements (rounded off) to four decimal places. On all postage affixed statements (rounded off) to three decimal places. An intermediate postage figure is defined as follows: For First Class Mail, Standard Mail, and Packages Services mailings, any figure on any line of a postage statement, with the exception of the ''Total Postage'' line, is an intermediate figure. For Periodicals mailings, any figure on any line of a Form 3541, with the exception of the ''Total Outside County Postage,'' ''Total In-County Postage,'' and ''Total Foreign Postage'' lines is an intermediate figure.

e. Total postage figures (rounded off) to two decimal places. A total postage figure is defined as follows: For First Class Mail, Standard Mail, and Packages Services mailings any figure on a ''Total Postage'' line. For Periodicals mailings, any figure on a ''Total Outside County Postage,'' ''Total In-County Postage,'' and ''Total Foreign Postage'' line.

* * * * *

2.0 RATE APPLICATION—EXPRESS MAIL, FIRST-CLASS MAIL, AND PRIORITY MAIL

* * * * *

2.4 Priority Mail

[Amend 2.4 by replacing ''5 pound'' with ''1 pound'' to read as follows:]

Except under 2.5, Priority Mail rates are charged per pound or fraction thereof; any fraction of a pound is rounded up to the next whole pound. For example, if a piece weighs 1.2 pounds, the weight (postage) increment is 2 pounds. The minimum postage amount per addressed piece is the 1-pound rate. The Priority Mail rate up to 1 pound is based solely on weight; for pieces weighing more than 1 pound, the rates are based on weight and zone.

2.5 Flat Rate Envelope

[Amend 2.5 by changing ''2-pound'' to ''1-pound'' to read as follows:]

Each addressed Express Mail flat rate envelope is charged the Express Mail rate applicable to a 1/2-pound piece, regardless of its actual weight. Each addressed Priority Mail flat rate envelope is charged the Priority Mail rate applicable to a 1-pound piece, regardless of its actual weight.

2.6 Keys and Identification Devices

[Amend 2.6 by adding ''zone rate'' to the 2-pound weight to read as follows:]

Keys and identification devices weighing 13 ounces or less are charged First-Class Mail rates per ounce or fraction thereof in accordance with 2.3, plus the fee in R100.10.0. Keys and identification devices weighing more than 13 ounces but not more than 1 pound are mailed at the 1-pound Priority Mail flat rate plus the fee in R100.10.0. Keys and identification devices weighing more than 1 pound but not more than 2 pounds are subject to the 2-pound Priority Mail rate for zone 4 plus the fee in R100.10.0.

* * * * *

5.0 RATE APPLICATION—PACKAGE SERVICES

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5.2 Parcel Post

[Amend 5.2 by changing ''2 pounds'' to ''1 pound'' in the last sentence to read as follows:]

* * * The minimum postage rate per addressed piece is that for an addressed piece weighing 1 pound.

5.2 Single-Piece Bound Printed Matter

[Amend 5.3 by changing ''1.5 pounds'' to ''1 pound'' in the last sentence to read as follows:]

* * * The minimum postage rate per addressed piece is that for an addressed piece weighing 1 pound.

* * * * *

7.0 COMPUTING POSTAGE—PERIODICALS

* * * * *

[Revise 7.7 to clarify total postage reporting by separate Outside-County and In-County charges.]

7.7 Total Postage

Total Outside-County postage is the sum of the per pound and per piece charges, and any Ride-Along charge, less all discounts, rounded off to the nearest whole cent. Total In-County postage is the sum of the per pound and per piece charges, and any Ride-Along charge, less all discounts, rounded off to the nearest whole cent. For mailings that include foreign copies, total foreign postage is the sum of the per piece charges, less a discount, rounded off to the nearest whole cent.

8.0 COMPUTING POSTAGE—STANDARD MAIL

* * * * *

[Revise 8.3 to include affixing any surcharge]

8.3 Computing Affixed Postage

To compute postage to be affixed to each piece, multiply the weight of the piece (in pounds) by the applicable rate per pound; add the applicable per piece charge and any surcharge; and round the sum up to the next tenth of a cent. The applicable minimum per piece charge must be affixed if it is more than the total computed per piece postage.

[Renumber current 8.4 as 8.5. Add new 8.4 to show how to compute affixed postage for heavy automation and Enhanced Carrier Route letters.]

8.4 Computing Affixed Postage—Heavy Letters

To compute postage to be affixed to each piece, multiply the weight of the piece (in pounds) by the applicable rate per pound; add the applicable per piece charge, subtract the heavy letter discount (see 8.6. through 8.8); and round the sum up to the next tenth of a cent.

* * * * *

[Add new 8.6 to show how to calculate the discount for heavy automation letters:]

8.6 Discount for Heavy Automation Letters

Automation letters that weigh more than 3.3 ounces but not more than 3.5 ounces are charged postage equal to the automation piece/pound rate for that piece and receive a discount equal to the corresponding automation nonletter piece rate (3.3 ounces or less) minus the corresponding automation letter piece rate (3.3 ounces or less). For automation ECR pieces, postage is calculated using the regular basic piece/pound rate and the regular basic nonletter piece rate. If a destination entry rate is claimed, the discount is calculated using the corresponding rates.

[Add new 8.7 to show how to calculate the discount for heavy automation-compatible ECR letters:]

8.7 Discount for Heavy ECR Letters

Pieces that otherwise qualify for the high density or saturation letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the piece/pound rate and receive a discount equal to the nonletter piece rate (3.3 ounces or less) minus the letter piece rate (3.3 ounces or less). If a destination entry rate is claimed, the discount is calculated using the corresponding rates.

[Add new 8.8 to show how to calculate the discount for heavy ECR automation basic letters:]

8.8 Discount for Heavy ECR Basic Automation Letters

Pieces that otherwise qualify for the automation basic rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the regular basic piece/pound rate and receive a discount equal to the regular basic nonletter piece rate (3.3 ounces or less) minus the automation basic piece rate (3.3 ounces or less). If a destination entry rate is claimed, the discount is calculated using the corresponding rates.

* * * * *

P014 Refunds and Exchanges

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2.0 POSTAGE AND FEES REFUNDS

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2.7 Unallowable Refunds

* * * * *

[Revise P014.2.7 by adding a new e., to include text relocated from P950.4.4.]

e. Postage for any failure to provide service caused by any event that occurs before a PVDS shipment is deposited and accepted into the mailstream and becomes mail at a destination postal facility.

* * * * *

5.0 EXPRESS MAIL POSTAGE REFUND

* * * * *

5.2 Conditions for Refund

[Revise 5.2 to read as follows:]

A refund request must be made within 90 days after the date of mailing as shown in the ''Date In'' box on Label 11. Except as provided in D500.1.6, a mailer may file for a postage refund only under one of the following circumstances.

a. The item was not delivered or made available for claim as guaranteed under the applicable service purchased.

b. The item was not delivered or made available for claim by the guaranteed delivery time applicable to the service purchased, and delivery was not attempted by the guaranteed delivery time applicable to the service purchased.

5.3 Refunds Not Given

[Amend 5.3 to read as follows:]

A refund claim will not be given if the guaranteed service was not provided due to any of the circumstances in D500.1.6.

* * * * *

P020 Postage Stamps and Stationery

P021 Stamped Stationery

* * * * *

3.0 OTHER STATIONERY

[Amend title of 3.1 to by adding ''s'' to ''Card'' to read as follows:]

3.1 Stamped Cards

[Amend 3.1 by adding availability of stamped cards to read as follows:]

Stamped cards are available as single stamped cards, double (reply) stamped cards, and in sheets of 40 for customer imprinting. Single and double stamped cards are 3-½ inches high by 5-½ inches long. Sheets must be cut to this size so that the stamp is in the upper right corner of each card. The USPS does not offer personalized stamped cards (cards imprinted with a return address).

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P100 First-Class Mail

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4.0 PRESORTED RATE

* * * * *

4.2 Affixed Postage

Unless permitted by other standards or by Business Mailer Support, USPS headquarters, when precanceled postage or meter stamps are used, only one payment method may be used in a mailing and each piece must bear postage under one of these conditions:

* * * * *

[Amend 4.2b to change the ''nonstandard'' surcharge to the ''nonmachinable'' surcharge to read as follows:]

b. A precanceled stamp or the full postage at the lowest First-Class first ounce rate applicable to the mailing job, and full postage on metered pieces for any additional ounce(s) or nonmachinable surcharge; postage documentation may be required by standard.

* * * * *

5.0 AUTOMATION RATES

* * * * *

5.2 Postage Affixed, Generally

Unless permitted by other standards or by Business Mailer Support, USPS headquarters, when precanceled postage or meter stamps are used, only one payment method may be used in a mailing and each piece must bear postage under one of these conditions:

[Amend item 5.2b to change the ''nonstandard'' surcharge to the ''nonmachinable'' surcharge to read as follows:]

* * * * *

b. Flat-size pieces must bear enough postage to include the nonmachinable surcharge if applicable.

* * * * *

P200 Periodicals

1.0 BASIC INFORMATION

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1.5 Postage Statement and Documentation

[Amend the second sentence of 1.5 by adding ''DADC'' to read as follows:]

* * * The postage statement must be supported by documentation as required by P012 unless each piece in the mailing is of identical weight and the pieces are separated when presented for acceptance by rate, by zone (including separation by In-County and Outside-County rates), and by entry discount (i.e., DDU, DSCF, and DADC).* * *

* * * * *

[Redesignate 1.8 through 1.12 as 1.9 through 1.13, respectively. Add new 1.8 to read as follows:]

1.8 Waiving Nonadvertising Rates

Instead of marking a copy of each issue to show the advertising and nonadvertising portions, the publisher may pay postage at the advertising zoned rates on both portions of all issues or editions of a Periodicals publication (except a requester publication). This option is not available if the rate for advertising is lower than the rate for nonadvertising. When the amount of advertising exceeds 75%, the copies provided to the postmaster must be marked ''Advertising over 75%.'' When the amount of advertising is 75% or under, the copies provided to the postmaster must be marked ''Advertising not over 75%'' on the first page. The entire weight of the copy must be entered on the postage statement in the column provided for the advertising portion. The words ''Over 75%'' or ''Not over 75%'' must be annotated on the postage statement and the word ''Waived'' must be written in the space provided for the weight of the nonadvertising portion.

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2.0 MONTHLY POSTAGE STATEMENT

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[Remove 2.3, Waiving Nonadvertising Rates, and redesignate 2.4 as 2.3.]

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P600 Standard Mail

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2.0 PRESORTED AND ENHANCED CARRIER ROUTE RATES

2.1 Identical-Weight Pieces

[Amend 2.1 to include a reference to surcharges to read as follows:]

Mailings of identical-weight pieces may have postage affixed to each piece at the exact rate for which the piece qualifies, or each piece in the mailing may have postage affixed at the lowest rate applicable to pieces in the mailing or mailing job. Alternatively, a nondenominated precanceled stamp may be affixed to every piece in the mailing or mailing job, or each piece may bear a permit imprint. If exact postage is not affixed, all additional postage and surcharges must be paid at the time of mailing with an advance deposit account or with a meter strip affixed to the required postage statement. If exact postage is not affixed, documentation meeting the standards in P012 must be submitted to substantiate the additional postage unless the pieces are identical weight and separated by rate when presented for acceptance.

[Amend 2.2 to show that when affixing postage, heavy letters must have full postage affixed to every piece in the mailing.]

2.2 Nonidentical-Weight Pieces

Postage for nonidentical-weight pieces subject to the minimum per piece rates may be paid by meter stamps, precanceled stamps, or precanceled stamped envelopes. Mailings of nonidentical-weight pieces subject to the piece/pound rates may have postage paid by permit imprint (if the mailer is authorized by Business Mailer Support) or by meter or precanceled stamps (if each piece has the full postage affixed). Alternatively, except for heavy automation and Enhanced Carrier Route letters, the mailer may affix the per piece rate to each piece and pay the pound rate for the mailing through an advance deposit account. Under this alternative, the mailer must provide a postage statement for each payment method and mark each piece ''Pound Rate Pd via Permit,'' in the postage meter indicium or ad plate or other means that ensures a legible endorsement. For mailings of nonidentical-weight pieces, ''nonidentical'' must be shown as the weight of a single piece on the applicable postage statement; other entries must be completed as directed.

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P900 Special Postage Payment Systems

P910 Manifest Mailing System (MMS)

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3.0 KEYLINE

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Exhibit 3.3a Rate Category Abbreviations—First-Class Mail

[Amend Exhibit 3.3a by removing the entry for automation basic and adding entries for the new AADC, ADC, mixed AADC, and mixed ADC rates.]

Code	Rate category
AB	Automation AADC.
AB	Automation ADC.
MB	Automation Mixed AADC.
MB	Automation Mixed ADC.

Exhibit 3.3b Rate Category Abbreviations—Standard Mail

[Amend Exhibit 3.3a by adding entries for the new AADC and mixed AADC rates and revising the entries for automation basic and basic:]

Code	Rate category
BB	Automation Basic
BS	Basic
AB	Automation AADC
MB	Automation Mixed AADC

* * * * *

[P950 is revised in its entirety to clarify standards for PVDS. In addition, current P950.4.4, which contained standards regarding refunds, is relocated to P014.2.7. With the elimination of four (separate) Standard Mail Consolidated Postage Statements, and the addition of a single Form 3602–C, Consolidated Postage Statement Supplement used with typical Standard Mail postage statements, the separate postage reporting standards in P950 are no longer needed. Also removed was redundant information that appears elsewhere. This revision does not substantially change PVDS standards.]

P950 Plant-Verified Drop Shipment (PVDS)

Summary

P950 describes the purpose, program participation, liability, and options.

