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Presidential Documents

Title 3—

The President

Proclamation 7558 of May 10, 2002

Peace Officers Memorial Day and Police Week, 2002

By the President of the United States of America

A Proclamation

In the face of the terrorist attacks of September 11, 2001, our Nation witnessed the remarkable heroism of America's peace officers as they selflessly aided those in need. As the World Trade Center towers burned, dedicated officers rushed into the severely damaged buildings to rescue the injured. Seventy-two peace officers died that day, trying to save others. These supreme sacrifices remind us of the remarkable commitment that our Nation's peace officers have made to preserve our safety and our country's well-being.

In all, 230 law enforcement officers gave their lives in the line of duty last year. The name of each fallen officer has a place of honor on the National Law Enforcement Officers Memorial wall in Washington, D.C. This monument ensures that the valor of the more than 15,000 law enforcement officers lost since 1794 will never be forgotten.

Peace Officers Memorial Day and Police Week pay tribute to the local, State, and Federal law enforcement officers who serve and protect us with courage and dedication. These observances also remind us of the ongoing need to be vigilant against all forms of crime, especially to acts of extreme violence and terrorism.

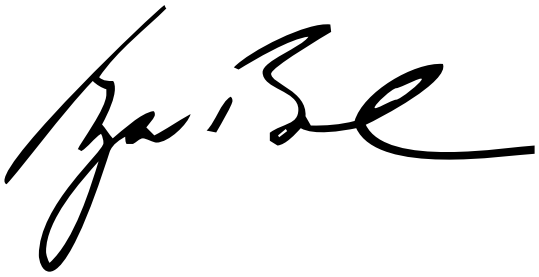
Effective law enforcement is a crucial element to maintaining our quality of life; and we must continue to ensure that our police have the financial, technical, and civil support necessary to carry out their responsibilities. The more than 740,000 sworn law enforcement officers who are our first responders play a critical role in our Nation's safety and security.

Every American should also play a role in making our communities safer. Programs operated through the Citizen Corps, including Neighborhood Watch, Volunteers in Police Service, and the Terrorism Information and Prevention System, offer citizens the opportunity to take a stand against crime. As we observe Peace Officers Memorial Day and Police Week, I encourage all Americans to learn more about ways to fight crime in their communities and to honor the brave individuals who protect our lives and property.

By a joint resolution approved October 1, 1962, as amended, (76 Stat. 676), the Congress has authorized and requested the President to designate May 15 of each year as ''Peace Officers Memorial Day'' and the week in which it falls as ''Police Week,'' and, by Public Law 103–322, as amended, (36 U.S.C. 136), has directed that the flag be flown at half-staff on Peace Officers Memorial Day.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 15, 2002, as Peace Officers Memorial Day and May 12 through May 18, 2002, as Police Week. I call on Americans to observe these events with appropriate ceremonies and activities. I also call on Governors of the United States and the Commonwealth of Puerto Rico, as well as appropriate officials of all units of government, to direct that the flag be flown at half-staff on Peace Officers Memorial Day. I further encourage all Americans to display the flag at half-staff from their homes on that day.

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



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Presidential Documents

Proclamation 7559 of May 10, 2002

National Defense Transportation Day and National Transportation Week, 2002

By the President of the United States of America

A Proclamation

The importance of America's transportation system became evident to all Americans on September 11, 2001. Airliners were diverted, airports closed, and travelers were stranded for days as transportation systems across the country were disrupted. In the aftermath of September 11, the men and women in the transportation industry have helped restore function and trust to a system that was traumatized. Today, Americans and America's goods and services are being more safely moved to their destinations, as our communities continue the process of important restructuring.

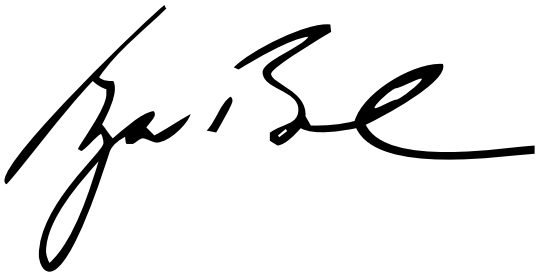
We have helped secure our transportation system with the passage of the Aviation and Transportation Security Act, which greatly enhanced the protections for America's passengers and goods. And we are determined to ensure that Americans have the transportation system and mobility that is necessary for a vibrant economy and meaningful quality of life.

We live in a time of unprecedented travel, when goods and services, regardless of origin, can be available in a short amount of time. Thanks to imagination, innovation, and investment in transportation, we can safely commute to work, receive overnight mail, buy fresh fruit and vegetables, and travel with relative ease to destinations around the world. We also continue to make progress in developing a transportation system that offers choices and protects the environment through cleaner, more fuel-efficient vehicles and new, environmentally sound infrastructure.

To recognize Americans who work in transportation and who contribute to our Nation's prosperity, defense, and progress, the United States Congress, by joint resolution approved May 16, 1957, as amended, (36 U.S.C. 120), has designated the third Friday in May of each year as ''National Defense Transportation Day,'' and, by joint resolution approved May 14, 1962, as amended, (36 U.S.C. 133), declared that the week during which that Friday falls be designated as ''National Transportation Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Friday, May 17, 2002, as National Defense Transportation Day and May 12 through May 18, 2002, as National Transportation Week. I encourage all Americans to recognize how our modern transportation system has enhanced our economy and contributed to our freedom.

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



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Rules and Regulations

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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 Part 301

[Docket No. 01–080–2]

Oriental Fruit Fly; Removal of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Oriental fruit fly regulations by removing portions of San Bernardino and San Diego Counties, CA, from the list of quarantined areas and by removing restrictions on the interstate movement of regulated articles from those areas. This action is necessary to relieve restrictions that are no longer needed to prevent the spread of the Oriental fruit fly into noninfested areas of the United States. We have determined that the Oriental fruit fly has been eradicated from these portions of San Bernardino and San Diego Counties, CA, and that the quarantine and restrictions are no longer necessary. These portions of San Bernardino and San Diego Counties, CA, were the last remaining areas in California quarantined for the Oriental fruit fly. Therefore, as a result of this action, there are no longer any areas in the continental United States quarantined for the Oriental fruit fly.

DATES: This interim rule is effective May 15, 2002. We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 15, 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. 01–080–2, 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. 01–080–2. 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. 01–080–2'' 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: Mr. Stephen Knight, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1231; (301) 734–8039.

SUPPLEMENTARY INFORMATION:

Background

The Oriental fruit fly, *Bactrocera dorsalis* (Hendel), is a destructive pest of citrus and other types of fruits, nuts, and vegetables. The short life cycle of the Oriental fruit fly allows rapid development of serious outbreaks that can cause severe economic losses. Heavy infestations can cause complete loss of crops.

The Oriental fruit fly regulations, contained in 7 CFR 301.93 through 301.93–10 (referred to below as the regulations), restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of the Oriental fruit fly to noninfested areas of the United States. The regulations also designate soil and a large number of fruits, nuts, vegetables, and berries as regulated articles.

In an interim rule effective on August 29, 2001, and published in the **Federal Register** on September 5, 2001 (66 FR 46365–46366, Docket No. 01–080–1), we quarantined a portion of San Bernardino County, CA, and restricted the interstate movement of regulated articles from the quarantined area.

Subsequently, in an interim rule effective on October 26, 2001, and published in the **Federal Register** on November 1, 2001 (66 FR 55067–55068, Docket No. 01–102–1), we quarantined a portion of San Diego County, CA, and restricted the interstate movement of regulated articles from that quarantined area.

Based on trapping surveys conducted by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service, we have determined that the Oriental fruit fly has been eradicated from the quarantined portions of these two counties. The last finding of Oriental fruit fly in the San Bernardino County quarantined area was October 17, 2001, while the last such finding in the San Diego County quarantined area was September 25, 2001.

Since then, no evidence of Oriental fruit fly infestation has been found in these areas. Based on our experience, we have determined that sufficient time has passed without finding additional flies or other evidence of infestation to conclude that the Oriental fruit fly no longer exists in San Bernardino County or San Diego County, CA. Therefore, we are removing both counties from the list of quarantined areas in § 301.93–3(c). With the removal of San Bernardino and San Diego Counties, CA, from that list, there are no longer any areas in the continental United States quarantined for the Oriental fruit fly.

Immediate Action

Immediate action is warranted to relieve restrictions that are no longer necessary. Portions of San Bernardino and San Diego Counties, CA, were quarantined due to the possibility that the Oriental fruit fly could be spread from those areas to noninfested areas of the United States. Since we have concluded that the Oriental fruit fly no longer exists in those counties, immediate action is necessary to remove the quarantines on San Bernardino and San Diego Counties, CA, and to relieve the restrictions on the interstate movement of regulated articles from those areas. 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 action 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.

This action amends the Oriental fruit fly regulations by removing portions of San Bernardino and San Diego Counties, CA, from the list of quarantined areas.

County records indicate that within the quarantined portion of San Bernardino County, CA, there are 10 to 15 small growers who could be affected by the lifting of the quarantine in this interim rule. There is no commercial agricultural acreage nor any flea markets or certified farmers' markets within the area. The number of nurseries and fruit and produce dealers located within the area is presently unknown.

We expect that the effect of this interim rule on the small entities referred to above will be minimal. Small entities located within the quarantined area that sell regulated articles do so primarily for local intrastate, not interstate, movement, so the effect, if any, of this rule on these entities appears likely to be minimal. In addition, the effect on any small entities that may move regulated articles interstate has been minimized during the quarantine period by the availability of various treatments that allow these small entities, in most cases, to move regulated articles interstate with very little additional cost. Thus, just as the previous interim rule establishing the quarantined area in San Bernardino, CA, had little effect on the small growers in the area, the lifting of the quarantine in the current interim rule will also have little effect.

Within the quarantined area of San Diego County, CA, the State of California has identified 101 markets/produce vendors, 3 farmers' markets, 20 nurseries, and 2 growers. No data are available on how many of these entities are small.

The effect on any entities, large or small, that may move regulated articles interstate has been minimized during the quarantine period by the availability of various treatments that allow these entities, in most cases, to move regulated articles interstate with very little additional cost. For many businesses, no additional costs have been incurred. As far as we can determine, no entities have gone out of business due to the quarantine. It is, therefore, highly unlikely that the lifting of the quarantine in San Diego County, CA, will have a significant economic effect on any entities, large or small, in that area.

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 inconsistent 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 information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

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 § 301.93–3, paragraph (c) is revised to read as follows:

§ 301.93–3 Quarantined areas.

* * * * *

(c) The areas described below are designated as quarantined areas: There are no areas in the continental United States quarantined for the Oriental fruit fly.

Done in Washington, DC, this 9th day of May, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12136 Filed 5–14–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 01–122–2]

Change in Disease Status of Slovakia and Slovenia Because of BSE

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 Slovakia and Slovenia to the list of regions where bovine spongiform encephalopathy exists because the disease has been detected in native-born animals in those regions. Slovakia and Slovenia had already been listed among the regions that present an undue risk of introducing bovine spongiform encephalopathy into the United States, so the effect of the interim rule was a continued restriction on the importation of ruminants that have been in Slovakia or Slovenia and meat, meat products, and certain other products of ruminants that have been in either of those regions. The interim rule was necessary in order to update the disease status of Slovakia and Slovenia regarding bovine spongiform encephalopathy.

EFFECTIVE DATE: The interim rule became effective on February 1, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, Sanitary Issues Management Staff, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–4356.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on February 1, 2002 (67 FR 4877–4878, Docket No. 01–122–1), we amended the regulations in 9 CFR part 94 by adding Slovakia and Slovenia to the list of regions where bovine spongiform encephalopathy (BSE) exists. Slovakia and Slovenia had previously been listed in § 94.18(a)(2) as regions that present an undue risk of introducing BSE into the United States. However, due to the detection of BSE in native-born animals in those regions, the interim rule was necessary to update the disease status of Slovakia and Slovenia regarding BSE.

Comments on the interim rule were required to be received on or before April 2, 2002. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

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

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

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 that was published at 67 FR 4877–4878 on February 1, 2002.

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 9th day of May, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12137 Filed 5–14–02; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 366

RIN 3064–AC29

Minimum Standards of Integrity and Fitness for an FDIC Contractor

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Interim final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is issuing a rule entitled, ''Minimum Standards of Integrity and Fitness for an FDIC Contractor''. This rule replaces the March 11, 1996, interim final rule entitled, ''Contractor Conflicts of Interest''. This rule establishes standards for independent contractors governing contracting prohibitions, conflicts of interest, ethical responsibilities, confidential information, and reportable information. It is also consistent with the goals and purposes of titles 18 and 41 of the United States Code. This rule is in addition to, and not in lieu of, any other statute or rule which may apply to the conduct of persons performing services pursuant to a contract.

DATES: This rule becomes effective May 15, 2002. We must receive your written comments on or before July 15, 2002.

ADDRESSES: Address your written comments to Robert E. Feldman, Executive Secretary, Attention: comments/OES, and:

1. Mail to Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429;
2. Hand-deliver to the guard station located at the rear of the 17th Street Building on F Street, between 8:30 a.m. and 5:00 p.m. on business days;
3. Fax to (202) 898–3838;
4. E-mail to: *comments@FDIC.gov <mailto:comments@fdic.gov>;* or
5. Post on the FDIC internet site at *http://www.fdic.gov/regulations/laws/Federal/propose.html.*

Comments are available for inspection and photocopying at the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Martin A. Blumenthal, Counsel, (202) 736–0359, or Peter M. Somerville, Counsel, (202) 736–0110, Legal Division; or Donald L. Rosholt, Senior Ethics Program Specialist, Office of the Executive Secretary, (202) 898–7287, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. Introduction
- A. Overview
- B. Authority
- C. Background

II. Comparison of this rule to the March 11, 1996, interim final rule
- A. General changes
- B. Definitional changes
- C. Prohibition from performing services on our behalf
- D. Contractor responsibilities and requirements
- E. Contractor's expectations, rights, and obligations

III. Matters of Regulatory Procedure
- A. Regulatory Flexibility Act
- B. Paperwork Reduction Act
- C. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families
- D. Congressional Review Act

I. Introduction

A. Overview

This rule sets forth integrity and fitness provisions for FDIC contractors in three areas. The first area regards those persons from whom the FDIC is prohibited from entering into a contract. The second area identifies integrity and fitness responsibilities for independent contractors. These include conflicts of interest, minimum standards of ethical responsibility, confidential information, and information that contractors must disclose to the FDIC. The last area regards a contractor's expectations, rights and obligations. These include what advice and determinations the FDIC will provide a contractor, reconsiderations and reviews of those determinations, and the possible consequences a person may face for violating the provisions of this rule.

This rule and **SUPPLEMENTARY INFORMATION** section are drafted in plain language. The word ''person'' refers to an individual, corporation, partnership, or other entity with a legally independent existence. The terms ''I'', ''me'', ''my'', ''mine'', ''you'', and ''yourself'' refer to a person who submits an offer to perform or performs, directly or indirectly, contractual services or functions on behalf of the FDIC. The terms ''we'', ''our'', and ''us'' refer to the FDIC, except when the FDIC operates an insured depository institution such as a bridge bank or conservatorship. The phrase ''insured depository institution'' refers to any bank or savings association whose deposits are insured by the FDIC.

B. Authority

The statutory authorities for adopting this rule are sections 12(f)(3) and (4) of the Federal Deposit Insurance Act (FDI Act), 12 U.S.C. 1822(f)(3) and (4), and our general rulemaking authority found at 12 U.S.C. 1819 (Tenth). Section 19 of the Resolution Trust Corporation Completion Act (RTCCA), Pub. L. 103–204, 107 Stat. 2369 (1993), required the addition of section 12(f) to the FDI Act.

We may establish other integrity and fitness policies where we determine such policies are required by law or appropriate to maintain the integrity of our programs. Any such policies may be independent of, in conjunction with, or in addition to the restrictions set forth in this rule.

We may also, temporarily or permanently, suspend this rule or exempt a person from compliance with any part of this rule for good cause shown, in order to protect our interests or to provide an orderly transfer of services to another person.

C. Background

The contractor integrity and fitness rules, based on statutory requirements, are regulatory tools the FDIC uses to assure that certain of its contractors meet minimum standards of competence, experience, integrity and fitness. *See* 501(a), FHLB Act Sec. 21A(p)(6). This statute was enacted to ensure that no person who contributed to the failure of an insured depository institution could contract with the FDIC without disclosure and considerable scrutiny. The Oversight Board of the Resolution Trust Corporation (RTC) issued the original proposed rule on November 28, 1989. From that original rule, related FDIC rules, and many years of RTC and FDIC experience, we propose this rule.

On June 24, 1994, we published a proposed rule applicable to independent contractors (59 FR 32661–32668), as required by 12 U.S.C. 1822(f)(3). That rulemaking proposed standards governing conflicts of interest, ethical responsibilities, and use of confidential information. It also proposed procedures for ensuring that independent contractors meet minimum standards for competence, experience, integrity, and fitness. We received six comment letters. After careful consideration of each comment and numerous changes that the Office of Government Ethics (OGE) requested, we made appropriate modifications to the proposal resulting in the reorganization and modification of some provisions.

On March 11, 1996, we adopted an interim final rule entitled, ''Contractor Conflicts of Interest'', (61 FR 9590), with the concurrence of OGE. We determined that an interim final rule was appropriate in order to allow interested parties to comment on the rule while providing prompt implementation of the rule to satisfy concerns relating to the merger of the RTC into the FDIC. We received only one comment on the interim final rule and it was non-substantive. We have gained significant experience regarding requests for (1) waivers of disqualifying conditions and conflicts of interest, and (2) reconsiderations of our determinations since the interim final rule was issued.

We now publish this rule entitled, ''Minimum Standards of Integrity and Fitness for an FDIC Contractor'', to allow for public comment. We believe that public comment is appropriate given the length of time that has transpired since the March 11, 1996, interim final rule was published and the changes we are making now. The provisions of this rule are similar to the interim final rule, except as addressed in section II below. In general, those changes relieve restrictions on contractors. Therefore, although we request comments on all aspects of this rule, we will publish the rule as an interim final rule, having found good cause for making it effective immediately. The March 11, 1996, interim final rule is replaced with this rule. 5 U.S.C. 533(b)(3)(B) and 533(d)(1) and (3).

II. Comparison of This Rule to the March 11, 1996, Interim Final Rule

A. General Changes

This rule is published in accordance with plain language guidelines. It does not include the internal agency procedures that were incorporated in the March 11, 1996, interim final rule. Instead, it provides for the Board of Directors to delegate to the Chairman, or his designee, the authority to grant waivers and implement procedures for this rule. Examples are added at §§ 366.4(b), 366.6(c), 366.10(b), 366.11(b), 366.12(e) and 366.13(b) for clarity and guidance.

The title of this rule is changed from ''Contractor Conflicts of Interest'' to ''Minimum Standards of Integrity and Fitness for an FDIC Contractor'' to better describe its provisions.

The waiver and reconsideration provisions established in the March 11, 1996, interim final rule set forth internal agency processes and procedures, some of which do not meet the needs or satisfy the requirements of our diverse activities. For example, a conflict of interest consideration is different for a service contractor when it expresses an interest in purchasing an asset from us than when it competes to provide us with asset services. A service contractor is an independent contractor that provides services other than goods, including, but not limited to, legal services, asset disposition or management services, or management and consulting services. Furthermore, the universe of persons subject to the provisions of this rule represents a wide variety of professions and organizational structures, which we must take into consideration in making our integrity and fitness determinations. For example, the threshold of what constitutes a conflict of interest for legal services is not necessarily the same as that for non-legal services. Conflicts of interest for legal matters involve representational and non-representational issues. For these reasons, we will continue to issue separate and complementary internal policies and procedures, consistent with this rule, for our different program areas as may be necessary.

We interpret the language of section 1822(f) to distinguish between two different types of service contracts. The first type is incidental or housekeeping service contracts. The phrase ''incidental or housekeeping'' refers to services or activities relating to our day-to-day routine corporate operations. Examples of incidental or housekeeping service contracts would include, but would not be limited to, (1) food service contracts for employee cafeteria services, (2) contracts for janitorial or cleaning services, (3) contracts for mail delivery services, and (4) contracts providing employee benefits. Such incidental or housekeeping service contracts do not arrange for contract workers (rather than FDIC employees) to perform services for or on our behalf a FDIC function or activity required of the FDIC by statute (described below). Incidental and housekeeping service contracts are not covered by the statutory minimum standards of fitness and integrity set forth at 12 U.S.C. 1822(f)(4)(E), nor are they covered by this rule. We reserve our discretion and flexibility to determine an appropriate standard of integrity and fitness where a contract worker would provide incidental or housekeeping services for or to us. We may impose fitness and integrity requirements up to and including the statutory standards upon such contract workers.

The second type of service contract provides for contract workers (rather than FDIC employees) to perform FDIC functions and/or activities for or on our behalf. The FDIC functions and/or

activities performed for or on our behalf relate to any of our responsibilities that are required by statute such as regulating banks, providing deposit insurance, examining banks, conducting receivership activities, and conducting liquidation activities. These types of service contracts would include, but would not be limited to, contracts to service, manage or sell receivership or corporate assets. The minimum standards of integrity and fitness as set forth in section 12 U.S.C. 1822(f)(4)(E) apply to these contracts. These contracts are covered by this rule.

Previously, since the rule was first proposed in June 1994, we chose to voluntarily apply the provisions of the rule to all service contracts, including corporate contracts for incidental or housekeeping services. This rule differs from the March 11, 1996, interim final rule in that we have decided to limit the scope as stated above.

After careful review of the FDI Act, we propose to establish a provision for us to grant waivers at our discretion regarding the prohibition to perform contractual services on our behalf to persons other than individuals at § 366.7. We believe this change is consistent with the FDI Act, which mandates that we establish procedures to ensure that any individual who is performing, directly or indirectly, any function or service on our behalf meets minimum standards of integrity and fitness. Because the statutory language refers only to individuals, and not other entities, we believe this approach is appropriate.

In addition, we removed the reference to an obsolete interim supplemental financial disclosure rule entitled, ''Supplemental Financial Disclosure Requirements for Employees of the Federal Deposit Insurance Corporation'', 61 FR 50947–48 (September 30, 1996). This supplemental financial disclosure rule was codified at 5 CFR part 3202 and referenced in the interim final rule at § 366.1(c)(1)(ii).

There are several provisions in the March 11, 1996, interim final rule that are repetitive. For example, the provisions for reconsidering our decisions are found at §§ 366.4(d) and 366.5(e). The contractor's 10-day and immediate notification requirements are found at §§ 366.4(b)(2) and (c), 366.5(c)(1)(ii) and (d), and 366.6(b)(2). The remedies for the contractor's failure to comply with the rule and the contractor's liability requirements are found at §§ 366.4(c)(2), 366.5(d)(2), 366.6(c), 366.8(b), and 366.9. We eliminate this repetitiveness to make this rule more concise. The reconsideration provisions in this rule are consolidated at § 366.16. The notification requirements are consolidated at § 366.14(c) of this rule. Our remedies for the contractor's failure to comply with the rule and contractor's liability requirements are consolidated at § 366.17.

In addition, there are several provisions in the March 11, 1996, interim final rule that make distinctions with respect to their applicability prior to contract award, after contract award, and during the term of a contract. These are found at §§ 366.4(b) and (c), 366.5(c) and (d), and 366.7(a). We make no such distinctions in this rule at § 366.15(b). There are also separate provisions for a person's initial and subsequent submissions of information at §§ 366.6(a) and (b) of the interim final rule. No such distinction between these provisions is made in this rule at § 366.14. We eliminate these distinctions found in the interim final rule to make this rule more concise. This rule applies equally to prior to contract award, after contract award, and during the term of a contract.

B. Definitional Changes

The terms ''affiliated business entity'', ''company'', and ''management official'' found at §§ 366.2(a), (b), and (i), respectively, in the March 11, 1996, interim final rule do not appear in this rule. Other terms that we defined in the interim final rule are used in this rule without a formal definition. We rely, instead, on the common meaning of the terms as used in the contracting environment. For example, reference to ''contractor'', ''offer'', and ''subcontractor'' found at §§ 366.2(d), (j) and (n), respectively, in the interim final rule are not defined in this rule. The question-and-answer format is used in this rule to describe the terms ''pattern or practice of defalcation'' and ''substantial loss'' that were defined in the interim final rule at §§ 366.2(k) and (o), respectively.

1. The following is a discussion of the changes to three terms:

Conflict of Interest. The definition of a conflict of interest at § 366.2(c) of the March 11, 1996, interim final rule includes four provisions. We now believe that the suspension and exclusion provision at § 366.2(c)(3) of the interim final rule does not constitute a conflict of interest, and it is not included in this rule. According to the March 11, 1996, interim final rule, a previously suspended or excluded person is permanently restricted from performing services on our behalf, unless we grant a waiver. This requires us to consider waivers for any previously suspended or excluded person even when the person is no longer debarred from contracting with us or any other federal agency. This waiver requirement is an unnecessary burden for us and the previously suspended or excluded person. Moreover, it does not provide us with any additional safeguards. We believe a previously suspended or excluded person should be eligible to contract with us to the same extent they are eligible to contract with other Federal agencies, unless § 366.3 of this rule prohibits them from doing so. This is consistent with federal debarment restrictions that are usually temporary or limited in time.

Section 366.10 of this rule incorporates the other three provisions of the original definition of the term ''conflict of interest'' in § 366.2(c) of the March 11, 1996, interim final rule. Section 366.2(c)(4) of the interim final rule, regarding an unfair competitive advantage, applied primarily to asset purchaser situations. Section 366.10(a)(3) of this rule is included to make this application clearer. Section 366.10(a)(4) of this rule is added to cover any other situation which could cause us to question the integrity of the services a contractor provided, is providing or offers to provide us.

Pattern or practice of defalcation. Section 366.4 of this rule explains pattern or practice of defalcation. Pattern or practice of defalcation in this rule does not include the foreclosure provision found in § 366.2(k)(2) of the March 11, 1996, interim final rule. That foreclosure provision states, ''A loan or advance from an insured depository institution where there has been a failure to comply with the terms to such an extent that the collateral securing the loan or advance was foreclosed upon, resulting in a loss in excess of $50,000 to the insured depository institution.'' This concept is incorporated, in part, in the term substantial loss at § 366.5. It does not apply to foreclosures at open institutions in this rule as it did in the interim final rule. Examples are added for clarity and guidance.

Substantial loss. Section 366.5 of this rule explains what it means to cause a substantial loss to a federal deposit insurance fund. It does not include the provision for obligations that have ever been delinquent found in § 366.2(o)(1) of the March 11, 1996, interim final rule. We believe 12 U.S.C. 1822(f)(4)(E)(iv) prohibits us from contracting with a contractor who is currently delinquent for ninety (90) days or more with us, because there is a perceived result of a loss to the fund. However, we do not believe it prohibits

us from contracting with a contractor who may have had a delinquent obligation to us that is now current.

2. This rule describes the term ''person'' more clearly. Section 366.2(l) of the March 11, 1996, interim final rule defines the term ''person'' to mean an individual or company. The word ''person'' used in this rule includes an individual, corporation, partnership, or other legally independent entity. We believe meaning of the word ''person'' in this rule is not a change from the meaning of the term used in the interim final rule.

C. Prohibition From Performing Services on Our Behalf

12 U.S.C. 1822(f)(4)(E) requires us to prohibit any person who is a convicted felon; who a federal banking agency removes or prohibits from participating in the affairs of any insured depository institution pursuant to any final enforcement action; who demonstrates a pattern or practice of defalcation regarding obligations to insured depository institutions; or who causes a substantial loss to federal deposit insurance funds from performing any service on our behalf. Section 366.3 of this rule sets forth the same provisions as those in § 366.4 of the March 11, 1996, interim final rule with the exception of their applicability to any person that owns or controls you, and any entity you own or control. We added to this rule the provision for the applicability of the prohibitions to any person that owns or controls you and any entity you own or control so that a prohibited contractor could not circumvent the prohibition by contracting through a non-prohibited entity. This rule makes no distinction with respect to those prohibitions that arise prior to award and those that arise or are discovered after contract award. We do not believe this distinction is necessary because the prohibitions are applicable, regardless of when they arise.

Section 366.6 of this rule explains ownership or control, which is unchanged from § 366.2(e) of the March 11, 1996, interim final rule. Examples are added for clarity and guidance.

Section 366.7 of this rule is a new provision that permits us to grant a waiver of the prohibitions found in § 366.3 to an entity other than an individual. This new provision is based upon our conclusion that the statutory requirement found at section 12 U.S.C. 1822(f)(4)(E) limits individuals from contracting with us when the prohibitions found in § 366.3 are shown to exist. The application of the prohibition to all persons requires us to include a waiver provision for entities other than individuals for good cause shown.

Because this rule includes waiver provisions and allows the FDIC to establish policies independent of, in conjunction with, or in addition to the restrictions set forth in this rule, section 366.8 is included to delegate authority from the Board of Directors to the Chairman, or his designee, to issue waivers and implement procedures. This provides the FDIC the ability to specify the appropriate officials who will administer the provisions of the rule that were incorporated in section 366.3 of the March 11, 1996, interim final rule.

D. Contractor Responsibilities and Requirements

12 U.S.C. 1822(f)(3) requires us to prescribe regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities, and use of confidential information. Sections 366.10 through 366.14 of this rule set forth the provisions for this requirement.

Section 366.10 explains when you have a conflict of interest. It incorporates provisions of §§ 366.2(c) and 366.5 of the March 11, 1996, interim final rule. As discussed in II B.1 in this Supplementary Information section, the conflict of interest provision changes include (1) the removal of a suspended or excluded contractor as a conflict of interest, and (2) the addition of the provision to cover other situations which could cause us to question the integrity of the services a contractor provided, is providing or offers to provide. Examples are added for clarity and guidance.

Section 366.11 sets forth the provision for us to grant waivers of a conflict of interest, and it is similar to § 366.5(b) of the March 11, 1996, interim final rule. However, no distinction is made between conflicts that arise prior to award and those that are discovered after award. Examples are added for clarity and guidance.

Section 366.12 sets forth our minimum standards for your ethical responsibility. Section 366.12(a) is added to ensure that you and your employees are fair and objective. Section 366.12(b) replaces the verification provisions in §§ 366.6(a)(3) and (b)(1) of the March 11, 1996, interim final rule. Section 366.12(c) was added at the request of the Office of Inspector General to ensure that you are held to the same standard for reporting waste, fraud and abuse as any FDIC employee when conducting FDIC business. Section 366.12(d) incorporates the provisions of § 366.7(a) of the interim final rule. Examples are added for clarity and guidance.

Section 366.13 sets forth your obligation to maintain confidential information, and it is consistent with § 366.8 of the March 11, 1996, interim final rule. The consequences for failure to comply with the provisions found at § 366.8(b) of the interim final rule are incorporated in § 366.17 of this rule. Examples of inappropriate use of confidential information are added for clarity and guidance.

Section 366.14 requires you to provide information to us, and it is similar to § 366.6(a) and (b) of the March 11, 1996, interim final rule. However, in this rule we do not make a distinction between information required prior to award and subsequent to award. In addition, we reduce the period of time from the preceding ten (10) years to the preceding five (5) years regarding the information about defaults that a contractor must report, consistent with section 12 U.S.C. 1822(f)(4)(C)(i).

E. Contractor's Expectations, Rights, and Obligations

Section 366.15 of this rule identifies what we will provide you with respect to advice and determinations. It simplifies the determination, corrective actions and waiver provisions found at §§ 366.4(c)(1), and 366.5(c) and (d) of the March 11, 1996, interim final rule.

Section 366.16 of this rule sets forth our requirements for reconsideration or review of our determinations. It includes the reconsideration and review provisions found at §§ 366.4(d), 366.5(e) and 366.5(c)(2) of the March 11, 1996, interim final rule.

Section 366.17 sets forth the sanctions you may be subject to if you do not comply with this rule. It consolidates the remedies and the contractor's liability provisions found at §§ 366.4(c)(2) and (3), 366.5(d)(2) and (3), 366.7(d), 366.8(b) and 366.9 of the March 11, 1996, interim final rule in one section.

III. Matters of Regulatory Procedure

A. Regulatory Flexibility Act

The Board of Directors certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605 (b)). This rulemaking will replace the interim final rule published on March 11, 1996. This rule imposes no new burden other than the minimal time required to read new descriptions of unique terms used in the rule. As discussed further in the

Paperwork Reduction Act section below, we are reducing the amount of information we currently require from contractors.

We are also taking this opportunity to engage in a periodic review of this rule consistent with our responsibilities under the Regulatory Flexibility Act (5 U.S.C. 610). The purpose of this review is to determine how we may minimize any significant economic impact of the rule on a substantial number of small entities consistent with the objectives of the law that requires us to have this rule. Your comments on how we may reduce burden on small contractors are welcome.

B. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), we may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The collections of information contained in this rule were submitted to OMB for review.

Written comments on the collection of information should be sent to the FDIC desk officer: Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Alexander T. Hunt, New Executive Office Building, Room 3208, Washington, DC 20503.

Copies of comments should also be sent to: Federal Deposit Insurance Corporation, Office of the Executive Secretary, Attn: Thomas E. Nixon, 550 17th Street, NW., Washington, DC 20429, (202) 898–8766.

Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 8:30 a.m. and 5:00 p.m. [Fax number (202) 898–3838; Internet address: *COMMENTS@FDIC.GOV*]. For further information on the Paperwork Reduction Act aspect of this rule, contact Thomas E. Nixon at the above address.

Comment is solicited on:

1. Whether the collections of information are necessary for the proper performance of our functions, including whether the information will have practical utility;

2. The accuracy of our estimates of burden of the proposed collections of information, including the validity of the methodology and assumptions used;

3. The quality, utility, and clarity of the information to be collected;

4. Ways to minimize the burden of the information collections 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, for example, permitting electronic submission of responses; and

5. Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Title of the collection: This rule will modify an information collection previously approved by OMB titled ''Acquisition Services Information Requirements'' under control number 3064–0072.

Summary of the collection: Generally, the collection includes the submission of information on FDIC forms by contractors who wish to do business with us or are currently under contract with us.

Need and Use of the information: We use the information to ensure compliance with our contractor integrity and fitness regulation and to make contracting decisions.

Respondents: FDIC contractors and potential FDIC contractors.

Changes to the collection: This rule changes the definitions of terms used on OMB approved contracting forms (for example, the Integrity and Fitness Representations, the Contractor Application, and Background Investigation Questionnaire). The definition of ''substantial loss'' will no longer include loans that were formerly delinquent but which are now current or satisfied. ''Pattern or practice of defalcation'' deletes a concept regarding the foreclosure of collateral which has been and continues to be encompassed in the concept of ''substantial loss.'' ''Conflict of interest'' will no longer include a prior suspension or exclusion from federal government contracting or certain terminations of our contracts. In addition, the time period for which contractors must disclose defaults on material obligations is shortened from 10 to 5 years.

Burden estimates: On September 12, 2001, OMB approved this collection for 12,546 responses with a total burden of 6,285 hours. The collection included nine forms with the estimated response time for each form varying between .05 hours to 1.0 hour. This rulemaking affects three of the nine forms. The estimated burdens for these three forms:

1. ''Integrity and Fitness Representations'', FDIC 3700/12. 2,312 responses x 20 minutes per response, or 771 hours annual burden.

2. ''Contractor Application'', FDIC 3700/13. 631 responses x 35 minutes per response, or 368 hours annual burden.

3. ''Background Investigation Questionnaire'', FDIC 1600/04. 2,330 responses x 20 minutes per response, or 776 hours annual burden.

Title of the collection: This rule will also modify the information collection previously approved by OMB titled ''Forms Relating to FDIC Outside Counsel Services'' under control number 3064–0122.

Summary of the collection: Generally, the collection includes the submission of information on forms by legal contractors who wish to do business with us or are currently under contract with us.

Need and Use of the information: We use the information to ensure compliance with our contractor integrity and fitness regulation, to make contracting decisions, and to control payments.

Respondents: Law firms and legal support service providers that contract with us or seek to do so.

Changes to the collection: The currently approved information collection includes 13 forms. This rulemaking affects one of the 13 forms, FDIC 5200/01, the title of which has been changed from ''Representations and Certifications Qualifications of Applicants: Law Firms and Sole Practitioners'' to ''Representations and Certifications for Legal Contractors'', reflecting that the respondent base has been expanded to include all legal support service providers. This rule also changes the definitions of certain terms. The definition of ''substantial loss'' will no longer include loans that were formerly delinquent but which are now current or satisfied. ''Pattern or practice of defalcation'' deletes a concept regarding the foreclosure of collateral which has been and continues to be encompassed in the concept of ''substantial loss.'' ''Conflict of interest'' will no longer include a prior suspension or exclusion from federal government contracting or certain terminations of our contracts. In addition, the time period for which contractors must disclose defaults on material obligations is shortened from 10 to 5 years.

Burden estimates: On October 10, 2000, OMB approved this collection for a total burden of 2,028 hours based on 2,783 responses on 13 forms with the estimated response time for each form varying between .5 hour to 1.25 hours. This rulemaking affects one of the 13 forms, now titled ''Representations and Certifications for Legal Contractors'', FDIC 5200/01. The new burden estimate for FDIC 5200/01 is 500 responses x 1 hour, or 500 hours annual burden.

C. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

We have determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

D. Congressional Review Act

OMB has determined that this rule is not a ''major rule'' within the meaning of the Congressional Review Act (5 U.S.C. 801 *et seq.*). The FDIC will file appropriate reports with Congress and the General Accounting Office so that this final rule can be reviewed.

List of Subjects in 12 CFR Part 366

Contractor conflicts of interest, Government contracts, Reporting and recordkeeping requirement.

For the reasons set forth in the preamble, we hereby revise part 366 of chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 366—MINIMUM STANDARDS OF INTEGRITY AND FITNESS FOR AN FDIC CONTRACTOR

Sec.

366.0 Definitions.
366.1 What is the purpose of this part?
366.2 What is the scope of this part?
366.3 Who cannot perform contractual services for the FDIC?
366.4 When is there a pattern or practice of defalcation?
366.5 What causes a substantial loss to a federal deposit insurance fund?
366.6 How is my ownership or control determined?
366.7 Will the FDIC waive the prohibitions under § 366.3?
366.8 Who can grant a waiver of a prohibition or conflict of interest?
366.9 What other requirements could prevent me from performing contractual services for the FDIC?
366.10 When would I have a conflict of interest?
366.11 Will the FDIC waive a conflict of interest?
366.12 What are the FDIC's minimum standards of ethical responsibility?
366.13 What is my obligation regarding confidential information?
366.14 What information must I provide the FDIC?
366.15 What advice or determinations will the FDIC provide me on the applicability of this part?
366.16 When may I seek a reconsideration or review of an FDIC determination?
366.17 What are the possible consequences for violating this part?