1.0 DESCRIPTION

1.1 Purpose

Plant-verified drop shipment (PVDS) enables origin verification and postage payment for shipments transported by a mailer (or third party) at the mailer's expense on the mailer's own or contracted vehicle, to destination USPS facilities for acceptance as mail. The mailings may be prepared for deposit at a destination entry rate, or they may be claimed at the applicable rates from the destination entry facility.

1.2 Function

Under PVDS:

a. Mailings are verified at origin by USPS employees assigned to a detached mail unit (DMU) at a mailer's plant or at the business mail entry unit (BMEU) at the origin post office serving the mailer's plant. The shipments are then released for transportation to destination USPS facilities.

b. For Periodicals, postage is paid at a valid original entry or additional entry post office, serving the mailer's plant, unless an alternative postage payment method is authorized.

c. For Standard Mail and Package Services, postage and fees are paid under a valid permit at the post office serving the mailer's plant, or as designated by the district manager.

d. The shipment is deposited at the destination USPS facility, by the mailer or the mailer's agent, where it is verified and accepted as mail by USPS employees and released for processing.

1.3 Other Mailings

The following mailings must be verified, accepted, and paid for at the destination USPS facility:

a. Periodicals mailings not verified at origin under PVDS or under the Centralized Postage Payment System (see P200). The destination USPS facility must be a valid original entry or additional entry post office if mailings are submitted there for postal verification.

b. Standard Mail and Package Services mailings not verified and paid for at origin under PVDS. Mailers must have a valid permit (and fees) at the destination USPS facility for postage payment.

1.4 Dates

The postage statement may be submitted before or at the time a shipment is presented to the origin post office DMU or BMEU. The date shown by the mailer and the post office round stamp date on the postage statement and Form 8125 represents the date the origin post office DMU or BMEU verified the shipment and cleared it for dispatch by the mailer to the destination USPS facility. It does not necessarily represent the date the USPS accepts the PVDS at the USPS destination facility as mail.

2.0 PROGRAM PARTICIPATION

2.1 Mailer Responsibility

A mailer participating in PVDS must comply with P950. If the mailer does not meet these requirements, the mailer may be prohibited from participating in PVDS by the local postmaster. Any mailer denied a request for PVDS may file an appeal under G020.

2.2 Verification at Mailer's Plant

Before PVDS verification can be performed at the mailer's plant, the mailer must have either a USPS plant load authorization for that plant or a postage payment agreement with the USPS that establishes a detached mail unit (DMU) at that plant. The DMU must be separate from the mailer's activities, in an enclosed, secure, and safe work area with a telephone. The work area must be approved by the USPS. The mailer may submit a letter to the postmaster serving the plant and request PVDS verification at the plant. The postmaster may agree to the mailer's request to verify PVDS shipments at the plant on an as-needed basis, if an approved DMU is established and staffing can be accommodated.

2.3 Verification at Origin BMEU

PVDS verification can be performed at the origin business mail entry unit (BMEU) under these conditions:

a. There is no detached mail unit (DMU) at the mailer's plant.

b. The mailer is in the service area of the post office where the PVDS is to be verified and where postage is to be paid, unless another postal facility is designated by the district manager.

c. Each vehicle contains only one mailer's shipment(s), each physically separated.

d. A completed postage statement and Form 8125 accompanies each PVDS (or segment, if the PVDS is contained in more than one vehicle).

e. If an alternate method of paying postage with permit imprint is used, in addition to d., (additional) required documentation must accompany each PVDS (or segment, if the PVDS is contained in more than one vehicle).

f. The PVDS can be physically verified at the origin BMEU. Shipments to be verified may not be wrapped or otherwise prepared if a presort and postage verification cannot be performed without destroying the physical integrity of the shipment.

g. The BMEU has enough space and staff to handle verification, and scales to calculate per piece and gross weights are available. If the post office serving the mailer's plant lacks resources, another postal facility may be designated by the district manager.

h. The mailer must transport all shipments to the post office, unload them for verification. When cleared for dispatch, reload the shipments back onto the mailer's vehicle for transportation to the destination USPS facility.

2.4 Periodicals

Periodicals postage must be paid at the post office verifying the copies or as designated by the district. Advertising postage is zoned from the destination USPS facility where deposited and accepted as mail (or from the facility where the Express Mail or Priority Mail drop shipment destinates). The publisher must ensure that sufficient funds are on deposit to pay for all shipments before their release. (A publisher authorized under an alternative postage payment system must pay postage under corresponding standards.)

2.5 Standard Mail and Package Services

The mailer must pay any applicable permit fees, mailing fees, and postage for Standard Mail and Package Services PVDS at either the post office serving the mailer's plant or the post office that does BMEU verification as designated by the district. If permit imprints are used to pay postage, the mailer must ensure that sufficient funds are on deposit to pay for all shipments before their release. For Nonprofit Standard Mail rates, a valid authorization must be on file at the post office where postage is paid. No permit, fees, or authorizations are required at the destination USPS facility where PVDS mailings are deposited.

2.6 Postage Statement—Periodicals

The mailer must submit a Form 3541 for each edition of each issue of each publication prepared for deposit at each destination USPS facility, when the corresponding copies are presented to the DMU or the post office BMEU for verification. When required by the USPS, the mailer must submit consolidated postage statements and a postage statement register.

2.7 Postage Statement—Standard Mail

At the time mail is presented for verification, the mailer must submit an appropriate Form 3602 representing all the pieces from the mailing job and Form 3602–C (or postage statement register) for all PVDS verified at the mailer's DMU or the post office BMEU. The mailer must enter the required information on Form 3602–C for each PVDS to be deposited at each destination USPS facility, in lieu of providing a separate Form 3602 for each PVDS.

2.8 Postage Statement—Package Services

At the time mail is presented for verification, the mailer must submit an appropriate postage statement for each PVDS mailing destined for each destination USPS facility, When required by the USPS, the mailer must submit consolidated postage statements and a postage statement register.

2.9 Form 8125 and Form 8125–C

Form 8125 is used to report a single PVDS that the mailer will transport from origin to a destination USPS facility. Computer-generated Form 8125–C, (format available at www.usps.com), provides for reporting multiple PVDS mailings that are prepared by an individual mailer and that are cleared at origin on the same day for entry at a single destination USPS facility on the same vehicle. See 2.11. The mailer must submit a completed Form 8125 (signed and dated by the DMU or BMEU) for each PVDS, to the destination USPS facility. The form must be submitted in duplicate, or in triplicate if the mailer desires a signed and dated copy returned to its representative when depositing the mail at the destination USPS facility. Form 8125 is not required for PVDS sent via Express Mail or Priority Mail drop shipment.

2.10 Facsimile Forms 8125 and 8125–C

Facsimile Forms 8125 may be used in lieu of the USPS form. Formats must be approved in advance by the district manager of Business Mail Entry or designee. Formats must include all required information, including the correct title (preceded by the word ''facsimile'') and edition date, in locations as close as possible to where they appear on the USPS form. Data fields that do not pertain to information relating to the PVDS, and other extraneous information that appear on the USPS form, do not have to be included. Form 8125–C must always be computer-generated. Form 8125–C, may omit the ''Number of Pieces'' and ''Piece Weight'' columns for mailings prepared in sacks, trays, or on pallets if there is sufficient information for the origin post office and destination USPS facility to identify the mailings and to compare the information on the form, with the physical mail. The mailer must report the number of pieces in each mailing on Form 8125–C if the mailings consist of individual mailpieces that are not prepared in containers (e.g., bedloaded parcels). For mailings consisting of identical weight pieces, mailers should report the piece weight where possible.

2.11 Mailer Transport of PVDS

Using any means of transportation, including Express Mail or Priority Mail drop shipment, the mailer must transport PVDS mailings from origin to the destination USPS facility. The mailer must not transport PVDS mailings on the same vehicle with shipments not entered as PVDS. For Standard Mail and Package Services PVDS, the mailer must meet the scheduling standards for mail deposit at destination USPS facilities. If a vehicle contains mail paid at Parcel Select rates, the applicable standards for scheduling of deposits and unloading of vehicles apply to any other mail on the same vehicle for the same destination USPS facility. Any material classified as hazardous under C023 may not be carried in the same vehicle as PVDS mailings.

2.12 Separation of PVDS Mailings

When a vehicle contains more than one PVDS for a single destination USPS facility, the shipments must be

separated to allow reconciliation with each accompanying Form 8125. Vehicles containing shipments for multiple destination USPS facilities, must be kept physically separated. Where applicable, a single Form 8125 that identifies all the mail for a single facility must be prepared for a shipment of copalletized or combined mailings.

3.0 LIABILITY

The mailer assumes all responsibility and liability for any loss or damage to PVDS before they are deposited and accepted as mail at destination USPS facilities, including third party transportation.

4.0 STANDARD MAIL DOCUMENTATION

4.1 SAME DAY

All mailings or segments of the same job submitted for verification and release on the same day under PVDS must be reported on a single postage statement and Form 3602–C (or postage statement register), or on computer media under Multiple Entry Point Processing System (MEPPS).

4.2 Documentation

In addition to the documentation required in P012, the mailer must also submit the documentation below at the time the first mailing identified on Form 3602–C is presented for verification:

a. Form 3602–C, which serves as the postage statement register, along with the appropriate postage statement. All mailing volumes, weights, and postage for each rate category are entered on the postage statement and is used to debit the mailer's account for permit imprint mailings and to enter data on postage-affixed mailings.

b. A separate Form 8125 for each PVDS listed on Form 3602–C (or postage statement register). Each PVDS must be identified with a unique statement number (e.g., the date and a sequential three-digit suffix) on the Form 3602–C (or postage statement register) and the corresponding Form 8125, as appropriate.

c. A separate postage statement showing the mailing post office as the same office as post office of PVDS origin for any portion of a job accepted by the local verifying office under a standard plant load arrangement. Plant load mailings are not considered a PVDS, and are not reported on Forms 3602–C and 8125.

5.0 PACKAGE SERVICES PVDS OPTION

5.1 General Standards

Under this option, in addition to the individual postage statements required for each Package Services mailing, the mailer may be required to submit postage statement registers and consolidated postage statements for PVDS mailings. A single, unique USPS mailing number must be on all related individual postage statements and postage statement register listing these individual statements, and the associated consolidated postage statement. When a mailer is required to submit consolidated postage statements, the information on these statements is used to debit the mailer's account.

5.2 Individual Postage Statements

The mailer must produce and submit a complete postage statement for each mailing for each destination USPS facility when the mailing is presented for verification and postage payment. In addition to the information required on all individual postage statements, if the mailer is required to submit consolidated postage statements (for three or more entry post offices) for debiting of the advance deposit account, each individual postage statement must include a uniquely assigned postage statement sequence number that must not exceed nine digits. The numbers must be sequential within a job or mailing cycle for mailings verified, paid for, and cleared for dispatch on the same day. The statements must also include a unique USPS mailing number corresponding to the number on the related postage statement register and consolidated postage statement.

5.3 Postage Statement Register

A postage statement register is a computer-generated line item listing of all individual postage statements for PVDS permit imprint mailings verified and released for dispatch on a single day from a job or mailing cycle. All postage statements listed on a postage statement register, must be represented by a corresponding consolidated postage statement. The total postage charge on the postage statement register must be identical with the total postage charge on the corresponding consolidated statement. The following information must appear on each postage statement register:

a. At the top of the first page the endorsement ''Register of Postage Statements''; name and location of the mailing agent; date mailings are verified and cleared for dispatch; the permit imprint number; the unique USPS mailing number corresponding to the number on related postage statements; and the related consolidated statement.

b. Each line item must include (based on the individual postage statement on that line) the unique postage statement sequence number; destination USPS facility; and, for that statement, total postage, weight, and number of pieces.

c. The sum of the total postage charges must appear with total weight, and total pieces must be listed from each postage statement. The total postage charge on the register must match total postage charge on the related consolidated statement.

d. If necessary, manual corrections may be made to the postage statement register listing the data from any revised individual statement. These corrections must be documented by the DMU, and the corrected register must be signed and dated by both the mailer and the USPS representative approving the changes. The changes on the register must be reflected on the associated consolidated postage statement.

5.4 Submitting Register

The mailer must submit the postage statement register to the DMU before or when presenting the first individual mailing on the register to the DMU for verification and dispatch.

5.5 Consolidated Postage Statement

The consolidated postage statement assembles data from the individual postage statements representing permit imprint mailings verified, paid for, and released for dispatch on a single day from a job or mailing cycle. The consolidated statements are used to debit the mailer's account. The following information must be identical for each individual statement consolidated onto a single (consolidated) postage statement:

a. Mailing date.

b. Name and location of mailing agent.

c. Processing category.

d. Permit imprint number.

e. Job or mailing cycle description.

f. Unique USPS mailing number corresponding to the number on related individual postage statements.

5.6 Consolidated Postage Statement

The consolidated postage statement must be a computer-generated facsimile similar in format to the appropriate USPS postage statement. The mailer must sign and date the consolidated statement. Certain data elements not on the individual postage statements must be reflected on the consolidated statement, including the range of unique individual statement sequence numbers,

the number of individual statements represented, and the endorsement ''Consolidated Postage Statement.'' Other data elements on individual statements, such as each post office of deposit for PVDS mailings, are not shown on the consolidated statement. Each individual statement must contain a USPS mailing number that corresponds to the USPS mailing number on the related consolidated statement.

5.7 Calculating and Reporting Data

Each field on the consolidated postage statement represents the sum total of the figures in that field from the individual postage statements. The figures reported on the consolidated statement must be rounded in accordance with P013. All fields containing data on the individual statements must be rolled up to the consolidated statement. The total postage on the consolidated statement must be the sum of the total postage for all individual postage statements. This total is used to debit the mailer's account.

5.8 Submitting Statement

The mailer must submit the consolidated postage statement to the DMU at or before the time the last individual postage statement it represents is submitted to the DMU for the day's mailing.

P960 First-Class or Standard Mail Mailings With Different Payment Methods

* * * * *

3.0 PRODUCING THE COMBINED MAILING

3.1 Mailer Quality Control

Before merging different pieces into a combined presorted mailing, the mailer must have quality control procedures to ensure that:

* * * * *

[Amend item i to clarify which markings must appear on mailpieces:]

i. When markings are applied by an MLOCR, they properly show the applicable identifier/rate code described in 3.2 that specifies the product month designator, MASS/FASTforward system identifier, the method of postage payment, and the rate of postage affixed for metered and precanceled stamp mail or other postage information for permit imprint mail. These markings must be linked by the computer system to the rate entered by the mailer when the pieces are run through the MLOCR.

[Amend 3.2 to show how markings are applied to pieces in a combined mailing and to add new codes for First-Class Mail and Standard Mail:]

3.2 Rate and Postage Marking

The following markings must be applied to each piece in the mailing when markings are applied by an MLOCR. These seven-character markings provide the automation rate marking information and additional information including the product month designator, MASS/FASTforward (FF) system identifier, manufacturer code, and rate marking information. The product month designator is the first character position and represents the product month of the ZIP+4 file installed with the system's lookup engine responsible for the ZIP+4 assignment. Each product month is designated by a character ''A'' through ''L'' (with ''A'' meaning January, ''B'' meaning February, etc.). The MASS/FF System Identifier is characters 2 through 4 and represents the certified system identifier responsible for the ZIP+4 assignment. There is a one-to-one relationship between the certified system serial number and the assigned identifier. The manufacturer code is the fifth character and is assigned at the manufacturer's discretion with one exception: the character ''Z'' is assigned when the mailpiece contains a delivery point barcode in the address block and the MLOCR does not perform a lookup but simply reproduces the address block barcode. The rate marking is represented in the last two characters according to the chart below. The applicable marking must appear on each mailpiece in one of the locations authorized under M012.

a. First-Class Mail.

Rate marking		Rate and postage category
Letters	Flats	
P1	F1	Barcoded 1-ounce Permit Imprint.
P2	F2	Barcoded 2-ounce Permit Imprint.
P3	F3	Barcoded 3-ounce Permit Imprint.
P4	F4	Barcoded 4-ounce Permit Imprint.
	F5	Barcoded 5-ounce Permit Imprint.
	F6	Barcoded 6-ounce Permit Imprint.
	F7	Barcoded 7-ounce Permit Imprint.
	F8	Barcoded 8-ounce Permit Imprint.
	F9	Barcoded 9-ounce Permit Imprint.
	FA	Barcoded 10-ounce Permit Imprint.
	FB	Barcoded 11-ounce Permit Imprint.
	FC	Barcoded 12-ounce Permit Imprint.
	FD	Barcoded 13-ounce Permit Imprint.
M5	MF	Barcoded 5-Digit Meter Postage Affixed.
M3	MT	Barcoded 3-Digit Meter Postage Affixed.
MA	MD	Barcoded AADC Meter Postage Affixed.
MM	MX	Barcoded Mixed AADC Meter Postage Affixed.
MP	MP	Presorted Meter Postage Affixed.
S1		Precanceled $0.15 Stamp Affixed (card)
S1		Precanceled $0.23 Stamp Affixed.
S2		Precanceled $0.25 Stamp Affixed.

b. Standard Mail (letters only).

Rate marking	Rate and postage category
PI	Barcoded Regular Permit Imprint.
NI	Barcoded Nonprofit Permit Imprint.
M5	Barcoded 5-Digit Meter Regular Postage Affixed.
N5	Barcoded 5-Digit Meter Nonprofit Postage Affixed.
M3	Barcoded 3-Digit Meter Regular Postage Affixed.
N3	Barcoded 3-Digit Meter Nonprofit Postage Affixed.
MA	Barcoded AADC Meter Regular Postage Affixed.
NA	Barcoded AADC Meter Nonprofit Postage Affixed.
MM	Barcoded Mixed AADC Meter Regular Postage Affixed.
NM	Barcoded Mixed AADC Meter Nonprofit Postage Affixed.
M8	Presorted 3/5 Meter Regular Postage Affixed.
N8	Presorted 3/5 Meter Nonprofit Postage Affixed.
M9	Presorted Basic Meter Regular Postage Affixed.
N9	Presorted Basic Meter Nonprofit Postage Affixed.
SR	Precanceled Regular Rate Stamp Affixed.
SN	Precanceled Nonprofit Stamp Affixed.

* * * * *

S Special Services

S000 Miscellaneous Services

S010 Indemnity Claims

* * * * *

2.0 GENERAL FILING INSTRUCTIONS

* * * * *

2.12 Payable Express Mail Claims

[Amend items 2.12a, 2.12a(4), and 2.12b, by replacing $500 with $100. No other changes to text.]

* * * * *

S020 Money Orders and Other Services

1.0 ISSUING MONEY ORDERS

* * * * *

1.2 Purchase Restrictions

A postal customer may buy multiple money orders at the same time, in the same or differing amounts, subject to these restrictions:

[Amend item 1.2a by increasing the maximum amount of a single money order from $700 to $1,000 to read as follows:]

a. The maximum amount of any single money order is $1,000.

* * * * *

S500 Special Services for Express Mail

1.0 AVAILABLE SERVICES

* * * * *

1.5 Insurance and Indemnity

Express Mail is insured against loss, damage, or rifling, subject to these standards:

* * * * *

[Amend item 1.5c by changing ''$500'' to ''$100'' to read as follows:]

c. Merchandise insurance coverage is provided against loss, damage, or rifling and is limited to a maximum liability of $100. (Additional insurance under 1.6 may be purchased up to a maximum coverage of $5,000 for merchandise valued at more than $100.) Nonnegotiable documents are insured against loss, damage, or rifling, up to $100 per piece, subject to the maximum limit per occurrence as defined in S010.

* * * * *

1.6 Additional Insurance

[Amend the first sentence of 1.6 by replacing ''$500'' with ''$100'' to read as follows:]

Additional insurance, up to a maximum coverage of $5,000, may be purchased for merchandise valued at more than $100 sent by Express Mail. * * *

* * * * *

S900 Special Postal Services

S910 Security and Accountability

S911 Registered Mail

1.0 BASIC INFORMATION

1.1 Description

[Add the following sentence at the end of 1.1 to read as follows:]

* * * Delivery status information for a registered mail item can be determined via the Internet at www.usps.com by entering the article number shown on the mailing receipt.

* * * * *

S912 Certified Mail

1.0 BASIC INFORMATION

1.1 Description

[Add the following sentence after the first sentence in 1.1. The remainder of the text is unchanged.]

* * * Delivery status information for a certified mail item can be determined via the Internet at www.usps.com by entering the article number shown on the mailing receipt. * * *

* * * * *

S918 Delivery Confirmation

1.0 BASIC INFORMATION

* * * * *

1.2 Eligible Matter

[Amend 1.2 by adding First-Class Mail parcels and limiting Package Services to parcels to read as follows:]

Delivery Confirmation service is available for First-Class Mail parcels, Priority Mail items, Standard Mail pieces subject to the residual shape surcharge (electronic option only), and Package Services parcels. For the purposes of adding Delivery Confirmation service, a First-Class Mail or Package Services parcel must meet the definition in C100.5.0 or C700.1.0h, as appropriate.

* * * * *

S919 Signature Confirmation

1.0 BASIC INFORMATION

* * * * *

1.2 Eligible Matter

[Amend 1.2 by adding First-Class Mail parcels and limiting Package Services to parcels to read as follows:]

Signature Confirmation is available for First-Class Mail parcels, Priority Mail items, and Package Services parcels. For the purposes of adding Signature Confirmation service, a First-Class Mail or Package Services parcel must meet the definition in C100.5.0 or C700.1.0h, as appropriate.

* * * * *

S922 Business Reply Mail (BRM)

* * * * *

3.0 POSTAGE, PER PIECE CHARGES, AND ACCOUNTING FEES

3.1 Postage

[Amend 3.1 by changing ''5 pounds'' to ''1 pound.'' No other changes to text.]

* * * * *

The adopted rates and fees for the R Module follow:

BILLING CODE 7710–12–P

R000 Stamps and Stationery

1.0 PLAIN STAMPED ENVELOPES (P021)

Fee, in addition to the postage value preprinted on the envelope:

Type	Fee	
	Each	500
Size 6-3/4	$0.08	$12.00
Size 10	0.08	14.00

2.0 PERSONALIZED STAMPED ENVELOPES (P021)

Fee, in addition to the postage value preprinted on the envelope:

Type	Fee	
	50	500
Size 6-3/4	$3.50	$17.00
Size 10	3.50	20.00

3.0 STAMPED CARDS (P021)

Fee, in addition to the postage value preprinted on the card:

Type	Fee
Single card	$0.02
Double card	0.04
Sheet of 40 cards (uncut)	0.80

R000.4.0 Stamps and Stationery

4.0 POSTAGE STAMPS

Postage stamps are available in the following denominations:

Form Per Purpose	Denomination
Regular Postage	
Panes of up to 100	$0.01, .02, .03, .04, .05, .08, .09, .10, .14, .15, .17, .19, .20, .21, .22, .23, .25, .29, .30, .32, .33, .34, .35, .39, .40, .45, .46, .48, .50, .52, .55, .57, .60, .65, .75, .76, .77, .78, .80, .83, $1, $2, $3.85, $5, $13.65
Booklets	$0.23 ($2.30 booklet) $0.37 ($3.70 and $7.40 booklets)
Coils of 100	$.21, .22, .23, .34, .37
Coils of 3,000	$0.01, .02, .03, .05, .10, .34, .37
Coils of 10,000	$0.01, .02, .03, .05, .10, .34, .37
Precanceled Presorted Rate Postage—First-Class Mail and Standard Mail	
Coils of 500, 3,000, and 10,000	Various nondenominated (available only to permit holders)
Commemorative	
Panes of up to 50	$0.37 and other denominations
20-Stamp Booklets	$0.37 ($7.40 booklets)
Semipostal	
Breast Cancer Research Panes of up to 20	Purchase price of $0.45; postage value equivalent to First-Class Mail nonautomation single-piece rate ($0.37); remainder is contribution to fund breast cancer research.
Heroes of 2001 Panes of up to 20	Purchase price of $0.45; postage value equivalent to First-Class Mail nonautomation single-piece rate ($0.37); remainder is contribution to provide assistance to the families of emergency relief personnel killed or permanently disabled in connection with the terrorist attacks of September 11, 2001.

R100 First-Class Mail

1.0 NONAUTOMATION—SINGLE PIECE

Cards 1.1 Cards meeting the standards in C100: $0.23 each.

Letters, Flats, and Parcels 1.2 Letters, flats, and parcels; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	$0.37
Each additional ounce or fraction	0.23

2.0 NONAUTOMATION—PRESORTED

Cards 2.1 Cards meeting the standards in C100: $0.212 each.

Letters, Flats, and Parcels 2.2 Letters, flats, and parcels; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.352
(For pieces weighing more than 2 ounces)	0.311
Each additional ounce or fraction	0.225

3.0 QUALIFIED BUSINESS REPLY MAIL

Cards 3.1 Cards meeting the standards in E150 and S922, in addition to the fees in R900: $0.200 each.

Letters 3.2 Letter-size single pieces meeting the standards in E150 and S922. See also the fees for QBRM in R900:

Weight Increment	Rate
First ounce or fraction of an ounce	$0.340
Second ounce or fraction	0.230

4.0 AUTOMATION—MIXED AADC & MIXED ADC

Cards 4.1 Cards meeting the standards in C100: $0.194 each.

Letters 4.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.309
(For pieces weighing more than 2 ounces)	0.268
Each additional ounce or fraction	0.225

Flats 4.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.341
(For pieces weighing more than 2 ounces)	0.300
Each additional ounce or fraction	0.225

5.0 AUTOMATION—AADC & ADC

Cards 5.1 Cards meeting the standards in C100: $0.187 each.

Letters 5.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.301
(For pieces weighing more than 2 ounces)	0.260
Each additional ounce or fraction	0.225

Flats 5.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.333
(For pieces weighing more than 2 ounces)	0.292
Each additional ounce or fraction	0.225

6.0 AUTOMATION—3-DIGIT

Cards 6.1 Cards meeting the standards in C100: $0.183 each.

Letters 6.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.292
(For pieces weighing more than 2 ounces)	0.251
Each additional ounce or fraction	0.225

Flats 6.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.322
(For pieces weighing more than 2 ounces)	0.281
Each additional ounce or fraction	0.225

7.0 AUTOMATION—5-DIGIT

Cards 7.1 Cards meeting the standards in C100: $0.176 each.

Letters 7.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.278
(For pieces weighing more than 2 ounces)	0.237
Each additional ounce or fraction	0.225

Flats 7.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.302
(For pieces weighing more than 2 ounces)	0.261
Each additional ounce or fraction	0.225

8.0 AUTOMATION—CARRIER ROUTE

Cards 8.1 Cards meeting the standards in C100: $0.170 each.

Letters 8.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.275
(For pieces weighing more than 2 ounces)	0.234
Each additional ounce or fraction	0.225

Summary—Single-Piece and Presorted 8.3

Weight Not Over (ounces)	Single-Piece	Presorted
Letters, Flats, and Parcels		
1[1]	$0.370	$0.352
2	0.600	0.577
3[2]	0.830	0.761
4	1.060	0.986
5	1.290	1.211
6	1.520	1.436
7	1.750	1.661
8	1.980	1.886
9	2.210	2.111
10	2.440	2.336
11	2.670	2.561
12	2.900	2.786
13	3.130	3.011
Cards[3]	0.230	0.212

1. Nonmachinable surcharge in 11.0 might apply to pieces that weigh 1 ounce or less: single-piece $0.12; presorted $0.055.
2. Presorted rates for pieces weighing over 2 ounces reflect a discount of $0.041 per piece.
3. Rates shown apply to each single or double postcard when originally mailed; reply half of double postcard must bear postage at applicable rate when returned unless prepared as business reply mail.