Authority: 12 U.S.C. 1819(Tenth), 1822(f)(3) and (4); Sec. 19 of Pub. L. 103–204, 107 Stat. 2369.

§ 366.0 Definitions.

As used in this part:

(a) The word *person* refers to an individual, corporation, partnership, or other entity with a legally independent existence.

(b) The terms *we*, *our*, and *us* refer to the Federal Deposit Insurance Corporation (FDIC), except when acting as conservator or operator of a bridge bank.

(c) The terms *I*, *me*, *my*, *mine*, *you*, and *yourself* refer to a person who submits an offer to perform or performs, directly or indirectly, contractual services or functions on our behalf.

(d) The phrase *insured depository institution* refers to any bank or savings association whose deposits are insured by the FDIC.

§ 366.1 What is the purpose of this part?

This part establishes the minimum standards of integrity and fitness that contractors, subcontractors, and employees of contractors and subcontractors must meet if they perform any service or function on our behalf. This part includes regulations governing conflicts of interest, ethical responsibility, and use of confidential information in accordance with 12 U.S.C. 1822(f)(3) and the prohibitions and the submission of information in accordance with 12 U.S.C. 1822(f)(4).

§ 366.2 What is the scope of this part?

(a) This part applies to a person who submits an offer to perform or performs, directly or indirectly, a contractual service or function on our behalf.

(b) This part does not apply to:

(1) An FDIC employee for the purposes of title 18, United States Code; or

(2) The FDIC when we operate an insured depository institution such as a bridge bank or conservatorship.

§ 366.3 Who cannot perform contractual services for the FDIC?

We will not enter into a contract with you to perform a service or function on our behalf, if you or any person that owns or controls you, or any entity you own or control:

(a) Has a felony conviction;

(b) Was removed from or is prohibited from participating in the affairs of an insured depository institution as a result of a federal banking agency final enforcement action;

(c) Has a pattern or practice of defalcation; or

(d) Is responsible for a substantial loss to a federal deposit insurance fund.

§ 366.4 When is there a pattern or practice of defalcation?

(a) You have a pattern or practice of defalcation under § 366.3(c) when you, any person that owns or controls you, or any entity you own or control has a legal responsibility for the payment on at least two obligations that are:

(1) To one or more insured depository institutions;

(2) More than 90 days delinquent in the payment of principal, interest, or a combination thereof; and

(3) More than $50,000 each.

(b) The following are examples of when you have or do not have a pattern or practice of defalcation. These examples are not inclusive.

(1) You have five loans at insured depository institutions. Three of them are 90 days past due. Two of the three loans have outstanding balances of more than $50,000 each. You have a pattern or practice of defalcation.

(2) You have five loans at insured depository institutions. Two of them are 90 days past due. One of the two is with ABC Bank for $170,000. The other one is with XYZ bank for $60,000. You have a pattern or practice of defalcation.

(3) You have five loans at insured depository institutions. Three of them are 90 days past due. One of the three has an outstanding balance of more than $50,000. The other two have outstanding balances of less than $50,000. You do not have a pattern or practice of defalcation.

(4) You have five loans at insured depository institutions. Three of them have outstanding balances of more than $50,000. Two of those three were 90 days past due but are now current. You do not have a pattern or practice of defalcation.

§ 366.5 What causes a substantial loss to a federal deposit insurance fund?

You cause a substantial loss to a federal deposit insurance fund under § 366.3(d) when you, or any person that owns or controls you, or any entity you own or control has:

(a) An obligation to us that is delinquent for 90 days or more and on which there is an outstanding balance of principal, interest, or a combination thereof of more than $50,000;

(b) An unpaid final judgment in our favor that is in excess of $50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding;

(c) A deficiency balance following foreclosure of collateral on an obligation owed to us that is in excess of $50,000, regardless of whether it becomes discharged in whole or in part in a bankruptcy proceeding; or

(d) A loss to us that is in excess of $50,000 that we report on IRS Form 1099–C, Information Reporting for Discharge of Indebtedness.

§ 366.6 How is my ownership or control determined?

(a) Your ownership or control is determined on a case-by-case basis. Your ownership or control depends on the specific facts of your situation and the particular industry and legal entity involved. You must provide documentation to us to use in determining your ownership or control.

(b) The interest of a spouse or other family member in the same organization is imputed to you in determining your ownership or control.

(c) The following are examples of when your ownership or control may or may not exist. These examples are not inclusive.

(1) You have control if you are the president or chief executive officer of an organization.

(2) You have ownership or control if you are a partner in a small law firm. You might not have ownership or control if you are a partner in a large national law firm.

(3) You have control if you are a general partner of a limited partnership. You have ownership or control if you have a limited partnership interest of 25 percent or more.

(4) You have ownership or control if you have the:

(i) Power to vote, directly or indirectly, 25% or more interest of any class of voting stock of a company;

(ii) Ability to direct in any manner the election of a majority of a company's directors or trustees; or

(iii) Ability to exercise a controlling influence over the company's management and policies.

§ 366.7 Will the FDIC waive the prohibitions under § 366.3?

We may waive the prohibitions for entities other than individuals for good cause shown at our discretion when our need to contract for your services outweighs all relevant factors. The statute does not allow us to waive the prohibitions for individuals.

§ 366.8 Who can grant a waiver of a prohibition or conflict of interest?

The FDIC's Board of Directors delegates to the Chairman, or his designee, authority to issue waivers and implement procedures for part 366.

§ 366.9 What other requirements could prevent me from performing contractual services for the FDIC?

You must avoid a conflict of interest, be ethically responsible, and maintain confidential information as described in §§ 366.10 through 366.13. You must also provide us with the information we require in § 366.14. Failure to meet these requirements may prevent you from contracting with us.

§ 366.10 When would I have a conflict of interest?

(a) You have a conflict of interest when you, any person that owns or controls you, or any entity you own or control:

(1) Has a personal, business, or financial interest or relationship that relates to the services you perform under the contract;

(2) Is a party to litigation against us, or represents a party that is;

(3) Submits an offer to acquire an asset from us for which services were performed during the past three years, unless the contract allows for the acquisition; or

(4) Engages in an activity that would cause us to question the integrity of the service you provided, are providing or offer to provide us, or impairs your independence.

(b) The following are examples of a conflict of interest. These examples are not inclusive.

(1) You submit an offer to perform property management services for us and you own or manage a competing property.

(2) You audit a business under a contract with us and you or a partner in your firm has an ownership interest in that business.

(3) You perform loan services on a pool of loans we are selling, and you submit a bid to purchase one or more of the loans in the pool.

(4) You audit your own work or provide nonaudit services that are significant or material to the subject matter of the audit.

§ 366.11 Will the FDIC waive a conflict of interest?

(a) We may waive a conflict of interest for good cause shown at our discretion when our need to contract for your services outweighs all relevant factors.

(b) The following are examples of when we may grant you a waiver for a conflict of interest. These examples are not inclusive.

(1) We may grant a waiver to an outside counsel who has a representational conflict. We will weigh all relevant facts and circumstances in making our determination.

(2) We may grant a waiver to allow a contractor to acquire an asset from us who is providing or has provided services on that asset. We will consider whether granting the waiver will adversely affect the fairness of the sale, the type of services provided, and other facts and circumstances relevant to the sale in making our determination.

§ 366.12 What are the FDIC's minimum standards of ethical responsibility?

(a) You and any person who performs services for us must not provide preferential treatment to any person in your dealings with the public on our behalf.

(b) You must ensure that any person you employ to perform services for us is informed about their responsibilities under this part.

(c) You must disclose to us waste, fraud, abuse or corruption.

(d) You and any person who performs contract services to us must not:

(1) Accept or solicit for yourself or others any favor, gift, or other item of monetary value from any person who you reasonably believe is seeking an official action from you on our behalf, or has an interest that the performance or nonperformance of your duties to us may substantially affect;

(2) Use or allow the use of our property, except as specified in the contract;

(3) Make an unauthorized promise or commitment on our behalf; or

(4) Provide impermissible gifts or entertainment to an FDIC employee.

(e) The following are examples of when you are engaging in unethical behavior. These examples are not inclusive.

(1) Using government resources, including our Internet connection, to conduct any business that is unrelated to the performance of your contract with us.

(2) Submitting false invoices or claims, or making misleading or false statements.

(3) Committing us to forgive or restructure a debt or portion of a debt, unless we provide you with written authority to do so.

§ 366.13 What is my obligation regarding confidential information?

(a) Neither you nor any person who performs services on your behalf may use or disclose information obtained from us or a third party in connection with an FDIC contract, unless:

(1) The contract allows or we authorize the use or disclosure;

(2) The information is generally available to the general public; or

(3) We make the information available to the general public.

(b) The following are examples of when your use of confidential information is inappropriate. These examples are not inclusive.

(1) Disclosing information about an asset, such as internal asset valuations, appraisals or environmental reports, except as part of authorized due diligence materials, to a prospective asset purchaser.

(2) Disclosing a borrower's or guarantor's personal or financial information, such as a financial statement to an unauthorized party.

§ 366.14 What information must I provide the FDIC?

You must:

(a) Certify in writing that you can perform services for us under § 366.3 and have no conflict of interest under § 366.10(a).

(b) Submit a list and description of any instance during the preceding five years in which you, any person that owns or controls you, or any entity you own or control, defaulted on a material obligation to an insured depository institution. A default on a material obligation occurs when a loan or advance with an outstanding balance of more than $50,000 is or was delinquent for 90 days or more.

(c) Notify us within 10 business days after you become aware that you, or any person you employ to perform services for us, are not in compliance with this part. Your notice must include a detailed description of the facts of the situation and how you intend to resolve the matter.

(d) Agree in writing that you will employ only persons who meet the requirements of this part to perform services on our behalf.

(e) Comply with any request from us for information.

(f) Retain any information you rely upon regarding the provisions of this part for a period of three years following termination or expiration and final payment of the related contract for services.

§ 366.15 What advice or determinations will the FDIC provide me on the applicability of this part?

(a) We are available to you for consultation on those determinations you are responsible for making under this part, including those with respect to any person you employ or engage to perform services for us.

(b) We will determine if this part prohibits you from performing services for us prior to contract award, after contract award, and during the performance of a contract.

(c) We may determine what corrective action you must take.

(d) We may grant you a waiver for good cause shown where provided for under this part.

§ 366.16 When may I seek a reconsideration or review of an FDIC determination?

(a) You may seek reconsideration or review of our initial determination by sending a written request to the individual who issued you the initial decision.

(b) You must provide new information or explain a change in circumstances for our reconsideration of an initial decision. The individual who issued you the initial decision may either make a new determination or refer your request to a higher authority for review.

(c) You must provide an explanation of how you perceive that we misapplied this part that sets forth the legal or factual errors for our review of an initial decision.

§ 366.17 What are the possible consequences for violating this part?

Depending on the circumstances, violations of this part may result in rescission or termination of a contract, as well as administrative, civil, or criminal sanctions.

By order of the Board of Directors.

Dated in Washington, DC, this 7th day of May, 2002.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 02–12020 Filed 5–14–02; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–39–AD; Amendment 39–12751; AD 2002–10–05]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters Inc. Model MD–900 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to MD Helicopters Inc. Model MD–900 helicopters, that currently requires inspecting the main rotor upper hub (hub) assembly drive plate attachment flange (flange), determining the torque of each flange nut (nut), and if a crack is found, before further flight, replacing the hub assembly. In addition to the current requirements, this action requires visually inspecting the outer surface of the flange at specified intervals, removing the drive plate and visually inspecting the flange for a crack at specified intervals, and replacing any unairworthy hub assembly. This amendment is prompted by reports that cracks starting at the drive plate attachment holes were found in the hub. The actions specified by this AD are intended to detect a crack in the flange and to prevent failure of the hub assembly, loss of drive to the main rotor, and subsequent loss of control of the helicopter.

DATES: Effective June 19, 2002.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of May 1, 2001 (66 FR 19383, April 16, 2001).

ADDRESSES: The service information referenced in this AD may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615–GO48, Mesa, Arizona 85215–9734, telephone 1–800–388–3378, fax (480) 891–6782, or on the Web at *www.mdhelicopters.com.* This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Mowery, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5322, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 2001–07–09, Amendment 39–12175 (66 FR 19383, April 16, 2001), for MD Helicopters Inc. Model MD–900 helicopters, was published in the **Federal Register** on December 17, 2001 (66 FR 64931). That action proposed to require inspecting the flange, determining the torque of each nut, and if a crack is found, before further flight, replacing the hub assembly. That action also proposed to require visually inspecting the outer surface of the flange at specified intervals, removing the drive plate and visually inspecting the flange for a crack at specified intervals, and replacing any unairworthy hub assembly.

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

the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed with the exception of minor editorial changes. These changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates 28 helicopters of U.S. registry will be affected by this AD. It will take approximately:

- 1 work hour per helicopter to verify the torque,
- 3 work hours per helicopter to perform the inspection,
- 10 work hours per helicopter to replace the hub assembly,
- 1 work hour for a 100-hour TIS inspection, and
- 3 work hours for a 300-hour TIS inspection.

The average labor rate is $60 per work hour. Required parts to replace the hub assembly, if necessary, will cost approximately $21,610 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $159,770 for the first year, assuming 5 hub assembly replacements and assuming each helicopter has 6 torque verifications, 6 inspections, two 100-hour inspections, and one 300-hour inspection.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12175 (66 FR 19383, April 16, 2001), and by adding a new airworthiness directive (AD), Amendment 39–12751, to read as follows:

2002–10–05 MD Helicopters, Inc.: Amendment 39–12751. Docket No. 2001–SW–39–AD. Supersedes AD 2001–07–09, Amendment 39–12175, Docket No. 2000–SW–15–AD.

Applicability: Model MD–900 helicopters, with main rotor upper hub (hub) assembly, part number (P/N) 900R2101006–105 or P/N 900R2101006–107, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the hub assembly, loss of drive to the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) For the hub assembly, P/N 900R2101006–107:

(1) Within 6 hours time-in-service (TIS), visually inspect the hub assembly drive plate attach flange (flange) for a crack and determine the torque of each flange attach nut (nut) in accordance with the Accomplishment Instructions, Part I, paragraph 2.A., steps (1) through (7) of MD Helicopter Inc. Service Bulletin SB900–072, dated December 10, 1999 (SB). If a crack is found, before further flight, remove and replace the hub assembly with an airworthy hub assembly.

(2) Within 25 hours TIS, accomplish Part II, of the Accomplishment Instructions, paragraph 2.B., steps (1) through (6), (8), and (9) of the SB. If a crack is found, before further flight, remove and replace the hub assembly with an airworthy hub assembly.

(b) For the hub assembly, P/N 900R2101006–105:

(1) Within 6 hours TIS, visually inspect the flange for a crack and determine the torque of each nut in accordance with the Accomplishment Instructions, Part I, paragraph 2.A., steps (1) through (7) of the SB.

Note 2: The SB effectivity does not include hub assembly, P/N 900R2101006–105; however, certain provisions of this AD do apply to this P/N.

(2) If any nut has less than 180 inch pounds (20.34 Nm) of torque, before further flight, remove the drive plate and fretting buffer and inspect the flange in accordance with the procedures in paragraph (b)(3) of this AD. If a crack is detected, before further flight, remove and replace the hub assembly with an airworthy hub assembly. Reassemble in accordance with the procedures in paragraph (b)(3) of this AD.

(3) Within 25 hours TIS, remove the main rotor drive plate assembly and anti-fretting ring and visually inspect the hub assembly as follows:

(i) If present, remove sealant from the drive plate attachment to the hub assembly.

(ii) Mark the main rotor hub holes to correspond with the drive plate hole numbers (see Figure 1 of this AD).

(iii) Remove the main rotor drive plate (drive plate) assembly and anti-fretting ring (fretting buffer).

(iv) Inspect drive plate to hub assembly mating surfaces and the fretting buffer for fretting.

(v) Using paint stripper (Consumable Item List C313 or equivalent) and cleaning solvent (C420 or equivalent), remove the paint from the upper mating surface of the hub assembly to enable an accurate visual inspection of each drive plate attachment bolt hole (bolt hole) area for cracking (Figure 1). Ensure the paint stripper and solvent DO NOT contaminate the upper bearing and upper grease seal areas.

(vi) Using a 10x or higher magnifying glass and light, inspect the mating surface area and the area around and inside the 10 bolt holes of the hub assembly for a crack. If a crack is found, before further flight, replace the hub assembly with an airworthy hub assembly.

(vii) If no crack is found, remove fretting debris from the mating surfaces of the hub assembly and the drive plate assembly, reassemble, fillet seal (C211 or equivalent) the surface of the drive plate to fretting buffer to hub assembly mating lines, and seal all exposed unpainted upper surfaces of the hub assembly.

(viii) Reinstall the main rotor drive plate using 10 new sets of replacement attachment hardware. Torque the nuts to 160 inch pounds above locknut locking/run-on torque in the sequence shown (Figure 1). Record in the rotorcraft logbook, or equivalent record, the locknut locking/run-on torque for each nut.

(ix) After the next flight, verify that the torque on each of the 10 nuts is at least 160 inch-pounds above the locknut locking/run-on torque (minimum torque). Re-torque as required without loosening nuts.

(x) Thereafter, at intervals of at least 4 hours TIS, not to exceed 6 hours TIS, verify

that the torque of each of the 10 nuts is at least the minimum torque. Re-torque as required without loosening nuts. This torque verification is no longer required after the torque on each of the 10 nuts has stabilized at a torque value of 160 or more inch-pounds for each nut during two successive torque verifications.

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1. MAIN ROTOR DRIVE PLATE ATTACHMENT HARDWARE TORQUE SEQUENCE.
2. NUMBERING MAY START AT ANY HOLE.
3. TORQUE NUTS TO 1/2 TOTAL TORQUE, THEN FULL TORQUE.

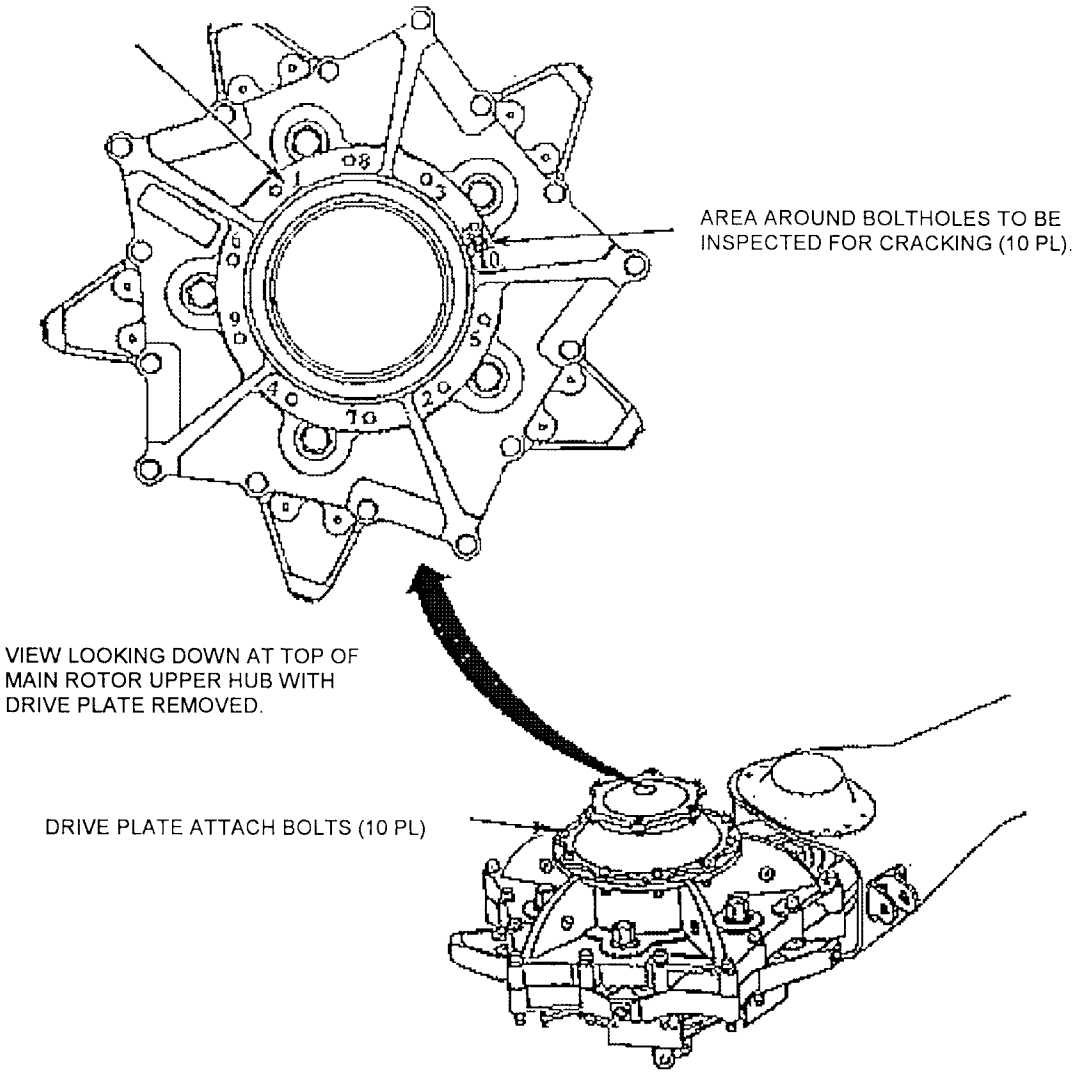

Figure 1. Main Rotor Upper Hub Assembly Inspection

BILLING CODE 4910–13–C

(c) Within 100 hours TIS and thereafter at intervals not to exceed 100 hours TIS, visually inspect the outer surface of the flange for a crack using a light and a 10x or higher magnifying glass. If a crack is detected, replace the unairworthy hub assembly with an airworthy hub assembly before further flight.

(d) At intervals not to exceed 300 hours TIS, remove the drive plate and visually inspect the flange for a crack using a light and a 10x or higher magnifying glass. If a crack is detected, replace the unairworthy hub assembly with an airworthy hub assembly before further flight.

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

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

(f) If any nut torque is below minimum torque and no hub assembly crack is found before disassembly inspection, after re-torque in accordance with the applicable maintenance manual, a special flight permit for one flight below 100 knots indicated airspeed may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The inspections and replacement, if necessary, shall be done in accordance with the Accomplishment Instructions, Part I, paragraph 2.A., steps (1) through (7); and Part II, paragraph 2.B., steps (1) through (6), (8), and (9), of MD Helicopter Inc. Service Bulletin SB900–072, dated December 10, 1999. The incorporation by reference of that document was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of May 1, 2001 (66 FR 19383, April 16, 2001). Copies may be obtained from MD Helicopters Inc., Attn: Customer Support Division, 4555 E. McDowell Rd., Mail Stop M615–GO48, Mesa, Arizona 85215–9734, telephone 1–800–388–3378, fax (480) 891–6782, or on the web at www.mdhelicopters.com. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on June 19, 2002.

Issued in Fort Worth, Texas, on May 2, 2002.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–12051 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 900

RIN 1076–AE30

Contracts Under the Indian Self-Determination and Education Assistance Act; Change of Address for the Office of Hearings and Appeals

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; change of address.

SUMMARY: The Bureau of Indian Affairs is revising its regulations governing contracts under the Indian Self-Determination and Education Assistance Act to reflect a change of address for the Department of Interior's Office of Hearing and Appeals (OHA).

DATES: This rule is effective May 15, 2002.

FOR FURTHER INFORMATION CONTACT: Mitchell Chouteau, Program Analyst, Office of Administration, Bureau of Indian Affairs, Department of the Interior, 1849 C Street, NW, MS 4656 MIB, Washington, DC 20240, telephone 202–208–2675.

SUPPLEMENTARY INFORMATION:

I. Background

Regulations promulgated by the Department of the Interior to govern the administration of contracts under the Indian Self-Determination and Education Assistance Act reference an address for the Office of Hearings and Appeals (OHA). Since February 2002, this Office has moved to a new address within the same city of Arlington, Virginia. This action references the new street address.

II. Procedural Requirements

A. Determination To Issue Final Rule Effective in Less than 30 Days

BIA has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rulemaking. The changes being made relate solely to matters of agency organization, procedure and practice. They therefore satisfy the exemption from notice and comment in 5 U.S.C. 553(b)(A).

B. Review Under Procedural Statutes and Executive Orders

BIA has reviewed this rule under the following statutes and Executive Orders governing rulemaking procedures: the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; Executive Order 12630 (Takings); Executive Order 12866 (Regulatory Planning and Review); Executive Order 12988 (Civil Justice Reform); Executive Order 13132 (Federalism); Executive Order 13175 (Tribal Consultation); and Executive Order 13211 (Energy Impacts). BIA has determined that this rule does not trigger any of the procedural requirements of those statutes and Executive Orders, since this rule merely changes the street address for OHA.

List of Subjects in 25 CFR Part 900

Administrative practice and procedure, Buildings and facilities, Claims, Government contracts, Government property management, Grant programs—Indians, Health care, Indians, Indians—business and finance.

For the reasons stated in the preamble, BIA amends its regulations in 25 CFR part 900 as follows:

PART 900—[AMENDED]

1. The authority citation for part 900 continues to read as follows:

Authority: 25 U.S.C. 450f *et seq.*

2. In part 900 revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street'' everywhere it appears.

Dated: May 3, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–12080 Filed 5–14–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8995]

RIN 1545–AY31

Mid-Contract Change in Taxpayer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations concerning a mid-contract change in taxpayer of a contract accounted for under a long-term contract method of accounting. A taxpayer that is a party to such a contract will be affected by these regulations.

DATES: *Effective Date:* These regulations are effective May 15, 2002.

Applicability Date: These regulations apply to transactions on or after May 15, 2002.

FOR FURTHER INFORMATION CONTACT: John Aramburu at (202) 622–4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–1732.

The collection of information in these final regulations is in § 1.460–6(g)(3)(ii)(D). This information is required to enable taxpayers to make look-back computations when the income from a long-term contract has been previously reported by another taxpayer.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

The estimated average annual disclosure burden per respondent is 2 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained as long as their contents might become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 460 generally requires that long-term contracts be accounted for under the percentage-of-completion method (PCM), under which a taxpayer must recognize income according to the estimated percentage of the contract that is completed during each taxable year and make a look-back computation of interest to compensate the government (or the taxpayer) for any underestimation (or overestimation) of income from the contract. However, home construction contracts and certain contracts of smaller construction contractors are exempt from these requirements. Moreover, residential builders are entitled to use the 70/30 percentage-of-completion/capitalized cost method (PCCM), and certain shipbuilders are entitled to use the 40/60 PCCM. A long-term contract or a portion of a long-term contract that is exempt from the PCM may be accounted for under any permissible method, including the completed contract method (CCM), under which a taxpayer does not report income until a contract is complete, even though progress payments are received in years prior to completion.

This document contains amendments to 26 CFR part 1. On February 16, 2001, a notice of proposed rulemaking (REG–105946–00) relating to a mid-contract change in taxpayer of a contract accounted for under a long-term contract method of accounting was published in the **Federal Register** (66 FR 10643). Written comments were received from the public in response to the notice of proposed rulemaking. No public hearing was requested or held. After consideration of all comments, the proposed regulations are adopted as amended by this Treasury decision.

Explanation and Summary of Comments

The proposed regulations divide the rules regarding a mid-contract change in taxpayer of a contract accounted for under a long-term contract method of accounting into two categories—constructive completion transactions and step-in-the-shoes transactions. Generally, a constructive completion transaction results in the taxpayer originally accounting for the long-term contract (old taxpayer) recognizing income from the contract based on a contract price that takes into account any amounts realized from the transaction or paid by the old taxpayer to the taxpayer subsequently accounting for the long-term contract (new taxpayer) that are allocable to the contract. Similarly, the new taxpayer in a constructive completion transaction is treated as though it entered into a new contract as of the date of the transaction, with the contract price taking into account the purchase price and any amount paid by the old taxpayer that is allocable to the contract. In the case of a step-in-the-shoes transaction, the old taxpayer's obligation to account for the contract terminates on the date of the transaction and is assumed by the new taxpayer. The new taxpayer must assume the old taxpayer's methods of accounting for the contract, with both the contract price and allocable contract costs based on amounts taken into account by both parties.

Commentators raised concerns regarding the general application of step-in-the-shoes treatment to contracts of S corporations accounted for using the CCM. For example, these commentators were concerned with the potential for income shifting that can occur when the stock of an S corporation that is accounting for a long-term contract using the CCM is sold to a party with a lower marginal tax rate or to a tax indifferent shareholder. Similarly, income from a CCM contract could be shifted to a party with a lower tax rate or a tax indifferent party by making an S election or transferring the contract in a section 351 transaction, followed by an S election and a sale of stock. To prevent such a shifting of income, these commentators generally recommend that the transferor be required to apply the PCM to CCM contracts in progress as of the transaction date.

While these commentators' concerns and recommendations relate solely to CCM contracts, the potential for such income shifting also exists with PCM contracts due to the fact that recognition of income under both the PCM and the CCM does not correspond to the receipt of progress payments. In addition, many of the commentators' concerns are not unique to the section 460 regulations as similar opportunities are presented whenever an S corporation or an electing S corporation has assets with built-in gain or loss. Moreover, adoption of the commentators' recommendation would trigger tax as of the transaction date and thus would be inconsistent with the policy of providing for tax-free reorganizations of going concerns. Thus, the commentators' proposals for

addressing this potential abuse were not adopted. However, as in the proposed regulations, the final regulations contain an anti-abuse rule that is designed to prevent such income shifting.

Commentators suggested that for purposes of the section 1374 built-in gain rules applicable to S corporation elections, long-term contracts should be valued at the amount of income reportable under the PCM on the date of the election. The section 1374 regulations currently measure recognized built-in gain attributable to a long-term contract accounted for using the CCM based on the amount of income reportable under the PCM on the date of the election. See § 1.1374–4(g). These final regulations, however, do not provide a specific rule to determine the value of a long-term contract because the fair market value of a long-term contract reflects a variety of factors, including the amount earned by the old taxpayer as compared to the progress payments received and retained by the old taxpayer, and the new taxpayer's estimates of future revenues and costs.

One commentator pointed out that while the preamble indicates the treatment of partnership transactions (i.e., transactions described in sections 721 and 731, and transfers of partnership interests) have been reserved, the proposed regulations, by default, place these transactions in the taxable, constructive completion category. This commentator suggested that the regulations reserve the treatment of partnership transactions and provide only that taxpayers use reasonable methods.

The final regulations provide that a contribution to a partnership in a transaction described in section 721(a), a transfer of a partnership interest, and a distribution by a partnership to which section 731 applies (other than a distribution of a contract accounted for using a long-term contract method of accounting) are step-in-the-shoes transactions. The final regulations, however, reserve on the special rules that will apply to such transfers. As described in Notice 2002–37 (2002–23 I.R.B.), the IRS and Treasury Department intend to publish regulations that will set forth the special rules that will apply to such partnership transactions in a separate project. These regulations will be effective for contributions of long-term contracts to partnerships and transfers of interests in partnerships that are engaged in long-term contracts on or after May 15, 2002.

One commentator objected to the required use of the simplified marginal impact method of computing look back interest in the case of a step-in-the-shoes transaction. In response to this comment, the final regulations give taxpayers the option of using this method without requiring it, except in those cases in which the existing regulations require its use. See § 1.460–6(d)(4).

Questions have arisen as to whether the implementation of these rules requires a taxpayer to request a change in method of accounting by filing a Form 3115, ''Application for Change in Accounting Method.'' In response to these questions, the final regulations clarify that the application of these rules to a transaction occurring after the effective date is not a change in method of accounting and, therefore, does not require the filing of Form 3115.

In addition to changes made in response to the comments and questions described above, the final regulations clarify the application of the step-in-the-shoes rules to certain transfers of contracts that result in the old taxpayer recognizing income with respect to the contract. Specifically, the final regulations explain how the old taxpayer calculates the gain realized with respect to the contract in these transactions, clarify the operation of the basis adjustment rule in certain cases of successive transfers of a contract, and provide that the contract price of a new taxpayer should be reduced to the extent that the old taxpayer recognizes income with respect to the contract in connection with these transactions. The final regulations also clarify that a taxpayer is not entitled to a loss in the amount of its basis in the contract (including the uncompleted property, if applicable) where that basis is determined under section 362 or 334. In addition, to the extent the basis of the contract (including the uncompleted property, if applicable) reflects the old taxpayer's recognition of income attributable to the contract in the step-in-the-shoes transaction, such income recognition reduces the total contract price. Accordingly, the new taxpayer recovers this additional basis over the time that it performs the contract. To the extent the basis of the contract (including the uncompleted property, if applicable) reflects costs incurred by the old taxpayer that have not yet been deducted (i.e., in the case of a CCM contract), such costs will give rise to a deduction upon completion of the contract. Therefore, disallowing the new taxpayer a loss for its basis in the contract (including the uncompleted property, if applicable) is necessary to prevent the new taxpayer from benefitting twice from the same item. Finally, the final regulations include new examples to illustrate these rules.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in this Treasury decision will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the relevant information is already maintained by taxpayers. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the proposed regulations preceding these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is John Aramburu, Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

2. In § 1.358–1, a sentence is added at the end of paragraph (a) to read as follows:

§ 1.358–1 Basis to distributees.

(a) * * * See § 1.460–4(k)(3)(iv)(A) for rules relating to stock basis adjustments required where a contract accounted for using a long-term contract method of accounting is transferred in a transaction described in section 351 or a reorganization described in section

368(a)(1)(D) with respect to which the requirements of section 355 (or so much of section 356 as relates to section 355) are met.

* * * * *

3. In § 1.334–1, a sentence is added at the end of paragraph (b) to read as follows:

§ 1.334–1 Basis of property received in liquidations.

* * * * *

(b) * * * See § 1.460–4(k)(3)(iv)(B)(*2*) for rules relating to adjustments to the basis of certain contracts accounted for using a long-term contract method of accounting that are acquired in certain liquidations described in section 332.

* * * * *

4. In § 1.362–1, a sentence is added at the end of paragraph (a) to read as follows:

§ 1.362–1 Basis to corporations.

(a) * * * See § 1.460–4(k)(3)(iv)(B)(*2*) for rules relating to adjustments to the basis of certain contracts accounted for using a long-term contract method of accounting that are acquired in certain transfers described in section 351 and certain reorganizations described in section 368(a).

* * * * *

5. In § 1.381(c)(4)–1, a sentence is added at the end of paragraph (a)(2) to read as follows:

§ 1.381(c)(4)–1 Method of accounting.

(a) * * *

(2) * * * See § 1.460–4(k) for rules relating to transfers of contracts accounted for using a long-term contract method of accounting in a transaction to which section 381 applies.

* * * * *

6. Section 1.460–0 is amended by:

1. Revising the entry for paragraph (k) of § 1.460–4.

2. Adding entries for paragraphs (k)(1) through (k)(6) of § 1.460–4.

3. Adding entries for paragraphs (g) through (g)(4) of § 1.460–6.

§ 1.460–0 Outline of regulations under section 460.

* * * * *

§ 1.460–4 Methods of accounting for long-term contracts.

* * * * *

(k) Mid-contract change in taxpayer.

(1) In general.

(2) Constructive completion transactions.

(i) Scope.

(ii) Old taxpayer.

(iii) New taxpayer.

(iv) Special rules relating to distributions of certain contracts by a partnership. [Reserved.]

(3) Step-in-the-shoes transactions.

(i) Scope.

(ii) Old taxpayer.

(A) In general.

(B) Gain realized on the transaction.

(iii) New taxpayer.

(A) Method of accounting.

(B) Contract price.

(C) Contract costs.

(iv) Special rules related to certain corporate transactions.

(A) Old taxpayer—basis adjustment.

(*1*) In general.

(*2*) Basis adjustment in excess of stock basis.

(*3*) Subsequent dispositions of certain contracts.

(B) New taxpayer.

(*1*) Contract price adjustment.

(*2*) Basis in contract.

(v) Special rules related to certain partnership transactions. [Reserved.]

(4) Anti-abuse rule.

(5) Examples.

(6) Effective date.

* * * * *

§ 1.460–6 Look-back method.

* * * * *

(g) Mid-contract change in taxpayer.

(1) In general.

(2) Constructive completion transactions.

(3) Step-in-the-shoes transactions.

(i) General rules.

(ii) Application of look-back method to pre-transaction period.

(A) Contract Price

(B) Method.

(C) Interest accrual period.

(D) Information old taxpayer must provide.

(iii) Application of look-back method to post-transaction years.

(iv) S corporation elections.

(4) Effective date.

* * * * *

7. Section 1.460–4 is amended by:

1. Adding a sentence at the end of paragraph (a).

2. Adding paragraph (k).

The additions read as follows:

§ 1.460–4 Methods of accounting for long-term contracts.

(a) * * * Finally, paragraph (k) of this section provides rules relating to a mid-contract change in taxpayer of a contract accounted for using a long-term contract method of accounting.

* * * * *

(k) *Mid-contract change in taxpayer*—(1) *In general.* The rules in this paragraph (k) apply if prior to the completion of a long-term contract accounted for using a long-term contract method by a taxpayer (old taxpayer), there is a transaction that makes another taxpayer (new taxpayer) responsible for accounting for income from the same contract. For purposes of this paragraph (k) and § 1.460–6(g), an old taxpayer also includes any old taxpayer(s) (e.g., predecessors) of the old taxpayer. In addition, a change in status from taxable to tax exempt or from domestic to foreign, or vice versa, will be considered a change in taxpayer. Finally, a contract will be treated as the same contract if the terms of the contract are not substantially changed in connection with the transaction, whether or not the customer agrees to release the old taxpayer from any or all of its obligations under the contract. The rules governing constructive completion transactions are provided in paragraph (k)(2) of this section, while the rules governing step-in-the-shoes transactions are provided in paragraph (k)(3) of this section. Special rules related to the treatment of certain partnership transactions are reserved under paragraphs (k)(2)(iv) and (k)(3)(v) of this section. For application of the look-back method to mid-contract changes in taxpayers for contracts accounted for using the PCM, see § 1.460–6(g).

(2) *Constructive completion transactions*—(i) *Scope.* The constructive completion rules in this paragraph (k)(2) apply to transactions (constructive completion transactions) that result in a change in the taxpayer responsible for reporting income from a contract and that are not described in paragraph (k)(3)(i) of this section. Constructive completion transactions generally include, for example, taxable sales under section 1001 and deemed asset sales under section 338.

(ii) *Old taxpayer.* The old taxpayer is treated as completing the contract on the date of the transaction. The total contract price (or, gross contract price in the case of a long-term contract accounted for under the CCM) for the old taxpayer is the sum of any amounts realized from the transaction that are allocable to the contract and any amounts the old taxpayer has received or reasonably expects to receive under the contract. Total contract price (or gross contract price) is reduced by any amount paid by the old taxpayer to the new taxpayer, and by any transaction costs, that are allocable to the contract. Thus, the old taxpayer's allocable contract costs determined under paragraph (b)(5) of this section do not include any consideration paid, or costs incurred, as a result of the transaction that are allocable to the contract. In the case of a transaction subject to section

338 or 1060, the amount realized from the transaction allocable to the contract is determined by using the residual method under §§ 1.338–6 and 1.338–7.

(iii) *New taxpayer.* The new taxpayer is treated as entering into a new contract on the date of the transaction. The new taxpayer must evaluate whether the new contract should be classified as a long-term contract within the meaning of § 1.460–1(b) and account for the contract under a permissible method of accounting. For a new taxpayer who accounts for a contract using the PCM, the total contract price is any amount the new taxpayer reasonably expects to receive under the contract consistent with paragraph (b)(4) of this section. Total contract price is reduced by the amount of any consideration paid by the new taxpayer as a result of the transaction, and by any transaction costs, that are allocable to the contract and is increased by the amount of any consideration received by the new taxpayer as a result of the transaction that is allocable to the contract. Similarly, the gross contract price for a contract accounted for using the CCM is all amounts the new taxpayer is entitled by law or contract to receive consistent with paragraph (d)(3) of this section, adjusted for any consideration paid (or received) by the new taxpayer as a result of the transaction, and for any transaction costs, that are allocable to the contract. Thus, the new taxpayer's allocable contract costs determined under paragraph (b)(5) of this section do not include any consideration paid, or costs incurred, as a result of the transaction that are allocable to the contract. In the case of a transaction subject to sections 338 or 1060, the amount of consideration paid that is allocable to the contract is determined by using the residual method under §§ 1.338–6 and 1.338–7.

(iv) *Special rules relating to distributions of certain contracts by a partnership.* [Reserved]

(3) *Step-in-the-shoes transactions*—(i) *Scope.* The step-in-the-shoes rules in this paragraph (k)(3) apply to the following transactions that result in a change in the taxpayer responsible for reporting income from a contract accounted for using a long-term contract method of accounting (step-in-the-shoes transactions)—

(A) Transfers to which section 361 applies if the transfer is in connection with a reorganization described in section 368(a)(1)(A), (C) or (F);

(B) Transfers to which section 361 applies if the transfer is in connection with a reorganization described in section 368(a)(1)(D) or (G), provided the requirements of section 354(b)(1)(A) and (B) are met;

(C) Distributions to which section 332 applies, provided the contract is transferred to an 80-percent distributee;

(D) Transfers described in section 351;

(E) Transfers to which section 361 applies if the transfer is in connection with a reorganization described in section 368(a)(1)(D) with respect to which the requirements of section 355 (or so much of section 356 as relates to section 355) are met;

(F) Transfers (e.g., sales) of S corporation stock;

(G) Conversion to or from an S corporation;

(H) Members joining or leaving a consolidated group;

(I) Contributions to which section 721(a) applies;

(J) Transfers of partnership interests;

(K) Distributions to which section 731 applies (other than the distribution of the contract); and

(L) Any other transaction designated in the Internal Revenue Bulletin by the Internal Revenue Service. See § 601.601(d)(2)(ii) of this chapter.

(ii) *Old taxpayer*—(A) *In general.* The new taxpayer will ''step into the shoes'' of the old taxpayer with respect to the contract. Thus, the old taxpayer's obligation to account for the contract terminates on the date of the transaction and is assumed by the new taxpayer, as set forth in paragraph (k)(3)(iii) of this section. As a result, an old taxpayer using the PCM is required to recognize income from the contract based on the cumulative allocable contract costs incurred as of the date of the transaction. Similarly, an old taxpayer using the CCM is not required to recognize any revenue and may not deduct allocable contract costs incurred with respect to the contract.

(B) *Gain realized on the transaction.* The amount of gain the old taxpayer realizes on the transfer of a contract in a step-in-the-shoes transaction must be determined after application of paragraph (k)(3)(ii)(A) of this section using the rules of paragraph (k)(2) of this section that apply to constructive completion transactions. (The amount of gain realized on a transfer of a contract is relevant, for example, in determining the amount of gain recognized with respect to the contract in a section 351 transaction in which the old taxpayer receives from the new taxpayer money or property other than stock of the transferee.)

(iii) *New taxpayer*—(A) *Method of accounting.* Beginning on the date of the transaction, the new taxpayer must account for the long-term contract by using the same method of accounting used by the old taxpayer prior to the transaction. The same method of accounting must be used for such contract regardless of whether the old taxpayer's method is the new taxpayer's principal method of accounting under § 1.381(c)(4)–1(b)(3) or whether the new taxpayer is otherwise eligible to use the old taxpayer's method. Thus, if the old taxpayer uses the PCM to account for the contract, the new taxpayer steps into the shoes of the old taxpayer with respect to its completion factor and percentage of completion methods (such as the 10-percent method), even if the new taxpayer has not elected such methods for similarly classified contracts. Similarly, if the old taxpayer uses the CCM, the new taxpayer steps into the shoes of the old taxpayer with respect to the CCM, even if the new taxpayer is not otherwise eligible to use the CCM. However, the new taxpayer is not necessarily bound by the old taxpayer's method for similarly classified contracts entered into by the new taxpayer subsequent to the transaction and must apply general tax principles, including section 381, to determine the appropriate method to account for these subsequent contracts. To the extent that general tax principles allow the taxpayer to account for similarly classified contracts using a method other than the old taxpayer's method, the taxpayer is not required to obtain the consent of the Commissioner to begin using such other method.

(B) *Contract price.* In the case of a long-term contract that has been accounted for under PCM, the total contract price for the new taxpayer is the sum of any amounts the old taxpayer or the new taxpayer has received or reasonably expects to receive under the contract consistent with paragraph (b)(4) of this section. Similarly, the gross contract price in the case of a long-term contract accounted for under the CCM includes all amounts the old taxpayer or the new taxpayer is entitled by law or by contract to receive consistent with paragraph (d)(3) of this section.

(C) *Contract costs.* Total allocable contract costs for the new taxpayer are the allocable contract costs as defined under paragraph (b)(5) of this section incurred by either the old taxpayer prior to, or the new taxpayer after, the transaction. Thus, any payments between the old taxpayer and the new taxpayer with respect to the contract in connection with the transaction are not treated as allocable contract costs.

(iv) *Special rules related to certain corporate transactions*—(A) *Old taxpayer—basis adjustment*—(*1*) *In general.* Except as provided in

paragraph (k)(3)(iv)(A)(*2*) of this section, in the case of a transaction described in paragraph (k)(3)(i)(D) or (E) of this section, the old taxpayer must adjust its basis in the stock of the new taxpayer by—

(*i*) Increasing such basis by the amount of gross receipts the old taxpayer has recognized under the contract; and

(*ii*) Reducing such basis by the amount of gross receipts the old taxpayer has received or reasonably expects to receive under the contract.

(2) *Basis adjustment in excess of stock basis.* If the old and new taxpayer do not join in the filing of a consolidated Federal income tax return, the old taxpayer may not adjust its basis in the stock of the new taxpayer under paragraph (k)(3)(iv)(A)(*1*) of this section below zero and the old taxpayer must recognize ordinary income to the extent the basis in the stock of the new taxpayer otherwise would be adjusted below zero. If the old and new taxpayer join in the filing of a consolidated Federal income tax return, the old taxpayer must create an (or increase an existing) excess loss account to the extent the basis in the stock of the new taxpayer otherwise would be adjusted below zero under paragraph (k)(3)(iv)(A)(*1*) of this section. See §§ 1.1502–19 and 1.1502–32(a)(3)(ii).

(*3*) *Subsequent dispositions of certain contracts.* If the old taxpayer disposes of a contract in a transaction described in paragraph (k)(3)(i)(D) or (E) of this section that the old taxpayer acquired in a transaction described in paragraph (k)(3)(i)(D) or (E) of this section, the basis adjustment rule of this paragraph (k)(3)(iv)(A) is applied by treating the old taxpayer as having recognized the amount of gross receipts recognized by the previous old taxpayer under the contract and any amount recognized by the previous old taxpayer with respect to the contract in connection with the transaction in which the old taxpayer acquired the contract. In addition, the old taxpayer is treated as having received or as reasonably expecting to receive under the contract any amount the previous old taxpayer received or reasonably expects to receive under the contract. Similar principles will apply in the case of multiple successive transfers described in paragraph (k)(3)(i)(D) or (E) of this section involving the contract.

(B) *New Taxpayer*—(1) *Contract price adjustment.* Generally, payments between the old taxpayer and the new taxpayer with respect to the contract in connection with the transaction do not affect the contract price. Notwithstanding the preceding sentence and paragraph (k)(3)(iii)(B) of this section, however, in the case of transactions described in paragraph (k)(3)(i)(B), (D) or (E) of this section, the total contract price (or gross contract price) must be reduced to the extent of any amount recognized by the old taxpayer with respect to the contract in connection with the transaction (e.g., any amount recognized under section 351(b) or 357 that is attributable to the contract and any income recognized by the old taxpayer pursuant to the basis adjustment rule of paragraph (k)(3)(iv)(A)).

(*2*) *Basis in Contract.* The new taxpayer's basis in a contract (including the uncompleted property, if applicable) acquired in a transaction described in paragraphs (k)(3)(i)(A) through (E) of this section will be computed under section 362 or section 334, as applicable. Upon a new taxpayer's completion (actual or constructive) of a CCM or a PCM contract acquired in a transaction described in paragraphs (k)(3)(i)(A) through (E) of this section, the new taxpayer's basis in the contract (including the uncompleted property, if applicable) is reduced to zero. The new taxpayer is not entitled to a deduction or loss in connection with any basis reduction pursuant to this paragraph (k)(3)(iv)(B)(*2*).

(v) *Special rules related to certain partnership transactions.* [Reserved]

(4) *Anti-abuse rule.* Notwithstanding this paragraph (k), in the case of a transaction entered into with a principal purpose of shifting the tax consequences associated with a long-term contract in a manner that substantially reduces the aggregate U.S. Federal income tax liability of the parties with respect to that contract, the Commissioner may allocate to the old (or new) taxpayer the income from that contract properly allocable to the old (or new) taxpayer. For example, the Commissioner may reallocate income from a long-term contract in a transaction in which a contract accounted for using the CCM, or using the PCM where the old taxpayer has received advance payments in excess of its contribution to the contract, is transferred to a tax indifferent party (e.g., a foreign person not subject to U.S. Federal income tax).

(5) *Examples.* The following examples illustrate the rules of this paragraph (k).

For purposes of these examples, it is assumed that the contract is a long-term construction contract accounted for using the PCM prior to the transaction unless stated otherwise and the contract is not transferred with a principal purpose of shifting the tax consequences associated with a long-term contract in a manner that substantially reduces the aggregate U.S. Federal income tax liability of the parties with respect to that contract. The examples are as follows:

Example 1. Constructive completion—PCM—(i) *Facts.* In Year 1, X enters into a contract. The total contract price is $1,000,000 and the estimated total allocable contract costs are $800,000. In Year 1, X incurs costs of $200,000. In Year 2, X incurs additional costs of $400,000 before selling the contract as part of a taxable sale of its business in Year 2 to Y, an unrelated party. At the time of sale, X has received $650,000 in progress payments under the contract. The consideration allocable to the contract under section 1060 is $150,000. Pursuant to the sale, the new taxpayer Y immediately assumes X's contract obligations and rights. Y is required to account for the contract using the PCM. In Year 2, Y incurs additional allocable contract costs of $50,000. Y correctly estimates at the end of Year 2 that it will have to incur an additional $75,000 of allocable contract costs in Year 3 to complete the contract.

(ii) *Old taxpayer.* For Year 1, X reports receipts of $250,000 (the completion factor multiplied by total contract price ($200,000/$800,000 x $1,000,000)) and costs of $200,000, for a profit of $50,000. X is treated as completing the contract in Year 2 because it sold the contract. For purposes of applying the PCM in Year 2, the total contract price is $800,000 (the sum of the amounts received under the contract and the amount realized in the sale ($650,000 + $150,000)) and the total allocable contract costs are $600,000 (the sum of the costs incurred in Year 1 and Year 2 ($200,000 + $400,000)). Thus, in Year 2, X reports receipts of $550,000 (total contract price minus receipts already reported ($800,000 − $250,000)) and costs incurred in year 2 of $400,000, for a profit of $150,000.

(iii) *New taxpayer.* Y is treated as entering into a new contract in Year 2. The total contract price is $200,000 (the amount remaining to be paid under the terms of the contract less the consideration paid allocable to the contract ($1,000,000 − $650,000 − $150,000)). The estimated total allocable contract costs at the end of Year 2 are $125,000 (the allocable contract costs that Y reasonably expects to incur to complete the contract ($50,000 + $75,000)). In Year 2, Y reports receipts of $80,000 (the completion factor multiplied by the total contract price [($50,000/$125,000) x $200,000] and costs of $50,000 (the costs incurred after the purchase), for a profit of $30,000. For Year 3, Y reports receipts of $120,000 (total contract price minus receipts already reported ($200,000 − $80,000)) and costs of $75,000, for a profit of $45,000.

Example 2. Constructive completion—CCM—(i) *Facts.* The facts are the same as in Example 1, except that X and Y properly account for the contract under the CCM.

(ii) *Old taxpayer.* X does not report any income or costs from the contract in Year 1. In Year 2, the contract is deemed complete for X, and X reports its gross contract price of $800,000 (the sum of the amounts received under the contract and the amount realized in the sale

($650,000 + $150,000)) and its total allocable contract costs of $600,000 (the sum of the costs incurred in Year 1 and Year 2 ($200,000 + $400,000)) in that year, for a profit of $200,000.

(iii) *New taxpayer.* Y is treated as entering into a new contract in Year 2. Under the CCM, Y reports no gross receipts or costs in Year 2. Y reports its gross contract price of $200,000 (the amount remaining to be paid under the terms of the contract less the consideration paid allocable to the contract ($1,000,000 − $650,000 − $150,000)) and its total allocable contract costs of $125,000 (the allocable contract costs that Y incurred to complete the contract ($50,000 + $75,000)) in Year 3, the completion year, for a profit of $75,000.

Example 3. Step-in-the-shoes—PCM—(i) *Facts.* The facts are the same as in Example 1, except that X transfers the contract (including the uncompleted property) to Y in exchange for stock of Y in a transaction that qualifies as a statutory merger described in section 368(a)(1)(A) and does not result in gain or loss to X under section 361(a).

(ii) *Old taxpayer.* For Year 1, X reports receipts of $250,000 (the completion factor multiplied by total contract price ($200,000/$800,000 x $1,000,000)) and costs of $200,000, for a profit of $50,000. Because the mid-contract change in taxpayer results from a transaction described in paragraph (k)(3)(i) of this section, X is not treated as completing the contract in Year 2. In Year 2, X reports receipts of $500,000 (the completion factor multiplied by the total contract price and minus the Year 1 gross receipts [($600,000/$800,000 × $1,000,000)–$250,000]) and costs of $400,000, for a profit of $100,000.

(iii) *New taxpayer.* Because the mid-contract change in taxpayer results from a step-in-the-shoes transaction, Y must account for the contract using the same methods of accounting used by X prior to the transaction. Total contract price is the sum of any amounts that X and Y have received or reasonably expect to receive under the contract, and total allocable contract costs are the allocable contract costs of X and Y. Thus, the estimated total allocable contract costs at the end of Year 2 are $725,000 (the cumulative allocable contract costs of X and the estimated total allocable contract costs of Y ($200,000 + $400,000 + $50,000 + $75,000)). In Year 2, Y reports receipts of $146,552 (the completion factor multiplied by the total contract price minus receipts reported by the old taxpayer ([($650,000/$725,000) × $1,000,000]–$750,000) and costs of $50,000, for a profit of $96,552. For Year 3, Y reports receipts of $103,448 (the total contract price minus prior year receipts ($1,000,000–$896,552)) and costs of $75,000, for a profit of $28,448.

Example 4. Step-in-the-shoes—CCM—(i) *Facts.* The facts are the same as in *Example 3,* except that X properly accounts for the contract under the CCM.

(ii) *Old taxpayer.* X reports no income or costs from the contract in Years 1, 2 or 3.

(iii) *New taxpayer.* Because the mid-contract change in taxpayer results from a step-in-the-shoes transaction, Y must account for the contract using the same method of accounting used by X prior to the transaction. Thus, in Year 3, the completion year, Y reports receipts of $1,000,000 and total contract costs of $725,000, for a profit of $275,000.

Example 5. Step in the shoes—PCM—basis adjustment.

The facts are the same as in Example 3, except that X transfers the contract (including the uncompleted property) with a basis of $0 and $125,000 of cash to a new corporation, Z, in exchange for all of the stock of Z in a section 351 transaction. Thus, under section 358(a), X's basis in the Z stock is $125,000. Pursuant to paragraph (k)(3)(iv)(A)(*1*) of this section, X must increase its basis in the Z stock by the amount of gross receipts X recognized under the contract, $750,000 ($250,000 receipts in Year 1 + $500,000 receipts in Year 2), and reduce its basis by the amount of gross receipts X received under the contract, the $650,000 in progress payments. Accordingly, X's basis in the Z stock is $225,000. All other results are the same.

Example 6. Step in the shoes—CCM—basis adjustment—(i) *Facts.* The facts are the same as in *Example 4,* except that X receives progress payments of $800,000 (rather than $650,000) and transfers the contract (including the uncompleted property) with a basis of $600,000 and $125,000 of cash to a new corporation, Z, in exchange for all of the stock of Z in a section 351 transaction. X and Z do not join in filing a consolidated Federal income tax return.

(ii) *Old taxpayer.* X reports no income or costs under the contract in Years 1, 2, or 3. Under section 358(a), X's basis in Z is $725,000. Pursuant to paragraph (k)(3)(iv)(A)(*1*), X must reduce its basis in the stock of Z by $800,000, the progress payments received by X. However, X may not reduce its basis in the Z stock below zero pursuant paragraph (k)(3)(iv)(A)(*2*) of this section. Accordingly, X's basis in the Z stock is reduced by $725,000 to zero and X must recognize ordinary income of $75,000.

(iii) *New taxpayer.* Upon completion of the contract in Year 3, Z reports gross receipts of $925,000 ($1,000,000 original contract price—$75,000 income recognized by the old taxpayer pursuant to the basis adjustment rule of paragraph (k)(3)(iv)(A)) and total contract costs of $725,000, for a profit of $200,000.

Example 7. Step in the shoes—PCM—gain recognized in transaction—(i) *Facts.* The facts are the same as in *Example 3,* except that X transfers the contract (including the uncompleted property) with a basis of $0 and an unrelated capital asset with a value of $100,000 and a basis of $0 to a new corporation, Z, in exchange for stock of Z with a value of $200,000 and $50,000 of cash in a section 351 transaction.

(ii) *Old taxpayer.* For year 1, X reports receipts of $250,000 ($200,000/$800,000 × $1,000,000) and costs of $200,000, for a profit of $50,000. X is not treated as completing the contract in Year 2. In Year 2, X reports receipts of $500,000 (($600,000/$800,000 × $1,000,000 = $750,000 cumulative gross receipts)—$250,000 prior year cumulative gross receipts) and costs of $400,000, for a profit of $100,000. Under paragraph (k)(3)(ii)(B) of this section, X determines that the gain realized on the transfer of the contract to Z under the constructive completion rules of paragraph (k)(2)(ii) of this section is $50,000 (total contract price of $800,000 ($150,000 value allocable to the contract + $650,000 progress payments)—$750,000 previously recognized cumulative gross receipts—$0 costs incurred but not recognized). The gain realized on the transfer of the unrelated capital asset to Z is $100,000. The amount of gain X must recognize due to the receipt of $50,000 cash in the exchange is $50,000, of which $30,000 is allocated to the contract ($150,000 value of contract/$250,000 total value of property transferred to Z × $50,000) and is treated as ordinary income, and $20,000 is allocated to the unrelated capital asset ($100,000 value of capital asset/$250,000 total value of property transferred to Z × $50,000). Under section 358(a), X's basis in the Z stock is $0. However, pursuant to paragraph (k)(3)(iv)(A)(*1*) of this section, X must increase its basis in the Z stock by $750,000, the amount of gross receipts recognized under the contract, and must reduce its basis in the Z stock by $650,000, the amount of gross receipts X received under the contract. Therefore, X's basis in the Z stock is $100,000.

(iii) *New taxpayer.* Z must account for the contract using the same PCM method used by X prior to the transaction. Pursuant to paragraph (k)(3)(iv)(B)(1) of this section, the total contract price is $970,000 ($1,000,000 amount X and Z have received or reasonably expect to receive under the contract—$30,000 income recognized by X with respect to the contract as a result of the receipt of $50,000 cash in the transaction). In Year 2, Z reports gross receipts of $119,655 ($650,000/$725,000 × $970,000 = $869,655 current year cumulative gross receipts—$750,000 cumulative gross receipts reported by the old taxpayer) and costs of $50,000, for a profit of $69,655. In Year 3, Z reports gross receipts of $100,345 ($970,000–$869,655) and costs of $75,000, for a profit of $25,345.

Example 8. Step in the shoes—CCM—gain recognized in transaction—(i) *Facts.* The facts are the same as in *Example 4,* except that X transfers the contract (including the uncompleted property) with a basis of $600,000 and an unrelated capital asset with a value of $125,000 and a basis of $0 to a new corporation, Z, in exchange for all the stock of Z with a value of $175,000 and $100,000 of cash in a section 351 transaction. X and Z do not join in filing a consolidated Federal income tax return.

(ii) *Old taxpayer.* X reports no income or costs under the contract in Years 1, 2, or 3. Under paragraph (k)(3)(ii)(B), X determines that the gain realized on the transfer of the contract to Z under the constructive completion rules of paragraph (k)(2)(ii) of this section is $200,000 ($800,000 total contract price ($150,000 value allocable to the contract + $650,000 progress payments)—$600,000 costs incurred but not recognized). The gain realized on the transfer of the unrelated capital asset to Z is $125,000. The amount of gain X must recognize due to the receipt of $100,000 of cash in the exchange is $100,000, of which $54,545 is allocated to the contract ($150,000 value of the contract/

$275,000 total value of property transferred to Z × $100,000) and is treated as ordinary income, and $45,455 is allocated to the unrelated capital asset ($125,000 value of capital asset/$275,000 total value of property transferred to Z × $100,000). Under section 358(a), X's basis in the Z stock is $600,000 ($600,000 basis in the contract and unrelated capital asset transferred—$100,000 cash received + $100,000 gain recognized). Pursuant to paragraph (k)(3)(iv)(A)(*1*) of this section, X must reduce its basis in the stock of Z by $650,000, the progress payments received under the contract. However, X may not reduce its basis in the Z stock below zero pursuant to paragraph (k)(3)(iv)(A)(*2*) of this section. Accordingly, X's basis in the Z stock is reduced by $600,000 to zero and X must recognize income of $50,000.

(iii) *New taxpayer.* Z must account for the contract using the same CCM used by X prior to the transaction. Pursuant to paragraph (k)(3)(iv)(B)(1) of this section, the total contract price is $895,455 ($1,000,000 original contract price—$54,545 income recognized by old taxpayer with respect to the contract as a result of the receipt of cash in the transaction—$50,000 income recognized by the old taxpayer pursuant to the basis adjustment rule of paragraph (k)(3)(iv)(A)). Accordingly, upon completion of the contract in Year 3, Z reports gross receipts of $895,455 and total contract costs of $725,000, for a profit of $170,455.

(6) *Effective date.* This paragraph (k) is applicable for transactions on or after May 15, 2002. Application of the rules of this paragraph (k) to a transaction that occurs on or after May 15, 2002 is not a change in method of accounting.

8. In § 1.460–6, paragraph (g) is revised to read as follows:

§ 1.460–6 Look-back method.

* * * * *

(g) *Mid-contract change in taxpayer*—(1) *In general.* The rules in this paragraph (g) apply if, as described in § 1.460–4(k), prior to the completion of a long-term contract accounted for using the PCM or the PCCM by a taxpayer (old taxpayer), there is a transaction that makes another taxpayer (new taxpayer) responsible for accounting for income from the same contract. The rules governing constructive completion transactions are provided in paragraph (g)(2) of this section, while the rules governing step-in-the-shoes transactions are provided in paragraph (g)(3) of this section. For purposes of this paragraph, pre-transaction years are all taxable years of the old taxpayer in which the old taxpayer accounted for (or should have accounted for) gross receipts from the contract, and post-transaction years are all taxable years of the new taxpayer in which the new taxpayer accounted for (or should have accounted for) gross receipts from the contract.

(2) *Constructive completion transactions.* In the case of a transaction described in § 1.460–4(k)(2)(i) (constructive completion transaction), the look-back method is applied by the old taxpayer with respect to pre-transaction years upon the date of the transaction and, if the new taxpayer uses the PCM or the PCCM to account for the contract, by the new taxpayer with respect to post-transaction years upon completion of the contract. The contract price and allocable contract costs to be taken into account by the old taxpayer or the new taxpayer in applying the look-back method are described in § 1.460–4(k)(2).

(3) *Step-in-the-shoes transactions*—(i) *General rules.* In the case of a transaction described in § 1.460–4(k)(3)(i) (step-in-the-shoes transaction), the look-back method is not applied at the time of the transaction, but is instead applied for the first time when the contract is completed by the new taxpayer. Upon completion of the contract, the look-back method is applied by the new taxpayer with respect to both pre-transaction years and post-transaction years, taking into account all amounts reasonably expected to be received by either the old or new taxpayer and all allocable contract costs incurred during both periods as described in § 1.460–4(k)(3). The new taxpayer is liable for filing the Form 8697 and for interest computed on hypothetical underpayments of tax, and is entitled to receive interest with respect to hypothetical overpayments of tax, for both pre- and post-transaction years. The old taxpayer will be secondarily liable for any interest required to be paid with respect to pre-transaction years reduced by any interest on pre-transaction overpayments.

(ii) *Application of look-back method to pre-transaction period*—(A) *Contract price.* The actual contract price for pre-transaction taxable years must be determined by the new taxpayer without regard to any contract price adjustment described in paragraph (k)(3)(iv)(B)(1) of this section.

(B) *Method.* The new taxpayer may apply the look-back method to each pre-transaction taxable year that is a redetermination year using the simplified marginal impact method described in paragraph (d) of this section (regardless of whether or not the old taxpayer would have actually used that method and without regard to the tax liability ceiling). But see paragraph (d)(4) of this section, which requires use of the simplified marginal impact method by certain pass-through entities.

(C) *Interest accrual period.* With respect to any hypothetical underpayment or overpayment of tax for a pre-transaction taxable year, interest accrues from the due date of the old taxpayer's tax return (not including extensions) for the taxable year of the underpayment or overpayment until the due date of the new taxpayer's return (not including extensions) for the completion year or the year of a post-completion adjustment, whichever is applicable.

(D) *Information old taxpayer must provide.* In order to help the new taxpayer to apply the look-back method with respect to pre-transaction taxable years, any old taxpayer that accounted for income from a long-term contract under the PCM or PCCM for either regular or alternative minimum tax purposes is required to provide the information described in this paragraph to the new taxpayer by the due date (not including extensions) of the old taxpayer's income tax return for the first taxable year ending on or after a step-in-the-shoes transaction described in § 1.460–4(k)(3)(i). The required information is as follows—

(*1*) The portion of the contract reported by the old taxpayer under PCM for regular and alternative minimum tax purposes (i.e., whether the old taxpayer used PCM, the 40/60 PCCM method, or the 70/30 PCCM method);

(*2*) Any submethods used in the application of PCM (e.g., the simplified cost-to-cost method or the 10-percent method);

(*3*) The amount of total contract price reported by year;

(*4*) The numerator and the denominator of the completion factor by year;

(*5*) The due date (not including extensions) of the old taxpayer's income tax returns for each taxable year in which income was required to be reported;

(*6*) Whether the old taxpayer was a corporate or a noncorporate taxpayer by year; and

(*7*) Any other information required by the Commissioner by administrative pronouncement.

(iii) *Application of look-back method to post-transaction years.* With respect to post-transaction taxable years, the new taxpayer must use the same look-back method it uses for other contracts (i.e., the simplified marginal impact method or the actual method) to determine the amount of any hypothetical overpayment or underpayment of tax and the time period for computing interest on these amounts.

(iv) *S corporation elections.* Following the conversion of a C corporation into an S corporation, the look-back method is applied at the entity level with

respect to contracts entered into prior to the conversion, notwithstanding section 460(b)(4)(B)(i).

(4) *Effective date.* This paragraph (g) is applicable for transactions on or after May 15, 2002.

§ 1.1362–2 [Amended]

9. In § 1.1362–2, paragraph (c)(6) Example 2, first sentence is amended by removing the language ''§ 1.451–3(b)'' and adding ''§ 1.460–1(b)(1)'' in its place, and removing the language ''§ 1.451–3(c)(1)'' and adding ''§ 1.460–4(b)'' in its place.

§ 1.1374–4 [Amended]

10. In § 1.1374–4, paragraph (g), first sentence is amended by removing the language ''§ 1.451–3(d)'' and adding ''§ 1.460–4(d)'' in its place, and removing the language ''§ 1.451–3(c)'' and adding ''§ 1.460–4(b)'' in its place.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

11. The authority section for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

12. In § 602.101, paragraph (b) is amended by revising the entry for 1.460–6 to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * * * *	
1.460–6	1545–1031; 1545–1572; 1545–1732
* * * * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: May 2, 2002.

Pamela F. Olson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 02–11792 Filed 5–14–02; 8:45 am]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in June 2002. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

EFFECTIVE DATE: June 1, 2002.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

Accordingly, this amendment (1) adds to appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during June 2002, (2) adds to appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during June 2002, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during June 2002.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in appendix B to part 4044) will be 5.70 percent for the first 25 years following the valuation date and 4.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for May 2002) of 0.20 percent for the first 25 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in appendix B to part 4022) will be 4.50 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for May 2002) of 0.25 percent for the period during which a benefit is in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during June 2002, the

PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 104, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* * *	*	*	*	*	*	*		
104	6–1–02	7–1–02	4.50	4.00	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 104, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* * *	*	*	*	*	*	*		
104	6–1–02	7–1–02	4.50	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of it are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * * *	*	*	*			
June 2002	.0570	1–25	.0425	>25	N/A	N/A

Issued in Washington, DC, on this 10th day of May 2002.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 02–12158 Filed 5–14–02; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–02–058]

RIN 2115–AA97

Safety Zone; Chelsea River Safety Zone for McArdle Bridge Repairs, Chelsea River, East Boston, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Chelsea River to aid completion of the McArdle Bridge repairs in East Boston, MA. The safety zone will temporarily close all waters 100-yards upstream and downstream of the McArdle Bridge. The safety zone prohibits entry into or movement within this portion of the Chelsea River and is needed to facilitate repair efforts and protect the maritime public from the hazards posed.

DATES: This rule is effective from May 13 until July 13, 2002.

ADDRESSES: Documents indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David M. Sherry, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this rule. Good cause exists for not publishing an NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Information about this event was not provided to the Coast Guard until April 25, 2002, making it impossible to draft or publish an NPRM or a final rule 30 days in advance of its effective date.

The McArdle Bridge repairs were determined necessary as a result of recent inspections by the Massachusetts Highway Department, during which steel grating and support failures on the McArdle Bridge were discovered. Waterway closures in the vicinity of and beneath the bridge are needed because repair equipment and portions of the bridge deck will be extending over the waterway, and hotwork (welding and grinding) which will shoot sparks over the waterway in the vicinity of the bridge will be conducted. Delaying this work for sufficient time to conduct a public notice rulemaking and advanced publication would be contrary to the public interest for the reasons outlined below.

The marine industry representatives who operate on the Chelsea and Fore Rivers have stated that it is in their best interest for this work to be completed during the prescribed time period. Work is already scheduled on the Weymouth Fore River Bridge from June to August 2002, during which time the waterway underneath the Weymouth Fore River Bridge will also be periodically closed. It is in the best interest of the public and industry that these two channel closures not have a significant overlap. With the closures scheduled in this rule (Chelsea River), there will be minimal overlap between the two projects (1 week total). These two rivers receive 100 percent of the petroleum for commercial sale in the Captain of the Port (COTP) Boston, MA zone, and the majority of the petroleum for all of New England. To have a significant overlap in the lengthy closures of both of these waterways would make planning petroleum vessel arrivals and departures around the closures extremely difficult, placing unmanageable burdens on the marine industry in both rivers, and as a result negatively impacting the supply of petroleum for the entire region. Thus, due to the already scheduled Weymouth Fore River safety zones and waterway restrictions, the next available time period to schedule the McArdle Bridge repairs would be fall or winter of 2002.

Delaying the Chelsea River safety zones until the fall or winter of 2002 will introduce different problems with respect to the bridge repairs, and place more burdens on the petroleum industry in the Chelsea River, than would conducting this work in the Spring as proposed. The industry receives more vessels during the fall and winter months than any other time due to the demand for home heating oil. Potential delays in petroleum-laden vessels during the critical fall and winter months could negatively impact local oil prices and consumers. In addition, significant delays in the actual McArdle Bridge repair work could result from cold weather during this time of year.

Further delaying this work also places the future operability of the bridge for waterway and roadway use at risk. Further delay in the structural steel work again places at risk the ability of the marine terminals on the Chelsea River to continue to receive vessels. Also, the Massachusetts Highway Department will need to restrict road traffic over the bridge to a certain tonnage if the work is not done soon. If the work is delayed further, road traffic may be completely restricted from the bridge, causing unmanageable traffic situations in Chelsea and East Boston. Thus, it is in the best interest of maintaining safe marine commerce, avoiding significant road traffic problems, and ensuring the work is completed as safely and quickly as practicable, that these closures come into effect on May 13, 2002.

This temporary safety zone is only for evening periods and should have a minimal impact on vessel transits due to the fact that the zone will be in effect only during night time when recreational boaters do not typically use the waterway, night time commercial traffic is already limited by the constraints of the regulations governing the Chelsea Street Bridge under 33 CFR 165.120, and the commercial users of the Chelsea River have stated that restricting night time use of the waterway during this time of the year will place the least burden on their operations.

Discussion of Rule

This regulation establishes a safety zone on all waters of the Chelsea River 100-yards upstream and downstream of the McArdle Bridge. The safety zone is in effect from May 13 until July 13, 2002, and will be enforced from sunset until sunrise each day during this period. This safety zone prohibits entry into or movement within this portion of the Chelsea River and is needed to provide the Middlesex Corporation sufficient time to safely complete the necessary repairs, painting, steel support, and grating work. The work is needed to ensure the continued safe operability of the McArdle Bridge. The Captain of the Port does anticipate minimal negative impact on vessel traffic due to this repair work. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of

Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this rule prevents traffic from transiting a portion of the Chelsea River during the prescribed periods, the effect of this rule will not be significant for several reasons: the channel will be closed during night time when recreational boaters do not typically use the waterway; many of the commercial vessels are already limited by size to daylight only transits due to the regulations governing the Chelsea Street Bridge under 33 CFR 165.120; and the commercial users of the Chelsea River have stated that restricting night time use of the waterway during this time of the year will not burden their operations.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit a portion of the Chelsea River from May 13 until July 13, 2002, during sunset to sunrise each day of this period. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the bridge will be closed during night time when recreational boaters do not typically use the waterway; most night time commercial traffic is already limited by the constraints of the regulations governing the Chelsea Street Bridge under 33 CFR 165.120; the commercial users of the Chelsea River have stated that restricting night time use of the waterway during this time of the year will not burden their operations; and the Coast Guard will issue maritime advisories widely available to users of Boston Harbor and the Chelsea River, before the effective period, via marine information broadcasts.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Energy Effects

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. From May 13 until July 13, 2002 add temporary § 165.T01–058 to read as follows:

§ 165.T01–058 Safety Zone: Chelsea River Safety Zone for McArdle Bridge Repairs, Chelsea River, East Boston, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of the Chelsea River 100-yards upstream and downstream of the McArdle Bridge, East Boston, MA.

(b) *Effective Date.* This section is effective from May 13 until July 13, 2002, and will be enforced from sunset until sunrise each day during this period.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the Captain of the Port (COTP) or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: May 6, 2002.

B.M. Salerno,

Captain, U. S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02–12121 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL214–1a; FRL–7164–4]

Approval and Promulgation of Implementation Plans; Illinois Emission Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to Illinois rules for emission reporting. Illinois requested these revisions on November 6, 2001. The revisions address two purposes. First, these revisions restructure previously approved regulations, eliminating a category with intermediate reporting requirements and thus requiring further reporting by a modest number of sources. Second, these revisions add requirements for reporting emissions of hazardous air pollutants by sources in the Chicago area volatile organic compound emissions trading program. This information on hazardous air pollutant emissions will help Illinois assess whether its emission trading program has adverse effects on the magnitude and distribution of hazardous air pollutant emissions. EPA concludes that the revised regulations continue to satisfy emissions reporting requirements and provide for reporting of emissions information needed to assess the impact of the emissions trading program on the distribution and overall magnitude of hazardous air pollutant emissions.

DATES: This rule is effective on July 15, 2002, unless EPA receives written adverse comments by June 14, 2002. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the State's submittal are available for inspection at the following address: (We recommend that you telephone John Summerhays at (312) 886–6067, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604–3590, (312) 886–6067.

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

I. What changes did Illinois make?
II. What is EPA's view of these changes?
III. EPA Action.
IV. Administrative Requirements.

I. What Changes Did Illinois Make?

On November 6, 2001, Illinois submitted revised rules for emission reporting. These changes amend rules that USEPA approved on September 9, 1993, at 58 FR 47379. These rules include two types of revisions. The first type of revision is a restructuring and simplification of the requirements for annual emission reporting. The second type of revision affects ozone season emission reporting for sources subject to the Illinois trading program, most notably adding requirements for reporting emissions of hazardous air pollutants (HAPs).