Summary—Automation 8.4

Weight Not Over (ounces)	Letters[1]					Flats[2]			
	Mixed AADC	AADC	3-Digit	5-Digit	Carrier Route	Mixed ADC	ADC	3-Digit	5-Digit
Letters, Flats, and Parcels									
1	$0.309	$0.301	$0.292	$0.278	$0.275	$0.341	$0.333	$0.322	$0.302
2	0.534	0.526	0.517	0.503	0.500	0.566	0.558	0.547	0.527
3[3]	0.718	0.710	0.701	0.687	0.684	0.750	0.742	0.731	0.711
4	0.943	0.935	0.926	0.912	0.909	0.975	0.967	0.956	0.936
5	—	—	—	—	—	1.200	1.192	1.181	1.161
6	—	—	—	—	—	1.425	1.417	1.406	1.386
7	—	—	—	—	—	1.650	1.642	1.631	1.611
8	—	—	—	—	—	1.875	1.867	1.856	1.836
9	—	—	—	—	—	2.100	2.092	2.081	2.061
10	—	—	—	—	—	2.325	2.317	2.306	2.286
11	—	—	—	—	—	2.550	2.542	2.531	2.511
12	—	—	—	—	—	2.775	2.767	2.756	2.736
13	—	—	—	—	—	3.000	2.992	2.981	2.961
Cards[4]	0.194	0.187	0.183	0.176	0.170	—	—	—	—

1. Weight cannot exceed 3.3 ounces.
2. Nonmachinable surcharge in 11.0 might apply to pieces that weigh 1 ounce or less: $0.055 per piece.
3. Automation rates for pieces weighing over 2 ounces reflect a discount of $0.041 per piece.
4. Rates shown apply to each single or double postcard when originally mailed; reply half of double postcard must bear postage at applicable rate when returned unless prepared as business reply mail.

9.0 PRIORITY MAIL

Parcels that weigh less than 15 pounds but measure more than 84 inches in combined length and girth are charged the applicable rate for a 15-pound parcel.

The 1-pound rate is charged for matter sent in a Priority Mail flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

Weight Not Over (pounds)	Zones Local, 1, 2, & 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.85	$3.85	$3.85	$3.85	$3.85	$3.85
2	3.95	4.55	4.90	5.05	5.40	5.75
3	4.75	6.05	6.85	7.15	7.85	8.55
4	5.30	7.05	8.05	8.50	9.45	10.35
5	5.85	8.00	9.30	9.85	11.00	12.15
6	6.30	8.85	9.90	10.05	11.30	12.30
7	6.80	9.80	10.65	11.00	12.55	14.05
8	7.35	10.75	11.45	11.95	13.80	15.75
9	7.90	11.70	12.20	12.90	15.05	17.50
10	8.40	12.60	13.00	14.00	16.30	19.20
11	8.95	13.35	13.75	15.15	17.55	20.90
12	9.50	14.05	14.50	16.30	18.80	22.65
13	10.00	14.75	15.30	17.50	20.05	24.35
14	10.55	15.45	16.05	18.60	21.25	26.05
15	11.05	16.20	16.85	19.75	22.50	27.80
16	11.60	16.90	17.60	20.85	23.75	29.50
17	12.15	17.60	18.35	22.05	25.00	31.20
18	12.65	18.30	19.30	23.15	26.25	32.95
19	13.20	19.00	20.20	24.30	27.50	34.65
20	13.75	19.75	21.15	25.35	28.75	36.40
21	14.25	20.45	22.05	26.55	30.00	38.10
22	14.80	21.15	22.95	27.65	31.20	39.80
23	15.30	21.85	23.90	28.80	32.45	41.55
24	15.85	22.55	24.85	29.90	33.70	43.25
25	16.40	23.30	25.75	31.10	34.95	44.95
26	16.90	24.00	26.60	32.25	36.20	46.70
27	17.45	24.70	27.55	33.35	37.45	48.40
28	18.00	25.40	28.50	34.50	38.70	50.15
29	18.50	26.15	29.45	35.60	39.95	51.85
30	19.05	26.85	30.35	36.80	41.20	53.55
31	19.55	27.55	31.20	37.85	42.40	55.30
32	20.10	28.25	32.15	39.00	43.65	57.00
33	20.65	28.95	33.10	40.10	44.90	58.70
34	21.15	29.70	34.00	41.25	46.15	60.45
35	21.70	30.40	34.95	42.40	47.40	62.15
36	$22.25	$31.10	$35.85	$43.55	$48.65	$63.85
37	22.75	31.95	36.80	44.65	49.90	65.60
38	23.30	32.65	37.70	45.85	51.15	67.30
39	23.75	33.50	38.65	47.00	52.40	69.05
40	24.25	34.30	39.60	48.10	53.60	70.75
41	24.70	35.00	40.45	49.25	54.85	72.45
42	25.20	35.85	41.35	50.30	56.15	74.20
43	25.65	36.60	42.30	51.50	57.40	75.90
44	26.15	37.40	43.25	52.60	58.70	77.60
45	26.60	38.20	44.15	53.75	59.95	79.35
46	27.10	39.00	45.05	54.85	61.20	81.05
47	27.55	39.75	46.00	56.05	62.50	82.75
48	28.05	40.60	46.95	57.20	63.75	84.50
49	28.50	41.35	47.80	58.30	65.05	86.20
50	28.95	42.15	48.75	59.45	66.30	87.95
51	29.45	42.95	49.65	60.55	67.55	89.65
52	29.90	43.75	50.60	61.75	68.80	91.35
53	30.40	44.50	51.50	62.85	70.05	93.10
54	30.85	45.25	52.45	63.95	71.30	94.80
55	31.35	46.10	53.40	65.05	72.50	96.50
56	31.80	46.85	54.25	66.25	73.75	98.25
57	32.30	47.65	55.15	67.35	75.00	99.95
58	32.75	48.45	56.10	68.50	76.25	101.65
59	33.25	49.25	57.05	69.60	77.50	103.40
60	33.70	50.00	58.00	70.80	78.75	105.10
61	34.20	50.85	58.85	71.95	80.00	106.85
62	34.65	51.55	59.80	73.05	81.25	108.55
63	35.15	52.40	60.75	74.20	82.50	110.25
64	35.60	53.20	61.70	75.35	83.70	112.00
65	36.10	53.90	62.50	76.45	84.95	113.70
66	36.55	54.75	63.45	77.55	86.20	115.40
67	37.05	55.60	64.40	78.70	87.45	117.15
68	37.50	56.30	65.35	79.80	88.70	118.85
69	38.00	57.10	66.25	81.00	89.95	120.55
70	38.45	57.95	67.15	82.10	91.20	122.30

10.0 KEYS AND IDENTIFICATION DEVICES

Weight Not Over (ounces)	Rate[1]
1[2]	$0.97
2	1.20
3	1.43
4	1.66
5	1.89
6	2.12
7	2.35
8	2.58
9	2.81
10	3.04
11	3.27
12	3.50
13	3.73
1 pound	4.45
2 pounds	5.15[3]

1. Includes $0.60 fee.
2. Nonmachinable surcharge in 11.0 might apply.
3. Zone 4 postage charged for all pieces. See E120.2.4.

11.0 NONMACHINABLE SURCHARGES

Surcharge per piece (see C050.2.2, E130, and E140):

a. Single-piece rate: $0.12.

b. Presorted and automation rate: $0.055.

12.0 FEES

Presort Mailing Fee
12.1 Presort mailing fee, per 12-month period, per office of mailing: $150.00.

Pickup Fee
12.2 Priority Mail only, per occurrence: $12.50.
May be combined with Express Mail and Package Services pickups (see D010).

R200 Periodicals

1.0 OUTSIDE-COUNTY—EXCLUDING SCIENCE-OF-AGRICULTURE

Pound Rates 1.1 Per pound or fraction:

a. For the nonadvertising portion: $0.193.

b. For the advertising portion:

Zone	Rate
DDU	$0.158
DSCF	0.203
DADC	0.223
1 & 2	0.248
3	0.267
4	0.315
5	0.389
6	0.466
7	0.559
8	0.638

Piece Rates 1.2 Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.373	$0.281	$0.325
3-Digit	0.324	0.249	0.283
5-Digit	0.256	0.195	0.226
Carrier Route			
Basic	0.163	—	—
High Density	0.131	—	—
Saturation	0.112	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discounts 1.3 Discounts for each addressed piece:

a. Nonadvertising content, for each 1% of nonadvertising: $0.00074.

b. Destination delivery unit: $0.018.

c. Destination SCF: $0.008.

d. Destination ADC: $0.002.

e. Destination entry pallet: $0.015.

f. Pallet (for other than 1.3e): $0.005.

Nonprofit 1.4 Authorized nonprofit mailers receive a discount of 5% off the total Outside-County postage excluding the postage for advertising pounds. The 5% discount does not apply to commingled nonsubscriber copies in excess of the 10% allowance provided under E215.

Classroom 1.5 Authorized Classroom mailers receive a discount of 5% off the total Outside-County postage excluding the postage for advertising pounds. The 5% discount does not apply to commingled nonsubscriber copies in excess of the 10% allowance provided under E215.

2.0 OUTSIDE-COUNTY—SCIENCE-OF-AGRICULTURE

Pound Rates 2.1 Per pound or fraction:

a. For the nonadvertising portion: $0.193.

b. For the advertising portion:

Zone	Rate
DDU	$0.119
DSCF	0.152
DADC	0.167
1 & 2	0.186
3	0.267
4	0.315
5	0.389
6	0.466
7	0.559
8	0.638

Piece Rates 2.2 Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.373	$0.281	$0.325
3-Digit	0.324	0.249	0.283
5-Digit	0.256	0.195	0.226
Carrier Route			
Basic	0.163	—	—
High Density	0.131	—	—
Saturation	0.112	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discounts 2.3 Discounts for each addressed piece:

a. Nonadvertising content, for each 1% of nonadvertising: $0.00074.

b. Destination delivery unit: $0.018.

c. Destination SCF: $0.008.

d. Destination ADC: $0.002.

e. Destination entry pallet: $0.015.

f. Pallet (for other than 2.3e): $0.005.

3.0 IN-COUNTY

Pound Rates 3.1

Per pound or fraction:

Zone	Rate
DDU	$0.112
None	0.146

Piece Rates 3.2

Per addressed piece:

Presort Level	Nonautomation	Automation[1] Letter-Size	Automation[1] Flat-Size
Basic	$0.106	$0.050	$0.077
3-Digit	0.097	0.048	0.073
5-Digit	0.087	0.046	0.067
Carrier Route			
Basic	0.050	—	—
High Density	0.034	—	—
Saturation	0.028	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discount 3.3

Destination delivery unit discount for each addressed piece: $0.006.

4.0 RIDE-ALONG RATE (E260)

Rate per ride-along piece: $0.124.

5.0 FEES

Per application:

a. Original entry: $375.00.

b. News agent registry: $40.00.

c. Additional entry: $60.00.

d. Reentry: $40.00.

R500 Express Mail

1.0 EXPRESS MAIL—ALL SERVICE LEVELS

The 1/2-pound rate is charged for matter sent in an Express Mail flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

Weight Not Over (pounds)	Service[1]			Weight Not Over (pounds)	Service[1]		
	Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee		Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee
1/2	$10.70	$10.40	$13.65	36	$73.75	$73.45	$76.70
1	14.90	14.60	17.85	37	75.40	75.10	78.35
2	14.90	14.60	17.85	38	77.20	76.90	80.15
3	18.10	17.80	21.05	39	78.95	78.65	81.90
4	21.25	20.95	24.20	40	80.75	80.45	83.70
5	24.35	24.05	27.30	41	82.55	82.25	85.50
6	27.45	27.15	30.40	42	84.40	84.10	87.35
7	30.50	30.20	33.45	43	86.10	85.80	89.05
8	31.80	31.50	34.75	44	87.85	87.55	90.80
9	33.25	32.95	36.20	45	89.45	89.15	92.40
10	34.55	34.25	37.50	46	90.80	90.50	93.75
11	36.25	35.95	39.20	47	92.45	92.15	95.40
12	38.90	38.60	41.85	48	93.90	93.60	96.85
13	40.80	40.50	43.75	49	95.30	95.00	98.25
14	41.85	41.55	44.80	50	96.80	96.50	99.75
15	43.15	42.85	46.10	51	98.40	98.10	101.35
16	44.70	44.40	47.65	52	99.80	99.50	102.75
17	46.20	45.90	49.15	53	101.35	101.05	104.30
18	47.60	47.30	50.55	54	102.80	102.50	105.75
19	49.05	48.75	52.00	55	104.30	104.00	107.25
20	50.50	50.20	53.45	56	105.85	105.55	108.80
21	51.95	51.65	54.90	57	107.30	107.00	110.25
22	53.40	53.10	56.35	58	108.85	108.55	111.80
23	54.90	54.60	57.85	59	110.45	110.15	113.40
24	56.30	56.00	59.25	60	112.20	111.90	115.15
25	57.70	57.40	60.65	61	114.10	113.80	117.05
26	59.20	58.90	62.15	62	115.85	115.55	118.80
27	60.60	60.30	63.55	63	117.55	117.25	120.50
28	62.10	61.80	65.05	64	119.50	119.20	122.45
29	63.55	63.25	66.50	65	121.20	120.90	124.15
30	65.00	64.70	67.95	66	123.10	122.80	126.05
31	66.45	66.15	69.40	67	124.80	124.50	127.75
32	67.95	67.65	70.90	68	126.70	126.40	129.65
33	69.30	69.00	72.25	69	128.45	128.15	131.40
34	70.85	70.55	73.80	70	130.25	129.95	133.20
35	72.20	71.90	75.15				

1. Same Day Airport service is currently suspended.

2.0 FEES

Pickup Fee
2.1

Per occurrence: $12.50.

May be combined with Priority Mail and Package Services pickups (see D010).

Fee for Delivery Stops
2.2

Custom Designed Service only, each: $12.50.

R600 Standard Mail

1.0 REGULAR STANDARD MAIL

Letters—3.3 oz. or Less
1.1

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1]		Automation[2]			
Destination Entry	**Basic**	**3/5**	**Mixed AADC**	**AADC**	**3-Digit**	**5-Digit**
None	$0.268	$0.248	$0.219	$0.212	$0.203	$0.190
DBMC	0.247	0.227	0.198	0.191	0.182	0.169
DSCF	0.242	0.222	—	0.186	0.177	0.164

1. Nonmachinable letters are subject to a $0.04 nonmachinable surcharge.
2. See 1.3 for automation letters weighing over 3.3 ounces.

Nonletters—3.3 oz. or Less
1.2

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1,2]		Automation	
Destination Entry	**Basic**	**3/5**	**Basic**	**3/5**
None	$0.344	$0.288	$0.300	$0.261
DBMC	0.323	0.267	0.279	0.240
DSCF	0.318	0.262	0.274	0.235

1. The residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620).

Letters and Nonletters—More Than 3.3 oz.
1.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate.

	Presorted[1,2]		Automation[3]	
Piece/Pound Rate	**Basic**	**3/5**	**Basic**	**3/5**
Per Piece	$0.198	$0.142	$0.154	$0.115
PLUS	PLUS	PLUS	PLUS	PLUS
Per Pound				
None	$0.708	$0.708	$0.708	$0.708
DBMC	0.608	0.608	0.608	0.608
DSCF	0.583	0.583	0.583	0.583

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620).
3. Automation letters weighing up to 3.5 ounces (inclusive) receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

2.0 ENHANCED CARRIER ROUTE STANDARD MAIL

Letters—3.3 oz. or Less
2.1

For pieces 3.3 ounces (0.2063 pound) or less:

Destination Entry	Basic	High Density[1]	Saturation[1]	Automation Basic[2]
None	$0.194	$0.164	$0.152	$0.171
DBMC	0.173	0.143	0.131	0.150
DSCF	0.168	0.138	0.126	0.145
DDU	0.162	0.132	0.120	0.139

1. See 2.3 for letters weighing over 3.3 ounces.
2. Pieces weighing up to 3.5 ounces (inclusive) are charged basic piece/pound postage (see 2.3) minus a discount that equals the basic nonletter piece rate (3.3 oz. or less) minus the automation basic letter piece rate (3.3 oz. or less).

Nonletters—3.3 oz. or Less
2.2

For pieces 3.3 ounces (0.2063 pound) or less. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Destination Entry	Basic	High Density	Saturation
None	$0.194	$0.169	$0.160
DBMC	0.173	0.148	0.139
DSCF	0.168	0.143	0.134
DDU	0.162	0.137	0.128

Letters and Nonletters—More Than 3.3 oz.
2.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Piece/Pound Rate	Basic	High Density[1]	Saturation[1]
Per Piece	$0.068	$0.043	$0.034
PLUS	PLUS	PLUS	PLUS
Per Pound			
None	$0.610	$0.610	$0.610
DBMC	0.510	0.510	0.510
DSCF	0.485	0.485	0.485
DDU	0.453	0.453	0.453

1. Letter-rate pieces weighing up to 3.5 ounces (inclusive) receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

3.0 NONPROFIT STANDARD MAIL

Letters—3.3 oz. or Less
3.1

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1]		Automation[2]			
Destination Entry	**Basic**	**3/5**	**Mixed AADC**	**AADC**	**3-Digit**	**5-Digit**
None	$0.165	$0.153	$0.144	$0.136	$0.129	$0.114
DBMC	0.144	0.132	0.123	0.115	0.108	0.093
DSCF	0.139	0.127	—	0.110	0.103	0.088

1. Nonmachinable letters are subject to a $0.02 nonmachinable surcharge.
2. See 1.3 for automation letters weighing over 3.3 ounces.

Nonletters—3.3 oz. or Less
3.2

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1,2]		Automation	
Destination Entry	**Basic**	**3/5**	**Basic**	**3/5**
None	$0.230	$0.183	$0.189	$0.166
DBMC	0.209	0.162	0.168	0.145
DSCF	0.204	0.157	0.163	0.140

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620).

Letters and Nonletters—More Than 3.3 oz.
3.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate.

	Presorted[1,2]		Automation[3]	
Piece/Pound Rate	**Basic**	**3/5**	**Basic**	**3/5**
Per Piece	$0.110	$0.063	$0.069	$0.046
PLUS	PLUS	PLUS	PLUS	PLUS
Per Pound				
None	$0.584	$0.584	$0.584	$0.584
DBMC	0.484	0.484	0.484	0.484
DSCF	0.459	0.459	0.459	0.459

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620).
3. Automation letters weighing up to 3.5 ounces (inclusive) receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter rate (3.3 oz. or less).

4.0 NONPROFIT ENHANCED CARRIER ROUTE STANDARD MAIL

Letters—3.3 oz. or Less 4.1

For pieces 3.3 ounces (0.2063 pound) or less:

Destination Entry	Basic	High Density[1]	Saturation[1]	Automation Basic[2]
None	$0.126	$0.102	$0.095	$0.111
DBMC	0.105	0.081	0.074	0.090
DSCF	0.100	0.076	0.069	0.085
DDU	0.094	0.070	0.063	0.079

1. See 4.3 for letters weighing over 3.3 ounces.
2. Pieces weighing up to 3.5 ounces (inclusive) are charged basic piece/pound postage (see 2.3) minus a discount that equals the basic nonletter piece rate (3.3 oz. or less) minus the automation basic letter piece rate (3.3 oz. or less).

Nonletters 3.3 oz. or Less 4.2

For pieces 3.3 ounces (0.2063 pound) or less. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Destination Entry	Basic	High Density	Saturation
None	$0.126	$0.110	$0.104
DBMC	0.105	0.089	0.083
DSCF	0.100	0.084	0.078
DDU	0.094	0.078	0.072

Letters and Nonletters—More Than 3.3 oz. 4.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Piece/Pound Rate	Basic	High Density[1]	Saturation[1]
Per Piece	$0.050	$0.034	$0.028
PLUS	PLUS	PLUS	PLUS
Per Pound			
None	$0.370	$0.370	$0.370
DBMC	0.270	0.270	0.270
DSCF	0.245	0.245	0.245
DDU	0.213	0.213	0.213

1. Letter-rate pieces that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

5.0 NONMACHINABLE SURCHARGE

Surcharge per piece:

a. Presorted Regular: $0.04.

b. Presorted Nonprofit: $0.02.

6.0 RESIDUAL SHAPE SURCHARGE

Surcharge per piece for items that are prepared as a parcel or are not letter-size or flat-size:

a. Presorted Regular and Nonprofit: $0.23.

b. Enhanced Carrier Route and Nonprofit Enhanced Carrier Route: $0.20.

7.0 BARCODED DISCOUNT

Deduct $0.03 per piece for machinable parcels with a barcode.

8.0 FEES

Mailing Fee
8.1

Mailing fee, per 12-month period: $150.00.

Weighted Fee
8.2

For return of pieces bearing the ancillary service markings "Address Service Requested" and "Forwarding Service Requested."

Single-Piece Weight Not Over (ounces)	**Weighted Fee per Piece**[1]
Card rate	$0.57
1	0.92
2	1.49
3	2.06
4	2.63
5	3.19
6	3.76
7	4.33
8	4.90
9	5.47
10	6.04
11	6.61
12	7.17
13	7.74
Over 13 but under 16	9.52

1. Weighted fee equals single-piece First-Class Mail or Priority Mail rate multiplied by 2.472 (see F010). Nonmachinable surcharge may apply.

R700 Package Services

1.0 PARCEL POST

Inter-BMC/ASF Machinable Parcel Post

1.1 For barcoded discount, deduct $0.03 per parcel (50-piece minimum). For OBMC Presort discount, deduct $1.17 per parcel. For BMC Presort discount, deduct $0.28 per parcel.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate for a nonmachinable parcel in 1.2.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.69	$3.75	$3.75	$3.75	$3.75	$3.75	$3.75
2	3.85	3.85	4.14	4.14	4.49	4.49	4.49
3	4.65	4.65	5.55	5.65	5.71	5.77	6.32
4	4.86	5.20	6.29	6.93	7.14	7.20	7.87
5	5.03	5.71	6.94	7.75	8.58	8.64	9.43
6	5.63	6.01	7.44	8.50	9.52	9.90	11.49
7	5.80	6.28	7.91	9.20	10.35	11.39	12.83
8	5.98	6.53	8.30	9.84	11.11	12.54	15.04
9	6.11	6.76	8.74	10.45	11.83	13.38	17.04
10	6.28	7.57	9.10	11.01	12.50	14.17	18.14
11	6.41	7.80	9.47	11.54	13.13	14.92	19.15
12	6.54	8.01	9.80	12.04	13.72	15.62	20.10
13	6.67	8.19	10.12	12.51	14.28	16.27	20.99
14	6.80	8.42	10.43	12.95	14.81	16.90	21.84
15	6.92	8.61	10.73	13.38	15.31	17.49	22.64
16	7.02	8.79	11.00	13.78	15.79	18.05	23.41
17	7.15	8.94	11.28	14.16	16.24	18.59	24.13
18	7.25	9.11	11.52	14.52	16.68	19.09	24.82
19	7.37	9.28	11.77	14.87	17.09	19.58	25.48
20	7.46	9.43	11.98	15.20	17.48	20.05	26.12
21	7.57	9.59	12.20	15.52	17.86	20.49	26.72
22	7.66	9.72	12.42	15.82	18.22	20.92	27.30
23	7.76	9.89	12.65	16.11	18.57	21.32	27.85
24	7.83	10.01	12.83	16.39	18.90	21.72	28.39
25	7.93	10.14	13.03	16.66	19.22	22.09	28.90
26	8.01	10.27	13.21	16.92	19.53	22.46	29.39
27	8.11	10.40	13.38	17.17	19.83	22.81	29.87
28	8.18	10.52	13.58	17.41	20.11	23.14	30.32
29	8.27	10.65	13.75	17.64	20.39	23.47	30.76
30	8.35	10.76	13.90	17.87	20.65	23.78	31.19
31	8.44	10.86	14.06	18.08	20.91	24.08	31.60
32	8.50	10.99	14.22	18.29	21.16	24.37	32.00
33	8.58	11.10	14.38	18.49	21.40	24.65	32.38
34	8.66	11.18	14.51	18.69	21.63	24.93	32.75
35	8.74	11.30	14.66	18.88	21.85	25.19	33.11

For parcels that weigh more than 35 pounds, see 1.2.

1.2 Inter-BMC/ASF Nonmachinable Parcel Post

Rates shown include the $2.75 nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate listed in this table.