The restructuring and simplification of the rule has a modest substantive effect on requirements for annual emission reporting. The first change affects the categories of emission reports, eliminating an intermediate reporting category and subjecting the small number of sources in this category to greater reporting requirements. Specifically, the previously approved rules had three categories of reporting, known as (1) the long report, (2) the medium report, and (3) the short report. These reports were to be submitted respectively by (1) sources permitted to emit a total emissions (summed across all regulated pollutants, such as particulate matter and nitrogen oxides) of at least 25 tons per year, (2) ozone nonattainment area sources not included in the first category that nevertheless had potential emissions of more than 25 tons per year of volatile organic compounds (VOC), nitrogen oxides (NO_X), or both, and (3) smaller sources required to have a state operating permit. Under the revised rules, the first two of these categories must submit the long report. The long report requires reporting for all pollutants rather than just for VOC or NO_X, so the rule revision requires slight additional reporting for a small number of sources of VOC and NO_X.

Illinois also made several other less significant changes to annual emissions reporting requirements. The list of required information, previously specified in standard forms, is now specified in the rule. Illinois has exempted operations defined as insignificant activities from emission reporting requirements. Illinois has consolidated its definitions into one rule and deleted obsolete rules concerning initial reporting schedules.

The second major element of Illinois' revised emission reporting rule concerns reporting of ozone season emissions by sources subject to the Illinois trading program. ''Ozone season'' is defined here as May to September, which is the seasonal allotment period for the trading program. This portion of the emission reporting rule is very similar to the corresponding portion of Part 205 of Title 35 of the Illinois Administrative Code, which codifies what Illinois calls the Emissions Reduction Market System. Both rules set deadlines by which sources in that program must report VOC emissions during the ozone season as well as information on how emissions were determined. The emission reporting rule reiterates,

sometimes with somewhat greater specificity, all of the emission reporting requirements given in the emission trading rules. These emission data satisfy a critical need of the trading program, allowing Illinois to assess whether each company has complied with the requirement to emit no more than the tonnage value of the allowances the company holds.

More significantly, the emission reporting rule establishes new requirements for sources in the Illinois trading program to report emissions of HAPs. This information is intended to address a public concern about the trading program, that the flexibility offered by the trading program may result in an inequitable geographic distribution of the reductions of VOC emissions and the hazardous components of these VOC emissions. This information is to allow Illinois to analyze any impacts of the trading program on HAP emissions.

The emission reporting rule requires sources subject to the trading program to report ozone season emissions of HAPs meeting any of three criteria: (1) HAPs that are regulated by a national emission standard (typically a maximum achievable control technology standard), (2) HAPs emitted in sufficient quantity to make the source a major source, and (3) HAPs reported to the federal Toxic Release Inventory. (Sources are exempt from reporting if they certify that information already reported to the Toxic Release Inventory suffices to indicate ozone season HAP emissions.) All sources subject to the trading program, including sources meeting none of the three criteria for HAP reporting, must answer questions that address whether the trading program might have affected HAPs emissions. Illinois is then authorized to request further information on HAP emissions when needed.

II. What Is EPA's View of These Changes?

Clean Air Act section 182(a)(3)(b) requires states with ozone nonattainment areas to require VOC and NO_X sources in such areas to report emissions of these pollutants. In July 1992, EPA established guidance on this requirement.

Illinois submitted its previous version of annual emission reporting rules on October 12, 1992, and June 2, 1993. EPA approved those rules on September 9, 1993, at 58 FR 47379. The more recent rules make the state's requirements for annual emission reporting slightly more stringent by requiring a modest amount of additional information from a small number of sources. EPA concludes that Illinois continues to satisfy the requirements for emission reporting.

EPA's criteria for evaluating the rules on ozone season emission reporting are based on criteria for emission trading programs. In January 2001, EPA published an extensive guidance document on economic incentive programs such as trading programs. An important element of this guidance required states to address public concerns about the potential impacts of trading programs on the distribution and magnitude of HAP emissions. Illinois convened a workgroup of industry and environmental group representatives to seek consensus on the HAP emission reporting needed to evaluate whether the feared impacts in fact occur. The trading program and Illinois' efforts to address citizen concerns are described more extensively in EPA's rulemaking on the Illinois trading program, published on October 15, 2001, at 66 FR 52343. EPA concludes that Illinois' revised emission reporting rule provides an appropriate set of information on potential impacts of the trading program on HAPs emissions, allowing Illinois to provide analyses and public information to satisfy relevant portions of the criteria for emission trading programs.

III. EPA Action

EPA is approving the revisions to Illinois' rules for emissions reporting that Illinois submitted on November 6, 2001. These revisions repeal several previously approved rules, amend several other previously approved rules, add four new rules, and retain unchanged only one previously approved rule. EPA is publishing this action without prior proposal because EPA views these as noncontroversial revisions and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing the action taken in this final rule. This final rule will be effective on July 15, 2002, unless, by June 14, 2002, EPA receives adverse written comments.

If the EPA receives such comments, EPA will withdraw this final action before the effective date by publishing a subsequent notice in the **Federal Register**. All public comments received will be addressed in a subsequent final rule based on the associated proposed rule. The EPA does not intend to provide a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on July 15, 2002.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 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 July 15, 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 19, 2002.

Gary Gulezian,

Acting Regional Administrator, Region 5.

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

PART 52—[AMENDED]

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

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

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(166) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(166) On November 6, 2001, the State of Illinois submitted revisions to its emission reporting rules, restructuring these rules and adding hazardous air pollutant emission reporting for sources in Illinois' Emission Reduction Market System.

(i) Incorporation by reference.

(A) Revised rules of 35 Ill. Admin. Code Part 254, including new or amended sections 254.101, 254.102, 254.103, 254.120, 254.132, 254.134, 254.135, 254.136, 254.137, 254.138, 254.203, 254.204, 254.303, 254.306, and 254.501, effective July 17, 2001, retention of section 254.133, and the repeal of other previously approved sections of 35 Ill. Admin. Code 254. Amended or adopted at 25 Ill. Reg. 9856. Effective July 17, 2001.

[FR Doc. 02–12006 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0031; FRL–6835–5]

Silica, Amorphous, Fumed (Crystalline Free); Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of silica, amorphous, fumed (crystalline free) (CAS Reg. No. 112945–52–5) also known as silicon dioxide fumed amorphous when used as an inert ingredient when applied to animals. Cabot Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of silica, amorphous, fumed (crystalline free). By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. Upon publication of this final rule, one tolerance reassesment for the existing tolerance exemption in 40 CFR 180.1001(c) for silicon dioxide fumed amorphous will be counted toward the August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

DATES: This regulation is effective May 15, 2002. Objections and requests for hearings, identified by docket control number OPP–2002–0031, must be received on or before July 15, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–2002–0031 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Treva Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8373; e-mail address: Treva.Alston@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American

Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–2002–0031. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of June 30, 2000 (65 FR 40637) (FRL–6592–6), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA Public Law 104–170), announcing the filing of a pesticide petition (PP 0E6109) by Cabot Corporation, Route 36W., Tuscola, IL 61953. This notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(e) be amended by establishing an exemption from the requirement of a tolerance for residues of silica, amorphous, fumed (crystalline free).

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

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

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene ploymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Silica, amorphous, fumed (crystalline free) is composed of oxygen and silicon, the most abundant and second-most abundant elements in the earth's crust, respectively. Silicon almost always occurs in combination with oxygen, and a number of naturally-occurring minerals (such as quartz) are pure, or nearly pure, silicon dioxide. Silica can be divided into two types: crystalline and amorphous. The major toxicological hazard of crystalline silica is through the inhalation route of exposure. Silicosis and/or cancer can result from long-term inhalation of the crystalline form (such as crystalline quartz). However, exposure to amorphous forms of silica is not associated with silicosis or cancer. In fact, IARC (International Agency for Research on Cancer) has classified crystalline forms of silica when inhaled from occupational exposures as Group I, carcinogenic to humans. The IARC has classified amorphous forms of silica as Group 3, not classifiable as to its carcinogenicity to humans. Silica, amorphous, fumed (crystalline free) is a manufactured product. Chemically and physically it is similar to diatomateous earth.

The petitioner submitted to the Agency four acute toxicity studies (acute oral LD_{50} in the rat, acute inhalation LC_{50} in the rat, primary eye irritation in the rabbit, and primary dermal irritation in the rabbit); and four mutagenicity studies *salmonella typhimurium/mammalian* microsome mutagenicity assay (Ames), an *in vitro* unscheduled DNA synthesis (UDS) assay in rat primary heptatocytes, an *in vitro* chromosomal aberation assay in Chinese hamster ovary (CHO) Cells; and an *in vitro* CHO/HGPRT assay). There was also an evaluation of oral toxicity of fumed silica which is a metabolism and pharmacokinetics study. The results of these studies are listed below:

1. *Acute toxicity studies.* No mortalities were observed for the oral and inhalation studies. For the primary eye irritation study, there was no corneal opacity or iridial irritation in

any of the eyes. For the dermal study, there was no dermal irritation at 72 hours. For the acute toxicity study, the oral LD_{50} is >5,000 milligrams/kilograms (mg/kg). For the acute inhalation study, the LC_{50} is >2.08 mg/L. All studies are toxicity category IV.

2. *Mutagenic studies.* In all four studies there was no indication of any mutagenic activity associated with exposure to silica, amorphous, fumed (crystalline free).

3. *Oral toxicity of fumed silica.* There were no mortalities or clinical signs. There was no significant difference between the test group and the control group with respect to silica concentration in the carcass.

V. Aggregate Exposures

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

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

A. Dietary Exposure

Silica, amorphous, fumed (crystalline free) is composed of oxygen and silicon, which are the most abundant and second-most abundant elements in the earth's crust respectively. Silicon almost always occurs in combination with oxygen, and there are a number of naturally-occurring forms. For this reason, EPA has considered that silica, amorphous, fumed (crystalline free) could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure is possible.

1. *Food.* Forms of silicon dioxide are considered to be inert when ingested. There are currently FDA clearances for the use of silicon dioxide as a food additive for direct addition to food for human consumption (21 CFR 172.480) at levels up to 2% by weight. It is also used as an excipient in pharmaceuticals and in cosmetics. EPA will regulate silica, amorphous, fumed (crystalline free) only as an inert in pesticide formulations. The amount of silica, amorphous, fumed (crystalline free) that can be applied to food as a result of their use in pesticide formulations would not significantly increase the amount of silica, amorphous, fumed (crystalline free) in the food supply above those amounts permitted by FDA. Given the very low toxicity of silica, amorphous, fumed (crystalline free), there are no concerns for increased exposure.

2. *Drinking water exposure.* With various forms of silicon dioxide being abundant in nature, increased drinking water exposure from the use of silica, amorphous, fumed (crystalline free) in pesticide formulations would not be expected.

B. Other Non-Occupational Exposure

It is highly likely that silica, amorphous, fumed (crystalline free) can be used in and around the home. Given its high molecular weight (645,000 daltons), it is unlikely that it could be absorbed through the skin in sufficient amounts to cause toxicity in a residential setting. Given the nature of silica, amorphous, fumed (crystalline free) and its anticipated uses, the Agency has examined residential inhalation exposures using a screening approach. There are no concerns for inhalation exposures typical of those found in a residential scenario.

VI. Cumulative Effects

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify or revoke a tolerance or tolerance exemption, the Agency considers ''available information'' concerning the cumulative effects of a particular chemical's residues and ''other substances that have a common mechanism of toxicity.'' Silica, amorphous, fumed (crystalline free) has demonstrated a lack of toxicity, and thus is unlikely to share a common mechanism of toxicity with any other substances.

VII. Children's Safety Factor

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of silica, amorphous, fumed (crystalline free), EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VIII. Determination of Safety for U.S. Population

Silica, amorphous, fumed (crystalline free) has a demonstrated lack of toxicity. The acute toxicity studies are toxicity category IV. The mutagenicity studies are negative. Silica, amorphous, fumed (crystalline free) is not classifiable, as to its carcinogenicity however, given its amorphous nature, it is not expected to pose a carcinogenic risk. Silicas are considered to be inert when ingested, and due to the high molecular weight it is unlikely to be absorbed through the skin. There should be no concerns for human health, whether the exposure is acute, subchronic, or chronic by any route. Thus, based on the very low toxicity of silica, amorphous, fumed (crystalline free), the Agency has determined that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of silica, amorphous, fumed (crystalline free) and that a tolerance is not necessary.

IX. Other Considerations

A. Endocrine Disruptors

There is no available evidence that silica, amorphous, fumed (crystalline free) is an endocrine disruptor.

B. Analytical Method(s)

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Existing Exemptions

There is an existing exemption from the requirement of a tolerance under 40 CFR 180.1001(c) for use as flow control, anticaking, and carrier agent.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for silica, amorphous, fumed (crystalline free) nor have any CODEX Maximum Residue

Levels (MRLs) been established for any food crops at this time.

X. Conclusions

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of silica, amorphous, fumed (crystalline free). Accordingly, EPA finds that exempting silica, amorphous, fumed (crystalline free) from the requirement of a tolerance will be safe.

XI. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–2002–0031 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before July 15, 2002.

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

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

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–2002–0031, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

XII. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency

action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications '' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XIII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: April 22, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), 346(a) and 374.

2. In § 180.1001 the table in paragraph (e) is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e)* * *

Inert ingredients	Limits	Uses
* * * * * *		*
Silica, amorphous, fumed (crystalline free) (CAS Reg.No. 112945–52–5)	.....	Anti-caking agent, antisettling agent, flow control agent, carrier agent
* * * * * *		*

[FR Doc. 02–11743 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1037, MM Docket No. 01–165, RM–9768]

Digital Television Broadcast Service; Clarksburg, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Davis Television Clarksburg, LLC, licensee of station WVFX(TV), Clarksburg, West Virginia, substitutes DTV channel 10 for DTV channel 28 at Clarksburg. *See* 66 FR 40958, August 6, 2001. DTV channel 10 can be allotted to Clarksburg in compliance with the principle community coverage requirements of § 73.625(a) at reference coordinates 39–18–02 N. and 80–20–37 W. with a power of 30, HAAT of 260 meters and with a DTV service population of 598 thousand. Since the community of Clarksburg is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective June 24, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–165, adopted May 3, 2002, and released May 9, 2002. The full text of this document is available for public inspection and copying during regular business hours

in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under West Virginia, is amended by removing DTV channel 28 and adding DTV channel 10 at Clarksburg.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–11979 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1038, MM Docket No. 01–56, RM–10033]

Digital Television Broadcast Service; Huntington, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of SJL License Subsidiary, LLC, licensee of station WOWK–TV, substitutes DTV channel 47 for DTV channel 54 at Huntington, West Virginia. *See* 66 FR 12751, February 28, 2001. DTV channel 47 can be allotted to Huntington, West Virginia, in compliance with the principle community coverage requirements of § 73.625(a) at reference coordinates 38–30–21 N. and 82–12–33 W. with a power of 895, HAAT of 396 meters and with a DTV service population of 1063 thousand. Since the community of Huntington is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective June 24, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–56, adopted May 3, 2002, and released May 9, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under West Virginia, is amended by removing DTV channel 54 and adding DTV channel 47 at Huntington.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–11978 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1039, MM Docket No. 01–207, RM–10206]

Digital Television Broadcast Service; Alexandria, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of KSAX–TV, Inc., licensee of station KSAX(TV), substitutes DTV channel 36 for DTV channel 14 at Alexandria, Minnesota. *See* 66 FR 47904, September 14, 2001. DTV channel 36 can be allotted to Alexandria, Minnesota, in compliance with the principle community coverage requirements of § 73.625(a) at reference coordinates 45–41–59 N. and 95–10–35 W. with a power of 1000, HAAT of 340 meters and with a DTV service population of 414 thousand. Since the community of Alexandria is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective June 24, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–207, adopted May 3, 2002, and released May 9, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Minnesota, is amended by removing DTV channel 14 and adding DTV channel 36 at Alexandria.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–11977 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1040, MM Docket No. 01–167, RM–10180]

Digital Television Broadcast Service; Calais, ME

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Maine Public Broadcasting Corporation, licensee of noncommercial station WMED–TV, substitutes DTV channel *10 for DTV channel *15 at Calais, Maine. *See* 66 FR 40959, August 6, 2001. DTV channel *10 can be allotted to Calais, Maine, in compliance with the principal community coverage requirements of § 73.625(a) at reference coordinates 45–01–45 N. and 67–19–26 W. with a power of 3.5, HAAT of 133 meters and with a DTV service population of 30 thousand. Since the community of Calais is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective June 24, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–167, adopted May 3, 2002, and released May 9, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Maine, is amended by removing DTV channel *15 and adding DTV channel *10 at Calais.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–11976 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1041, MM Docket No. 02–27, RM–10367]

Digital Television Broadcast Service; Springfield, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of West Central Illinois Educational Telecommunications Corporation, an applicant for a new television station to operate on channel *65 at Springfield, substitutes DTV channel *36 for channel *65 at Springfield. *See* 67 FR 9428, March 1, 2002. DTV channel *36 can be allotted to Springfield, Illinois, in compliance with the principal community coverage requirements of § 73.625(a) at reference coordinates 39–36–50 N. and 89–38–58 W. with a power of 100, HAAT of 156 meters and with a DTV service population of 448 thousand.

With this action, this proceeding is terminated.

DATES: Effective June 24, 2002.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 02–27, adopted May 3, 2002, and released May 9, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

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

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Illinois, is amended by removing TV channel *65+ at Springfield.

§ 73.622 [Amended]

3. Section 73.622(b), the Table of Digital Television Allotments under Illinois, is amended by adding DTV channel *36 at Springfield.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–11973 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 020426096–2119–02; I.D. 042402D]

RIN 0648–AP99

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone

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

ACTION: Temporary area gear restriction.

SUMMARY: NMFS is extending (for a 2–week period) the previous closure of all inshore waters and offshore waters 10 nautical miles (nm) (18.5 km) seaward of the COLREGS demarcation line, bounded by 32° N. lat. (approximately Tybee Island, GA) and 34° N. lat. (approximately Wilmington Beach, NC) within the Leatherback Conservation Zone, to fishing by shrimp trawlers required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, unless the TED has an escape opening large enough to exclude leatherback turtles, as specified in the regulations. This action is necessary to reduce mortality of endangered

leatherback sea turtles incidentally captured in shrimp trawls.

DATES: This action is effective from May 10, 2002 through 11:59 p.m. (local time) on May 24, 2002.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: David Bernhart (ph. 727–570–5312, fax 727–570–5517, e-mail *David.Bernhart@noaa.gov*); or Barbara Schroeder (ph. 301–713–1401, fax 301–713–0376, e-mail *Barbara.Schroeder@noaa.gov*).

For assistance in modifying TED escape openings to exclude leatherback sea turtles, fishermen may contact gear specialists at the NMFS, Pascagoula, MS laboratory by phone 228–76–-4591 or fax 228–769–8699.

SUPPLEMENTARY INFORMATION: Prohibitions on taking sea turtles are governed by regulations implementing the Endangered Species Act at 50 CFR parts 222 and 223. The incidental take of turtles during shrimp fishing in the Atlantic Ocean off the coast of the southeastern United States and in the Gulf of Mexico is excepted from the taking prohibition pursuant to sea turtle conservation regulations at 50 CFR 223.206, which include a requirement that shrimp trawlers have a NMFS-approved TED installed in each net rigged for fishing. The use of TEDs significantly reduces mortality of loggerhead, green, Kemp's ridley, and hawksbill sea turtles. Because leatherback turtles are larger than the escape openings of most NMFS-approved TEDs, use of these TEDs is not an effective means of protecting leatherback turtles.

Through a final rule (60 FR 47713, September 14, 1995), NMFS established regulations to provide protection for leatherback turtles when they occur in locally high densities during their annual, spring northward migration along the Atlantic seaboard. Within the Leatherback Conservation Zone, NMFS may close an area for 2 weeks when leatherback sightings exceed 10 animals per 50 nm (92.6 km) during repeated aerial surveys pursuant to § 223.206(d)(2)(iv)(A) through (C).

A temporary rule requiring the closure of zones 32 and 33 to trawling became effective on April 26, 2002, in response to aerial surveys documenting large concentrations of leatherback turtles in those zones. The expiration for that temporary restriction is May 10, 2002, at 11:59 PM. Recent flights, conducted on May 7, 2002, have shown the need to extend the rule by another 14 days in response to continuing large concentrations of leatherback turtles in zones 32 and 33. A total of 190 leatherback turtle sightings were made in the zones, with 94 sighted when flying the transect in a southerly direction, and 96 sighted when flying the replicate survey in a northerly direction. Some of the largest concentrations included 59 leatherback turtles sighted in approximately 70 miles between Cape Island and Edisto Island, and 18 sighted in approximately 17.75 (28.57 km) miles near the North Carolina border. The sighting frequencies in the follow-up survey exceeds the regulatory standard of greater than 10 animals within a 50-nm (92.6 km) length of survey trackline.

The Assistant Administrator for Fisheries, NOAA (AA), is closing all inshore waters and offshore waters 10 nm (18.5 km) seaward of the COLREGS demarcation line, bounded by 32° N. lat. and 34° N. lat., within the Leatherback Conservation Zone to fishing by shrimp trawlers required to have a TED installed in each net that is rigged for fishing, unless the TED installed has an escape opening large enough to exclude leatherback turtles, meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B)(1) or (2) and at § 223.207(c)(1)(iv)(B). These regulations specify modifications that can be made to either single-grid hard TEDs or Parker soft TEDs to allow leatherbacks to escape.

The regulations at 50 CFR 223.206(d)(2)(iv) also state that fishermen operating in the closed area with TEDs modified to exclude leatherback turtles must notify the NMFS Southeast Regional Administrator of their intention to fish in the closed area. This aspect of the regulations does not have a current Office of Management and Budget control number, issued pursuant to the Paperwork Reduction Act. Consequently, fishermen are not required to notify the Regional Administrator prior to fishing in the closed area, but they must still meet the gear requirements.

Classification

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

The AA is taking this action in accordance with the requirements of 50 CFR 223.206(d)(2)(iv) to provide protection for endangered leatherback sea turtles from incidental capture and drowning in shrimp trawls. Leatherback sea turtles are occurring in high concentrations in coastal waters in shrimp fishery statistical zones 32 and 33. This action allows shrimp fishing to continue in the affected area so long as fishermen make the required gear modifications.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. As a sizeable concentration of leatherback turtles has been observed in an area fished by shrimp trawlers, it is extremely likely that interactions will occur. It would be impracticable to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing the necessary action in a timely manner to protect the endangered leatherback.

Pursuant to 5 U.S.C. 553(d)(3), the AA finds that there is good cause not to delay the effective date of this action for 30 days. Such delay would prevent the agency from implementing the necessary action in a timely manner to protect the endangered leatherback. Accordingly, the AA is making this temporary rule effective May 10, 2002 through May 24, 2002. This closure has been announced on the NOAA weather channel, in newspapers, and other media. Shrimp trawlers may also call (727)570–5312 for updated area closure information.

As prior notice and an opportunity for public comment are not required to be provided for this notification by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.*, are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule requiring TED use in shrimp trawls and the regulatory framework for the Leatherback Conservation Zone (60 FR 47713, September 14, 1995). Copies of the EA are available (see **ADDRESSES**).

Dated: May 10, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12140 Filed 5–10–02; 3:10 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 050802A]

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of northern rockfish in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is requiring that catch of northern rockfish in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of the 2002 total allowable catch (TAC) of northern rockfish in this area has been achieved.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 11, 2002, until 2400 hrs, A.l.t., December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The amount of the 2002 TAC of northern rockfish in the Bering Sea subarea of the BSAI was established as 16 metric tons by an emergency rule implementing 2002 harvest specifications and associated management measures for the groundfish fisheries off Alaska (67 FR 956, January 8, 2002).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the amount of the 2002 TAC for northern rockfish in the Bering Sea subarea of the BSAI has been achieved. Therefore, NMFS is requiring that further catches of northern rockfish in the Bering Sea subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds the need to immediately implement this action because the amount of the 2002 TAC for northern rockfish in the Bering Sea subarea of the BSAI has been achieved constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion because the amount of the 2002 TAC for northern rockfish in the Bering Sea subarea of the BSAI has been achieved constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 8, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12143 Filed 5–10–02; 3:10 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011218304-1304-01; I.D. 051002A]

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the yellowfin sole fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 11, 2002, until 1200 hrs, A.l.t., May 21, 2002.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of the 2002 halibut bycatch allowance specified for the BSAI trawl yellowfin sole fishery category, which is defined at § 679.21(e)(3)(iv)(B)(1), is 195 metric tons (67 FR 956, January 8, 2002).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2002 halibut bycatch allowance specified for the yellowfin sole fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the second seasonal apportionment of the halibut bycatch allowance for yellowfin sole fishery category constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) and 50 CFR 679.20(b)(3)(iii)(A), as such procedures would be unnecessary and contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to avoid exceeding the second seasonal apportionment of the halibut bycatch allowance for yellowfin sole

fishery category constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 10, 2002.

John H. Dunnigan,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12142 Filed 5–10–02; 3:42 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 94
Wednesday, May 15, 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

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. 01–042–1]

Interstate Movement of Gardenia From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Hawaiian fruits and vegetables regulations to provide for the movement of cut blooms of gardenia from Hawaii. We have determined that specific growing and inspection protocols or treatment with irradiation can effectively mitigate the plant pest risks associated with gardenia grown in Hawaii. This action would provide for the interstate movement of gardenia from Hawaii while continuing to prevent the spread of plant pests within the United States.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 15, 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. 01–042–1, 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. 01–042–1. 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. 01–042–1'' 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: Donna L. West, Import Specialist, Phytosanitary Issues Management, Import and Interstate Services, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1231; (301) 734–6766.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Hawaiian Fruits and Vegetables'' (7 CFR 318.13 through 318.13–17, referred to below as the regulations) govern, among other things, the interstate movement of fruits, vegetables, and other products, including cut flowers, from Hawaii. Regulation is necessary to prevent the spread of plant pests that exist in Hawaii.

The regulations in § 318.13–3(b)(1) currently provide that cut flowers (except cut blooms of gardenia, mauna loa, and jade vine, and leis thereof) may be moved interstate under certain conditions and if accompanied by a limited permit. The movement of cut blooms of gardenia is currently prohibited due to gardenia's status as a host of green scale (*Coccus viridus*), also known as green coffee scale.

The green scale feeds along the main vein of the leaf and near the tips of green shoots. Damage due to the feeding of an individual scale is small. However, when large populations are present, yellowing, defoliation, reduction in fruit set, and loss in plant vigor occur. In addition, green scale excrete honeydew. This sweet and watery excretion is fed on by bees, wasps, ants, and other insects. The honeydew serves as a medium on which a sooty fungus grows, called sooty mold. Sooty mold blackens the leaf and decreases photosynthesis.

In this document, we are proposing to amend the regulations to provide for the interstate movement of gardenia from Hawaii. Cut blooms of gardenia from Hawaii would be eligible for movement to other parts of the United States if they were treated with irradiation in Hawaii or grown in accordance with certain prescribed conditions. Each of these options is explained below.

Irradiation Protocol for Cut Blooms of Gardenia

Section 318.13–4f provides instructions for the irradiation treatment of fruits and vegetables from Hawaii. Research conducted by the University of Hawaii and reviewed by the U.S. Department of Agriculture's (USDA's) Agricultural Research Service has demonstrated that the irradiation treatment described in that section is an effective treatment for green scale on gardenias, so we are proposing to add cut blooms of gardenia to the list in 318.13–4f(a) of regulated articles for which irradiation is an approved treatment. We would also make some minor changes throughout the section, such as replacing references to ''fruits and vegetables'' with references to ''regulated articles,'' to ensure that the section's provisions apply to gardenias. A description of the provisions of § 318.13–4f as they currently stand is set forth below. Our specific proposed changes are discussed after that description.

Currently, paragraph (b) of § 318.13–4f provides that:

1. Irradiation treatment must be carried out at an approved facility only in Hawaii or in non-fruit-fly-supporting areas of the mainland United States (i.e., States other than Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, or Virginia). With one limited exception, prior to treatment, the fruits and vegetables cannot move into or through these non-fruit-fly-supporting States;

2. The irradiation treatment facility and treatment protocol must be approved by the Animal and Plant Health Inspection Service (APHIS);

3. In order to be approved, a facility must be capable of administering a minimum absorbed ionizing radiation dose of 250 Gray (25 krad), be constructed so as to provide physically separate locations for treated and

untreated fruits and vegetables, complete a compliance agreement with APHIS, and be certified by Plant Protection and Quarantine, APHIS, for initial use and annually for subsequent use;

4. Irradiation treatment must be monitored by an inspector, who may be either an APHIS employee or a designated State plant regulatory official;

5. If treated in Hawaii, the fruits and vegetables must be packaged in cartons that have no openings that will allow the entry of fruit flies. The cartons must be sealed with seals that will visually indicate if the cartons have been opened. Then, the pallet-load of cartons must be wrapped, before leaving the irradiation facility, in one of the following ways: (1) With polyethylene sheet wrap; (2) with net wrapping; or (3) with strapping so that each carton on an outside row of the pallet-load is constrained by a metal or plastic strap. In addition, pallet-loads must be labeled with treatment lot numbers, packing and treatment facility identification and location, and dates of packing and treatment;

6. If moving to the mainland for treatment, the untreated fruits and vegetables must be shipped in shipping containers sealed prior to interstate movement with seals that will visually indicate if the shipping containers have been opened;

7. The fruits and vegetables must receive a minimum absorbed ionizing radiation dose of 250 Gray (25 krad);

8. Dosimetry systems in the irradiation facility must map, control, and record the absorbed dose;

9. The absorbed dose must be measured by a dosimeter that can accurately measure an absorbed dose of 250 Gray (25 krad);

10. The number and placement of dosimeters must be in accordance with American Society for Testing and Materials standards;

11. An inspector will issue a certificate for the interstate movement of fruits and vegetables treated and handled in Hawaii in accordance with the regulations at § 318.13–4f. An inspector will issue a limited permit for the interstate movement of untreated fruits and vegetables from Hawaii for irradiation treatment on the mainland United States; and

12. The irradiation facility must keep records or invoices for each treated lot for a period that exceeds the shelf life of the irradiated food product by 1 year and must make those records available to an inspector for inspection.

Paragraphs (c) and (d) of § 318.37–4f set forth procedures for applying for approval and inspection of a treatment facility, and procedures for denial and withdrawal of approval.

Paragraph (e) of § 318.13–4f further provides that the USDA and its inspectors are not responsible for any loss or damage resulting from any treatment prescribed or supervised.

The one substantive change we would make to the provisions described above is with regard to the location of treatment. As described in item 1 above, the irradiation treatment may be carried out in Hawaii or in a non-fruit-fly-supporting area of the mainland United States. Because green scale can survive in those non-fruit-fly supporting areas, we would require that cut blooms of gardenia be treated only in Hawaii. To put this restriction in place, we would make two changes to the regulations. First, we would amend the first sentence of § 318.13–4f(b)(1) to read, ''The irradiation treatment must be carried out at an approved facility in Hawaii or, if authorized by a limited permit issued under paragraph (b)(7)(ii) of this section, on the mainland United States.'' Second, we would amend the provisions in § 318.13–4f(b)(7)(ii) regarding limited permits to state that cut blooms of gardenia may be treated only in Hawaii and are not eligible for a limited permit for movement to the mainland United States for treatment. A limited permit is already required under § 318.13–4f(b)(7)(ii) for the movement of untreated fruits and vegetables to the mainland for treatment, so these proposed change would have no effect on the current requirements governing the movement of fruits and vegetables.

As noted previously, it would be necessary to change the references to ''fruits and vegetables'' that appear in several places to ''regulated articles'' to include cut blooms of gardenias within the scope of the regulations. In addition, our proposed addition of provisions for the interstate movement of cut blooms of gardenias would make several other changes necessary. Specifically, we would:

- Change the title of the subpart from ''Subpart Hawaiian Fruits and Vegetables'' to ''Subpart—Hawaiian Fruits, Vegetables, and Flowers.''
- Add an entry for cut blooms of gardenias to the list in § 318.13–2(b) of regulated articles that are eligible for interstate movement from Hawaii.
- Modify the prohibition in § 318.13–3(b)(1) on the movement of cut blooms of gardenia to limit that prohibition to cut blooms that have not been treated with irradiation or grown under the conditions described in this document.
- Amend § 318.13–4f(e) to include green scale along with the Trifly complex (i.e., Mediterranean fruit fly, melon fruit fly, and Oriental fruit fly) as a pest against which irradiation is approved as a treatment to assure quarantine security.

Systems Approach

As an alternative to the irradiation treatment described above, cut blooms of gardenia would also be eligible for interstate movement from Hawaii if the gardenias were grown and shipped under the following conditions:

1. The grower's production area would have to be inspected annually by an inspector and found free of green scale. If green scale is found during an inspection, a 2-month ban would be placed on the interstate movement of cut blooms of gardenia from that production area unless the grower chose to have the blooms treated with irradiation in accordance with § 318.13–4f. Near the end of the 2-month period, an inspector would reinspect the grower's production area to determine whether green scale is present. If reinspection determines that the production area is free of green scale, shipping could resume. If reinspection determines that the production area still has green scale, another 2-month ban on shipping would be placed on the movement of gardenia from that production area. The grower, at this point, would again have the option of treating the blooms with irradiation, rather than waiting 2 months for reinspection.

2. The gardenia production area would have to be surrounded by a buffer area extending 20 feet from the edge of the production area. Within the buffer area, the growing of gardenias and other green scale host plants would be prohibited. The following 18 green scale hosts would be specified as prohibited in the buffer area: Ixora, ginger (*Alpina purpurata*), plumeria, coffee, rambutan, lichee, guava, citrus, anthurium, avocado, banana, cocoa, macadamia, celery, *Pluto indicia* (a weed introduced into Hawaii), mango, orchids, and annona.

3. An inspector would have to visually inspect the cut blooms of gardenias in each shipment prior to their interstate movement from Hawaii. If the inspector does not detect green scale in the shipment, the inspector would issue a certificate in accordance with § 318.13–4(a), which would allow the shipment to move interstate without further restrictions. If the inspector finds green scale in a shipment, that shipment would have to be treated with irradiation in accordance with § 318.13–4f to be eligible for interstate movement from Hawaii.

These proposed growing and shipping conditions would provide gardenia producers with an opportunity to move pest-free cut blooms of gardenia interstate without treatment while at the same time making irradiation treatment available as an option should green scale be detected in their production areas or on cut blooms offered for interstate movement.

In addition to the changes discussed above, we are also making several nonsubstantive changes to correct editorial errors in the regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In this document, we are proposing to amend the regulations to provide for the movement of cut blooms of gardenia from Hawaii. We have determined that specific growing and inspection protocols or treatment with irradiation can effectively mitigate the plant pest risks associated with gardenia grown in Hawaii. This action would provide for the interstate movement of gardenias from Hawaii while continuing to prevent the spread of plant pests within the United States.

Under this proposed rule, gardenia growers in Hawaii who wish to move cut blooms of gardenia interstate from Hawaii would be able to do so if the gardenias were produced in a growing area determined by APHIS to be free of green scale and the cut blooms were inspected prior to interstate movement. Alternatively, cut blooms of gardenia could be moved interstate from Hawaii if the blooms were treated with irradiation prior to movement.

Gardenia Producers

According to the USDA's Pacific Basin Agricultural Research Center in Hawaii, the total planted area of gardenias in Hawaii is 26.6 acres. Of the 26.6 acres of gardenias, only 3.6 acres belong to commercial farms: 2 acres in Kona, on the island of Hawaii; 1.1 acres in the Manoa Valley (Oahu), and 0.5 acres in Waipahu (Oahu). The remaining 23 acres of planted gardenias in Hawaii are owned by approximately 100 growers, each having an average of 20 to 25 bushes or about 10,000 square feet of production area. These gardenias are grown in ''backyard'' type production conditions.

The largest commercial gardenia production area in Hawaii consists of 2 acres of planted gardenia bushes that produce about 69,200 flowers per year, with annual gross receipts from sales of just under $13,000. While sales figures are not available for the two smaller commercial producers, we presume that their annual sales are less than those of the largest producer.

According to Small Business Administration (SBA) size standards, an entity involved in floriculture production (NAICS code 111422) is considered a small entity if it has annual sales of less that $750,000. Under this definition, all commercial gardenia growers in Hawaii would be considered small entities.

Irradiation Facility

The proposed irradiation treatment of gardenias would take place prior to their shipment to the mainland United States at an irradiation facility on the island of Hawaii. This facility began its commercial operation in August 2000 and is currently approved by APHIS for the irradiation of fruits and vegetables under § 318.13–4f of the regulations.

The irradiation facility can be classified under NAICS code 115114, ''Postharvest Crop Activities (except Cotton Ginning).'' According to SBA standards, an entity in that classification is considered a small entity if its annual sales are less than $6 million. Applying this definition, the facility would be considered a small entity.

Impact on Small Entities

Under the Regulatory Flexibility Act, agencies are required to specifically consider the economic effects of their rules on small entities. The entities most likely to be affected by this proposed rule are the commercial producers of gardenias and the irradiation treatment facility discussed previously in this analysis; the producers and treatment facility are all considered to be small entities.

We expect that commercial gardenia producers would benefit from the ability to move their products interstate to markets in the continental United States while incurring the costs associated with establishing and maintaining a green-scale-free growing area and/or treating the cut blooms with irradiation. While we cannot estimate the amount of additional sales that might be enjoyed by commercial gardenia producers as a result of this proposed rule, we do not expect that amount would be substantial, given the limited scale of commercial gardenia production in Hawaii. The costs associated with the proposed production area requirements are likely to be negligible and limited to the maintenance of a 20-foot host-plant-free buffer zone around the production area, as the required inspections will be provided free of charge. The costs for irradiating fruit currently ranges from $0.22 to $0.33; how those costs would translate to the cost of irradiating cut blooms of gardenias is unknown, given the differing weight-volume ratios of fruit and cut flowers. In order for the treatment to be cost effective, treatment costs would have to be only a small percentage of the producer price for the cut blooms, which, according to the Pacific Basin Agricultural Research Center, range from $3.50 per 10 units for heads to $9.80 per 10 units for fancy extra-long (12 inches and above) stems.