For OBMC Presort discount, deduct $1.17 per parcel. For BMC Presort discount, deduct $0.28 per parcel.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$6.44	$6.50	$6.50	$6.50	$6.50	$6.50	$6.50
2	6.60	6.60	6.89	6.89	7.24	7.24	7.24
3	7.40	7.40	8.30	8.40	8.46	8.52	9.07
4	7.61	7.95	9.04	9.68	9.89	9.95	10.62
5	7.78	8.46	9.69	10.50	11.33	11.39	12.18
6	8.38	8.76	10.19	11.25	12.27	12.65	14.24
7	8.55	9.03	10.66	11.95	13.10	14.14	15.58
8	8.73	9.28	11.05	12.59	13.86	15.29	17.79
9	8.86	9.51	11.49	13.20	14.58	16.13	19.79
10	9.03	10.32	11.85	13.76	15.25	16.92	20.89
11	9.16	10.55	12.22	14.29	15.88	17.67	21.90
12	9.29	10.76	12.55	14.79	16.47	18.37	22.85
13	9.42	10.94	12.87	15.26	17.03	19.02	23.74
14	9.55	11.17	13.18	15.70	17.56	19.65	24.59
15	9.67	11.36	13.48	16.13	18.06	20.24	25.39
16	9.77	11.54	13.75	16.53	18.54	20.80	26.16
17	9.90	11.69	14.03	16.91	18.99	21.34	26.88
18	10.00	11.86	14.27	17.27	19.43	21.84	27.57
19	10.12	12.03	14.52	17.62	19.84	22.33	28.23
20	10.21	12.18	14.73	17.95	20.23	22.80	28.87
21	10.32	12.34	14.95	18.27	20.61	23.24	29.47
22	10.41	12.47	15.17	18.57	20.97	23.67	30.05
23	10.51	12.64	15.40	18.86	21.32	24.07	30.60
24	10.58	12.76	15.58	19.14	21.65	24.47	31.14
25	10.68	12.89	15.78	19.41	21.97	24.84	31.65
26	10.76	13.02	15.96	19.67	22.28	25.21	32.14
27	10.86	13.15	16.13	19.92	22.58	25.56	32.62
28	10.93	13.27	16.33	20.16	22.86	25.89	33.07
29	11.02	13.40	16.50	20.39	23.14	26.22	33.51
30	11.10	13.51	16.65	20.62	23.40	26.53	33.94
31	11.19	13.61	16.81	20.83	23.66	26.83	34.35
32	11.25	13.74	16.97	21.04	23.91	27.12	34.75
33	11.33	13.85	17.13	21.24	24.15	27.40	35.13
34	11.41	13.93	17.26	21.44	24.38	27.68	35.50
35	11.49	14.05	17.41	21.63	24.60	27.94	35.86
36	11.55	14.14	17.57	21.81	24.82	28.20	36.20
37	$11.62	$14.23	$17.68	$21.98	$25.03	$28.44	$36.54
38	11.69	14.35	17.82	22.16	25.23	28.68	36.87
39	11.77	14.42	17.94	22.32	25.43	28.92	37.18
40	11.84	14.53	18.07	22.48	25.62	29.14	37.49
41	11.92	14.63	18.19	22.64	25.81	29.36	37.79
42	11.98	14.71	18.31	22.79	25.99	29.57	38.08
43	12.03	14.80	18.43	22.94	26.16	29.78	38.36
44	12.10	14.87	18.54	23.08	26.33	29.98	38.63
45	12.16	14.97	18.66	23.22	26.50	30.18	38.89
46	12.23	15.05	18.77	23.36	26.66	30.37	39.15
47	12.31	15.14	18.87	23.49	26.81	30.55	39.40
48	12.36	15.22	18.99	23.61	26.97	30.73	39.64
49	12.41	15.30	19.09	23.74	27.11	30.90	39.88
50	12.47	15.36	19.17	23.86	27.26	31.07	40.11
51	12.54	15.45	19.29	23.98	27.40	31.24	40.34
52	12.59	15.53	19.38	24.09	27.54	31.40	40.55
53	12.66	15.59	19.45	24.20	27.67	31.56	40.77
54	12.71	15.69	19.56	24.31	27.80	31.71	40.97
55	12.76	15.72	19.66	24.42	27.92	31.86	41.18
56	12.84	15.83	19.74	24.52	28.05	32.00	41.37
57	12.89	15.89	19.84	24.62	28.17	32.14	41.57
58	12.94	15.96	19.91	24.72	28.28	32.28	41.75
59	13.01	16.02	20.01	24.82	28.40	32.42	41.94
60	13.06	16.09	20.10	24.91	28.51	32.55	42.11
61	13.14	16.18	20.17	25.00	28.62	32.67	42.29
62	13.19	16.23	20.25	25.09	28.72	32.80	42.46
63	13.22	16.31	20.34	25.18	28.83	32.92	42.62
64	13.27	16.36	20.41	25.26	28.93	33.04	42.78
65	13.33	16.43	20.49	25.35	29.03	33.16	42.94
66	13.40	16.50	20.56	25.43	29.12	33.27	43.10
67	13.46	16.56	20.64	25.51	29.22	33.38	43.25
68	13.50	16.62	20.73	25.59	29.31	33.49	43.39
69	13.55	16.67	20.80	25.66	29.40	33.59	43.54
70	13.61	16.75	20.87	25.73	29.49	33.70	43.68
Oversized	41.70	46.73	54.12	65.84	79.69	92.81	120.72

Local and Intra-BMC/ASF Machinable Parcel Post
1.3

For parcels that originate and destinate in the same BMC service area.

For barcoded discount, deduct $0.03 per parcel (50-piece minimum).

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate for a nonmachinable parcel in 1.4.

Weight Not Over (pounds)	Local Zone	Zones 1 & 2	Zone 3	Zone 4	Zone 5
1	$2.81	$2.96	$2.99	$3.05	$3.14
2	3.13	3.53	3.56	3.63	3.74
3	3.44	4.08	4.11	4.20	4.32
4	3.73	4.28	4.62	4.72	4.86
5	3.99	4.45	5.02	5.15	5.35
6	4.23	4.61	5.38	5.51	5.80
7	4.36	4.76	5.69	5.84	6.21
8	4.46	5.33	5.98	6.14	6.60
9	4.56	5.46	6.22	6.45	6.95
10	4.66	5.63	6.53	6.74	7.28
11	4.74	5.76	6.74	7.00	7.58
12	4.84	5.91	6.94	7.26	7.87
13	4.92	6.04	7.10	7.50	8.13
14	5.00	6.16	7.22	7.75	8.38
15	5.08	6.27	7.39	7.96	8.62
16	5.17	6.38	7.56	8.16	8.84
17	5.23	6.51	7.72	8.38	9.05
18	5.30	6.60	7.87	8.57	9.24
19	5.36	6.72	8.02	8.75	9.43
20	5.46	6.82	8.16	8.91	9.60
21	5.51	6.91	8.30	9.06	9.77
22	5.57	7.02	8.42	9.20	9.92
23	5.64	7.10	8.58	9.34	10.07
24	5.70	7.19	8.70	9.46	10.22
25	5.77	7.27	8.82	9.58	10.35
26	5.82	7.37	8.93	9.71	10.48
27	5.88	7.45	9.06	9.82	10.60
28	5.94	7.52	9.18	9.91	10.72
29	6.01	7.61	9.30	10.02	10.83
30	6.08	7.69	9.40	10.12	10.93
31	6.13	7.77	9.48	10.21	11.04
32	6.18	7.86	9.60	10.31	11.13
33	6.25	7.92	9.70	10.39	11.23
34	6.30	8.00	9.78	10.47	11.31
35	6.35	8.06	9.89	10.55	11.40

For parcels that weigh more than 35 pounds, see 1.4.

Local and Intra-BMC/ASF Nonmachinable Parcel Post

1.4

Rates shown include the $1.35 nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate listed in this table.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	Local Zone	Zones 1&2	Zone 3	Zone 4	Zone 5
1	$4.16	$4.31	$4.34	$4.40	$4.49
2	4.48	4.88	4.91	4.98	5.09
3	4.79	5.43	5.46	5.55	5.67
4	5.08	5.63	5.97	6.07	6.21
5	5.34	5.80	6.37	6.50	6.70
6	5.58	5.96	6.73	6.86	7.15
7	5.71	6.11	7.04	7.19	7.56
8	5.81	6.68	7.33	7.49	7.95
9	5.91	6.81	7.57	7.80	8.30
10	6.01	6.98	7.88	8.09	8.63
11	6.09	7.11	8.09	8.35	8.93
12	6.19	7.26	8.29	8.61	9.22
13	6.27	7.39	8.45	8.85	9.48
14	6.35	7.51	8.57	9.10	9.73
15	6.43	7.62	8.74	9.31	9.97
16	6.52	7.73	8.91	9.51	10.19
17	6.58	7.86	9.07	9.73	10.40
18	6.65	7.95	9.22	9.92	10.59
19	6.71	8.07	9.37	10.10	10.78
20	6.81	8.17	9.51	10.26	10.95
21	6.86	8.26	9.65	10.41	11.12
22	6.92	8.37	9.77	10.55	11.27
23	6.99	8.45	9.93	10.69	11.42
24	7.05	8.54	10.05	10.81	11.57
25	7.12	8.62	10.17	10.93	11.70
26	7.17	8.72	10.28	11.06	11.83
27	7.23	8.80	10.41	11.17	11.95
28	7.29	8.87	10.53	11.26	12.07
29	7.36	8.96	10.65	11.37	12.18
30	7.43	9.04	10.75	11.47	12.28
31	7.48	9.12	10.83	11.56	12.39
32	7.53	9.21	10.95	11.66	12.48
33	7.60	9.27	11.05	11.74	12.58
34	7.65	9.35	11.13	11.82	12.66
35	7.70	9.41	11.24	11.90	12.75
36	7.75	9.48	11.32	11.97	12.83
37	$7.79	$9.57	$11.41	$12.05	$12.91
38	7.84	9.63	11.50	12.12	12.98
39	7.91	9.71	11.60	12.18	13.05
40	7.96	9.76	11.67	12.24	13.12
41	8.02	9.85	11.78	12.30	13.19
42	8.07	9.90	11.85	12.37	13.25
43	8.12	9.96	11.93	12.43	13.30
44	8.19	10.03	12.01	12.49	13.35
45	8.23	10.08	12.08	12.65	13.40
46	8.27	10.17	12.17	12.70	13.45
47	8.33	10.24	12.23	12.75	13.50
48	8.38	10.29	12.32	12.79	13.55
49	8.42	10.36	12.39	12.84	13.60
50	8.47	10.39	12.46	12.88	13.65
51	8.53	10.48	12.52	12.93	13.70
52	8.56	10.54	12.62	12.97	13.75
53	8.61	10.57	12.67	13.00	13.80
54	8.67	10.63	12.71	13.05	13.85
55	8.72	10.69	12.75	13.10	13.90
56	8.75	10.75	12.79	13.14	13.95
57	8.80	10.82	12.81	13.16	14.00
58	8.85	10.87	12.85	13.20	14.05
59	8.90	10.92	12.88	13.24	14.10
60	8.92	10.99	12.91	13.26	14.15
61	9.01	11.05	12.94	13.30	14.20
62	9.03	11.10	12.97	13.36	14.25
63	9.08	11.15	12.99	13.43	14.30
64	9.13	11.21	13.01	13.48	14.35
65	9.17	11.26	13.05	13.54	14.40
66	9.20	11.33	13.07	13.61	14.45
67	9.27	11.39	13.10	13.68	14.50
68	9.31	11.41	13.11	13.72	14.55
69	9.32	11.48	13.13	13.79	14.60
70	9.33	11.53	13.16	13.85	14.65
Oversized	23.78	34.47	34.79	35.48	36.53

Parcel Select — DBMC
1.5

Destination facility ZIP Codes only.

For barcoded discount, deduct $0.03 per parcel (machinable parcels only).

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

For nonmachinable Parcel Select DBMC parcels, add $1.45 per parcel. Any parcel that weighs more than 35 pounds or that meets any of the criteria in C700.2.0 must pay the nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5
1	$2.01	$2.26	$2.49	$3.09
2	2.24	2.76	3.19	3.69
3	2.49	3.27	3.84	4.28
4	2.72	3.75	4.41	4.81
5	2.94	4.20	4.82	5.30
6	3.15	4.60	5.16	5.75
7	3.34	4.96	5.47	6.18
8	3.53	5.32	5.76	6.56
9	3.71	5.64	6.05	6.91
10	3.88	5.97	6.71	7.24
11	4.04	6.27	6.96	7.54
12	4.20	6.56	7.22	7.84
13	4.35	6.80	7.46	8.10
14	4.50	6.92	7.71	8.35
15	4.64	7.08	7.92	8.58
16	4.77	7.24	8.13	8.81
17	4.91	7.39	8.35	9.01
18	5.03	7.54	8.53	9.21
19	5.16	7.68	8.72	9.40
20	5.28	7.82	8.88	9.56
21	5.40	7.96	9.02	9.73
22	5.51	8.08	9.17	9.89
23	5.62	8.23	9.31	10.05
24	5.73	8.34	9.43	10.18
25	5.84	8.46	9.55	10.32
26	5.94	8.56	9.67	10.45
27	6.05	8.69	9.78	10.57
28	6.14	8.81	9.88	10.68
29	6.24	8.92	10.00	10.79
30	6.34	9.02	10.09	10.90
31	6.43	9.10	10.17	11.01
32	6.52	9.21	10.27	11.11
33	6.61	9.30	10.36	11.19
34	6.70	9.39	10.43	11.28
35	6.78	9.49	10.52	11.37
36	6.87	9.94	10.60	11.45

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5
37	$6.95	$10.03	$10.66	$11.53
38	7.03	10.12	10.74	11.60
39	7.11	10.21	10.80	11.68
40	7.19	10.29	10.86	11.74
41	7.27	10.40	10.92	11.80
42	7.34	10.47	10.99	11.87
43	7.42	10.56	11.05	12.16
44	7.49	10.63	11.11	12.45
45	7.56	10.69	11.26	12.76
46	7.63	10.79	11.31	13.06
47	7.70	10.85	11.36	13.37
48	7.77	10.94	11.41	13.69
49	7.84	11.01	11.46	14.01
50	7.91	11.08	11.50	14.35
51	7.97	11.15	11.55	14.68
52	8.04	11.23	11.59	15.02
53	8.10	11.28	11.63	15.38
54	8.16	11.33	11.68	15.74
55	8.23	11.37	11.73	15.89
56	8.29	11.40	11.75	15.96
57	8.35	11.43	11.78	16.06
58	8.41	11.47	11.82	16.14
59	8.47	11.50	11.85	16.21
60	8.52	11.53	11.88	16.30
61	8.58	11.56	11.92	16.38
62	8.64	11.59	11.98	16.44
63	8.69	11.61	12.05	16.52
64	8.75	11.64	12.10	16.59
65	8.80	11.67	12.16	16.65
66	8.86	11.70	12.24	16.74
67	8.91	11.72	12.29	16.79
68	8.96	11.73	12.34	16.86
69	9.01	11.75	12.40	16.93
70	9.06	11.77	12.47	16.99
Oversized	18.14	24.33	32.81	34.10

Parcel Select—DSCF

1.6 Destination facility ZIP Codes only.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

For nonmachinable parcels sorted to 3-digit ZIP Code areas, add $1.09 per parcel. Parcels that weigh more than 35 pounds or that meet any of the criteria in C700.2.0 must pay the nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels sorted to 5-digit containers, mailed at oversized rates, or sent with special handling.