We also expect that the irradiation facility used for treating cut blooms of gardenias would benefit from this proposed rule. However, in the absence of data regarding the number of gardenia producers that would use the facility, the volume of business those producers would bring, and the prices that the facility would charge for irradiating cut blooms, we cannot estimate the size of those benefits. Nonetheless, we expect that the amount of additional revenue that could result from this proposed rule would be small, given the limited scale of commercial gardenia production in Hawaii.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget

(OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 01–042–1. Please send a copy of your comments to: (1) Docket No. 01–042–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are proposing to amend the Hawaiian fruits and vegetables regulations to provide for the movement of cut blooms of gardenia from Hawaii. We have determined that specific growing and inspection protocols or treatment with irradiation can effectively mitigate the plant pest risks associated with gardenia grown in Hawaii. This action would provide for the interstate movement of gardenia from Hawaii while continuing to prevent the spread of plant pests within the United States.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, 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 information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.425 hours per response.

Respondents: Gardenia producers, irradiation facility personnel, and State plant regulatory officials.

Estimated annual number of respondents: 13.

Estimated annual number of responses per respondent: 6.1538.

Estimated annual number of responses: 80.

Estimated total annual burden on respondents: 34 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects in 7 CFR part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, we propose to amend 7 CFR part 318 as follows:

PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

1. The authority citation for part 318 would continue to read as follows:

Authority: 7 U.S.C. 7711, 7712, 7714, 7731, 7754, and 7756; 7 CFR 2.22, 2.80, and 371.3.

Subpart Hawaiian Fruits, Vegetables, and Flowers

2. The heading for the subpart would be revised to read as set forth above.

§ 318.13–1 [Amended]

3. In § 318.13–1, in the definition of *fruits and vegetables,* the word ''mellons'' would be corrected to read ''melons''.

§ 318.13–2 [Amended]

4. In § 318.13–2, paragraph (b) would be amended as follows:

a. In the introductory text, by removing the words ''fruits and vegetables'' and adding the word ''articles'' in their place.

b. In the list of regulated articles, by adding, in alphabetical order, an entry for ''Gardenia (cut blooms)''.

c. At the end of the section, in the sentence following the list, by removing the words ''and vegetables'' and adding the words '', vegetables, or other products'' in their place and by removing the words ''fruits or vegetables'' and adding the words ''articles'' in their place.

§ 318.13–3 [Amended]

5. In § 318.13–3, paragraph (b)(1) would be amended by removing the words ''gardenia, mauna loa,'' and adding the words ''mauna loa'' in their place and by adding the words '', and except any cut blooms of gardenia not treated in accordance with § 318.13–4f or grown in accordance with § 318.13–4j'' after the word ''thereof''.

§ 318.13–4 [Amended]

6. Section 318.13–4 would be amended as follows:

a. In paragraph (a), by removing the words ''Fruits and vegetables'' and adding ''Regulated articles'' in their place.

b. In paragraph (c)(2), by removing the words ''fruits and vegetables'' and adding the words ''fruits, vegetables, or other products'' in their place.

7. Section 318.13–4f would be amended as follows:

a. By revising the section heading.

b. In paragraph (a), by removing the words ''fruits and vegetables'' and adding the words ''regulated articles'' in their place and by adding the words ''gardenia (cut blooms),'' after the word ''carambola,''.

c. In paragraph (b), the introductory text, by removing the words ''Fruits and vegetables'' and adding the words ''Regulated articles'' in their place.

d. In paragraph (b)(1) by revising the first sentence.

e. In paragraph (b)(2)(i) by removing the words ''fruits and vegetables'' and adding the word ''articles'' in their place.

f. In paragraph (b)(2)(ii), in the first sentence, by removing the words ''fruits and vegetables'' both times they occur and adding the word ''articles'' in their place and, in the second sentence, by removing the word ''six'' and adding the numeral ''6'' in its place.

g. In paragraph (b)(3) by removing the words ''inspectional visits to'' and adding the words ''inspections of'' in their place.

h. In paragraph (b)(5), by removing the word ''fruits and vegetables'' and adding the word ''articles'' in their place.

i. In paragraph (b)(7)(i), by removing the words ''fruits and vegetables'' and adding the words ''regulated articles'' in their place.

j. In paragraph (b)(7)(ii), by adding a new sentence at the end of the paragraph to read as follows.

k. In paragraph (e), by adding the words ''and green scale'' after the words ''Trifly complex'' and by removing the words ''fruits and vegetables'' and adding the word ''articles'' in their place.

The revisions and addition read as follows:

§ 318.13–4f Administrative instructions prescribing methods for irradiation treatment of certain regulated articles from Hawaii.

* * * * *

(b) * * *

(1) * * * The irradiation treatment must be carried out at an approved facility in Hawaii or, if authorized by a limited permit issued under paragraph (b)(7)(ii) of this section, on the mainland United States. * * *

* * * * *

(7) * * *

(ii) * * * Cut blooms of gardenia may be treated only in Hawaii and are not eligible for a limited permit for movement to the mainland United States for treatment.

* * * * *

8. A new 318.13–4j would be added to read as follows:

§ 318.13–4j Administrative instructions governing the interstate movement of cut blooms of gardenia from Hawaii.

Cut blooms of gardenia may be moved interstate from Hawaii if treated with irradiation in accordance with § 318.13–4f of this subpart or if grown and inspected in accordance with the provisions of this section.

(a) The grower's production area must be inspected annually by an inspector and found free of green scale. If green scale is found during an inspection, a 2-month ban will be placed on the interstate movement of cut blooms of gardenia from that production area unless the grower elects to treat the blooms with irradiation in accordance with § 318.13–4f. Near the end of the 2 months, an inspector will reinspect the grower's production area to determine whether green scale is present. If reinspection determines that the production area is free of green scale, shipping may resume. If reinspection determines that green scale is still present in the production area, another 2-month ban on shipping will be placed on the interstate movement of gardenia from that production area unless the grower again elects to treat the blooms with irradiation in accordance with § 318.13–4f. Absent irradiation, each ban will be followed by reinspection in the manner specified, and the production area must be found free of green scale prior to interstate movement.

(b) The grower must establish a buffer area surrounding gardenia production areas. The buffer area must extend 20 feet from the edge of the production area. Within the buffer area, the growing of gardenias and the following green scale host plants is prohibited: Ixora, ginger (*Alpina purpurata*), plumeria, coffee, rambutan, litchi, guava, citrus, anthurium, avocado, banana, cocoa, macadamia, celery, *Pluto indicia* (a weed introduced into Hawaii), mango, orchids, and annona.

(c) An inspector must visually inspect the cut blooms of gardenias in each shipment prior to interstate movement from Hawaii to the mainland United States. If the inspector does not detect green scale in the shipment, the inspector would issue a certificate for the shipment in accordance with § 318.13–4(a). If the inspector finds green scale in a shipment, that shipment must be treated with irradiation in accordance with § 318.13–4f to be eligible for interstate movement from Hawaii.

Done in Washington, DC, this 9th day of May 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12135 Filed 5–14–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 112 and 113

[Docket No. 93–129–1]

Viruses, Serums, Toxins, and Analogous Products; Equine Influenza Vaccine, Killed Virus

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Virus-Serum-Toxin Act regulations concerning Standard Requirements for veterinary biologics by adding a Standard Requirement for Equine Influenza Vaccine, Killed Virus. This proposed rule would require that such vaccines be shown to protect vaccinates for at least 60 days based on a vaccination-challenge study conducted in horses. In addition, we would establish a serum hemagglutination inhibition test in guinea pigs as the serial release potency test for the vaccine; establish procedures for adding and removing strains of virus based on evidence of changes in the antigenic character of the equine influenza viruses in current circulation; and add labeling requirements to the regulations. The effect of these proposed changes would be to standardize purity, safety, potency, and efficacy requirements for equine influenza vaccine to ensure that such products will provide a minimum level of protection to vaccinated horses.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 15, 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. 93–129–1, 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. 93–129–1. 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. 93–129–1'' 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. Albert P. Morgan, Chief of Operational Support, Center for Veterinary Biologics, Licensing and Policy Development, APHIS, USDA, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The Virus-Serum-Toxin Act regulations in 9 CFR part 113 (referred to below as the regulations) prescribe Standard Requirements for the preparation and testing of veterinary biological products. A Standard Requirement consists of test methods, procedures, and criteria that define the standards of purity, safety, potency, and efficacy for a given type of veterinary biological product. When a Standard Requirement for a product type does not exist, test methods, procedures, and criteria for evaluating the purity, safety, potency, and efficacy are provided in an Outline of Production for the product filed with the Animal and Plant Health Inspection Service (APHIS). Once uniform standards for a type of product are established, they are codified in the regulations as a Standard Requirement.

Because there is no Standard Requirement in 9 CFR part 113 for Equine Influenza Vaccine, each manufacturer of these products has devised its own procedures, which are a part of the Outline of Production, to meet the requirements of the Virus-Serum-Toxin Act that all veterinary biological products be pure, safe, potent, and efficacious. Although several equine influenza vaccines have been licensed, the lack of standardized procedures for updating such products to compensate for the short-lived antibody response in horses and the natural antigenic shift and drift that is characteristic of the influenza virus, has resulted in horse owners having to revaccinate their animals every 3 to 4 months in order to ensure protection. Therefore, we are proposing to add a new § 113.217 to the standards that would require uniform criteria, test methods, and procedures that would provide vaccine manufacturers a method by which to update their products to compensate for the natural evolution of the virus and ensure that equine influenza vaccines remain pure, safe, potent, and efficacious.

In the proposed Standard Requirement, equine influenza vaccine would be evaluated for immunogenicity by vaccinating susceptible horses at the minimum age recommended on the label and challenging those horses at least 60 days after the last vaccine dose using a relevant equine influenza challenge virus provided by or acceptable to APHIS. Protection would have to be demonstrated for at least one component strain of each equine influenza virus subtype present in the vaccine, and would be based on the demonstration of a statistically significant difference in the characteristic clinical signs of equine influenza virus infection in vaccinated horses as compared to non-vaccinated control horses. In addition, once host animal protection against challenge has been demonstrated for any strain of a particular equine influenza virus subtype, protection may be claimed for other strains of the same subtype contained in the same product by using hemagglutination titers to demonstrate an acceptable dose-response relationship between the challenge and non-challenge strain(s) in horses or guinea pigs. Hemagglutination inhibition titers (HI titers) could serve as a basis for adding or substituting strains of a particular subtype as long as at least one strain of each subtype present in the vaccine has been evaluated in a host animal challenge-protection study.

The proposed serial release potency test for equine influenza vaccine is a serum hemagglutination inhibition test performed in guinea pigs; other tests could be used if they were found by APHIS to be acceptable. We are proposing HI titers in guinea pigs as a serial release potency test based on our experience with such tests that indicates manufacturers should be able to develop the dose-response data and mean relative potency value needed to establish the required correlation between guinea pig titers and HI titers in horses.

In addition, we are proposing to add a new paragraph to the regulations in § 112.7 to require equine influenza vaccine labeling to list the subtype(s) and strain(s) of the virus used in the product.

This proposed Standard Requirement was developed with the cooperation of licensees, researchers, and scientists at APHIS' Center for Veterinary Biologics-Laboratory. The proposed Standard Requirement would establish uniform immunogenicity and potency criteria for equine influenza vaccine and improve the protection such vaccine provides.

Immunogenicity

We are proposing that equine influenza vaccine be evaluated for immunogenicity in horses. For at least one strain of each subtype of equine influenza virus contained in the vaccine, 15 equine influenza susceptible horses (10 vaccinates and 5 controls) of the minimum age recommended on the label would be vaccinated with equine influenza vaccine made with virus at the highest passage from Master Seed and at the minimum preinactivation titer provided in the filed Outline of Production.

Duration of Immunity

This proposed rule would also require equine influenza vaccine to protect horses against the characteristic signs of equine influenza for a minimum of 60 days. To demonstrate protection and duration of immunity, horses used in the immunogenicity study would be challenged not less than 60 days after vaccination with a representative strain of each equine influenza virus subtype present in the vaccine.

Potency

Under this proposed rule, the potency of each serial would have to be evaluated for potency in guinea pigs. Each strain of each subtype of equine influenza virus contained in the vaccine would be evaluated for potency using guinea pigs as test animals.

Safety

For safety, we are proposing that the guinea pigs used in the potency test be observed each day during the post-vaccination observation period for unfavorable reactions attributable to the vaccine.

Currently Licensed Vaccines

Veterinary biologics manufacturers that produce equine influenza vaccine under present standards described in their filed Outlines of Production would be allowed 2 years after the effective date of the final rule to come into compliance. In the interim, we would allow such manufacturers to continue to release serials of equine influenza vaccine using the standard described in their filed Outlines of Production, provided that such serials of product are shown to be effective and the labels for such products specify the demonstrated duration of immunity.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

We are proposing to amend the Virus-Serum-Toxin Act regulations in 9 CFR part 113 by adding a new Standard Requirement for Equine Influenza Vaccine, Killed Virus. This proposed rule would require equine influenza vaccines to protect against clinical signs of equine influenza virus infection for at least 60 days based on challenge protection studies performed in horses. In addition, this proposed rule would allow claims for protection to be made for other strains of the equine influenza virus of the same subtype contained in the same product provided that the manufacturer demonstrates an acceptable dose-response relationship between the challenge and non-challenge strain(s) in host animals or guinea pigs. This proposed Standard Requirement would affect all licensed manufacturers of veterinary biologics producing any new equine influenza vaccine by requiring manufacturers of equine influenza vaccine to incur the expense associated with demonstrating protection of horses against the characteristic signs of equine influenza for at least 60 days.

Currently, only 8 of the approximately 135 licensed veterinary biologics manufacturers produce equine influenza vaccine and would be affected by this proposal. According to the standards of the Small Business Administration,

most veterinary biologics establishments would be classified as small entities.

Veterinary biologics manufacturers that produce equine influenza vaccine that does not meet this proposed standard would be allowed 2 years from the effective date of the final rule to come into compliance. In the interim, we would allow such manufacturers to continue to release serials of equine influenza vaccine using the current standard described in their filed Outlines of Production.

We do not have an alternative option to this proposed rule in light of the ever-changing antigenic profile of the equine influenza virus, which has created a demand for equine influenza vaccine that provides better protection than the currently available products. This proposed rule, if adopted, would aid firms manufacturing equine influenza vaccines. The proposal contains a Standard Requirement for immunogenicity testing that would provide uniformity among firms instead of each firm having to meet APHIS' requirements by methods of its own design. This would reduce a firm's cost of research and development needed to design a method to test immunogenicity. In addition, once host animal protection has been demonstrated for any strain of a particular equine influenza virus subtype, non-host animal methods may be used to claim protection for other strains of the same subtype.

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

Executive Order 12372

This program is listed in the category 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. The Virus-Serum-Toxin Act does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

9 CFR Part 112

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

9 CFR Part 113

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 9 CFR parts 112 and 113 as follows:

PART 112—PACKAGING AND LABELING

1. The authority citation for part 112 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

2. Section 112.7 would be amended by adding new paragraph (n) to read as follows:

§ 112.7 Special additional requirements.

* * * * *

(n) In the case of biological products containing equine influenza virus, all labels shall specify the subtype(s) and strain(s) of the virus used in the product and the revaccination recommendation as determined from the results of duration of immunity studies acceptable to the Animal and Plant Health Inspection Service.

PART 113—STANDARD REQUIREMENTS

3. The authority citation for part 113 would continue to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

4. Section 113.217 would be added to read as set forth below.

§ 113.217 Equine Influenza Vaccine, Killed Virus.

Equine Influenza Vaccine, Killed Virus, shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed that has been established as pure, safe, and immunogenic may be used for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed. Firms currently producing equine influenza vaccine that does not satisfy this requirement have until [*Insert date 2 years from effective date of final rule*] to comply with this requirement unless granted an extension by the Administrator based on a showing by the firm seeking the extension that they have made a good faith effort with due diligence to achieve compliance.

(a) The Master Seed shall meet the applicable general requirements prescribed in § 113.200.

(b) The immunogenicity of vaccine prepared from the Master Seed in accordance with the Outline of Production must be established by the method prescribed in this paragraph or other method acceptable to the Animal and Plant Health Inspection Service (APHIS). The vaccine used for this test must be at the highest passage from the Master Seed and at the minimum preinactivation titer provided in the Outline of Production. The test must establish that the vaccine when used as recommended on the label is capable of inducing an immune response that protects horses for at least 60 days following completion of the immunization regimen specified on the labeling.

(1) For at least one strain of each subtype of equine influenza virus contained in the vaccine, at least 15 susceptible horses of the minimum age recommended on the label shall be used as test animals. Horses are considered susceptible if the HI titer of individual serum samples taken from each animal is less than 1:10 using a constant virus, decreasing serum HI assay against 4 HA units of each strain of virus tested. The virus (antigen) may not be treated prior to the assay.

(2) At least 10 horses shall be vaccinated in accordance with the label recommendation, and at least 5 additional horses shall be held as unvaccinated controls. To demonstrate continued susceptibility, vaccinates must be negative for an anamnestic serologic response at 7 days after the first vaccination.

(3) Not less than 60 days after completion of the immunization regimen, the immunity of each of the vaccinates and the controls shall be challenged. At least 10 vaccinates and 5 controls must be challenged with a representative strain of each equine influenza virus subtype present in the vaccine in a manner acceptable to APHIS, and observed each day for 7 days for clinical signs of disease. Test animals must be bled immediately prior to challenge, and serum samples obtained for testing. If the controls are not seronegative at the time of challenge, the test is inconclusive and may be repeated.

(4) If a statistically significant ($p<0.05$) difference in clinical signs and temperature cannot be demonstrated between the vaccinates and controls using a scoring system acceptable to APHIS, the Master Seed is unsatisfactory.

(5) If the Master Seed immunogenicity test is satisfactory, other strains of equine influenza virus of the same subtype(s) may be added to the vaccine at any time by demonstrating that the added strain(s) elicits a serum HI titer either in horses or in guinea pigs that is equal to or greater than the titer elicited by the strain of the virus used in the challenge study. *Provided,* That:

(i) For each virus subtype claimed on the label for the product, the vaccine will at all times contain at least one strain of equine influenza virus whose immunogenicity has been determined in a host animal vaccination-challenge study.

(ii) Guinea pig HI titers may be used only if a satisfactory dose-response relationship correlated to host animal protection and a mean relative potency value of the vaccine in guinea pigs based on a minimum of 3 replicate tests conducted at the time of the efficacy study has been established or can be shown.

(c) *Test requirements for release.* Each serial must meet the applicable general requirements prescribed in § 113.200 and the special requirements for safety and potency provided in this section. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety test.* The vaccinates used in the potency test in paragraph (c)(2) of this section shall be observed each day during the post vaccination observation period. If unfavorable reactions occur which are attributable to the vaccine, the serial is unsatisfactory. If unfavorable reactions occur that are not attributable to the vaccine, the test is inconclusive and may be repeated: *Provided,* That, if the test is not repeated, the serial is unsatisfactory.

(2) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency as provided in this paragraph. For each fraction of each subtype contained in the product—subtype A1 or subtype A2—the serological interpretations required in this test shall be made independently.

(i) At least 12 guinea pigs, each weighing between 300 and 500 grams, shall be used as test animals.

(ii) A dose of product equivalent to one-half the recommended horse dose shall be administered by the recommended horse route to at least 10 animals. A second dose shall be administered by the same route 14 to 21 days later. At least two animals shall be held as unvaccinated controls.

(iii) Fourteen to 21 days after the second vaccination, the animals shall be bled and serum samples obtained. The samples from each animal shall be tested in an HI assay consistent with that described in the following paragraph or by an alternative method acceptable to APHIS.

(iv) The serum samples shall be treated with kaolin and chicken red blood cells prior to initiation of the assay. A constant-virus, decreasing-serum HI assay against four hemagglutination units of each virus fraction shall be employed. The antigens may not be treated prior to performance of the assay.

(v) *Test interpretation.* If the controls for a given test fraction have not remained seronegative at the lowest test dilution (1:10), the test is inconclusive and may be repeated. If the geometric mean titer (GMT) of vaccinates in a valid test is less than the guinea pig GMT correlated with protection of horses against the applicable virus subtype, the serial is unsatisfactory unless the test is repeated. If the second test meets the requirements for validity and the GMT of vaccinates from both tests is less than the guinea pig GMT correlated with protection of horses for that subtype, then the serial is unsatisfactory without further testing.

(d) If more than 60 days' duration of immunity is to be claimed for any fraction, it may be shown by vaccinating at least 10 horses as recommended on the label and demonstrating an HI titer that is equal to or greater than the titer achieved in the Master Seed immunogenicity study for the period of time claimed. Labels must specify revaccination every 60 days if longer duration of immunity is not shown. Although not required, horses used to establish the duration of immunity beyond the required minimum of 60 days may also be challenged.

Done in Washington, DC, this 9th day of May, 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12134 Filed 5–14–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–48–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. This proposal would require replacement of the existing ''Low Temp'' terminal blocks ''G'' with new, fireproof ceramic terminal blocks ''G'' in engine zones 412, 422, 432, and 442. This action is necessary to prevent failure of the engine fire detection and suppression systems to operate properly in the event of a fire due to failure of non-fireproof terminal blocks, which could result in an undetected and uncontrollable fire in an engine. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by June 14, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–48–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–48–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate,

1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–48–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–48–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes. The CAA advises that an investigation into the use of ''Low Temp'' terminal blocks ''G'' in engine zones 412, 422, 432, and 442, has revealed that those blocks are made of a non-fireproof material and do not meet the fireproof requirements of these engine zones. The CAA advises that, in the event of a fire in the engine, the existing ''Low Temp'' terminal blocks ''G'' could melt, which could prevent electricity from reaching the fire detection and suppression systems. This condition, if not corrected, could result in failure of the engine fire detection and suppression systems to operate properly in the event of a fire, and consequent undetected and uncontrollable fire in an engine.

Explanation of Relevant Service Information

BAE Systems (Operations) Limited has issued Service Bulletin SB.71–077–01693A, dated October 10, 2001, which describes procedures for replacing the existing ''Low Temp'' terminal blocks ''G'' with new, fireproof ceramic terminal blocks ''G'' in engine zones 412, 422, 432, and 442. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 005–10–2001 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type designs registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 55 Model BAe 146 and Avro 146–RJ series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane (1 hour per engine, 4 engines per airplane) to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost for required parts would be negligible. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $13,200, or $240 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket.

A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

BAE Systems (Operations) Limited: Docket 2002—NM–48—AD.

Applicability: All Model BAe 146 and Avro 146—RJ series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine fire detection and suppression systems to operate properly in the event of a fire, which could result in an undetected and uncontrollable fire in an engine, accomplish the following:

Replacement

(a) Within 21 months after the effective date of this AD, replace the existing ''Low Temp'' terminal blocks ''G'' with new, fireproof ceramic terminal blocks ''G,'' part number S3409–872, in engine zones 412, 422, 432, and 442; per BAE Systems (Operations) Limited Service Bulletin SB.71–077–01693A, dated October 10, 2001.

Spares

(b) As of the effective date of this AD, no person shall install a ''Low Temp'' terminal block ''G,'' part number S3402–010, on any airplane.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 3: The subject of this AD is addressed in British airworthiness directive 005–10–2001.

Issued in Renton, Washington, on May 8, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12071 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–357–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes. This proposal would require modifying the overhead instrument lighting by relocating the dimmer control unit and revising the wire routing. This action is necessary to prevent overheating and internal component failure of the dimmer control unit of the overhead instrument lighting, which could result in smoke and/or fire in the flight compartment. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–357–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–357–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

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

Other Information: Sandi Carli, Airworthiness Directive Technical Editor/Writer; telephone (425) 227–1120, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address

specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–357–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket 2001–NM–357–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of one instance of smoke in the flight compartment and several instances of an acrid odor on a Model MD–11 airplane. Investigation revealed the dimmer control unit of the overhead instrument lighting as the source of the smoke and odor. Limited heat dissipation in the overhead installation area may have contributed to the overheating and internal component failure of the dimmer control unit of the overhead instrument lighting. This condition, if not corrected, could result in smoke and/or fire in the flight compartment.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Alert Service Bulletin MD11–33A071, Revision 01, dated September 24, 2001. The alert service bulletin describes procedures for relocating the dimmer control unit of the overhead instrument lighting, and revising the wire routing of the dimmer control unit. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Related Rulemaking

Alert Service Bulletin MD11–33A071 identifies McDonnell Douglas Service Bulletin MD11–33–045 as a related service bulletin. The FAA has issued AD 98–24–02, amendment 39–10889 (63 FR 63402, November 13, 1998), which requires a design change to the dimmer control unit in accordance with Service Bulletin MD11–33–045. Affected operators may accomplish the actions of either AD first.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in Alert Service Bulletin MD11–33A071.

Cost Impact

There are approximately 195 airplanes of the affected design in the worldwide fleet. The FAA estimates that 74 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $101 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $25,234, or $341 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 2001–NM–357–AD.

Applicability: Model MD–11 and –11F airplanes, certificated in any category, as listed in McDonnell Service Alert Service Bulletin MD11–33A071, Revision 01, dated September 24, 2001.

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

accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating and internal component failure of the dimmer control unit of the overhead instrument lighting, which could result in smoke and/or fire in the flight compartment, accomplish the following:

Modification

(a) Within 18 months after the effective date of this AD: Modify the overhead instrument lighting by relocating the dimmer control unit and revising the wire routing, in accordance with McDonnell Douglas Alert Service Bulletin MD11–33A071, Revision 01, dated September 24, 2001.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on May 8, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12070 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–406–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes Equipped With Collins LRA–900 Radio Altimeters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to McDonnell Douglas Model MD–11 series airplanes equipped with certain Collins LRA–900 radio altimeters. That AD currently requires a revision to the Airplane Flight Manual to prohibit autopilot coupled autoland operations in certain conditions; or, for certain airplanes, replacement of certain Collins LRA–900 radio altimeters with Collins LRA–700 radio altimeters. This action would require a one-time inspection to determine whether a Collins LRA–900 radio altimeter receiver/transmitter with a certain part number is installed. This action would also require modification of such a radio altimeter. This proposal is prompted by reports indicating that a fault in Collins LRA–900 radio altimeters having a certain part number could result in an incorrect and unbounded output of radio altitude to other airplanes. The actions specified by the proposed AD are intended to prevent an undetected anomalous radio altitude signal that is passed along to the flare control law of the flight control computer, which could cause the airplane to flare too high or too low during landing, and consequently result in a hard landing.

DATES: Comments must be received by July 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–406–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–406–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–406–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate,

ANM–114, Attention: Rules Docket No. 2000–NM–406–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 25, 1998, the FAA issued AD 98–24–51, amendment 39–10929 (63 FR 66422, December 2, 1998), applicable to McDonnell Douglas Model MD–11 series airplanes equipped with Collins LRA–900 radio altimeters having certain part numbers. The AD requires a revision to the Airplane Flight Manual to prohibit autopilot coupled autoland operations in certain conditions; or, for certain airplanes, replacement of Collins LRA–900 radio altimeters having certain part numbers with Collins LRA–700 radio altimeters. That action was prompted by a report that a fault in those radio altimeters could result in an incorrect and unbounded output of radio altitude to other airplane systems. The requirements of that AD are intended to prevent an undetected anomalous radio altitude signal that is passed along to the flare control law of the flight control computer, which could cause the airplane to flare too high or too low during landing, and consequently result in a hard landing.

Actions Since Issuance of Previous AD

When AD 98–24–51 was issued, it was considered to be interim action until final action was identified, at which time the FAA might consider further rulemaking. Since the issuance of that AD, Rockwell Avionics/ Collins, the manufacturer of the LRA–900 radio altimeter transmitter/receiver, has developed a modification that will enable the radio altimeter to process negative altitude correctly. As discussed below, the manufacturer has issued a service bulletin which describes that modification.

Explanation of Relevant Service Information

The existing AD, AD 98–24–51, is applicable to Model MD–11 series airplanes, equipped with Collins LRA–900 radio altimeters, having part number 822–0334–002, 822–0334–020, or 822–0334–220.'' However, Collins LRA–900 radio altimeters having part number 822–0334–002 or 822–0334–020 have not been approved for installation on Model MD–11 or ''11F airplanes. Therefore, the proposed AD is applicable only to those MD–11 or ''11F airplanes which are equipped with Collins LRA–900 radio altimeters having part number 822–0334–220.

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD11–34–091, dated August 19, 1999, which describes procedures for determining whether or not Collins LRA–900 radio altimeter receiver/ transmitters having part number 822–0334–220 are installed, modifying such receiver/transmitters by installing software which handles negative altitude correctly, and re-identifying the receiver/transmitter as having part number 822–0334–221.

The service bulletin refers to Rockwell Avionics/ Collins Service Bulletin LRA–900–34–D, Revision 1, dated May 26, 1999, as an additional source of service information.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 98–24–51 to require a one-time inspection to determine whether a Collins LRA–900 radio altimeter receiver/transmitter having part number 822–0334–220 is installed. If it is, the proposed AD would require that the radio altimeter receiver/ transmitter be modified by installing software which handles negative altitude correctly, and re-identifying the receiver/transmitter as having part number 822–0334–221. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Explanation of Change to Applicability

The FAA has revised the applicability of the existing AD to identify model designations as published in the most recent type certificate data sheet for the affected models. The existing AD specifies the applicability as McDonnell Douglas Model MD–11 series airplanes equipped with certain Collins LRA–900 radio altimeters. The proposed AD specifies the applicability as McDonnell Douglas Model MD–11 and –11F airplanes equipped with certain Rockwell Collins LRA–900 radio altimeters.''

Cost Impact

There are approximately 195 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 64 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 98–24–51 take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $3,840, or $60 per airplane.

The new actions that are proposed in this AD action would also take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed requirements of this AD on U.S. operators is estimated to be $3,840, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10929 (63 FR 66422, December 2, 1998), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 2000–NM–406–AD. Supersedes AD 98–24–51, Amendment 39–10929.

Applicability: Model MD–11 and –11F airplanes equipped with certain Rockwell Collins LRA–900 radio altimeters; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an undetected anomalous radio altitude signal that is passed along to the flare control law of the flight control computer, which could cause the airplane to flare too high or too low during landing, and consequently result in a hard landing, accomplish the following:

Restatement of Certain Requirements of AD 98–24–51

(a) Within 24 hours after December 7, 1998 (the effective date of AD 98–24–51, amendment 39–10929): accomplish either paragraph (a)(1) or (a)(2) of this AD:

(1) Revise the Limitations Section of the FAA-approved Airplane Flight Manual to include the following statement:

''Autopilot coupled autoland operations below 100 feet above ground level (AGL) are prohibited.''

(2) For airplanes on which the LRA–700 radio altimeter installation has been approved in accordance with Type Certificate or Supplemental Type Certificate procedures: Replace both Collins LRA–900 radio altimeters having part number (P/N) 822–0334–220, with Collins LRA–700 radio altimeters having P/N 622–4542–221.

New Requirements of This AD

(b) Within 90 days after the effective date of this AD: Perform a visual inspection to determine the P/N of the radio altimeter receiver/transmitters, in accordance with McDonnell Douglas Service Bulletin MD11–34–091, dated August 19, 1999.

(1) If the airplane is equipped with Collins LRA–900 radio altimeter receiver/transmitters having P/N 822–0334–220: Prior to further flight, modify the radio altimeter receiver/transmitter in accordance with McDonnell Douglas Service Bulletin MD11–34–091, dated August 19, 1999.

(2) If the airplane is not equipped with Collins LRA–900 radio altimeter receiver/transmitters having P/N 822–0334–220: No further action required.

Note 2: Upon completion of the actions required by paragraph (b) of this AD, the revised limitations in the AFM, as required by paragraph (a)(1) of this AD, may be removed.

Note 3: McDonnell Douglas Service Bulletin MD11–34–091, dated August 19, 1999, refers to Rockwell Avionics/Collins Service Bulletin LRA–900–34–D, Revision 1, dated May 26, 1999, as an additional source of service information.

(c) As of the effective date of this AD, no person shall install on any airplane a Collins LRA–900 radio altimeter having P/N 822–0334–220.

Alternative Methods of Compliance

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

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

Note 5: Alternative methods of compliance, approved previously in accordance with AD 98–24–51, amendment 39–10929, are approved as alternative methods of compliance with this AD.

Special Flight Permits

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

Issued in Renton, Washington, on May 8, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12069 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–402–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 757–200 series airplanes with stowage bins installed forward of door 2 at Station 680. This proposal would require a one-time inspection to determine if a certain intercostal is installed for support of the overhead stowage bin(s) at Station 680, and follow-on actions, if necessary. This action is necessary to prevent failure of the stowage bin attachment fitting at Station 680, which could result in the overhead stowage bin falling onto the passenger seats below and injuring passengers or impeding the evacuation of passengers in an emergency. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by July 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–402–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–402–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT:
Technical Information: John Piccola, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1509; fax (425) 227–1181.

Other Information: Judy Golder, Airworthiness Directive Technical Editor/Writer; telephone (425) 227–1119, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: judy.golder@faa.gov. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–402–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–402–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report that the airplane manufacturer's review of the support structure on Boeing Model 757–200 series airplanes in passenger-carrying configuration revealed inadequate support structure for the overhead stowage bin(s) at Station 680. Due to this inadequate support structure, the attachment fitting for the overhead stowage bin does not have an adequate load path. Under certain conditions (i.e., 9G forward acceleration with the overhead stowage bin at maximum weight), the stowage bin attachment fitting at Station 680 could fail. This condition, if not corrected, could result in the overhead stowage bin falling onto the passenger seats below and injuring passengers or impeding the evacuation of passengers in an emergency.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 757–25–0194, dated February 11, 1999, which describes procedures for a one-time visual inspection to determine if an intercostal is installed between stringers 8 and 9 at Station 680 on the left and right sides of the airplane. That intercostal would provide the support for the overhead stowage bin(s). As follow-on actions if no intercostal is installed, the service bulletin specifies a visual inspection for cracking or damage of stringer 8 and the tie rod mounting assembly, and installation of a new intercostal between stringers 8 and 9. If any cracking or damage is found during the visual inspection, the service bulletin specifies to contact the airplane manufacturer for repair instructions. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed AD and Service Bulletin

Operators should note the following differences between this proposed AD and the service bulletin:

- Though the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.
- The service bulletin recommends that the actions therein be done ''at the next scheduled maintenance time when personnel and material are available.'' However, the FAA finds that such a compliance time may not ensure that the proposed actions are accomplished in a timely manner. Therefore, this proposed AD would require that the proposed actions be done within 24 months after the effective date of the AD.
- The service bulletin specifies a visual inspection for cracking or damage of stringer 8 and the tie rod mounting assembly, if no intercostal is installed between stringers 8 and 9 at Station 680. The FAA has determined that the procedures for this inspection constitute a ''detailed inspection.'' Therefore, the proposed AD identifies the inspection for cracking or damage as a ''detailed inspection'' and Note 3 of this proposed AD defines such an inspection.

Cost Impact

There are approximately 403 airplanes of the affected design in the worldwide fleet. The FAA estimates that 219 airplanes of U.S. registry would be affected by this proposed AD.

The proposed inspection would take up to 2 work hours per airplane (1 work hour per side of the airplane), at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be up to $26,280, or $120 per airplane.

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

These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator be required to do the proposed installation, it would take up to 2 work hours per airplane (1 work hour per side of the airplane), at the average labor rate of $60 per work hour. Required parts would cost approximately $1,310 per airplane. Based on these figures, the cost impact of the installation proposed by this AD is estimated to be $1,430 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 2000–NM–402–AD.

Applicability: Model 757–200 series airplanes, certificated in any category, as listed in Boeing Service Bulletin 757–25–0194, dated February 11, 1999, and having stowage bins installed forward of door 2 at Station 680.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the stowage bin attachment fitting at Station 680, which could result in the overhead stowage bin falling onto the passenger seats below and injuring passengers or impeding the evacuation of passengers in an emergency, accomplish the following:

One-Time Inspection

(a) Within 24 months after the effective date of this AD, do a one-time general visual inspection to determine if an intercostal is installed between stringers 8 and 9 for support of the overhead stowage bin at Station 680, on the left and right sides of the airplane, as applicable, according to Boeing Service Bulletin 757–25–0194, dated February 11, 1999. If an intercostal is installed on each side that has an overhead stowage bin at Station 680, no further action is necessary.

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

Follow-On Actions

(b) For each side of the airplane that has an overhead stowage bin at Station 680 but no intercostal installed: Before further flight after the inspection required by paragraph (a) of this AD, do a one-time detailed inspection for cracking or damage of stringer 8 and the tie rod mounting assembly, and install a new intercostal between stringers 8 and 9, according to Boeing Service Bulletin 757–25–0194, dated February 11, 1999.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Repair of Cracking or Damage

(c) If any cracking or damage is found during the detailed inspection required by paragraph (b) of this AD: Before further flight, and before installation of the intercostal, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on May 8, 2002.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12068 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–66–AD]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, that would have superseded an existing AD that currently requires repetitive visual checks or inspections to verify that the flight idle stop system circuit breakers are closed, and functional tests to determine if the backup flight idle stop system is operative. A supplemental NPRM was issued to require modification of the secondary flight idle stop system (SFISS), which would terminate the repetitive actions. This supplemental NPRM would remove one airplane from the applicability; and would add new inspections and corrective actions if necessary. The actions specified by this proposed AD are intended to prevent inadvertent or intentional operation with the power levers below the flight idle stop during flight for airplanes that are not certificated for in-flight operation, which could result in engine overspeed and consequent loss of controllability of the airplane.

DATES: Comments must be received by June 10, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–66–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–66–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Scott A. Geddie, Aerospace Engineer, Propulsion Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6068; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–66–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–66–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, was published as a first supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on January 16, 2001 (66 FR 3511). That first supplemental NPRM proposed to supersede AD 92–16–51, amendment 39–8355 (57 FR 40838, September 8, 1992), which is applicable to all EMBRAER Model EMB–120 series airplanes. It would have continued to require repetitive visual checks or inspections to verify that the flight idle stop system circuit breakers are closed, and repetitive functional tests to determine if the backup flight idle stop system is operative. It also would have required modification of the secondary flight idle stop system (SFISS), which would terminate the requirements for the repetitive actions. That first supplemental NPRM was prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by that supplemental NPRM are intended to prevent an inoperative backup flight idle stop system.

Actions Since Issuance of Previous Proposal

EMBRAER has issued the following three revised service bulletins. The major changes in these revisions are described below:

Service Bulletin 120–76–0015, Change No. 06, dated October 3, 2000, adds Part III to the Accomplishment Instructions to revise the SFISS modification procedures by including a new inspection. These procedures specify inspecting the attachment of the power control cable end at the bellcrank in the left and right nacelles using a mirror, and verifying the type of bolt used. If a countersunk-head bolt is found, no further action is required. If a hex-head bolt is found, corrective actions include inspecting the existing hole in the bellcrank and replacing the bolt with a new bolt.