Weight Not Over (pounds)	DSCF	Weight Not Over (pounds)	DSCF	Weight Not Over (pounds)	DSCF
1	$1.53	25	$3.90	49	$5.25
2	1.71	26	3.97	50	5.29
3	1.85	27	4.04	51	5.34
4	1.99	28	4.11	52	5.38
5	2.12	29	4.17	53	5.42
6	2.24	30	4.24	54	5.46
7	2.35	31	4.30	55	5.51
8	2.45	32	4.36	56	5.55
9	2.56	33	4.42	57	5.59
10	2.65	34	4.48	58	5.63
11	2.74	35	4.54	59	5.67
12	2.83	36	4.59	60	5.71
13	2.92	37	4.65	61	5.74
14	3.00	38	4.70	62	5.78
15	3.10	39	4.76	63	5.82
16	3.19	40	4.81	64	5.86
17	3.28	41	4.86	65	5.89
18	3.36	42	4.91	66	5.93
19	3.45	43	4.96	67	5.97
20	3.53	44	5.01	68	6.00
21	3.61	45	5.06	69	6.04
22	3.68	46	5.11	70	6.07
23	3.76	47	5.16	Oversized	11.95
24	3.83	48	5.20		

Parcel Select—DDU

1.7 Destination facility ZIP Codes only.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	DDU	Weight Not Over (pounds)	DDU	Weight Not Over (pounds)	DDU
1	$1.23	25	$2.00	49	$2.28
2	1.28	26	2.02	50	2.29
3	1.33	27	2.04	51	2.30
4	1.38	28	2.06	52	2.31
5	1.43	29	2.07	53	2.32
6	1.47	30	2.09	54	2.33
7	1.51	31	2.10	55	2.34
8	1.55	32	2.11	56	2.35
9	1.58	33	2.12	57	2.36
10	1.62	34	2.13	58	2.37
11	1.65	35	2.14	59	2.38
12	1.68	36	2.15	60	2.39
13	1.71	37	2.16	61	2.40
14	1.74	38	2.17	62	2.41
15	1.77	39	2.18	63	2.42
16	1.79	40	2.19	64	2.43
17	1.82	41	2.20	65	2.44
18	1.85	42	2.21	66	2.45
19	1.87	43	2.22	67	2.46
20	1.89	44	2.23	68	2.47
21	1.92	45	2.24	69	2.48
22	1.94	46	2.25	70	2.49
23	1.96	47	2.26	Oversized	6.98
24	1.98	48	2.27		

2.0 BOUND PRINTED MATTER

Single-Piece—Flats
2.1

For barcoded discount, deduct $0.03 per piece (automatable flats only, 50-piece minimum).

Weight Not Over (pounds)	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1.0	$1.79	$1.84	$1.88	$1.96	$2.03	$2.12	$2.29
1.5	1.79	1.84	1.88	1.96	2.03	2.12	2.29
2.0	1.86	1.92	1.98	2.08	2.18	2.30	2.52
2.5	1.93	2.01	2.08	2.21	2.33	2.48	2.76
3.0	2.00	2.09	2.18	2.33	2.48	2.66	2.99
3.5	2.07	2.18	2.28	2.46	2.63	2.84	3.23
4.0	2.14	2.26	2.38	2.58	2.78	3.02	3.46
4.5	2.21	2.35	2.48	2.71	2.93	3.20	3.70
5.0	2.28	2.43	2.58	2.83	3.08	3.38	3.93
6.0	2.42	2.60	2.78	3.08	3.38	3.74	4.40
7.0	2.56	2.77	2.98	3.33	3.68	4.10	4.87
8.0	2.70	2.94	3.18	3.58	3.98	4.46	5.34
9.0	2.84	3.11	3.38	3.83	4.28	4.82	5.81
10.0	2.98	3.28	3.58	4.08	4.58	5.18	6.28
11.0	3.12	3.45	3.78	4.33	4.88	5.54	6.75
12.0	3.26	3.62	3.98	4.58	5.18	5.90	7.22
13.0	3.40	3.79	4.18	4.83	5.48	6.26	7.69
14.0	3.54	3.96	4.38	5.08	5.78	6.62	8.16
15.0	3.68	4.13	4.58	5.33	6.08	6.98	8.63

Single-Piece—Parcels
2.2

For barcoded discount, deduct $0.03 per parcel (machinable parcels only, 50-piece minimum).

Weight Not Over (pounds)	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1.0	$1.87	$1.92	$1.96	$2.04	$2.11	$2.20	$2.37
1.5	1.87	1.92	1.96	2.04	2.11	2.20	2.37
2.0	1.94	2.00	2.06	2.16	2.26	2.38	2.60
2.5	2.01	2.09	2.16	2.29	2.41	2.56	2.84
3.0	2.08	2.17	2.26	2.41	2.56	2.74	3.07
3.5	2.15	2.26	2.36	2.54	2.71	2.92	3.31
4.0	2.22	2.34	2.46	2.66	2.86	3.10	3.54
4.5	2.29	2.43	2.56	2.79	3.01	3.28	3.78
5.0	2.36	2.51	2.66	2.91	3.16	3.46	4.01
6.0	2.50	2.68	2.86	3.16	3.46	3.82	4.48
7.0	2.64	2.85	3.06	3.41	3.76	4.18	4.95
8.0	2.78	3.02	3.26	3.66	4.06	4.54	5.42
9.0	2.92	3.19	3.46	3.91	4.36	4.90	5.89
10.0	3.06	3.36	3.66	4.16	4.66	5.26	6.36
11.0	3.20	3.53	3.86	4.41	4.96	5.62	6.83
12.0	3.34	3.70	4.06	4.66	5.26	5.98	7.30
13.0	3.48	3.87	4.26	4.91	5.56	6.34	7.77
14.0	3.62	4.04	4.46	5.16	5.86	6.70	8.24
15.0	3.76	4.21	4.66	5.41	6.16	7.06	8.71

Presorted and Carrier Route—Flats
2.3

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted flats, deduct $0.03 per piece (automatable flats only). Barcoded discount is not available for flats mailed at carrier route rates.

Rate	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Per Piece							
Presorted	$1.078	$1.078	$1.078	$1.078	$1.078	$1.078	$1.078
Carrier Route	0.978	0.978	0.978	0.978	0.978	0.978	0.978
Per Pound	0.090	0.112	0.149	0.198	0.248	0.308	0.419

Presorted and Carrier Route—Parcels
2.4

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted machinable parcels, deduct $0.03 per piece. Barcoded discount is not available for parcels mailed at carrier route rates.

Rate	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Per Piece							
Presorted	$1.155	$1.155	$1.155	$1.155	$1.155	$1.155	$1.155
Carrier Route	1.055	1.055	1.055	1.055	1.055	1.055	1.055
Per Pound	0.090	0.112	0.149	0.198	0.248	0.308	0.419

Destination Entry Rates—Flats
2.5

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted flats, deduct $0.03 per piece (automatable flats only). Barcoded discount is not available for flats mailed at Presorted DDU rates or carrier route rates.

Presorted DDU rate is not available for flats that weigh 1 pound or less.

Rate	DDU	DSCF	DBMC Zone 1 & 2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5
Per Piece						
Presorted	$0.532	$0.603	$0.818	$0.818	$0.818	$0.818
Carrier Route	0.432	0.503	0.718	0.718	0.718	0.718
Per Pound	0.030	0.060	0.073	0.102	0.139	0.187

Destination Entry Rates—Parcels
2.6

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted machinable parcels, deduct $0.03 per piece. Barcoded discount is not available for parcels mailed at Presorted DDU rates, Presorted DSCF rates, or carrier route rates.

Rate	DDU	DSCF	DBMC Zone 1 & 2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5
Per Piece						
Presorted	$0.609	$0.680	$0.895	$0.895	$0.895	$0.895
Carrier Route	0.509	0.580	0.795	0.795	0.795	0.795
Per Pound	0.030	0.060	0.073	0.102	0.139	0.187

3.0 MEDIA MAIL

For barcoded discount for single-piece and basic rate, deduct $0.03 per parcel (machinable parcels only, 50-piece minimum). Barcoded discount is not available for pieces sent at the 5-digit rate.

Weight Not Over (pounds)	Single-Piece	5-Digit	Basic
1	$1.42	$0.80	$1.12
2	1.84	1.22	1.54
3	2.26	1.64	1.96
4	2.68	2.06	2.38
5	3.10	2.48	2.80
6	3.52	2.90	3.22
7	3.94	3.32	3.64
8	4.24	3.62	3.94
9	4.54	3.92	4.24
10	4.84	4.22	4.54
11	5.14	4.52	4.84
12	5.44	4.82	5.14
13	5.74	5.12	5.44
14	6.04	5.42	5.74
15	6.34	5.72	6.04
16	6.64	6.02	6.34
17	6.94	6.32	6.64
18	7.24	6.62	6.94
19	7.54	6.92	7.24
20	7.84	7.22	7.54
21	8.14	7.52	7.84
22	8.44	7.82	8.14
23	8.74	8.12	8.44
24	9.04	8.42	8.74
25	9.34	8.72	9.04
26	9.64	9.02	9.34
27	9.94	9.32	9.64
28	10.24	9.62	9.94
29	10.54	9.92	10.24
30	10.84	10.22	10.54
31	11.14	10.52	10.84
32	11.44	10.82	11.14
33	11.74	11.12	11.44
34	12.04	11.42	11.74
35	12.34	11.72	12.04
36	$12.64	$12.02	$12.34
37	12.94	12.32	12.64
38	13.24	12.62	12.94
39	13.54	12.92	13.24
40	13.84	13.22	13.54
41	14.14	13.52	13.84
42	14.44	13.82	14.14
43	14.74	14.12	14.44
44	15.04	14.42	14.74
45	15.34	14.72	15.04
46	15.64	15.02	15.34
47	15.94	15.32	15.64
48	16.24	15.62	15.94
49	16.54	15.92	16.24
50	16.84	16.22	16.54
51	17.14	16.52	16.84
52	17.44	16.82	17.14
53	17.74	17.12	17.44
54	18.04	17.42	17.74
55	18.34	17.72	18.04
56	18.64	18.02	18.34
57	18.94	18.32	18.64
58	19.24	18.62	18.94
59	19.54	18.92	19.24
60	19.84	19.22	19.54
61	20.14	19.52	19.84
62	20.44	19.82	20.14
63	20.74	20.12	20.44
64	21.04	20.42	20.74
65	21.34	20.72	21.04
66	21.64	21.02	21.34
67	21.94	21.32	21.64
68	22.24	21.62	21.94
69	22.54	21.92	22.24
70	22.84	22.22	22.54

4.0 LIBRARY MAIL

For barcoded discount for single-piece and basic rate, deduct $0.03 per parcel (machinable parcels only, 50-piece minimum). Barcoded discount is not available for pieces sent at the 5-digit rate.

Weight Not Over (pounds)	Single-Piece	5-Digit	Basic
1	$1.35	$0.76	$1.06
2	1.75	1.16	1.46
3	2.15	1.56	1.86
4	2.55	1.96	2.26
5	2.95	2.36	2.66
6	3.35	2.76	3.06
7	3.75	3.16	3.46
8	4.04	3.45	3.75
9	4.33	3.74	4.04
10	4.62	4.03	4.33
11	4.91	4.32	4.62
12	5.20	4.61	4.91
13	5.49	4.90	5.20
14	5.78	5.19	5.49
15	6.07	5.48	5.78
16	6.36	5.77	6.07
17	6.65	6.06	6.36
18	6.94	6.35	6.65
19	7.23	6.64	6.94
20	7.52	6.93	7.23
21	7.81	7.22	7.52
22	8.10	7.51	7.81
23	8.39	7.80	8.10
24	8.68	8.09	8.39
25	8.97	8.38	8.68
26	9.26	8.67	8.97
27	9.55	8.96	9.26
28	9.84	9.25	9.55
29	10.13	9.54	9.84
30	10.42	9.83	10.13
31	10.71	10.12	10.42
32	11.00	10.41	10.71
33	11.29	10.70	11.00
34	11.58	10.99	11.29
35	11.87	11.28	11.58
36	$12.16	$11.57	$11.87
37	12.45	11.86	12.16
38	12.74	12.15	12.45
39	13.03	12.44	12.74
40	13.32	12.73	13.03
41	13.61	13.02	13.32
42	13.90	13.31	13.61
43	14.19	13.60	13.90
44	14.48	13.89	14.19
45	14.77	14.18	14.48
46	15.06	14.47	14.77
47	15.35	14.76	15.06
48	15.64	15.05	15.35
49	15.93	15.34	15.64
50	16.22	15.63	15.93
51	16.51	15.92	16.22
52	16.80	16.21	16.51
53	17.09	16.50	16.80
54	17.38	16.79	17.09
55	17.67	17.08	17.38
56	17.96	17.37	17.67
57	18.25	17.66	17.96
58	18.54	17.95	18.25
59	18.83	18.24	18.54
60	19.12	18.53	18.83
61	19.41	18.82	19.12
62	19.70	19.11	19.41
63	19.99	19.40	19.70
64	20.28	19.69	19.99
65	20.57	19.98	20.28
66	20.86	20.27	20.57
67	21.15	20.56	20.86
68	21.44	20.85	21.15
69	21.73	21.14	21.44
70	22.02	21.43	21.73

5.0 FEES

Destination Entry Mailing Fees
5.1

Destination entry mailing fees, per 12-month period:

a. Parcel Select: $150.00.

b. Bound Printed Matter: $150.00.

Pickup Fees
5.2

Parcel Post only, per occurrence: $12.50.

May be combined with Express Mail and Priority Mail pickups (see D010).

Presort Mailing Fees
5.3

Presort mailing fees, per 12-month period:

a. Presorted Media Mail: $150.00.

b. Presorted Library Mail: $150.00.

R900 Services

1.0 ADDRESS CORRECTION SERVICE (F030)

For all classes of mail:

a. Manual notice, each: $0.70.

b. Electronic notice, each: $0.20.

2.0 ADDRESS SEQUENCING SERVICE (A920)

Basic Service 2.1

Each card or address removed because of an incorrect or undeliverable address: $0.30.

Blanks for Missing Addresses 2.2

Each card or address removed because of an incorrect or undeliverable address: $0.30.

Insertion of each blank card for missing or new address: no charge.

Missing or New Addresses Added 2.3

Insertion of each addressed card for missing or new address: $0.30.

3.0 BULK PARCEL RETURN SERVICE (BPRS) (S924)

Permit Fee 3.1

Annual permit fee: $150.00.