Service Bulletin 120–76–0018, Change No. 04, dated March 30, 2001, corrects the number of work hours required to accomplish the procedures specified in Part I and Part II of the Accomplishment Instructions.

Service Bulletin 120–76–0022, Change No. 01, dated October 9, 2000, adds Part IV to the Accomplishment Instructions to include procedures for verifying that the correct countersunk-

head bolt was used to attach the power control cable to the bellcrank, and provide additional clarification and corrections. Change No. 02, dated February 8, 2001, of the service bulletin includes only editorial changes to Figure 6 of the service bulletin.

Comments

Due consideration has been given to the one comment received in response to the first supplemental NPRM:

Request To Extend 18-Month Compliance Time

The commenter requests that the 18-month compliance time in paragraph (d) of the supplemental NPRM be extended significantly because of two factors. First, the proposed action adds considerable cost to airline operations, especially when considered along with other FAA requirements currently being implemented (e.g., modifications to the cargo compartment and flight data recorder). Second, the proposed action alleviates the safety concern with the flight idle stop system.

The FAA does not concur with the commenter's request to extend the compliance time. We point out that recent service experience indicates that the SFISS has proved to be vulnerable to certain maintenance failures and has inherent design aspects that reduce the reliability of the system. Based on this information, we have determined that the increased reliability of the system is essential to the continued airworthiness of Model EMB–120 series airplanes. In developing an appropriate compliance time for this action, we considered the compliance time specified in the Brazilian airworthiness directive (18 months), the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the modification. In consideration of these items, we have determined that 18 months or 4,000 flight hours, whichever occurs earlier, represents an appropriate interval of time allowable wherein SFISS modifications can be accomplished during scheduled maintenance intervals for the majority of affected operators, and an acceptable level of safety can be maintained. No change to this second supplemental NPRM is necessary in this regard.

Clarifications Since Issuance of the First Supplemental NPRM

Operators should note the following clarifications made to this supplemental NPRM:

- The unsafe condition of the first supplemental NPRM only states that the actions specified by this proposed AD are intended ''to prevent an inoperative backup flight idle stop system.'' However, this second supplemental NPRM further clarifies and describes the unsafe condition.
- The applicability of the first supplemental NPRM specifies serial numbers 120004 through 120354 inclusive for Model EMB–120 series airplanes. However, because the applicability of the Brazilian airworthiness directive does not include serial number 120005, the applicability of this second supplemental NPRM also does not include serial number 120005.
- The compliance time in paragraph (d)(3) of this second supplemental NPRM has been clarified. Although paragraph (d)(3) of the first supplemental NPRM specifies ''400 flight hours,'' this second supplemental NPRM specifies ''4,000 flight hours.'' The FAA points out that it was our intent to specify the same compliance time for modifying the SFISS in paragraphs (d)(1) through (d)(4) in the first supplemental NPRM. We also point out that this second supplemental NPRM includes only paragraphs (d)(1), (d)(2), and (d)(3).

Requirements of This Supplemental NPRM

This supplemental NPRM would retain the actions required by AD 92–16–51: repetitive visual checks or inspections to verify that the flight idle stop system circuit breakers are closed, and functional tests to determine if the backup flight idle stop system is operative. This supplemental NPRM also would require modification of the secondary flight idle stop system (SFISS), which would terminate the repetitive actions. In addition, this supplemental NPRM would remove one airplane from the applicability; and would add new inspections and corrective actions if necessary.

Differences Between Second Supplemental NPRM and Certain Service Bulletins

Operators should note that, although the Accomplishment Instructions of EMBRAER Service Bulletin 120–76–0015, Change No. 06; and Service Bulletin 120–76–0018, Change No. 04; specify that the manufacturer may be contacted for disposition of certain repair conditions, this second supplemental NPRM would require the repair of those conditions per a method approved by either the FAA or the Departmento de Aviacao Civil (DAC), the airworthiness authority of Brazil, (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this second supplemental NPRM, a repair approved by either the FAA or the DAC would be acceptable for compliance with this proposed AD.

Operators also should note that Figure 10 of previously referenced Service Bulletin 120–76–0015 specifies contacting the manufacturer if the existing hole in the bellcrank is not a countersunk hole. However, this second supplemental NPRM would require operators to contact the FAA in that case.

Conclusion

The FAA has revised this second supplemental NPRM to specify new requirements based on new revisions to the previously referenced service bulletins. Since these changes expand the scope of the first supplemental NPRM, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

The FAA estimates that 230 EMBRAER Model EMB–120 series airplanes of U.S. registry would be affected by this second supplemental NPRM.

The actions that are currently required by AD 92–16–51 take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of that AD on U.S. operators is estimated to be $69,000, or $300 per airplane, per inspection cycle.

The approximate cost, at an average labor rate of $60 per work hour, for the modifications proposed by this AD are listed in the following table:

ESTIMATED COSTS

Service bulletin	Work hours	Parts cost	Cost per airplane
120–76–0015:			
Part I	5	$4,376	$4,676
Part II	3	14,331	14,511
Part III	1	53	113
120–76–0018:			
Part I	130	22,218	30,018
Part II	1	(average cost varies with configuration).	(average cost varies with configuration)
120–76–0022:			
Part I	3	14,456	14,636
Part II	3	2,465	2,645
Part III	3	14,525	14,705
Part IV	1	53	113

Therefore, based on the figures included in the table above, the cost impact of the modification proposed by this AD on U.S. operators is estimated to range from $113 to $30,018 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8355 (57 FR 40838, September 8, 1992), and by adding a new airworthiness directive (AD) to read as follows:

Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket 2000–NM–66–AD. Supersedes AD 92–16–51, Amendment 39–8355.

Applicability: Model EMB–120 series airplanes, certificated in any category; serial number 120004, and serial numbers 120006 through 120354 inclusive.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent or intentional operation with the power levers below the flight idle stop during flight for airplanes that are not certificated for in-flight operation, which could result in engine overspeed and consequent loss of controllability of the airplane; accomplish the following:

Restatement of Certain Requirements of AD 92–16–51

Checks/Inspections

(a) For all airplanes: Within 5 days after September 23, 1992 (the effective date of AD 92–16–51, amendment 39–8355), and thereafter prior to the first flight of each day until the requirements of paragraph (d) of this AD have been accomplished, accomplish paragraph (a)(1) or (a)(2) of this AD, as applicable:

(1) For airplanes on which an inspection window has been installed on the left lateral console panel that permits visibility of the flight idle stop solenoid circuit breakers: Using an appropriate light source, perform a visual check to verify that both ''FLT IDLE STOP SOL'' circuit breakers CB0582 and CB0583 for engine 1 and engine 2 are closed.

Note 2: This check may be performed by a flight crew member.

Note 3: Instructions for installation of an inspection window can be found in EMBRAER Information Bulletin 120–076–0003, dated November 19, 1991; or EMBRAER Service Bulletin 120–076–0014, dated July 29, 1992.

(2) For airplanes on which an inspection window has not been installed on the left lateral console panel: Perform a visual inspection to verify that both ''FLT IDLE STOP SOL'' circuit breakers CB0582 and CB0583 for engine 1 and engine 2 are closed.

(b) As a result of the check or inspection performed in accordance with paragraph (a) of this AD: If circuit breakers CB0582 and CB0583 are not closed, prior to further flight, reset them and perform the functional test specified in paragraph (c) of this AD.

Functional Test

(c) Within 5 days after September 23, 1992, and thereafter at intervals not to exceed 75 hours time-in-service, or immediately following any maintenance action where the power levers are moved with the airplane on jacks, until the requirements of paragraph (d) of this AD have been accomplished, conduct a functional test of the backup flight idle stop system for engine 1 and engine 2 by performing the following steps:

(1) Move both power levers to the ''MAX'' position.

(2) Turn the aircraft power select switch on.

(3) Open both ''AIR/GROUND SYSTEM'' circuit breakers CB0283 and CB0286 to simulate in-flight conditions with weight-off-wheels. Wait for at least 15 seconds, then move both power levers back toward the propeller reverse position with the flight idle gate triggers raised. Verify that the power lever for each engine cannot be moved below the flight idle position, even though the flight idle gate trigger on each power lever is raised.

(4) If the power lever can be moved below the flight idle position, prior to further flight, restore the backup flight idle stop system to the configuration specified in EMBRAER 120–076–0009, Change No. 4, dated November 1, 1990; and perform a functional test.

Note 4: If the power lever can be moved below flight idle, this indicates that the backup flight idle stop system is inoperative.

(5) Move both power levers to the ''MAX'' position.

(6) Close both ''AIR/GROUND SYSTEM'' circuit breakers CB0283 and CB0286. Wait for at least 15 seconds, then move both power levers back toward the propeller reverse position with the flight idle gate triggers raised. Verify that the power lever for each engine can be moved below the flight idle position.

(7) If either or both power levers cannot be moved below the flight idle position, prior to further flight, inspect the backup flight idle stop system and the flight idle gate system, and accomplish either paragraph (c)(7)(i) or (c)(7)(ii) of this AD, as applicable:

(i) If the backup flight idle stop system is failing to disengage with weight-on-wheels, prior to further flight, restore the system to the configuration specified in EMBRAER Service Bulletin 120–076–0009, Change No. 4, dated November 1, 1990.

(ii) If the flight idle gate system is failing to open even though the trigger is raised, prior to further flight, repair in accordance with the EMBRAER Model EMB–120 maintenance manual.

(8) Turn the power select switch off. The functional test is completed.

New Requirements of This AD

Terminating Action

(d) Within 18 months or 4,000 flight hours after the effective date of this AD, whichever occurs earlier, modify the secondary flight idle stop system (SFISS), as required by paragraph (d)(1), (d)(2), or (d)(3) of this AD; as applicable. Accomplishment of the modification constitutes terminating action for the requirements of this AD.

(1) For airplanes having serial number 120004, and serial numbers 120006 through 120067 inclusive, and 120069 through 120344 inclusive; as listed in EMBRAER Service Bulletin 120–76–0018, Change No. 04, dated March 30, 2001: Accomplish the actions required by either paragraph (d)(1)(ii) or (d)(1)(ii) of this AD, as applicable.

(i) If the actions specified by EMBRAER Service Bulletin 120–76–0018, Change No. 01, dated September 9, 1999; or Change No. 02, dated November 22, 1999; HAVE NOT been accomplished: Modify the SFISS per the Accomplishment Instructions of EMBRAER Service Bulletin 120–76–0018, Change No. 03, dated May 26, 2000; or Change No. 04; or

(ii) If the actions specified by EMBRAER Service Bulletin 120–76–0018, Change No. 01; or Change No. 02; HAVE been accomplished: Perform additional inspections per Part II of the Accomplishment Instructions of EMBRAER Service Bulletin 120–76–0018, Change No. 04.

(2) For the airplane having serial number 120068: Modify the SFISS per the Accomplishment Instructions of EMBRAER Service Bulletin 120–76–0015, Change No. 06, dated October 3, 2000.

(3) For airplanes having serial numbers 120345 through 120354 inclusive: Modify the SFISS per the Accomplishment Instructions of EMBRAER Service Bulletin 120–76–0022, Change No. 01, dated October 9, 2000; or Change No. 02, dated February 8, 2001.

Note 5: This AD references the following service information for applicability, inspection, and modification information: EMBRAER Service Bulletin 120–76–0015, Change No. 06, dated October 3, 2000; Service Bulletin 120–76–0018, Change No. 04, dated March 30, 2001; and Service Bulletin 120–76–0022, Change No. 01, dated October 9, 2000; or Change No. 02, dated February 8, 2001. In addition, this AD specifies compliance-time requirements beyond those included in Brazilian airworthiness directive 90–07–04R4, dated October 4, 1999; or the service information. Where there are differences between this AD and previously referenced documents, this AD prevails.

Note 6: Accomplishment of the requirements of paragraph (d) of this AD does not remove or otherwise alter the requirement to perform the repetitive (400-flight-hour) CAT 8 task checks specified by the Maintenance Review Board.

Corrective Actions

(e) During any visual check or inspection required by this AD, if any countersunk-head bolt was NOT used to attach the power control cable to the bellcrank, or if any hex-head bolt WAS used to attach the cable to the bellcrank: Prior to further flight, repair per a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA; or the Departmento de Aviacao Civil (or its delegated agent).

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Atlanta ACO.

(2) Alternative methods of compliance, approved previously for paragraphs (a), (b), and (c) of AD 92–16–51, are considered to be approved as alternative methods of compliance with the inspection requirements of paragraphs (a), (b), and (c) of this AD. No alternative methods of compliance have been approved per AD 92–16–51 as terminating action for this AD.

Note 7: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

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

Note 8: The subject of this AD is addressed in Brazilian airworthiness directive 90–07–04R4, dated October 4, 1999.

Issued in Renton, Washington, on May 8, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–12067 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 02–008]

RIN 2115–AA97

Safety Zone; Colorado River, Laughlin, NV

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a temporary safety zone near Laughlin, NV on the navigable waters of the Colorado River for the Laughlin 4th of July fireworks show. The safety zone would encompass that portion of the Colorado River between Laughlin Bridge and the Golden Nugget Hotel and Casino. This temporary safety zone is necessary to provide for the safety of the crew, spectators, participants of the event, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

DATES: Comments and related material must reach the Coast Guard on or before June 4, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064. Marine Safety Office San Diego Port Operations 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 [COTP San Diego 02–008] and will be available for inspection or copying at Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Austin Murai at (619) 683–6495.

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 Diego 02–008], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office San Diego Port Operations 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

This proposed temporary safety zone is necessary to provide for the safety of the crew, spectators, and participants of the 4th of July fireworks show. This proposed safety zone is also necessary to protect other vessels and users of the waterway. Persons and vessels would be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

Discussion of Proposed Rule

The proposed safety zone encompasses that portion of the Colorado River between Laughlin Bridge and the Golden Nugget Hotel and Casino. We are proposing to enforce this safety zone from 9 p.m. to 9:30 p.m. on July 4, 2002. The on scene Captain of the Port designated representative is expected to be a Coast Guard patrol commander. This temporary safety zone is necessary to provide for the safety of the participants, spectators, and sponsor vessels of the Laughlin 4th of July fireworks show.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Because of its limited duration, of one half (1/2) hour, we expect the economic impact of this proposed rule would be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

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. The proposed safety zone would not have a significant economic impact on a substantial number of small entities because it will be in effect for only half (1/2) an hour on July 4, 2002.

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 (Pub. L. 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 Petty Officer Austin Murai, Marine Safety Office San Diego at (619) 683–6495.

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 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.

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.

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.

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 proposed rule, a safety zone, is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. From 9 p.m. on July 4, 2002 to 9:30 p.m. on July 4, 2002, add a new § 165.T11–040 to read as follows:

§ 165.T11–040 Safety Zone; Colorado River, Laughlin, NV.

(a) *Location.* The following area is a safety zone: that portion of the Colorado River between Laughlin Bridge and the Golden Nugget Hotel and Casino.

(b) *Enforcement periods.* This section is effective from 9 p.m. on July 4th, 2002 to 9:30 p.m. on July 4, 2002.

(c) Regulations. In accordance with the general regulations in § 165.23 of this part, entry into, transit through or anchoring within the safety zone is prohibited unless authorized by the Coast Guard Captain of the Port, San Diego, or his designated representative.

Dated: April 22, 2002.

S.P. Metruck,

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

[FR Doc. 02–12167 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL214–1b; FRL–7164–5]

Approval and Promulgation of Implementation Plans; Illinois Emission Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to Illinois rules for emission reporting. These revisions restructure previously approved emission reporting rules and add requirements for sources in the Chicago area trading program to report emissions of hazardous air pollutants. Illinois requested these revisions on November 6, 2001.

In separate action in today's **Federal Register**, EPA is approving the submittals as a direct final rule without prior proposal, because the EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this action is set forth in the direct final rule.

If EPA receives no adverse written comments in response to these actions, we contemplate no further activity in relation to this proposed rule. If we receive adverse written comments, we will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before June 14, 2002.

ADDRESSES: Mail written comments to:

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

A copy of the State submittal is available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Environmental Scientist, at (312) 886–6067.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 19, 2002.

Gary Gulezian,

Acting Regional Administrator, Region 5.

[FR Doc. 02–12007 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA185–4191; FRL–7211–5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Control of Volatile Organic Compounds From Solvent Cleaning Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision includes the adoption of revised volatile organic compound (VOC) control regulations for solvent cleaning operations, and also adds new definitions and amends certain existing definitions for terms used in regulations pertaining to solvent cleaning operations.

DATES: Written comments must be received on or before June 14, 2002.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: On February 13, 2002, the Pennsylvania Department of Environmental Protection (PADEP) submitted a State Implementation Plan (SIP) revision. This revision consists of revised regulations for the control of VOC emissions from solvent cleaning operations. PADEP submitted this SIP revision in order to reduce VOCs emitted from solvent cleaning operations statewide. These regulations will help to achieve additional VOC emission reduction benefits needed in the Philadelphia-Wilmington-Trenton severe nonattainment area (the Philadelphia area) to close an EPA-identified shortfall in the attainment demonstration submitted by Pennsylvania for the Philadelphia area and approved by EPA on October 26, 2001 (66 FR 54143).

I. Background

Under the Federal Clean Air Act (CAA), states are required to ensure that the ambient air meets the National Ambient Air Quality Standards (NAAQS). In areas where those standards are not met, states are required to develop and implement emission control plans to meet the standards, and then to ensure that the standards are maintained.

The Ozone Transport Commission (OTC) was created by Congress, pursuant to the CAA amendments of 1990, to help coordinate control plans for reducing ground-level ozone in the Northeast and mid-Atlantic states. The OTC continues to work individually and collectively to ensure attainment and maintenance of the national ambient air quality standards (NAAQS). This includes identifying any remaining control measures that may be necessary to attain and maintain the NAAQS. Six states (Connecticut, Delaware, Maryland, New Jersey, New York, and Pennsylvania) in particular are focusing on additional control measures as part of their severe area ozone attainment demonstrations. Working regionally, the OTC states expedited development of control measures into model rules for a number of source categories and estimated emission reduction benefits from implementing these model rules. Implementing the model rules will result in SIP emission reductions in VOC and NO_X to support the attainment demonstrations, as well as reducing ground-level ozone in other areas of the states. The model rules that were developed may be used by states as a framework for state-specific regulations. Each state must act pursuant to its own administrative process in order to promulgate and implement the model rules.

On October 26, 2001 (66 FR 54143), EPA approved the one-hour attainment demonstration SIP submitted by Pennsylvania for the Philadelphia area, with the understanding that the Commonwealth would submit additional emission reduction measures to address EPA-identified emission shortfalls. One of the emission reduction measures identified by the OTC to help attain and maintain the one-hour ozone standard was a regulation reducing VOC emissions from solvent cleaning operations. Pennsylvania submitted a SIP revision to its solvent cleaning regulations to EPA on February 13, 2002, based upon the model rule developed by the OTC.

This revision will reduce VOCs emitted from solvent cleaning operations throughout the Commonwealth and will help achieve the additional VOC emission reduction benefits needed by the Philadelphia area to meet its attainment demonstration commitments.

II. Summary of SIP Submittal

On February 13, 2002, the Commonwealth of Pennsylvania submitted a SIP revision revising its VOC control requirements for solvent cleaning operations throughout the state. Specifically, a new section, section 129.63 of Chapter 129, Standards for Sources, Sources of VOCs, VOC Cleaning Operations, is replacing the current section 129.63 to update equipment requirements for solvent cleaning machines to make the requirements consistent with current technology. In addition, the operating requirements in section 129.63 are being revised to specify improved operating practices. This SIP revision also adds and revises definitions for terms in Chapter 121, section 121.1 Definitions, that are used in the substantive sections of Chapter 129 relating to standards for sources.

This revision also specifies volatility limits for solvents used in cold cleaning machines. This revision only applies to those operations that use solvents containing greater than 5 percent VOC content by weight for the cleaning of metal parts. This revision exempts solvent cleaning machines that are subject to the Federal Solvent Cleaning NESHAP (National Emission Standard for Hazardous Air Pollutants), and provides operators of solvent cleaning machines a choice of compliance options for meeting the requirements of this rulemaking. Owners and operators of affected solvent cleaning machines can either implement a program using low volatility solvents or they can assure that the affected units meet specific hardware requirements. Some of the VOC control requirements in this rulemaking are more stringent than the control requirements in the Federal Control Techniques Guidelines issued in 1977. PADEP revised the solvent cleaning operations control requirements to enable the Commonwealth to attain and maintain the ozone NAAQS. Specifically, this SIP revision includes requirements adopted in the Federal Solvent Cleaning NESHAP for cleaning operations utilizing nonhazardous air pollutant VOC solvents, as well as hazardous air pollutant (HAP) VOC solvents. This will discourage operators from converting to non-HAP VOC solvents to avoid the more stringent NESHAP requirements, which could adversely affect air quality.

A. Summary of Revised Solvent Cleaning Regulations

Chapter 129. Standards For Sources—Revisions to Section 129.63, VOC Cleaning Operations

Except for machines subject to the Federal Solvent Cleaning NESHAP promulgated under 40 CFR part 63, subpart T, the changes to section 129.63(a)–(c) and the addition of section 129.63(d) apply to cold cleaning machines, batch vapor cleaning machines, in-line vapor cleaning machines, airless cleaning machines, and airtight cleaning machines that use solvents containing greater than 5 percent VOC content by weight to clean metal parts. These revisions update equipment requirements for these solvent cleaning machines to make the equipment requirements consistent with current technology. These equipment specifications are consistent with the requirements of the Federal Solvent Cleaning NESHAP. Section 129.63(e) specifies volatility limits for solvents in certain cleaning machines.

Section 129.63(a) Cold Cleaning Machines

This section specifically applies to cold cleaning machines except for those subject to the Federal Solvent Cleaning NESHAP. This section applies to cold cleaning machines that use 2 gallons or more of solvents containing greater than 5 percent VOC content by weight for the cleaning of metal parts. The section outlines the operating practices and procedures that are to be followed when operating a cold cleaning machine.

Section 129.63(b) Batch Vapor Cleaning Machines

This section specifically applies to batch vapor cleaning machines, except for those subject to the Federal Solvent Cleaning NESHAP. This section applies to batch vapor cleaning machines that use solvent containing greater that 5 percent VOC by weight for the cleaning of metal parts. This section outlines equipment requirements and additional options required for batch vapor cleaning machines with a solvent/air interface area of 13 square feet or less, and for batch vapor cleaning machines with a solvent/air interface area of greater than 13 square feet. The operating procedures for batch vapor cleaning machines are also outlined in this section.

Section 129.63(c) In-line Vapor Cleaning Machines

This section specifically applies to in-line vapor cleaning machines except for those subject to the Federal Solvent Cleaning NESHAP. This section applies to in-line vapor cleaning machines that use solvent containing greater than 5 percent VOC by weight for the cleaning of metal parts. This section outlines the equipment requirements, the additional devices or strategies required in operation, and good operating procedures for in-line vapor cleaning machines.

Section 129.63(d) Airless Cleaning Machines and Airtight Cleaning Machines

This section specifically applies to airless cleaning machines and airtight cleaning machines except for those subject to the Federal Solvent Cleaning NESHAP. This section applies to airless cleaning machines and airtight cleaning machines that use solvent containing greater than 5 percent VOC by weight for the cleaning of metal parts. This section outlines the operating and equipment requirements for airless cleaning machines and airtight cleaning machines as well as the allowable emission limits from each machine. The operator of each machine shall demonstrate that the emissions from each machine, on a 3-month rolling average, are equal to or less than the allowable limit determined by the use of the following equation:

$$EL = 330\ (vol)^{0.6}$$

Where:

EL = the 3-month rolling average monthly emission limit (kilograms/month)

vol = the cleaning capacity of machine (cubic meters)

Section 129.63(e) Alternative Provisions for Solvent Cleaning Machines

This section describes the alternative provisions for solvent cleaning machines used to process metal parts that use solvents containing greater than 5 percent VOC by weight. As an alternative to complying with sections (b)–(d), the operator of a solvent cleaning machine may demonstrate compliance with paragraph (1) or (2) of section 129.63(e). The operator shall maintain records sufficient to demonstrate compliance. These records shall include, at a minium, the quantity of solvent added to and removed from the machine and the dates of the addition and removal. These records shall be maintained for at least 2 years.

Section 129.63(e)(1) outlines the requirements for solvent cleaning machines if the solvent cleaning machine has a solvent/air interface. In this instance, the owner or operator is required to maintain a log of solvent additions and deletions for each solvent cleaning machine, and to ensure that the emissions from each solvent cleaning machine are equal to or less than the applicable emission limit presented in Table 1.

TABLE 1.—EMISSION LIMITS FOR SOLVENT CLEANING MACHINES WITH A SOLVENT/AIR INTERFACE

Solvent cleaning machine	3-month rolling average monthly emission limit	
	kg/M2/month	lb/ft 2/month
Batch vapor solvent cleaning machines	150	30.7
Existing in-line solvent cleaning machines	153	31.3
In-line solvent cleaning machines installed after the effective date of the regulation	99	20.2

Section 129.63(e)(2) specifies the volatility limits if the solvent cleaning machine is a batch vapor cleaning machine and it does not have a solvent/air interface. In that case, the owner or operator is required to maintain a log of solvent additions and deletions for each machine and to ensure that the emissions from each machine are equal to or less than the appropriate limits as described in paragraphs (3) and (4) of this section.

Section 129.63(e)(3) specifies the volatility limits for solvent cleaning machines without a solvent/air interface with a cleaning capacity that is less than or equal to 2.95 cubic meters. The emission limit for these machines is to be determined using Table 2 or the equation in paragraph (4) of section 129.63(e). If the table is used, and the cleaning capacity of a cleaning machine falls between two cleaning capacity sizes, the lower of the two emission limits applies.

TABLE 2.—EMISSION LIMITS FOR SOLVENT CLEANING MACHINES WITHOUT A SOLVENT/AIR INTERFACE

Cleaning capacity (cubic meters)	3-month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (cubic meters)	3-month rolling average monthly emission limit (kilograms/month)	Cleaning capacity (cubic meters)	3-month rolling average monthly emission limit (kilograms/month)
0.00	0	1.00	330	2.00	500
0.05	55	1.05	340	2.05	508
0.10	83	1.10	349	2.10	515
0.15	106	1.15	359	2.15	522
0.20	126	1.20	368	2.20	530
0.25	144	1.25	377	2.25	537
0.30	160	1.30	386	2.30	544
0.35	176	1.35	395	2.35	551
0.40	190	1.40	404	2.40	558
0.45	204	1.45	412	2.45	565
0.50	218	1.50	421	2.50	572
0.55	231	1.55	429	2.55	579
0.60	243	1.60	438	2.60	585
0.65	255	1.65	446	2.65	592
0.70	266	1.70	454	2.70	599
0.75	278	1.75	462	2.75	605
0.80	289	1.80	470	2.80	612
0.85	299	1.85	477	2.85	619
0.90	310	1.90	485	2.90	625
0.95	320	1.95	493	2.95	632

Section 129.63(e)(4) specifies volatility limits for solvent cleaning machines without a solvent/air interface with a cleaning capacity that is greater than 295 cubic meters. The emission limit for these machines is to be determined using the following quotation:

$EL = 330 (vol)^{0.6}$

Where:

EL = the 3-month rolling average monthly emission limit (kilograms/month)

vol = the cleaning capacity of machine (cubic meters)

This regulation also requires the owner or operator of a batch vapor or in-line solvent cleaning machine complying with this subsection to demonstrate compliance with the applicable 3-month rolling average monthly emission limit on a monthly basis. If the applicable 3-month rolling average emission limit is not met, an exceedance will have occurred. Exceedances shall be reported to the Department within 30 days of the determination of the exceedance.

B. Definitions

Chapter 121.1 General Provisions-Additions, Revisions to Section 121.1, Definitions

This SIP revision adds definitions and revises certain existing definitions to Chapter 121, General Provisions, section 121.1, Definitions for terms used in the substantive provisions of Chapter 129, Pennsylvania's regulations which contain VOC emission standards. Additional definitions are provided for the following: Airless cleaning system, Airtight cleaning system, Batch vapor cleaning machine, Carbon absorber, Cold cleaning machine, Dwell, Dwell time, Extreme cleaning service, Freeboard refrigeration device, Idling mode, Immersion cold cleaning machine, In-line vapor cleaning machine, Reduced room draft, Remote reservoir cold cleaning machine, Solvent/air interface, Solvent cleaning machine, Solvent cleaning machine automated parts handling system, Solvent cleaning machine down time, Solvent vapor zone, Superheated vapor system, Vapor cleaning machine, Vapor cleaning machine primary condenser, Vapor pressure, Vapor up control switch, and Working mode cover.

These amendments also include a revision to the definition of ''freeboard ratio'' to make it consistent with the definition in the Federal Solvent Cleaning NESHAP.

III. EPA's Evaluation of Pennsylvania's Submittal

The February 13, 2002 SIP revision submitted by the Commonwealth revises the existing solvent cleaning requirements as recommended by the OTC in their model rule for solvent cleaning operations to help attain and maintain the one-hour ozone standard. The new VOC regulations submitted by the Commonwealth of Pennsylvania as a SIP revision on February 13, 2002, related to solvent cleaning operations, and the addition of definitions used in the substantive sections of Chapter 129 strengthen Pennsylvania's SIP by providing enforceable emission control measures that will reduce VOC emissions from solvent cleaning operations throughout the Commonwealth.

These regulations implement one of the VOC control strategies recommended by the OTC to address the emission reduction shortfall in Pennsylvania's attainment demonstration. The emission reductions that will result from this rulemaking are a significant part of the Commonwealth's efforts to continue toward attainment and maintenance of the one-hour NAAQS for ozone throughout the Commonwealth.

IV. Proposed Action

EPA is proposing to approve the Commonwealth of Pennsylvania SIP revision for solvent cleaning operations, which was submitted on February 13, 2002. EPA is also proposing to approve the additions and revisions of definitions used in the solvent cleaning regulations. EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the

ADDRESSES section of this document. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This proposed rule to revise Pennsylvania's VOC control requirements for solvent cleaning operations does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements.

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

Dated: May 8, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 02–12144 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 00–87; FCC 02–83]

Repetitious or Conflicting Applications

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission proposes to amend its rules concerning repetitious or conflicting applications. This proposal will simplify and clarify the Commission's rules and promote the most efficient use of the Commission's resources.

DATES: Written comments on the proposed are due on or before June 14, 2002 and reply comments are due on or before July 1, 2002.

ADDRESSES: Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Filings can be sent first class by the US Postal Service, by an overnight courier or hand and messenger-delivered. Hand and message-delivered paper filings must be delivered to 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Overnight courier (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

FOR FURTHER INFORMATION CONTACT: Genevieve Augustin, Esq., *gaugusti@fcc.gov*, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Notice of Proposed Rule Making*, FCC 02–83, adopted on March 14, 2002, and released on March 20, 2002. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365.

1. In this *Notice of Proposed Rule Making* (''*NPRM*''), the Commission proposes to amend § 1.937 of its Rules to prohibit the filing of any repetitious license application in the Wireless Radio Services within twelve months of the denial or dismissal with prejudice of a substantially similar application. The Commission's Rules have long prevented the filing of repetitious license applications. As written, however, § 1.937 can be interpreted as permitting the filing of other repetitious applications that are not specified in the rule. In at least one instance, a licensee has filed a repetitious application for the same service less than twelve months after the denial of his renewal

application. Such cases can consume significant resources to re-litigate identical issues involving the same applicants very close in time. Therefore, we hereby propose to amend § 1.937 to prohibit any repetitious application in the Wireless Radio Services within twelve months of the denial or dismissal with prejudice of a substantially similar application.

2. Also the Commission proposes to streamline its Rules by combining §§ 1.937(a) and (b) into one simplified rule. Our goal is to simplify and clarify our rules against repetitious applications. This will promote the most efficient use of the Commission's resources by preventing the filing of such applications and barring applicants from immediately re-litigating decided matters.

I. Procedural Matters

A. Ex Parte Rules—Permit-But-Disclose Proceeding

3. This is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in our Rules.

B. Regulatory Flexibility Act

4. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The purpose of this *Notice* is to prohibit the filing of applications for radio station licenses within twelve months of the denial of a substantially similar application. This change is proposed to promote the most efficient use of the Commission's resources by preventing the immediate filing of repetitious applications. The proposed rule change does not impose any additional compliance burden on small entities regulated by the Commission. Accordingly, we certify, pursuant to section 605(b) of the RFA, that the rule proposed in this *Notice* will not have a significant economic impact upon a substantial number of small entities, as that term is defined by the RFA. The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this *Notice*, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the RFA. We shall also publish a copy of this certification in the **Federal Register**. With respect to the proposed rules, we shall analyze the information submitted during the comment period and, if we determine at the time we issue a final rule that such final rule changes will have a significant economic impact on a significant number of small entities, we shall prepare a Final Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

5. This *Notice* does not contain either a proposed or modified information collection.

D. Comment Dates

6. Pursuant to §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before June 14, 2002 and reply comments on or before July 1, 2002. Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies.

7. 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, then commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

8. 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 appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. Filings can be sent first class by the US Postal Service, by an overnight courier or hand and messenger-delivered. Hand and message-delivered paper filings must be delivered to 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. Overnight courier (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

9. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Genevieve Augustin, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 445 12th St., SW., Room 3–A431, Washington, DC 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Microsoft 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 lead docket number in this case, WT Docket No. 02–87), 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 should send diskette copies to the Commission's copy contractor, Qualex International, Inc., 445 12th St., SW., Room CY–B402, Washington, DC 20554.

II. Ordering Clauses

10. Pursuant to Sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 403, this *Notice of Proposed Rule Making is hereby adopted*, and *notice is hereby given* of the proposed regulatory changes described in the *Notice of Proposed Rule Making* and contained in the rule changes.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rule Changes

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

PART 1—PRACTICE AND PROCEDURE

1. 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).

2. Section 1.937 is amended by revising paragraphs (a) and (c) and by removing and reserving paragraph (b) to read as follows:

§ 1.937 Repetitious or conflicting applications.

(a) Where the Commission has, for any reason, dismissed with prejudice or denied any license application in the Wireless Radio Services, or revoked any such license, the Commission will not consider a like or new application involving service of the same kind to substantially the same area by substantially the same applicant, its successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of final Commission action.

(b) [Reserved]

(c) If an appeal has been taken from the action of the Commission dismissing with prejudice or denying any application in the Wireless Radio Services, or if the application is subsequently designated for hearing, a like application for service of the same type to the same area, in whole or in part, filed by that applicant or by its successor or assignee, or on behalf or for the benefit of the parties in interest to the original application, will not be considered until the final disposition of such appeal.

* * * * *

[FR Doc. 02–12062 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 02–60; FCC 02–122]

Rural Health Care Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: In this document, the Commission seeks comment on proposed modifications to its rules and other changes governing the rural health care universal service support mechanism, which helps rural health care providers obtain access to modern telecommunications and information services for medical and health maintenance purposes. The NPRM asks for comment on ways to increase the number of health care providers that could benefit from the program's discounts, without modifying the existing funding cap, and to improve the overall operation of the program. Among other items, the NPRM seeks comment on how to treat entities that not only serve as rural health care providers, but also perform the functions outside the statutory definition of ''health care providers,'' whether to provide discounts on Internet access charges, and whether the calculation of discounted services should be changed.

DATES: Comments are due on or before July 1, 2002. Reply comments are due on or before July 29, 2002. Written comments by the public on the proposed information collections are due on or before June 14, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before July 15, 2002.

ADDRESSES: Comments can be filed electronically or by paper. Electronic filers can access the Electronic Filing System via the Internet at *www.fcc.gov/e-file/ecfs.html.* Instructions for e-mail filing can be obtained by send an e-mail to *ecfs@fcc.gov* with the words get form<your email address> in the body of the e-mail. Parties choosing to file by paper must file an original and four copies with the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554 and file additional copies with parties as listed in the NPRM. See **SUPPLEMENTARY INFORMATION** Section for new filing procedures for all documents sent by hand-delivery and messenger to 445 12th Street, SW. A copy of any comments on the information collection(s) contained herein should also be submitted to Judith Boley Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or to *jboley@fcc.gov* and to Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503. All filers must send a copy of the comments to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CYB402, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eric K. Johnson, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418–2718. For further information concerning the information collection contained in this Notice of Proposed Rulemaking contact Judith Boley Herman, at 202–418–0214, or via the Internet to *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in WC Docket No. 02–60, FCC 02–122, released on April 19, 2002. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC, 20554. The full document can also be viewed at <*http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC–02–122A1.pdf*>.

This Notice of Proposed Rulemaking (NPRM) contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

The NPRM contains discussion of information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection(s) discussed in this NPRM, as required by the PRA, Public Law 104–13. Public and agency comments on the information collections discussed in this NPRM are due on or before June 14, 2002. Written comments must be submitted by the OMB on the proposed information collections on or before July 15, 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: 3060–0804.

Title: Universal Service—Health Care Providers Universal Service Program.

Form No.: FCC Forms 465, 466, 466-A, 467 and 468.

Type of Review: Proposed revised collection.

Respondents: Business or other for-profit, not-for-profit institutions, State, Local or Tribal Governments.

Title	No. of respondents	Est. time per response	Total annual burden
1. FCC Form 465—Description of Services Requested and Certification	8,300	2.5	20,750
2. FCC Form 466—Funding Request and Certification	8,300	2	16,600
3. FCC Form 466 A Internet Toll Charge Discount Request	8,300	1	8,300
4. FCC Form 467—Connection Certification	8,300	1.5	12,450
5. FCC Form 468—Telecommunications Carrier Support Form	8,300	1.5	12,450

Total Annual Burden: 70,550.

Cost to Respondents: $0.

Needs and Uses: In this NPRM the Commission has updated its data estimating the number of health care providers who could be respondents, to a total of approximately 8,300 rural health care providers. The Commission might further refine the burden estimates after receiving comment.

The purpose of the NPRM is to explore modifications that would increase the number of eligible health care providers that would participate in the program. It is not possible to estimate the number of eligible health care providers that would take advantage of this program as the NPRM asks for comment about possible changes in interpretation of the eligibility criteria for both entities and services. Therefore, we have included the largest possible number of applicants the total estimated number of rural health care providers—in the above burden estimates.