Accounting Fee 3.2

Annual accounting fee: $475.00.

Per Piece Charge 3.3

For each piece returned, regardless of weight: $1.80.

4.0 BUSINESS REPLY MAIL (BRM) (S922)

Basic BRM 4.1

Annual permit fee: $150.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.60.

High-Volume BRM 4.2

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.10.

Basic Qualified BRM 4.3

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Per piece charge (in addition to the automation First-Class Mail QBRM postage (R100.3.0)): $0.06.

High-Volume Qualified BRM
4.4

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Quarterly fee: $1,800.00.

Per piece charge (in addition to the automation First-Class Mail QBRM postage (R100.3.0)): $0.008.

Bulk Weight Averaged Nonletter-Size BRM
4.5

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Monthly maintenance fee: $750.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.01.

5.0 CALLER SERVICE (D920)

Fees are charged as follows:

a. For each separation provided, per semiannual period (all post offices): $412.00.

b. For each reserved call number, per calendar year (all post offices): $32.00.

6.0 CERTIFICATE OF MAILING (S914)

Individual
6.1

Fee, in addition to postage:

a. For each piece (Form 3817): $0.90.

b. For each piece listed (Form 3877): $0.30 (minimum charge $0.90).

c. For duplicate copy of Form 3817 or Form 3877, per page: $0.90.

Bulk
6.2

Fee, in addition to postage:

a. For first 1,000 pieces or fraction thereof (Form 3606): $4.50.

b. For each additional 1,000 pieces or fraction thereof (Form 3606): $0.50.

c. For duplicate copy of Form 3606, per page: $0.90.

7.0 CERTIFIED MAIL (S912)

Fee, in addition to postage and other fees, per piece: $2.30.

8.0 COLLECT ON DELIVERY (COD) (S921)

Fee, in addition to postage and other fees, per piece:

Amount to be collected or insurance coverage desired, whichever is higher[1]				Fee
	$0.01	to	50.00	$4.50
	50.01	to	100.00	5.50
	100.01	to	200.00	6.50
	200.01	to	300.00	7.50
	300.01	to	400.00	8.50
	400.01	to	500.00	9.50
	500.01	to	600.00	10.50
	600.01	to	700.00	11.50
	700.01	to	800.00	12.50
	800.01	to	900.00	13.50
	900.01	to	1,000.00	14.50
Notice of nondelivery				3.00
Alteration of COD charges or designation of new addressee				3.00
Registered COD[2]				4.00

1. For Express Mail COD shipments of $100 or less, the COD fee charged is based on the amount to be collected.
2. Fee for registered COD, regardless of amount to be collected or insurance value.

9.0 DELIVERY CONFIRMATION (S918)

Fee, in addition to postage and other fees, per piece:

Type	Fee
First-Class Mail[1]	
Electronic	$0.13
Retail	0.55
Priority Mail	
Electronic	0.00
Retail	0.45
Standard Mail[2]	
Electronic	0.13
Parcel Select[1]	
Electronic	0.00
Other Package Services[1]	
Electronic	0.13
Retail	0.55

1. Available only for parcels.
2. Available only for pieces subject to the residual shape surcharge.

10.0 EXPRESS MAIL INSURANCE (S500)

Fee, in addition to postage and other fees:

a. For amount of merchandise insurance liability:

Insurance Coverage Desired	Fee
$ 0.01 to $ 100.00	$0.00
100.01 to 5,000.00	1.00 per $100 or fraction thereof over $100 in desired coverage
Express Mail merchandise maximum coverage: $5,000.00.	

b. Document reconstruction maximum liability: $100.00.

11.0 INSURANCE (S913)

Fee, in addition to postage and other fees, for merchandise insurance liability, per piece:

Insurance Coverage Desired	Fee	Bulk Insurance Fee
$ 0.01 to $ 50.00[1]	$1.30	$0.70
50.01 to 100.00[2]	2.20	1.40
100.01 to 200.00	3.20	2.40
200.01 to 300.00	4.20	3.40
300.01 to 400.00	5.20	4.40
400.01 to 500.00	6.20	5.40
500.01 to 600.00	7.20	6.40
600.01 to 700.00	8.20	7.40
700.01 to 800.00	9.20	8.40
800.01 to 900.00	10.20	9.40
900.01 to 1,000.00	11.20	10.40
1,000.01 to 5,000.00	11.20 plus $1.00 per $100 or fraction thereof over $1,000 in desired coverage	10.40 plus $1.00 per $100 or fraction thereof over $1,000 in desired coverage
Insured mail maximum coverage: $5,000.00.		

1. For merchandise insured for $50 or less, Form 3813 is used with an elliptical insured marking (no insured number is assigned).
2. For merchandise insured for more than $50, Form 3813-P is used with an insured number.

12.0 MAILING LIST SERVICE (A910)

List Correction
12.1

Minimum charge per list (30 items): $9.00.

For each address on list: $0.30.

5-Digit ZIP Code Sortation
12.2

For sortation of mailing lists on cards into groups labeled by 5-digit ZIP Code, per 1,000 addresses or fraction: $100.00.

Election Boards
12.3

For address changes provided to election boards and voter registration commissions, per Form 3575: $0.27.

13.0 MERCHANDISE RETURN SERVICE (S923)

Permit Fee 13.1 Annual permit fee: $150.00.

Accounting Fee 13.2 Annual accounting fee (for advance deposit account): $475.00.

14.0 METER SERVICE (P030)

Fees for on-site meter service:

a. Meter service (per employee, per visit): $35.00.

b. Meters reset/examined (per meter): $5.00.

c. Checking meters in/out of service (per meter; fee does not apply to secured postage meters that use a USPS-approved automated process for checking in and out): $4.00.

15.0 MONEY ORDERS (S020)

Fee, each:

a. Domestic money order:

Amount Desired	Fee
$ 0.01 to $ 500.00	$0.90
500.01 to 1,000.00	1.25

b. APO/FPO money order ($0.01 to $1,000.00): $0.25.

c. Inquiry (includes the issuance of a copy of a paid money order): $3.00.

16.0 PARCEL AIRLIFT (PAL) (S930)

Fee, in addition to postage and other fees, per piece:

Weight Not More Than (pounds)	Fee
2	$0.45
3	0.85
4	1.25
30	1.70

17.0 PERMIT IMPRINT (P040)

Application fee: $150.00.

18.0 PICKUP SERVICE (D010)

Available for Express Mail, Priority Mail, and Parcel Post, per pickup: $12.50.

19.0 POST OFFICE BOX SERVICE (D910)

For service provided:

a. Deposit per key issued: $1.00.

b. Additional keys, key duplication, or replacement, each: $4.40.

c. Post office box lock replacement, each: $11.00.

d. Box fee per semiannual (6-month) period:

	Box Size and Fee				
Fee Group	1	2	3	4	5
1	$35.00	$50.00	$100.00	$205.00	$330.00
2	29.00	45.00	80.00	170.00	315.00
3	24.00	38.00	68.00	118.00	209.00
4	19.00	34.00	63.00	110.00	175.00
5	13.00	22.00	34.00	65.00	125.00
6	12.00	18.00	33.00	60.00	97.00
7	9.00	13.00	23.00	40.00	70.00
E[1]	0.00	0.00	0.00	0.00	0.00

1. A customer ineligible for carrier delivery service may obtain one post office box at the Group E fee, subject to administrative decisions regarding customer's proximity to post office (see D910).

20.0 REGISTERED MAIL (S911)

Fees and charges are in addition to postage:

Declared Value[1]	Fee	Handling Charge
$0.00	$7.50	—
$0.01 to $100.00	$8.00	—
100.01 to 500.00	8.85	—
500.01 to 1,000.00	9.70	—
1,000.01 to 2,000.00	10.55	—
2,000.01 to 3,000.00	11.40	—
3,000.01 to 4,000.00	12.25	—
4,000.01 to 5,000.00	13.10	—
5,000.01 to 6,000.00	13.95	—
6,000.01 to 7,000.00	14.80	—
7,000.01 to 8,000.00	15.65	—
8,000.01 to 9,000.00	16.50	—
9,000.01 to 10,000.00	17.35	—
10,000.01 to 25,000.00	$17.35 plus 85 cents per $1,000 or fraction over $10,000	—
$25,000.01 to $1,000,000.00	$30.10	plus 85 cents for each $1,000 (or fraction thereof) over $25,000
1,000,000.01 to 15,000,000.00	858.85	plus 85 cents for each $1,000 (or fraction thereof) over $1,000,000
15,000,000.01 +	12,758.85	plus amount determined by the Postal Service based on weight, space, and value

Maximum coverage: $25,000.00.

1. Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.

21.0 RESTRICTED DELIVERY (S916)

Fee, in addition to postage and other fees, per piece: $3.50.

22.0 RETURN RECEIPT (S915)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Requested at time of mailing	$1.75
Requested after mailing	3.25

23.0 RETURN RECEIPT FOR MERCHANDISE (S917)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Requested at time of mailing	$3.00

24.0 SHIPPER PAID FORWARDING (F010)

Annual accounting fee for (optional) advance deposit account: $475.00.

25.0 SIGNATURE CONFIRMATION (S919)

Available for First-Class Mail parcels, Priority Mail, and Package Services parcels.
Fee, in addition to postage and other fees, per piece:

Type	Fee
Electronic	$1.30
Retail	1.80

26.0 SPECIAL HANDLING (S930)

Fee, in addition to postage and other fees, per piece:

Weight (pounds)	Fee
Up to 10	$5.95
Over 10	8.25

An appropriate amendment to 39 CFR to reflect these changes will be published.

Neva Watson,

Attorney, Legislative.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT APRIL 16, 2002

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Interstate transportation of animals and animal products (quarantine):
Texas (splenetic) fever in cattle—
State and area classifications; published 4-16-02

TRANSPORTATION DEPARTMENT
Procedural regulations:
Air Transportation Safety and System Stabilization Act; air carriers compensation procedures; published 4-16-02

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
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Pratt & Whitney; correction; published 3-6-02

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AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Livestock and poultry disease control:
Bovine tuberculosis; indemnity payment for destroyed animals; comments due by 4-22-02; published 2-20-02 [FR 02-04059]

AGRICULTURE DEPARTMENT
Food and Nutrition Service
Food distribution programs:
Poultry substitution and commodity inventory controls for recipient agencies; codification and modification; comments due by 4-22-02; published 2-21-02 [FR 02-04174]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Caribbean, Gulf of Mexico, and South Atlantic fisheries—
Gulf of Mexico shrimp; comments due by 4-22-02; published 4-5-02 [FR 02-08189]

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Pesticide active ingredient production; comments due by 4-22-02; published 3-22-02 [FR 02-06975]

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Pesticide active ingredient production; comments due by 4-22-02; published 3-22-02 [FR 02-06976]
Publicly owned treatment works; comments due by 4-22-02; published 3-22-02 [FR 02-06847]

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Missouri; comments due by 4-24-02; published 3-25-02 [FR 02-07092]

ENVIRONMENTAL PROTECTION AGENCY
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Hazardous waste:
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Meat and poultry products processing facilities; comments due by 4-26-02; published 2-25-02 [FR 02-02838]

FEDERAL COMMUNICATIONS COMMISSION
Digital television stations; table of assignments:
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Practice and procedure:
Regulatory fees (2002 FY); assessment and collection; comments due by 4-23-02; published 4-10-02 [FR 02-08600]
Radio stations; table of assignments:
California; comments due by 4-22-02; published 3-19-02 [FR 02-06374]
New Mexico; comments due by 4-22-02; published 3-18-02 [FR 02-06372]

FEDERAL MARITIME COMMISSION
Filing and service fees; revision; comments due by 4-22-02; published 3-21-02 [FR 02-06742]

HEALTH AND HUMAN SERVICES DEPARTMENT
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Medicare:
Special Payment Provisions and Standards for Prosthetics and Custom-Fabricated Orthotics Suppliers Negotiated Rulemaking Committee—
Intent to establish; comments due by 4-22-02; published 3-22-02 [FR 02-06952]

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
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Land Management Bureau
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Fish and Wildlife Service
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Permanent program and abandoned mine land reclamation plan submissions:
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Drug Enforcement Administration
Schedules of controlled substances:
Buprenorphine; placement into Schedule III; comments due by 4-22-02; published 3-21-02 [FR 02-06767]
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Electronic or electromechanical facsimile; games similar to bingo; and electronic, computer, or other technologic aids to Class II games; definitions; comments due by 4-22-02; published 3-22-02 [FR 02-06806]

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NUCLEAR REGULATORY COMMISSION
Spent nuclear fuel; storage casks; HI-STORM 100; comments due by 4-26-02; published 3-27-02 [FR 02-07320]

NUCLEAR REGULATORY COMMISSION
Spent nuclear fuel; storage casks; HI-STORM 100; comments due by 4-26-02; published 3-27-02 [FR 02-07321]

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Ports and waterways safety:
Naval vessels; protection zones; comments due by 4-22-02; published 2-21-02 [FR 02-04205]
Potomac River, Washington Channel, Washington, DC; security zone; comments due by 4-22-02; published 3-20-02 [FR 02-06764]

TRANSPORTATION DEPARTMENT
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Airports in Washington, DC metropolitan area; enhanced security procedures for operations; comments due by 4-22-02; published 2-19-02 [FR 02-03846]

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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*.

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H.R. 1499/P.L. 107–157
District of Columbia College Access Improvement Act of 2002 (Apr. 4, 2002; 116 Stat. 118)

H.R. 2739/P.L. 107–158

To amend Public Law 107-10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes. (Apr. 4, 2002; 116 Stat. 121)

H.R. 3985/P.L. 107–159

To amend the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955, to provide for binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community. (Apr. 4, 2002; 116 Stat. 122)

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