Synopsis of NPRM

I. Introduction

1. In this NPRM, we seek comment on proposed modifications to our rules and other changes governing the rural health care universal service support mechanism. The Commission implemented the rural health care mechanism at the direction of Congress as provided in the Telecommunications Act of 1996 (1996 Act). In the first five years of its operation, the rural health care mechanism has provided discounts that have facilitated the ability of health care providers to provide critical access to modern telecommunications and information services for medical and health maintenance purposes to rural America. Participation in the rural health care universal service support mechanism, however, has not met the Commission's initial projections. After five years of experience with the mechanism and considering recent developments, we find it appropriate to assess whether our rules and policies require modification.

2. In light of changes in technology and market conditions as well as recent national events, we find it appropriate to ask whether various aspects of the rural health care support mechanism can be streamlined and improved, in order to best effectuate the mandate of Congress. We seek comment on certain specific changes to the mechanism based on our past experience with the mechanism, and solicit input regarding other changes to improve efficiency, fairness, and overall operation of the mechanism. We believe certain changes to our rules affecting the rural health care support mechanism could significantly bolster the availability of telemedicine and telehealth, thereby enhancing critical diagnosis and communication support for isolated health centers throughout the rural United States in the event of a national public health emergency.

3. Our goals in undertaking this proceeding, consistent with the statute, are four-fold: (1) To ensure that the benefits of the universal service support mechanism for rural health care providers continue to be distributed in a fair and equitable manner; (2) to examine current rules and, if necessary, implement changes to improve and streamline operation of the rural health care universal service support mechanism; (3) to maintain our effective oversight over operation of the mechanism to ensure the statutory goals of section 254 of the Act are met without waste, fraud, or abuse; and (4) to strengthen the ability of rural health care providers to provide critical health care services, consistent with section 254, and thereby further our national homeland security.

4. In this NPRM, we seek comment on several general categories of issues, including whether to: clarify how we should treat eligible entities that also perform functions that are outside the statutory definition of ''health care provider'; provide support for Internet access; and change the calculation of discounted services, including the calculation of urban and rural rates. In addition, we seek comment on other administrative changes to the rural health care mechanism, including whether and how to: streamline the application process; allocate funds if demand exceeds the annual cap; modify the current competitive bidding rules; and encourage partnerships with clinics at schools and libraries. We also seek comment on other measures to prevent waste, fraud, and abuse; and any other issues concerning the structure and operation of the rural health care universal service support mechanism.

5. We seek comment on these specific proposals, and how such changes could be implemented. We also seek comment on the effect that any such changes may have on demand for support under the universal service mechanism as well as data to support any comments made. We welcome any alternative proposals that are consistent with the statute and that satisfy the expressed goals of this proceeding. We seek comment from state members of the Federal-State Joint Board on Universal Service on the matters raised in this proceeding.

II. Discussion

A. Eligible Health Care Providers

6. Section 254(h)(1)(A) of the Act requires telecommunications carriers to provide discounted telecommunications service ''to any public or nonprofit health care provider that serves persons who reside in rural areas in that State.'' Section 254(h)(2)(A) directs the Commission to enhance access to ''advanced telecommunications and information services'' for, *inter alia,* ''public and non-profit . . . health care providers.'' The term ''health care provider'' as used in these sections is defined in section 254(h)(7)(B) as follows:

For purposes of this subsection: * * * [t]he term ''health care provider'' means—

(i) Post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools;

(ii) Community health centers or health centers providing health care to migrants;

(iii) Local health departments or agencies;

(iv) Community mental health centers;

(v) Not-for-profit hospitals;

(vi) Rural health clinics; and

(vii) Consortia of health care providers consisting of one or more entities described in clause (i) through (vi).

7. The Commission initially addressed the scope of this statutory definition in the *Universal Service*

Order, 62 FR 32862, June 17, 1997, finding that the seven statutory categories adequately described the entities that Congress intended to qualify as health care providers. It declined to expand the definition of ''health care provider'' beyond the statutorily-enumerated categories, concluding that, had Congress intended any other entities to qualify, it would have included them in the list explicitly. On reconsideration of the *Universal Service Order,* the Commission rejected arguments that it had too narrowly defined the term ''health care provider'' and that it should expand the definition to include rural nursing homes, hospices, or other long-term care facilities, as well as emergency medical service facilities.

8. The Commission concluded that a nursing home, in particular, would be ineligible even if it was part of an eligible rural health clinic. The Commission reasoned that an ineligible entity's relationship with an eligible entity is an insufficient basis for allowing an entity omitted from the list in the statute to qualify for the benefits of the universal service support mechanism and that there was ''no rational basis for distinguishing between a rural nursing home that is part of a not-for-profit * * * rural health clinic and a rural nursing home that is associated with any of the other categories of eligible entities listed in the statute.'' The Commission also rejected eligibility of nursing homes that were part of a rural health clinic because granting such eligibility ''would very likely result in a flood of other types of ineligible entities requesting similar treatment, and thus would render meaningless the limitations imposed by Congress in section 254(h)(7)(B).''

9. In this NPRM, we again affirm that eligible health care providers are limited to the seven categories enumerated in the statutory definition of ''health care provider.'' In light of the very low utilization of the discounts provided pursuant to section 254(h)(1)(A), however, we invite comment on whether we should revisit our prior interpretations of the terms ''health care provider'' and ''rural health clinic'' to enable rural health care providers to be eligible for discounts even if they or their affiliates also function in capacities that do not fall under the statutory definition in section 254(b)(7)(B). In particular, if an entity allocates some of its resources acting as a ''rural health clinic'' or in another capacity that would qualify it as a ''health care provider'' under section 254(b)(7)(B), should that entity be eligible for discounts irrespective of whether it (or an affiliate) also functions in a capacity—even on a primary basis—that would not qualify it as a ''health care provider'' under the Act? Such part-time or multipurpose providers may play a vital role in responding to public health crises affecting communities located in remote regions of our country. In some communities, for example, there are rural health clinics and emergency service facilities that are not currently eligible for support because they are operated by entities that also function as nursing homes, hospices, or other long-term care facilities. We seek comment on whether we can and should interpret the statute to enable such clinics and emergency service providers to receive discounted services supported under the rural health care mechanism. The number and importance of clinics with these or similar arrangements may be becoming—or may have already become—a critical part of the health care network in rural America.

10. We also seek comment on how the rural health care mechanism would benefit entities that function both as covered health care providers and as entities that do not fall under section 254(b)(7)(B). In particular, we seek comment on whether it would be both practicable and consistent with the statute to prorate discounts. Such proration could ensure that the rural health care universal service support mechanism benefits such entities only to the extent that they operate as covered health care providers. We seek comment on the best way to implement such a proposal and how it would affect administrative costs. We also seek comment on what safeguards, if any, we should consider or adopt to ensure that discounted services provided to such multipurpose facilities are used consistent with the statute and our rules.

B. Eligible Services

1. Internet Access

11. Under section 254(h)(1)(A) of the Act, a telecommunications carrier may receive reimbursement for providing telecommunications services to rural health care providers in a State at rates that are reasonably comparable to rates charged for similar services in urban areas of that State, with the amount of the reimbursement equal to the difference, if any, between the rural and urban rates. Under section 254(h)(2)(A), the Commission is authorized to establish competitively neutral rules ''to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms, health care providers, and libraries * * *.'' Thus, the 1996 Act contemplates both support for telecommunications services provided to rural health care providers and enhancing access for health care providers to advanced telecommunications and information services.

12. In the *Universal Service Order,* the Commission, relying on these provisions, authorized limited support for access to the Internet for health care providers. The Commission declined at that time to adopt any proposals for support of the Internet access provided by an ISP, due to the limited information available and the complexity of the proposals. The Commission did find, however, that rural health care providers incur large telecommunications toll charges and those charges were a major deterrent to full use of the Internet for health-related services. Therefore, acting pursuant to its authority under section of 254(h)(2)(A), the Commission provided support for toll charges incurred by all health care providers that could not obtain toll-free access to an ISP. The support was limited to the lesser of $180.00 or 30 hours of usage per month, if a rural health care provider could not reach an ISP without incurring toll charges. The Commission determined that the dollar cap per provider was ''a specific, sufficient, and predictable mechanism, as required by section 254(b)(5) * * * because it limits the amount of support that each health care provider may receive per month to a reasonable level.'' The Commission recognized, however, that the proliferation of ISPs and the competitive marketplace ''soon should eliminate the need for such support.''

13. We now seek comment on whether to alter our current framework for providing support for Internet access for rural health care providers. We note that the support for toll charges is presently unused by applicants because, as a result of the proliferation of ISPs, virtually all rural health care providers can now reach an ISP without incurring toll charges. We seek comment on whether we should eliminate support for toll charges to ISPs and instead provide support for any form of Internet access provided to rural health care providers.

14. The Commission has previously concluded that we have statutory authority to implement a mechanism of universal service support for non-telecommunications services to enhance

access to advanced telecommunications and information services under section 254(h)(2)(A), as long as the mechanism is competitively neutral, technically feasible, and economically reasonable. Indeed, in the *Universal Service Order,* the Commission specifically rejected the notion ''that support for non-telecommunications services is * * * barred under * * * section 254(h)(2). Moreover, in the schools and libraries universal service support context, the Fifth Circuit affirmed the Commission's determination that 254(h)(2)(A) authorized direct support for Internet access to non-telecommunications service providers.

15. We continue to believe that we have authority to support the services necessary to access the Internet under sections 254(h)(2)(A) and 154(i), and invite comment on this view. Given the rapid development of the Internet's capacities, the proliferation of applications available on the Internet, and the increase in the number of Internet users since the *Universal Service Order* was issued, it is time to reevaluate our previous policy decision not to support Internet access service provided by an ISP. Indeed, the Commission has previously recognized that the most efficient and cost-effective way to provide many telemedicine services may be via the Internet. In addition, health care information shared across the Internet may be an important benefit to enable rural health care providers to diagnose, treat, and contain possible outbreaks of disease or respond to health emergencies. We also wish to reduce isolation in rural communities by providing additional health care services to remote areas. We seek comment on the range of health care services and information that are available via the Internet, on the ability of the Internet to provide to rural communities the type of health care information that is available in urban areas, and, in general, on how health care providers can make use of the Internet to provide better health-related services. In light of these changes, the provision of support for Internet access could be beneficial in achieving the goal of section 254. We therefore seek comment on whether the rural health care support mechanism should now include discounts on Internet access, whether provided on a dial-up or high-speed broadband basis, and whether such support would be economically reasonable and technically feasible.

16. We seek comment on how support to rural health care providers for Internet access could be implemented. In determining an appropriate method of implementation, we seek comment on the appropriate balance among various competing factors. If we were to adopt this proposal, we would want to provide an adequate level of support to enable health care providers to afford such access. We also would want not to deter health care providers from seeking service offerings appropriate to their individual needs. At the same time, we seek to ensure that any implementation of support includes measures to avoid waste and fraud without imposing unnecessary costs on the Administrator, and to ensure that support is used for the purposes that Congress intended. One possible solution could be a percentage discount on Internet access charges, analogous to the operation of the schools and libraries support mechanism. Alternatively, we seek comment on whether support for Internet access provided under section 254(h)(2)(A) should include a rural-urban rate comparison of the sort required under section 254(h)(1)(A). We seek comment on the advantages and disadvantages of each proposal and how such proposals could be efficiently and effectively implemented. Further, we encourage commenters suggesting methods of implementation to address these competing concerns, to be specific as to the level of support that we should offer, and to provide us with the facts that they rely upon in advocating a level of support.

17. If commenters believe that Internet access support should take the form of a percentage discount, we invite them to discuss whether we should adopt a single discount rate broadly applicable to all rural health care providers or apply different rates depending on a factor or factors. If commenters argue that the latter approach is preferential, they should specify the factors that we should rely upon in determining rates and, where possible, how rates will vary depending on variations in the applicable factors. In all cases, commenters should specify the facts on which they rely in proposing a particular rate or schedule of rates.

18. Further, to accurately gauge the effect of such a proposal, we should understand how authorizing support for Internet access would increase the demand for support from rural health care providers. We therefore seek comment on the likely demand for Internet access, and from service providers on the cost of such services. We seek comment on whether demand for Internet access is likely to reach the $400 million cap on the amount of support to be provided by the rural health care mechanism, and how increased demand would affect the operation of the rural health care mechanism.

19. We recognize that, in certain circumstances, offering support for Internet access to health care providers in rural areas may not adequately ensure that such providers have access to critical medical and public health resources, particularly in the event of a national security emergency. In particular, we lack an adequate record upon which to evaluate whether the non-rural institutions with such resources have the financial wherewithal or alternate public funding to make those medical resources available on networks used by rural health providers. Thus, we encourage interested parties to identify what, if any, new policies we should establish to enhance access to advanced telecommunications and information services for health care providers consistent with the scope of our authority under section 254(h)(2)(A).

20. In general, we seek comment on the positive or negative effects that a decision to support Internet access will have on the rural health care support mechanism, from the perspective of the health care providers, the service providers, and the Administrator. In addition, we seek comment on how such implementation could be effectuated in keeping with the Commission's long standing universal service principles, specifically competitive neutrality and technological neutrality. We encourage parties to discuss any issues relevant to whether we should provide support for Internet access, which parties should be eligible for such support, what level of support to provide, the nature of the support, what restrictions we should place on such support, what administrative problems and concerns may arise if we provide such support, and the impact of such support on the mechanism's ability to support other services. We also seek comment on the effects on competition, if any, resulting from providing universal service support for Internet access under the rural health care mechanism. Specifically, we seek comment on whether such support would have positive or negative effects on facilities-based broadband deployment in rural areas.

2. Services Necessary for the Provision of Health Care

21. Under section 254(h)(1)(A), rural health care providers may receive support only for ''telecommunications services which are necessary for the provision of health care services * * * including instruction relating to such services * * * '' In the *Universal*

Service Order, the Commission found that the phrase ''necessary for the provision of health care services * * * including instruction relating to such services'' meant reasonably related to the provision of health care services or instruction. The Commission further required that the health care provider certify that the requested service would be used exclusively for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under applicable state law, to help ensure that only eligible services are funded.

22. We seek comment on whether we should adopt any additional measures to effectuate the statutory restriction in cases where a health care provider engages in both the provision of health care services and other activities. We could rely solely on the certification that none of the telecommunications services being supported will be used in connection with the non-health care related activities. However, if we decide to support services to entities engaged in a substantial amount of a non-health care related activities, the current certification procedure may not be adequate to avoid waste and fraud. We therefore seek comment on how best to avoid waste and fraud, specifically in situations where entities perform a significant amount of non-health related activities.

C. Calculation of Discounted Services

23. Section 254(h)(1)(A) of the Act provides that ''[a] telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State.'' Under our rules, the amount of support for an eligible service provided to a rural health care provider is the difference, if any, between the urban rate and the rural rate charged for the service.

24. For service charges that are not distance-based, qualifying entities receive discounts for the difference in urban and rural rates. Pursuant to our rules, the Administrator determines the ''standard urban distance,'' (SUD) which is the average of the longest diameters of all cities in the state with a population of at least 50,000. The Administrator also calculates the Maximum Allowable Distance (MAD), which is the distance between the rural health care provider and the farthest point on the jurisdictional boundary of the nearest large city in the state with a population of at least 50,000. Under our rules, qualifying entities receive discounts on distance-based charges for services over any distance greater than the SUD but less than the MAD.

25. As discussed below, we seek comment on whether the ''similarity'' of urban and rural services should be determined on the basis of functionality from the perspective of the end-user, rather than on the basis of whether urban and rural services are technically similar. We also seek comment on whether, for purposes of determining the urban rate, the Administrator should allow comparison of rates in any urban area in the state, not just comparison with the rates in the nearest city with a population of over 50,000. In addition, we seek comment on whether to eliminate the MAD restriction, and seek comment on other alternatives. Furthermore, we seek comment on certain changes relating to the calculation of the urban rate in insular areas.

1. Interpretation of Similar Services

26. As noted, section 254(h)(1)(A) of the Act provides that ''[a] telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services in a State, including instruction relating to such services, to any public or nonprofit health care provider that serves persons who reside in rural areas in that State at rates that are reasonably comparable to rates charged for similar services in urban areas in that State.''

27. However, our rules do not specify precisely how urban and rural services are to be compared for purposes of determining what are ''similar.'' It has been our policy to base discounts on the difference in urban and rural rates between the same or similar services, such as comparing the rates for rural T–1 service with those of urban T–1 service. Our current policy of comparing technically similar services may, however, inadvertently create inequities between urban and rural health care providers. Doing so does not take into account the fact that some less expensive urban services are unavailable at any price in rural areas, and health care providers are thus required to seek out more expensive services.

28. We seek comment on changing our policy of comparing urban and rural rates for particular telecommunications services, such that the discounts would be calculated by comparing services based on functionality of the service from the perspective of the end user. In particular, we seek comment on whether comparisons should be made between or among different types of high-speed transport offered by telecommunications carriers that may be viewed as functionally equivalent by end-users. We also seek comment on whether this proposed policy change would better effectuate the statutory goals of section 254.

29. We seek comment on the fairest and most effective way to compare functionality between or among different types of telecommunications services. We seek comment on how a functionality-based approach would affect discounts for all telecommunications services, including fractional T–1 lines, ISDN, Frame Relay services, and ATM services, and any other such telecommunications services for which the rural health care universal service support mechanism may offer discounts.

30. We note that the discussion above presupposes that such functionality comparisons would be made between services provided as telecommunications services. If, however, the Commission rules that broadband Internet access services are information services, any such services would be eligible for support only under section 254(h)(2)(A), and not under section 254(h)(1)(A). As noted, we seek comment on whether any support for information services provided under section 254(h)(2)(A) should include a rural/urban rate comparison of the sort required under section 254(h)(1)(A).

31. We also seek comment on how this possible modification would affect health care providers seeking discounts for satellite services. Providers using satellite services have been particularly disadvantaged under the mechanism's current rules. In some areas throughout the United States and related territories, particularly remote and insular areas, satellite systems may provide the only viable means for a rural health care provider to receive telecommunications services. A rural provider using satellite services typically does not receive a discount under this mechanism because, under our current policies, the cost of rural satellite service would be compared to the cost of urban satellite service, and the price of satellite service does not vary by location. In some cases, satellite-based services can be more costly than traditional wireline services. Therefore, we recognize that widespread use of satellite-based services by rural health care providers that do have reasonably priced land-based

alternatives, if fully funded by the rural health care mechanism, may prove costly for the universal service support mechanism and offer an unnecessarily expensive service option for some applicants. We therefore seek comment on how to address this concern, which is similar to our concerns with respect to traditional wireline services.

32. The Commission currently has before it a Petition for Reconsideration filed by Mobile Satellite Ventures Subsidiary (MSV), regarding the 1997 *Universal Service Order,* concerning, *inter alia,* the issue of discounts in the rural health care universal service support mechanism for satellite services. MSV, which offers satellite-based emergency medical communications, argues that because the cost of satellite systems is the same in rural and urban areas, providers of satellite-based services are at a disadvantage compared to terrestrial carriers, whose prices are distance sensitive. MSV proposes that the Commission establish ''that the urban services that are 'similar' to MSV's rural [services] are the terrestrial mobile communications services typically used by ambulances and other emergency medical vehicles in a state's urban areas * * * [and that] support for rural health care providers that use MSV's services should be calculated on the basis of actual airtime usage rates that MSV charges for calls outside a customer's predefined talk-group.'' We seek comment on MSV's proposal as a way to make the functional comparison for mobile satellite services, and seek any other proposals for resolving this issue.

33. We further seek comment on whether, and how, a functionality approach could be implemented consistent with current requirements concerning the Maximum Allowable Distance. If the MAD requirement is altered or eliminated as discussed below, we seek comment on how that change may interrelate with any proposed treatment of satellite services.

2. Urban Area

34. Section 254(h)(1)(A) of the Act directs us to provide support for ''rates that are reasonably comparable to rates charged for similar services in urban areas in that State.'' Under our rules, as described, the urban rate is based on the rate for similar services in the ''nearest large city,'' defined as ''the city located in the eligible health care provider's state, with a population of at least 50,000, that is nearest to the healthcare provider's location, measuring point to point, from the health care provider's location to the point on that city's jurisdictional boundary closest to the health care provider's location. In the *Universal Service Order,* the Commission chose to base the urban rate on the rate in the nearest city of at least 50,000 in the belief that such cities ''are large enough that telecommunications rates based on costs would likely reflect the economies of scale and scope that can reduce such rates in densely populated urban areas.'' In addition, the Commission stated that because the telecommunications services a rural health care provider would use would likely involve transmission facilities linked to the nearest large city, using that location would provide more accurate and realistic comparable rates than using rates from more distant cities. The Commission also noted that while every state has a city of at least 50,000, not every state has larger cities.

35. Our experience with the rural health care universal service support mechanism leads us to consider reevaluating our previous conclusion. A number of applicants have suggested that the last several years of experience have demonstrated that rates and services available in small cities do not yet fully reflect the economies of scale and scope that are found in the most densely populated areas of the state. There is evidence that suggests the largest cities in a state have significantly lower rates and more service options than the city of at least 50,000 nearest the rural health care provider. In addition, our previous assumption that services used by rural health care providers would likely involve transmission links to the nearest city appears not always to be the case. There is increasing evidence that many rural health care providers choose to link their telemedicine networks to pockets of expertise located in larger cities in the state. We seek comment on whether to alter our rules to allow comparison with rates in any city in a state.

36. We recognize allowing a comparison of urban rates with any city in a state may result in certain rural health care providers receiving lower rates, by virtue of this support mechanism, than those obtained in the nearest city of 50,000 or more. The Commission previously expressed concerns about such an outcome in the context of relying on average urban rates in a state. We also note that this change would obviate the Commission's previous concern that some states may not have cities much larger than 50,000, because the comparison would be based on any city in the state. We seek comment on whether this proposal is the best way to effectuate the statutory mandate. We also seek comment on the potential effect this change may have on demand for support under the rural health care mechanism.

37. We further seek comment on any other changes involving the calculation of the urban and rural rate, in order to fulfill the goals and mandate of section 254.

3. Maximum Allowable Distance

38. We seek comment on eliminating or revising the MAD restriction in our rules, which limits support for rural health care providers to distances less than the ''distance between the eligible health care provider's site and the farthest point from that site that is on the jurisdictional boundary of the nearest [city of at least 50,000].'' In establishing the MAD, the Commission determined that providing discounts only for distance-based charges for the distance between a rural health care provider and the nearest city of 50,000 or more was sufficient to connect the health care provider to adequate services, and would protect against health care providers requesting telemedicine connections to ''far flung areas in search of the real or imagined ''expert'' in the field.'' However, our experience to date suggests that limiting rural heath care providers to discounts for connection to the nearest city of 50,000 or more may not be adequate for purposes of creating a comprehensive telemedicine network. We therefore seek comment on changes that would better effectuate the intent of the statute.

39. Removing the MAD would offer rural health care providers greater flexibility in developing appropriate networks, which should improve the delivery of health care in rural areas. There are several legitimate reasons providers would seek connections to places farther away than the nearest city of 50,000. For example, in the case of large telemedicine networks, the circuit from a rural site may run to another rural site to link all sites in a consortium together. Similarly, a carrier may lay cable in a more complex route, but because the Administrator calculates the MAD on the basis of the shortest distance between points, a rural health care provider may lose discounts if the circuit exceeds the MAD. Rural health care providers may wish to connect with a health care facility with the appropriate expertise or other pockets of expertise located beyond the MAD.

40. Eliminating the MAD should reduce the administrative costs because calculating the MAD requires labor-intensive and time-consuming efforts on the part of the Administrator. The RHCD estimates that for each application seeking support for telecommunications

service over a distance that exceeds the MAD, the Administrator must devote an average of three additional hours to the application in order to ascertain the proportion of the service for which the applicant is eligible. This process diverts important resources available for all applicants, which may not be cost-effective administratively. It also adds to the complexity of the rural health care universal health care mechanism for applicants. Eliminating the MAD restriction would therefore simplify the application process while reducing administrative overhead, thereby freeing up funds for discounts for other applicants. However, we recognize that eliminating the MAD may result in substantially increased demand if more entities seek support under the mechanism. We seek comment on whether to eliminate the MAD, including the benefits and impact on demand for support under the mechanism, and whether and how we may need to constrain increased costs resulting from changes to the MAD requirement.

41. We seek comment on alternative proposals to address this issue, including whether, in lieu of eliminating the restriction, we should modify it or adopt another limitation, such as the greatest distance between the location of the rural health care provider and the furthest point on the border of the same state or the distance between the health care provider and the nearest point of so-called tertiary care. If we elect to provide discounts to the nearest point of tertiary care, what standard would be used to define this point, and should we codify that in our regulations? In the alternative, would the creation of a state-by-state matrix listing the longest diameter in each state as the MAD for such state be feasible? We seek comment on whether all of these proposed approaches are consistent with the statutory scheme. Further, if we were to adopt any of the stated proposals, we seek comment on whether it makes sense to retain our rule that support not be provided on telecommunications service over a distance shorter than the Standard Urban Distance (SUD).

4. Insular Areas

42. Section 254(h)(1)(A) specifies that ''telecommunications carriers shall . . . provide telecommunications services which are necessary for the provision of health care services in a State . . . to any public or nonprofit health care provider that serves persons who reside in rural areas in that State. at rates that are reasonably comparable to rates charged for similar services in urban areas *in that State.*'' Consistent with this statutory language, the Commission's rules determine the ''urban rate'' for purposes of determining the amount of support by looking to the rates charged customers for a similar service in the nearest large city in the State. In the *Universal Service Order,* the Commission noted that using urban rates within a State as the benchmark for reasonable rates may be ill-suited to certain insular areas that are relatively rural all over, including areas of the Pacific Islands and the U.S. Virgin Islands. Following up on this concern, the Commission sought comment in the *Unserved and Underserved Areas Further Notice,* 64 FR 52738, September 30, 1999, on whether the calculation of support should be modified for these areas, and invited commenters to propose specific revisions.

43. In response, certain commenters suggested that the Commission had authority under section 254(h)(2)(A) to designate an out-of-state urban locale as the relevant urban benchmark for insular areas such as Guam and the Northern Mariana Islands. We seek comment on whether section 254(h)(2)(A) gives us the authority to allow rural health care providers to receive discounts by comparing the rural rate to the nearest large city even outside of their ''State.'' We also seek comment on any alternative means for addressing the special problems of insular areas, consistent with section 254.

D. Other Changes to the Rural Health Care Support Mechanism

1. Streamlining the Application Process

44. We seek comment on ways to streamline the application process to make it more accessible to rural health care providers. The Commission has recognized in the past that the application process, and the complicated nature of the forms involved, may sometimes be a barrier to applicants. We understand that this process may still provide unnecessary barriers to applicants. We believe the proposals in this NPRM could further simplify the operation of the rural health care universal service support mechanism. We seek comment in general on additional ways that the process of submitting, reviewing, and approving applications may be streamlined or otherwise improved to ensure timely, fair, and efficient decision-making.

45. While we welcome comments on all aspects of the application process, we specifically seek comment on the following areas. We seek comment on any additional ways that the calculation of the urban-rural differential on the forms may be made easier. We further seek comment on ways to eliminate delays and lack of response from eligible telecommunications carriers in supplying the information necessary for rural health care providers to complete the process.

46. We also seek comment on ways to ensure that rural health care providers are apprised of changes in deadlines for application filings and other material changes in the application and appeals process.

2. Pro-Rata Reductions If Annual Cap Exceeded

47. We seek comment on whether to modify our current rules governing the allocation of funds under the rural health care universal service support mechanism if demand exceeds the annual cap. The annual cap on universal service support for health care providers is currently $400 million per funding year. Under our rules, if the total demand for support in a year exceeds the cap, the Administrator shall divide the total annual support available by the total amount requested in that year, then multiply that result, which is the pro-rata factor, by the amount requested by each applicant, in order to determine the amount each applicant shall receive.

48. Discounts amounts requested under the rural health care universal service support mechanism, to date, have never exceeded the annual cap. However, it is possible that changes adopted in response to this NPRM could increase the level of discounts requested in a year such that discounts requested may, at some point in the future, exceed the cap. We therefore seek comment on whether this pro-rata distribution of funds for requested discounts is the most effective and equitable means of distributing limited funds in accordance with the goals and purposes of the statute, or whether an alternative approach should be adopted.

3. Preventing Waste, Fraud, and Abuse

a. Competitive Bidding

49. We seek comment on the effectiveness of the rural health care universal service support mechanism's competitive bidding rules. Under current rules, applicants are required to participate in a competitive bidding process pursuant to Commission regulations and any additional applicable state, local, or other procurement requirements. Applicants are required to submit to the Administrator an FCC Form 465, in

which it solicits bids for services from telecommunications carriers, and makes various certifications relating to eligibility under the rural health care universal service support mechanism. The Administrator then posts the form on its website, notifying telecommunications carriers that may wish to bid for an applicant's services about the rural health care provider's request. An applicant's FCC Form 465 must be posted on the Administrator's website for at least 28 days before the applicant may enter into a contract for services with a telecommunications carrier, in order to allow sufficient time for different carriers to bid on the requested services.

50. After selecting a telecommunications carrier, the applicant must certify to the Administrator that it has selected the most cost-effective method of providing the requested services, defined as ''the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services.'' Applicants must also submit to the Administrator paper copies of the responses or bids received.

51. The purpose of the posting requirement for the FCC Form 465 is to provide a rapid and easy mechanism for notifying all potential bidders for services of rural health care providers' requests, in order to encourage competition among bids and enable applicants to secure the most cost-effective services. However, to the extent that some rural areas may have only one service provider, the requirement may result in needless delays for applicants in securing support. We seek comment on whether the requirement can and should be waived in certain circumstances (*e.g.*, when applications are submitted by small entities), whether such a change is necessary or prudent, and how we may implement it with minimal administrative effort and expense, while fulfilling our obligations to reduce waste, fraud, and abuse and ensuring that universal service support is used ''wisely and efficiently.''

b. Ensuring the Selection of Cost-Effective Services

52. We seek comment on whether there currently are adequate measures to ensure that rural health care providers buy the most cost-effective services. As described, current rules require applicants to select the most cost-effective method of providing the requested services. However, there are no restrictions on the type of service offerings a rural health care provider may select. We seek comment on how best to ensure that applicants choose the most cost-effective services under the rural health care universal service support mechanism. We also seek comment on how such a change in our rules, if adopted, could be implemented most effectively and equitably, preventing waste and abuse without imposing undue burdens on rural health care providers. In addition, we seek comment on whether we should implement changes to encourage applicants to use lowest cost technology available, regardless of whether that technology involves wireline, coaxial cable, fiber, terrestrial wireless, satellite, or some other technology. If so, we seek comment on how those changes should be implemented.

c. Encouraging Partnerships With Clinics at Schools and Libraries

53. We seek comment on ways in which the rules or policies of the rural health care universal service support mechanism might be altered to better encourage rural health providers to pool resources with other entities in order to limit costs for themselves and thereby utilize support more efficiently. Some parties have questioned the rural health care universal service support mechanism for denying school-based clinics support on the grounds that such clinics are only eligible for discounts under the schools and libraries universal service support mechanism, while the schools and libraries mechanism denies the clinics support for the reason that the clinics are only eligible under the rural health care universal service support mechanism. We seek comment on the extent to which such clinics are or should be eligible under either mechanism, and on whether our rules and policies may encourage rural health care providers to partner with clinics at schools and libraries in rural locations. We further seek comment on other ways in which the Commission might promote similar cost-sharing in order to maximize the appropriate and beneficial use of universal service funds while minimizing waste and abuse.

d. Other Measures to Prevent Waste, Fraud, and Abuse

54. In keeping with our goal of preventing waste, fraud, and abuse, we seek comment on the effectiveness of our current rules regarding audits, and other procedures to ensure the appropriate use of funds available under the rural health care universal service support mechanism. Rural health care providers that receive support are currently subject to record-keeping and record production requirements, and random audits to ensure compliance. We seek comment on the effectiveness of these measures, and whether additional record-keeping or audit requirements are necessary. We further seek comment on any other rules that would help to combat potential waste, fraud, and abuse with respect to the rural health care universal service support mechanism.

4. Further Comments on Issues of Concern

55. In initiating this inquiry, we seek comments on various alternatives to enhance our existing rural health care universal service support mechanism. We are cognizant that these proposals contain measures that may significantly spur demand for advanced telecommunications and information services as well as implement critical cost savings measures designed to improve the efficiency and effectiveness of the mechanism. Given these numerous proposals, we ask that interested parties, to the extent possible, separately identify in their comments what, if any, potential effect individual proposal may have on demand for rural health care support. We note that any such increase in demand for rural health care support will be constrained by the operation of the $400 million rural health care support cap, and thus we seek input from commenters on any assistance they may provide in identifying which specific proposals will be most beneficial to ensuring access to advanced telecommunications and information services for all eligible rural health care providers.

E. Effect on Demand for Support

56. Lastly, we seek comment on the effect these proposals may have on demand for rural health care support. We note that any such increase in demand for rural health care support will be constrained by the operation of the $400 million rural health care support cap.

III. Procedural Matters

A. Initial Paperwork Reduction Analysis

57. This NPRM contains a proposed information collection. As part of a continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections 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 comments are due July 15, 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.

B. Initial Regulatory Flexibility Analysis

58. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

59. The Commission is required by section 254 of the Act to promulgate rules to implement the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules that reformed its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. Among other things, the Commission adopted a mechanism to provide discounted telecommunications services to public or non-profit health care providers that serve persons in rural areas. Over the last few years, important changes have occurred affecting the rural health universal service support mechanism. As discussed, several factors prompt us to review anew the rural health care universal service support mechanism, including the underutilization of the mechanism, changes in telecommunications technology and its use by the medical community, and the need to develop a broader and more fully integrated network of health care providers across the nation.

60. In this NPRM, we seek comment on whether to: clarify how we should treat eligible entities that also perform functions that are outside the statutory definition of ''health care provider; provide support for Internet access; and modify the calculation of discounted services, including the calculation of urban and rural rates. We also seek comment on other administrative changes to the rural health care mechanism, including whether and how to streamline the application process; allocate funds if demand exceeds the annual cap; modify the current competitive bidding rules; encourage partnerships with clinics at schools and libraries. We also seek comment on other measures to prevent waste, fraud, and abuse; and any other issues concerning the structure and operation of the rural health care universal service support mechanism on which commenters wish to make recommendations. We seek further comment on these proposals and how such changes could be implemented. We also seek comment on the effect that any such changes may have on demand for support under the universal service mechanism as well as data to support any comments made.

2. Legal Basis

61. The legal basis for this NPRM is contained in sections 151 through 154, and 254 of the Communications Act of 1934, as amended.

3. Description and Estimate of the Number of Small Entities To Which Rules Will Apply

62. 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).

63. 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. The term ''small governmental jurisdiction'' is defined as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' As of 1997, there were approximately 87,453 government jurisdictions in the United States. This number includes 39,044 counties, municipal governments, and townships, of which 27,546 have populations of fewer than 50,000 and 11,498 counties, municipal governments, and townships have populations of 50,000 or more. Thus, we estimate that the number of small government jurisdictions must be 75,955 or fewer. Small entities potentially affected by the proposals herein include small rural health care providers, small local health departments and agencies, and small eligible service providers offering discounted services to rural health care providers, including telecommunications carriers and ISPs.

a. Rural Health Care Providers

64. Section 254(h)(5)(B) of the Act defines the term ''health care provider'' and sets forth seven categories of health care providers eligible to receive universal service support. Although SBA has not developed a specific size category for small, rural health care providers, recent data indicate that there are a total of 8,297 health care providers, consisting of: (1) 625 ''post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools''; (2) 866 ''community health centers or health centers providing health care to migrants''; (3) 1633 ''local health departments or agencies''; (4) 950 ''community mental health centers''; (5) 1951 ''not-for-profit hospitals''; and (6) 2,272 ''rural health clinics.'' We have no additional data specifying the numbers of these health care providers that are small entities. Consequently, using those numbers, we estimate that there are 8,297 or fewer small health care providers potentially affected by the actions proposed in this NPRM.

65. As noted, non-profit businesses and small governmental units are considered ''small entities'' within the RFA. In addition, we note that census categories and associated generic SBA small business size categories provide the following descriptions of small entities. The broad category of Ambulatory Health Care Services consists of further categories and the following SBA small business size standards. The categories of providers with annual receipts of $6 million or less consists of: Offices of Dentists;

Offices of Chiropractors; Offices of Optometrists; Offices of Mental Health Practitioners (except Physicians); Offices of Physical, Occupational and Speech Therapists and Audiologists; Offices of Podiatrists; Offices of All Other Miscellaneous Health Practitioners; and Ambulance Services. The category of Ambulatory Health Care Services providers with $8.5 million or less in annual receipts consists of: Offices of Physicians; Family Planning Centers; Outpatient Mental Health and Substance Abuse Centers; Health Maintenance Organization Medical Centers; Freestanding Ambulatory Surgical and Emergency Centers; All Other Outpatient Care Centers, Blood and Organ Banks; and All Other Miscellaneous Ambulatory Health Care Services. The category of Ambulatory Health Care Services providers with $11.5 million or less in annual receipts consists of: Medical Laboratories; Diagnostic Imaging Centers; and Home Health Care Services. The category of Ambulatory Health Care Services providers with $29 million or less in annual receipts consists of Kidney Dialysis Centers. For all of these Ambulatory Health Care Service Providers, census data indicate that there is a combined total of 345,476 firms that operated in 1997. Of these, 339,911 had receipts for that year of less than $5 million. In addition, an additional 3414 firms had annual receipts of $5 million to $9.99 million; and additional 1475 firms had receipts of $10 million to $24.99 million; and an additional 401 had receipts of $25 million to $49.99 million. We therefore estimate that virtually all Ambulatory Health Care Services providers are small, given SBA's size categories. In addition, we have no data specifying the numbers of these health care providers that are rural and meet other criteria of the Act.

66. The broad category of Hospitals consists of the following categories and the following small business providers with annual receipts of $29 million or less: General Medical and Surgical Hospitals, Psychiatric and Substance Abuse Hospitals; and Specialty Hospitals. For all of these health care providers, census data indicate that there is a combined total of 330 firms that operated in 1997, of which 237 or fewer had revenues of less than $25 million. An additional 45 firms had annual receipts of $25 million to $49.99 million. We therefore estimate that most Hospitals are small, given SBA's size categories. In addition, we have no data specifying the numbers of these health care providers that are rural and meet other criteria of the Act.

67. The broad category of Nursing and Residential Care Facilities consists of the following categories and the following small business size standards. The category of Nursing and Residential Care Facilities with annual receipts of $6 million or less consists of: Residential Mental Health and Substance Abuse Facilities; Homes for the Elderly; and Other Residential Care Facilities. The category of Nursing and Residential Care Facilities with annual receipts of $8.5 million or less consists of Residential Mental Retardation Facilities. The category of Nursing and Residential Care Facilities with annual receipts of less than $11.5 million consists of: Nursing Care Facilities; and Continuing Care Retirement Communities. For all of these health care providers, census data indicate that there is a combined total of 18,011 firms that operated in 1997. Of these, 16,165 or fewer firms had annual receipts of below $5 million. In addition, 1205 firms had annual receipts of $5 million to $9.99 million, and 450 firms had receipts of $10 million to $24.99 million. We therefore estimate that a great majority of Nursing and Residential Care Facilities are small, given SBA's size categories. In addition, we have no data specifying the numbers of these health care providers that are rural and meet other criteria of the Act.

68. The broad category of Social Assistance consists of the category of Emergency and Other Relief Services and small business size standard of annual receipts of $6 million or less. For all of these health care providers, census data indicate that there is a combined total of 37,778 firms that operated in 1997. Of these, 37,649 or fewer firms had annual receipts of below $5 million. An additional 73 firms had annual receipts of $5 million to $9.99 million. We therefore estimate that virtually all Social Assistance providers are small, given SBA's size categories. In addition, we have no data specifying the numbers of these health care providers that are rural and meet other criteria of the Act.

b. Providers of Telecommunications and Other Services

69. We have included small incumbent local exchange carriers in this present RFA analysis. As noted, 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 operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

70. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (the ''Census Bureau'') reports that, at the end of 1997, there were 6,239 firms engaged in providing telephone services, as defined therein. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 6,239 telephone service firms may not qualify as small entities because they are not ''independently owned and operated.'' For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that 6,239 or fewer telephone service firms are small entity telephone service firms that may be affected by the decisions and rules adopted in this NPRM.

71. *Local Exchange Carriers, Interexchange Carriers, Competitive Access Providers, Operator Service Providers, Payphone Providers, and Resellers.* Neither the Commission nor SBA has developed a definition particular to small local exchange carriers (LECs), interexchange carriers (IXCs), competitive access providers (CAPs), 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 regarding the number of these carriers nationwide of which we are aware appears to be the data that we collect annually on the Form 499–A. According to our most recent data, there are 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers and 454 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 SBA's definition. Consequently, we estimate that there are fewer than 1,335 incumbent LECs, 349 CAPs, 204 IXCs, 21 OSPs, 758 payphone providers, and 541 resellers that may be affected by the decisions and rules adopted in this NPRM.

72. *Internet Service Providers.* Under the new NAICS codes, SBA has developed a small business size standard for ''On-line Information Services,'' NAICS Code 514191. According to SBA regulations, a small business under this category is one having annual receipts of $21 million or less. According to SBA's most recent data, there are a total of 2,829 firms with annual receipts of $9,999,999 or less, and an additional 111 firms with annual receipts of $10,000,000 or more. Thus, the number of On-line Information Services firms that are small under the SBA's $21 million size standard is between 2,829 and 2,940. Further, some of these Internet Service Providers (ISPs) might not be independently owned and operated. Consequently, we estimate that there are fewer than 2,940 small entity ISPs that may be affected by the decisions and rules of the present action.

73. *Satellite Service Carriers.* The SBA has developed a definition for small businesses within the category of Satellite Telecommunications. According to SBA regulations, a small business under the category of Satellite communications is one having annual receipts of $12.5 million or less. According to SBA's most recent data, there are a total of 371 firms with annual receipts of $9,999,999 or less, and an additional 69 firms with annual receipts of $10,000,000 or more. Thus, the number of Satellite Telecommunications firms that are small under the SBA's $12 million size standard is between 371 and 440. Further, some of these Satellite Service Carriers might not be independently owned and operated. Consequently, we estimate that there are fewer than 440 small entity ISPs that may be affected by the decisions and rules of the present action.

74. *Wireless Service Providers.* The SBA has developed a definition for small businesses within the two separate categories of Cellular and Other Wireless Telecommunications or Paging. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's most recent Telephone Trends Report data, 1,495 companies reported that they were engaged in the provision of wireless service. Of these 1,495 companies, 989 reported that they have 1,500 or fewer employees and 506 reported that, alone or in combination with affiliates, they have more than 1,500 employees. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireless service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 989 or fewer small wireless service providers that may be affected by the rules.

75. *Cable Systems.* The Commission has developed, with SBA's approval, its own definition of small cable system operators. 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 companies 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 that may be affected by the proposals.

76. 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% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenue in the aggregate exceeds $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 approximately 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we 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 Act.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

77. The NPRM seeks comment on changes that could modify the reporting and recordkeeping requirements imposed on entities covered by the universal service support mechanism for rural health care providers. Specifically, the NPRM proposes that the application process for universal service support for rural health care providers be streamlined. The NPRM, however, does not contain any concrete proposals for streamlining, but rather seeks comment on ways that the process of reviewing, submitting and approving applications can be improved and streamlined. This NPRM also asks for general comment on measures that could be taken to reduce fraud, waste, and abuse with respect to the rural health care universal service support mechanism, particularly with regards to competitive bidding, measures for ensuring the selection of cost-effective services, and school-library partnerships, but again there are no specific proposals or compliance requirements.

78. In this NPRM, we also seek comment on whether it would be appropriate to prorate services for rural health care providers that provide other services. A change in this reporting requirement potentially could require the use of professional skills, including legal and accounting expertise. Without more data, however, we cannot accurately estimate the cost of compliance by small entities.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

79. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach impacting small business, which may include the following four alternatives (among others): (1) The establishment of differing compliance and 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 part thereof, for small entities.

80. In this NPRM, we make a number of proposals that could have an economic impact on small entities that participate in the universal service support mechanism for rural health care

providers. Specifically, we seek comment on: (1) Allowing discounts for Internet access by eligible rural health care providers; (2) expanding the number of entities eligible for discounts by changing the definition of ''urban area'' and the definition of eligible entities; and (3) other proposals that could change how those discounts are calculated. If adopted, these proposals could change the size of the overall pool of eligible applicants for universal service support for rural health care providers, as well as affect the amount of discounts that eligible entities may receive. In seeking to minimize the burdens imposed on small entities where doing so does not compromise the goals of the universal service mechanism, we have invited comment on how these proposals might be made less burdensome for small entities. We again invite commenters to discuss the benefits of such changes on small entities and whether these benefits are outweighed by resulting costs to rural health care providers that might also be small entities.

81. We have also sought comment on how to address financial support of rural health care providers if demand exceeds the annual cap on universal support. Rural health care providers that received discounts in the past may be unable to obtain such support in the future should the demand increase significantly due to changes in eligibility and how discounts are calculated. As current demand has not exceeded the annual cap, however, we are unable to determine the net economic impact of changes to the current system to small entities as a whole. We therefore request that commenters, in proposing possible alterations to our proposed rules, discuss the economic impact that those changes will have on small entities.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

82. None.

C. Comment Due Dates and Filing Procedures

83. We invite comment on the issues and questions set forth in the Notice of Proposed Rulemaking, Paperwork Reduction Analysis, and Initial Regulatory Flexibility Analysis contained herein. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before July 1, 2002, and reply comment on or before July 29, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

84. 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 electronic comments by Internet e-mail. To receive 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. Or you may obtain a copy of the ASCII Electronic Transmittal From (FORM-ET) at <*www.fcc.gov/e-file/email.html*>.

85. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at a new location in downtown Washington, DC. The address is 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location will be 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

86. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

If you are sending this type of document or using this delivery method	It should be addressed for delivery to
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary.	236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002 (8:00 to 7:00 p.m.)
Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail).	9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail.	445 12th Street, SW, Washington, DC 20554.

87. Parties who choose to file by paper should also submit their comments on diskette. These diskettes, plus one paper copy, should be submitted to: Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, at the filing window at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word 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 WC Docket No. 02–60, 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 12st Street, SW., Room CYB402, Washington, DC 20554 (see alternative addresses for delivery by hand or messenger).

88. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW., CY–B402, Washington, DC 20554 (see alternative addresses for delivery by hand or messenger) (telephone 202–863–2893; facsimile 202–863–2898) or via e-mail at *qualexint@aol.com*.

89. Written comments by the public on the proposed information collections pursuant to the Paperwork Reduction Act of 1995, Public Law No. 104–13, are due on or before July 1, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before July 15, 2002. 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 (see alternative addresses for delivery by hand or messenger), or via the Internet to *jboley@fcc.gov* and to Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503.

90. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365, or at *bmillin@fcc.gov.*

IV. Ordering Clauses

91. It is ordered that, pursuant to the authority contained in sections 151 through 154, and 254 of the Communications Act of 1934, as amended, this Notice of Proposed Rulemaking is adopted, as described herein.

92. It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12096 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 69

[CC Docket No. 02–53, RM–10131; FCC 02–79]

Presubscribed Interexchange Carrier Charges

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document initiates a rulemaking proceeding to examine presubscribed interexchange carrier-change charges (PIC-change charges). PIC-change charges are federally-tariffed charges imposed by incumbent local exchange carriers on end-user subscribers when these subscribers change their presubscribed long distance carriers. PIC-change charges currently are subject to a $5 safe harbor within which a PIC-change charge is considered reasonable. The $5 safe harbor was implemented in 1984, and industry and market conditions have changed since that time. Therefore, this document seeks comment on revising the Commission's policies regarding the PIC-change charge.

DATES: Comments due June 14, 2002, and reply comments due July 1, 2002. Written comments by the public on the proposed information collections are due June 14, 2002. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before July 15, 2002.

FOR FURTHER INFORMATION CONTACT: Jennifer McKee, Wireline Competition Bureau, Pricing Policy Division, (202) 418–1530. For further information concerning the information collections contained in this document, contact Judith Boley Herman at (202) 418–0214, or via the Internet at *JBoley@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 02–53 released on March 20, 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 Twelfth Street, SW, Washington, DC, 20554.

This NPRM contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Paperwork Reduction Act

This Notice of Proposed Rulemaking (NPRM) contains a proposed information collection. The Commission, as part of the continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due July 15, 2002. Comments should address: (1) 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; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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: Presubscribed Interexchange Carrier Charges.

Form No.: Not applicable.

Type of Review: Proposed new collection.

Respondents: Business or other for-profit.

Number of Respondents: 69.

Estimated Time Per Response: 85.5 hours.

Total Annual Burden: 5900 hours.

Total Annual Costs: $45,885.00.

Needs and Uses: The information would be used to determine local exchange carriers' costs of providing PIC-change charges for setting rates for these charges.

Background

This Notice of Proposed Rulemaking, adopted March 14, 2002 and released March 20, 2002 in CC Docket No. 02–53, FCC 02–79, initiates a proceeding to examine the charges imposed on consumers for changing long distance carriers, known as PIC-change charges. These charges currently are subject to a $5 safe harbor within which a PIC-change charge is considered reasonable. This $5 safe harbor was established by the Commission in 1984 and affirmed in 1987, but the Commission has not reviewed the reasonableness of this safe harbor since that time.

On May 16, 2001, the Competitive Telecommunications Association (CompTel) petitioned the Commission to initiate a rulemaking proceeding to revise its policies governing the PIC-change charge. Based on CompTel's petition and the comments received in response to it, we conclude that circumstances have changed since the Commission's last comprehensive review of this issue, and the $5 safe harbor may no longer be reasonable. The current safe harbor was established based on the difficulty of assessing actual costs by carrier for this service, what was known generally about the costs of providing this service, and a determination that it was good policy to discourage excessive switching of carriers. All three of these factors are now ripe for reexamination.

Discussion

We undertake this rulemaking with the goal of establishing a reasonable PIC-change charge under current conditions. We will examine whether to base the PIC-change charge on an examination of carrier costs or whether we can rely on market forces to ensure reasonable rates. We will consider what costs carriers reasonably can recover through the PIC-change charge and whether to take non-cost factors into account in determining a reasonable charge. We will also examine whether to establish a national safe harbor, whether carriers should submit individualized cost support with their tariffs, or whether we should review rates solely through our enforcement processes. We seek comment on these issues, as well as any alternative means of ensuring the reasonableness of PIC-change charges.

As a threshold matter, we think it is important to examine whether the PIC-change charge should be a regulated cost-based charge, or whether market forces will constrain PIC-change charges to reasonable levels. The current safe harbor was established in 1984, based largely on an analysis of carrier costs. When a market is not competitive we cannot rely on market forces to constrain rates. Thus, we must examine the market for PIC-change services to determine whether a cost-based or market-based approach is the appropriate means to regulate PIC-change charges. Under current network configurations, a PIC change must be completed by an end user's LEC. The change relates, however, to a customer-carrier relationship between the end user and an IXC, which may or may not be affiliated with the end user's LEC. We seek comment on the nature of the market for PIC-change services and the need for the Commission to continue to apply a cost-based standard to ensure reasonable rates for PIC-change charges. We also seek comment on whether reliance on market forces could be made more practicable by modifying network configurations or the relationships between LECs, IXCs, and end users.

If we conclude that market forces will not ensure reasonable PIC-change charges, we must determine whether PIC-change charges should be based on costs, and, if so, what costs those charges should recover. In the 1984 access charge order, the Commission simply said that a presubscription charge that covers the unbundled costs of a subscription PIC change would be reasonable. Parties submitting comments on CompTel's Petition have widely varying contentions with regard to the relevant costs. Some commenters contend that costs related to the actions necessary to process a request and implement the change are the only costs that should be recovered. Another contends that the PIC-change charge should recover a wider array of costs, including costs incurred in administering customer allegations of slamming. We seek comment on the types of costs that should or should not be recovered through the PIC-change charge and why. We ask that commenters be as specific as possible. Our goal is to establish a standard that does not require continuous revision as technology evolves. Accordingly, we ask that commenters identify the individual functions that make up the PIC-change process, describe the process in detail, and explain why each function is necessary. For example, if customer care personnel perform multiple functions manually, commenters shall separately identify each function and its purpose. Likewise, commenters should identify by function the services that are automated, not merely name the automated facilities that are used to perform these services.

Some commenters assert that it is more costly to perform PIC-change services for certain customers than others. For example, SBC notes that customers subscribing to SBC's ''PIC freeze'' service require more manual intervention than non-subscribers to process a PIC change. The carrier also suggests that ''excessive'' PIC changes would justify an above-cost PIC-change charge. Many parties contend that this is no longer a valid policy reason for maintaining a safe harbor that is not supported by current cost data. We seek comment on whether and how such issues should be taken into account in establishing a reasonable PIC-change charge. Should the same PIC-change charge apply to all customers, regardless of whether they subscribe to an incumbent LEC's PIC-freeze service, or should LECs impose a higher charge for PIC-freeze usage? Carriers may allow customers to freeze their PICs for multiple services, *i.e.*, interstate, intraLATA intrastate, and local service. If commenters argue that the additional costs of conducting a PIC change for a customer subscribing to a PIC-freeze service should be recovered through the PIC-change charge, we seek comment on how to allocate the additional costs among jurisdictions. Should end users incur the same charge each time they request a PIC change, or should a higher charge be imposed upon a customer that requests ''excessive'' PIC changes? If the latter, why, and what constitutes ''excessive'' PIC changes? Additionally, when the Commission first identified the potential for excessive carrier switching as a basis for the safe harbor, significant uncertainty about the ability of carriers to identify the costs of PIC changes existed. There is evidence that this circumstance has changed. How should a carrier's ability to identify accurately its actual PIC-change costs affect the weight to be given to non-cost-based rationales for a particular safe harbor?

In light of the existence of intrastate, intraLATA toll dialing parity, most end users currently have a choice of both interLATA and intraLATA interexchange service providers. Accordingly, end users may change both their interLATA and intraLATA carriers simultaneously to a single carrier. In that circumstance, incumbent LECs may impose both an interstate and intrastate PIC-change charge for the transaction. We seek comment on whether this amounts to a double recovery. Interested parties are asked to comment on whether it is reasonable for incumbent LECs to recover both charges, a percentage of each charge, only one of the charges, or some totally different charge under these circumstances.

If we determine that the PIC-change charge should be cost-based, we must then establish a means to ensure incumbent LEC PIC-change charges recover only the costs associated with that service. We seek comment on whether the Commission should (1) require the filing of cost support with each PIC-change charge tariff; (2) rely on the formal complaint process and other enforcement mechanisms to review rates; or (3) establish a safe harbor to ensure reasonable rates.

If we conclude that a safe harbor is the most efficient means of ensuring reasonable rates, we will need to establish that safe harbor. We seek comment on the best means for doing

so. Should we establish a safe harbor on the basis of the incumbent LECs' average costs? Should we base the safe harbor on the incumbent LECs' lowest cost, giving carriers the option of providing cost support to justify a higher charge? If so, what would the lowest cost be? In this respect, we note that some carriers charge substantially less than the current safe harbor. For example, as noted above, BellSouth charges $1.49. Does BellSouth's $1.49 charge, or any other charge differing from the safe harbor, establish a lower or upper bound? Commenters should provide cost evidence supporting any safe harbor proposed. Should the Commission distinguish between incumbent LECs, and, if so, on what bases? Should the Commission use a proxy and, if so, what is a reasonable proxy for the PIC-change service? Should there be separate proxies for large and small incumbent LECs? Do market proxies exist? Are state-arbitrated rates for unbundled network element platform (UNE–P) and resale migrations or state-regulated rates for intraLATA PIC-change charges reasonable proxies for the interstate PIC-change service? Is there a weighted average of several rates that would constitute a reasonable proxy? Parties are asked to comment on these options, and submit alternative suggestions for our consideration.

Procedural Matters

Ex Parte Requirements

This proceeding will be governed by ''permit-but-disclose'' ex parte procedures that are applicable to non-restricted proceedings under 47 CFR 1.1206. Parties making oral ex parte presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented generally is required. See 47 CFR 1.1206(b)(2). Other rules pertaining to oral and written presentations are set forth in § 1.1206(b) as well. Interested parties are to file any written ex parte presentations in this proceeding with the Commission's Secretary, Marlene H. Dortch, 445 12th Street, SW, TW–B204, Washington, DC 20554, and serve with three copies: Pricing Policy Division, Common Carrier Bureau, 445 12th Street, SW, Room 5–A452, Washington, DC 20554, Attn: Jennifer McKee. Parties shall also serve with one copy: Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, (202) 863–2893.

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this NPRM. The RFA, see 5 U.S.C. 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 857 (1996). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). See 5 U.S.C. 603(a). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

In this NPRM, the Commission seeks comment on its policies for regulating presubscribed interexchange carrier-change charges (PIC-change charges). Specifically, we will examine whether to base the PIC-change charge on an examination of carrier costs or whether we can rely on market forces to ensure reasonable rates. We will consider what costs carriers reasonably can recover through the PIC-change charge and whether to take non-cost factors into account in determining a reasonable charge. We will also examine whether to establish a national safe harbor, whether carriers should submit individualized cost support with their tariffs, or whether we should review rates solely through our enforcement processes. We seek comment on these issues, as well as any alternative means of ensuring the reasonableness of PIC-change charges.

Legal Basis

The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 4, 201–202, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–202, and 303, and §§ 1.1, 1.411, and 1.412 of the Commission's rules, 47 CFR 1.1, 1.411, and 1.412.

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

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). For the purposes of this NPRM, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 5 U.S.C. 632). Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA. 15 U.S.C. 632.

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.'' 15 U.S.C. 632. 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. See Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of ''small business concern,'' which the RFA incorporates into its own definition of ''small business.'' *See* 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA regulations interpret ''small business concern'' to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 61 FR 45476, August 29, 1996. 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.

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. U.S. Department of Commerce, Bureau of the Census, 1992 Census of Transportation, Communications, and Utilities, UC 92–S–1, Subject Series, Establishment and Firm Size, at Firm Size 1–123 (1995). This number contains a variety of different categories of carriers, including LECs, interexchange carriers (IXCs), 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.'' *See generally* 15 U.S.C. 632(a)(1). 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 this analysis.

Local Exchange Carriers

Neither the Commission nor the SBA has developed a special small business size standard for small LECs. The closest applicable category for these types of carriers under SBA rules is for telecommunications carriers, wired. 13 CFR 121.201, NAICS code 513310. *See also* 13 CFR 121.201, NAICS codes 513330 (telecommunications resellers), and 513340 (telephone communications carriers, satellite). The most reliable source of information regarding the number of LECs nationwide appears to be the data that we collect annually in connection with FCC Form 499–A, the Telecommunications Reporting Worksheet. Information from the Telecommunications Reporting Worksheets is compiled in the *Carrier Locator* report. *See Carrier Locator: Interstate Service Providers*, FCC Common Carrier Bureau, Industry Analysis Division (rel. Nov. 2001) (Carrier Locator). According to our most recent data, there are 1,329 incumbent LECs. Carrier Locator at Table 1. Although some of these carriers may not be 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 LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are no more than 1,329 small entity incumbent LECs that may be affected by the proposals in the NPRM.

Interexchange Carriers

Although our actions as proposed would not directly affect IXCs, and therefore IXCs are not within the RFA for purposes of this IRFA, we voluntarily include them here to create a fuller record and encourage public comment. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under the SBA rules is for wired telecommunications carriers. 13 CFR 121.201, NAICS code 513310. *See also* 13 CFR 121.201, NAICS codes 513330 (telecommunications resellers), and 513340 (telephone communications carriers, satellite). According to the most recent *Carrier Locator* report, 229 carriers reported that their primary telecommunications service activity was the provision of interexchange services. *See Carrier Locator* at Table 1. 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 thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are 229 or fewer small entity IXCs that may be affected by the rules.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

We are seeking comment on whether we can rely on market forces to set reasonable PIC-change charges, or whether these charges must be regulated. If we find that the market reasonably sets these charges, there will be no additional reporting or recordkeeping burden on incumbent LECs with respect to these charges. If we determine that the market will not successfully constrain PIC-change charges, we must determine whether to establish a safe harbor below which PIC-change charges are to be deemed reasonable, or whether these charges should be cost-based. If we adopt a safe harbor, incumbent LECs will be in the same situation as under the current rules, *i.e.*, PIC-change charges tariffed at rates below the safe harbor are deemed reasonable, and LECs have the option of demonstrating that their costs for PIC changes exceed that rate. If we decide not to adopt a safe harbor and require incumbent LECs to set PIC-change charges at cost, incumbent LECs will be required to file information demonstrating the costs of providing PIC changes.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

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. 5 U.S.C. 603(c)(1)–(c)(4).

We are seeking comment on alternative methods of setting a PIC-change charge, including whether market forces will successfully constrain these charges, and whether to adopt a safe harbor below which rates are presumed reasonable. These proposals would reduce the reporting and recordkeeping burden on all incumbent LECs, including small LECs.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Filing of Comments and Reply Comments

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 14, 2002, and reply comments July 1, 2002. All comments and reply comments should reference the docket number of this proceeding, CC Docket No. 02–53. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.

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 filing 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 copy 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 email address>.'' A sample form and directions will be sent in reply. Commenters also may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at *http://www.fcc.gov/e-file/email.html.*

Parties filing paper copies must file an original and four copies of each filing. If multiple docket or rulemaking numbers appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th St., SW, Washington, DC 20554.

Interested parties who wish to file comments via hand-delivery are also notified that effective December 18, 2001, the Commission will only receive such deliveries weekdays from 8 a.m. to 7 p.m. at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The Commission no longer accepts these filings at 9300 East Hampton Drive, Capitol Heights, MD 20743. Please note that all hand deliveries must be held together with rubber bands or fasteners, and envelopes must be disposed of before entering the building. In addition, this is a reminder that as of October 18, 2001, the Commission no longer accepts hand-delivered or messenger-delivered filings at its headquarters at 445 12th Street, SW, Washington, DC 20554. Messenger-delivered documents (*e.g.*, FedEx), including documents sent by overnight mail (other than United States Postal Service (USPS) Express and Priority Mail), must be addressed to 9300 East Hampton Drive, Capitol Heights, MD 20743. This location is open weekdays from 8 a.m. to 5:30 p.m. USPS First-Class, Express, and Priority Mail should be addressed to the Commission's headquarters at 445 12th Street, SW, Washington, DC 20554.

Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, Portals II, 445 12th Street SW, CY–B402, Washington, DC 20554 (telephone 202–863–2893; facsimile 202–863–2898) or via e-mail at *qualexint@aol.com.* In addition, one copy of each submission must be filed with the Chief, Pricing Policy Division, 445 12th Street, SW, Room 5–A225, Washington, DC 20554. Documents filed in this proceeding will be available for public inspection during regular business hours in the Commission's Reference Information Center, 445 12th Street, SW, Washington, DC 20554, and will be placed on the Commission's Internet site.

Written comments by the public on the proposed information collections are due June 14, 2002. Written comments must be submitted by OMB on the proposed and/or modified information collections on or before July 15, 2002. 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 JBoley@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.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12097 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–980, MB Docket No. 02–93, RM–10414]

Digital Television Broadcast Service; Sacramento, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by La Dov Educational Outreach, Inc., an applicant for a new station operating on NTSC channel *52 at Sacramento, California, proposing the substitution of DTV channel *43 for channel *52. DTV Channel *43 can be allotted to Sacramento, California, at reference coordinates 38–37–49 N. and 120–51–20 W. with a power of 100, a height above average terrain HAAT of 304 meters.

DATES: Comments must be filed on or before June 24, 2002, and reply comments on or before July 10, 2002.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE, Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John Burgett, E. Joseph Knoll II, Wiley, Rein & Fielding, 1776 K Street, NW., Washington, DC 20006 (Counsel for La Dov Educational Outreach, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–93, adopted April 26, 2002, and released May 3, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in

Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under California, is amended by removing Channel *52 at Sacramento.

§ 73.622 [Amended]

3. Section 73.622(b), the Table of Digital Television Allotments under California is amended by adding DTV channel *43 at Sacramento.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–11980 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1043, MB Docket No. 02–102, RM–10430]

Digital Television Broadcast Service; Florence, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Young Broadcasting of Sioux Falls, Inc., licensee of station KDLO–TV, NTSC channel 3, Florence, South Dakota, proposing the substitution of DTV channel 2 for station KDLO–TV's assigned DTV channel 25. DTV Channel 2 can be allotted to at reference coordinates 44–57–56 N. and 97–35–22 W. with a power of 3.7, a height above average terrain HAAT of 243 meters.

DATES: Comments must be filed on or before July 1, 2002, and reply comments on or before July 16, 2002.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Carl R. Ramey, Wiley, Rein & Fielding LLP, 1776 K Street, NW., Washington, DC 20006 (Counsel for Young Broadcasting of Sioux Falls, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–102, adopted May 3, 2002, and released May 9, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Dakota is amended by removing DTV channel 25 and adding DTV channel 2 at Florence.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–11974 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–1042, MB Docket No. 02–101, RM–10429]

Digital Television Broadcast Service; Reliance, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Young Broadcasting of Sioux Falls, Inc., licensee of station KPLO–TV, NTSC channel 6, Reliance, South Dakota, proposing the substitution of DTV channel 13 for station KPLO–TV's assigned DTV channel 14. DTV Channel 13 can be allotted to at reference coordinates 43–57–57 N. and 99–36–11

W. with a power of 40, a height above average terrain HAAT of 338 meters.

DATES: Comments must be filed on or before July 1, 2002, and reply comments on or before July 16, 2002.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (*except in broadcast allotment proceedings*). *See Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Carl R. Ramey, Wiley, Rein & Fielding, LLP, 1776 K Street, NW, Washington, DC 20006 (Counsel for Young Broadcasting of Sioux Falls, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–101, adopted May 3, 2002, and released May 9, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Dakota is amended by removing DTV channel 14 and adding DTV channel 13 at Reliance.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 02–11975 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 67, No. 94

Wednesday, May 15, 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. 02–052–1]

Notice of Request for Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: New information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to initiate a new information collection activity to support the National Animal Health Monitoring System's national Catfish 2003 study.

DATES: We will consider all comments we receive that are postmarked, delivered, or e-mailed by July 15, 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. 02–052–1, 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. 02–052–1. 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. 02–052–1'' 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: For information regarding the national Catfish 2003 study, contact Mr. Chris Quatrano, Management Analyst, Centers for Epidemiology and Animal Health, VS, APHIS, 555 S. Howes, Fort Collins, CO 80521; (970) 490–7847. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: National Catfish Study 2003.

OMB Number: 0579–XXXX.

Type of Request: Approval of a new information collection.

Abstract: The United States Department of Agriculture is responsible for protecting the health of our Nation's livestock and poultry populations by preventing the introduction and interstate spread of contagious, infectious, or communicable diseases of livestock (including farm-raised fish) and poultry and for eradicating such diseases from the United States when feasible. In connection with this mission, the Animal and Plant Health Inspection Service (APHIS) operates the National Animal Health Monitoring System (NAHMS), which collects, on a national basis, statistically valid and scientifically sound data on the prevalence and economic importance of livestock and poultry diseases. Information from the studies conducted by NAHMS is disseminated to and used by livestock and poultry producers, consumers, animal health officials, private veterinary practitioners, animal industry groups, policymakers, public health officials, media, educational institutions, and others to improve the productivity and competitiveness of U.S. agriculture.

NAHMS' national studies have evolved into a collaborative industry and government initiative to help improve product quality and to determine the most effective means of producing animal and poultry products. APHIS is the only agency responsible for collecting national data on animal and poultry health. Participation in any NAHMS study is voluntary, and all data are confidential.

NAHMS will initiate a national study titled Catfish 2003. Catfish 2003 will take place on farms in Alabama, Arkansas, Louisiana, and Mississippi, where 95.2 percent of total U.S. catfish sales and 95.2 percent of the water surface acres for catfish production were located in 2001.[1] The purpose of Catfish 2003 is to support the catfish farming industry through the description of production and processing methods, the evaluation of the overall health status of farm-raised catfish, and the estimation of the prevalence of specific diseases affecting the industry. The potential benefits to the industry from Catfish 2003 include increased production through enhanced pond management and increased consumer confidence in quality through disease reduction.

The specific objectives of Catfish 2003 include the following: (1) Estimating the prevalence of specific diseases affecting the catfish industry, such as enteric septicemia, columnaris, winter kill, proliferative gill disease, visceral toxicosis, and diseases associated with trematodes; (2) assessing the frequency of water quality testing and pond maintenance to correlate specific water characteristics with possible health conditions in catfish; (3) describing management practices used by catfish farmers and their impact on productivity; (4) evaluating the use of nutritional supplements in the catfish farming industry; (5) describing the frequency of health-related management practices, including feeding practices, fingerling purchase and production, stocking procedures, harvesting methods, pest management practices, use of veterinary services, and vaccination and treatment practices.

We are asking the Office of Management and Budget (OMB) to approve the information collection activity for the national Catfish 2003 study.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our

[1] NASS Catfish Production Report, February 2002.

information collection. These comments will help us:

(1) Evaluate whether the 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 our estimate of the burden of the 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, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.458 hours per response.

Respondents: Industry personnel, private veterinary practitioners, company and independent producers, academicians, State veterinary medical officers, and State public health officials.

Estimated annual number of respondents: 1,080.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 1,080.

Estimated total annual burden on respondents: 495 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 9th day of May 2002.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–12138 Filed 5–14–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

Type 31–V, Burley Biologically Engineered Tobacco

AGENCIES: Agricultural Marketing Service, Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice; request for public comment.

SUMMARY: This notice invites comments about whether the biologically engineered Burley Tobacco Type 31–V and related tobaccos should be considered quota or non-quota tobacco for the 2003 and subsequent crop years.

DATES: Comments concerning the contents of this notice must be submitted by June 14, 2002 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice to Director, Tobacco and Peanuts Division, FSA, USDA, 1400 Independence Avenue, SW, Room 5750–S, STOP 0514, Washington, DC 20250–0514. Comments may be sent by facsimile to (202) 720–0549. Comments may be sent by e-mail to: *tob_comments@wdc.fsa.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Ann Wortham, Tobacco and Peanuts Division, (202) 720–2715 or at e-mail address *ann_wortham@wdc.fsa.usda.gov.*

SUPPLEMENTARY INFORMATION: The Agricultural Adjustment Act of 1938, as amended (The Act) established tobacco marketing quotas as part of the tobacco program, which is intended to balance supply with demand at levels assuring stable supplies for domestic and export use at prices that are considered sufficient for producers. The quotas set specific limits on the amount of particular types of tobacco that may be sold without penalty, and apply to the areas in which the type is produced if marketing quotas are approved through referendum by producers of that type. The Act also defined the types of tobacco that are subject to quotas, one of which is burley tobacco, which is defined by the statute to be Type 31 tobacco.

Recently, tobacco that was biologically engineered to have a low nicotine content became available to producers. The regulations of the Agricultural Marketing Service (AMS), which classifies tobacco for inspection purposes but does not determine types for FSA's Tobacco Program, provide that certain tobacco which in its cured state has a nicotine content of not more than eight-tenths of one percent (8/10 of 1%), oven dry weight, be classified as Type 31–V, if burley, or Type 73, if flue-cured. AMS thus classified, for inspection purposes, the biologically engineered tobacco, which fell at or below that nicotine level, as being either Type 31–V (burley) or, if cured in the same manner as class 1 flue-cured tobacco, as Type 73 (flue-cured).

FSA marketing quota regulations currently include Type 31 (burley), and Types 11–14 (flue-cured), as tobaccos subject to quotas. The purpose of this notice is to request comments on whether to include Type 31–V or Type 73 in the definitions of tobaccos subject to quotas.

Discussion

If the biologically engineered tobacco (Type 31 or Type 73) is determined to be quota tobacco, it could be grown in quota tobacco States and on quota tobacco farms without penalty. Some concern has been expressed that growing such tobacco in quota areas could create a risk of contamination of traditional types of tobacco through cross-pollination.

If the biologically engineered tobacco is determined to be non-quota tobacco, it could be grown in non-quota areas and not be subject to penalties, but it could not be grown in quota areas without incurring a penalty, thus alleviating the concern over cross-pollination.

FSA invites the views of interested persons before making its determination on considering biologically engineered tobacco, Type 31–V or Type 73, and related tobaccos, as quota or non-quota tobaccos, and will consider those views in formulating its policy. All responses to this notice will be summarized and included in any rule that may be forthcoming on this issue. All comments will become a matter of public record.

Signed at Washington, DC, on April 26, 2002.

James R. Little,

Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 02–12076 Filed 5–14–02; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fresno County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92–463) and under the secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Sierra and Sequoia National Forests' Resource Advisory

Committee (RAC) for Fresno County will meet on June 18, 2002, 6:30–9:30 p.m. The Fresno County Resource Advisory Committee will meet at the Districts Ranger's officer Prather, CA. The purpose of the meeting is for the Resource Advisory Committee to receive project proposals for recommendations to the Forest Supervisor for expenditure of Fresno County Title II funds.

DATES: The Fresno RAC meeting will be held on June 18, 2002. The meeting will be held from 6:30 p.m. to 9:30 p.m.

ADDRESSES: The Fresno County RAC meeting will he held at the Sierra National Forest, Pineridge/Kings River Districts Ranger office, 29688 Auberry Road, Prather, CA.

FOR FURTHER INFORMATION CONTACT: Sue Exline, USDA, Sierra National Forest, 1600 Tollhouse Road, Clovis, CA 93611 (559) 297–0706 ext. 4804; E–MAIL *skexline@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Review and approve the May 14, 2002 meeting notes; (2) Discuss new business of the RAC if applicable; (3) Consideration of Title II Project proposals from the public and/or the RAC members; (4) Determine the date and location of the next meeting; (5) Public comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: May 6, 2002.

Ray Porter,

District Ranger.

[FR Doc. 02–12049 Filed 5–14–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on June 4, 2002 in Prospect, Oregon at the Prospect Ranger District Office at 47201, Hwy. 62. The meeting will begin at 9 a.m. and continue until 5 p.m. Agenda items to be covered include: Provincial Advisory Committee Implementation Monitoring Schedule; Regional Interagency Executive Committee/ Interagency Advisory Committee Update; Provincial Advisory Committee Re-Charter Update; Rogue Basin Technical Team Update; Public Comment.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Debra Gray, Province Advisory Committee Staff Member, USDA, Forest Service, Umpqua National Forest, 2900 NW Stewart Parkway, Roseburg, Oregon 97470, phone (541) 957–3405.

Dated: May 9, 2002.

Lyle Burmeister,

Acting Designated Federal Official.

[FR Doc. 02–12083 Filed 5–14–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Availability of a Draft Restoration Plan and Environmental Assessment for the Oil Spill at Pepco's Chalk Point Generating Facility, Request for Comments

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

SUMMARY: The Natural Resource Trustee agencies (Trustees) have written a draft Restoration Plan and Environmental Assessment (Draft RP/EA) that describes alternatives for restoring natural resource injuries and compensating for recreational losses resulting from the April 7, 2000 oil spill at the Potomac Electric Power Company (Pepco) generating facility. This plan was developed cooperatively among the Trustees and the responsible parties, Pepco and ST Services (respectively, the owner and operator of the pipeline) pursuant to the Natural Resource Damage Assessment Regulations, 15 CFR Part 990. See specifically 15 CFR 990.54 and 990.55. The purpose of this notice is to inform the public of the availability of the Draft RP/EA and the opportunity to submit written comments on the proposed restoration alternatives.

DATES: Comments on the Draft RP/EA must be submitted in writing on or before July 8, 2002.

ADDRESSES: Copies of the Draft RP/EA are available at: (1) Lighthouse Point Center, 30383 Three Notch Road, Charlotte Hall, MD (301) 290–0946, 1–800–685–1266, fax (301) 290–0943, Mon.–Fri. 9 am to 5 pm; (2) Information Resource Center, MD Department of Natural Resources, 580 Taylor Avenue, B–3, Annapolis, MD 21401, (410) 260–8830, fax (410) 260–8951, Mon.–Fri. 8 am to 4 pm, and (3) *www.darp.noaa.gov/neregion/chalkpt.htm.*

Written comments on the draft RP/EA should be submitted to: Jim Hoff, National Oceanic and Atmospheric Administration, Damage Assessment Center, 1305 East-West Highway, Bldg. 4 Rm. 10218, Silver Spring, Maryland 22044. Alternatively, comments may be submitted electronically to the following E-mail address: *James.Hoff@NOAA.GOV.* All comments received, including names and addresses, will become part of the public record.

FOR FURTHER INFORMATION CONTACT: Jim Hoff, National Oceanic and Atmospheric Administration, Damage Assessment Center, 1305 East-West Highway, Bldg. 4 Rm. 10218, Silver Spring, Maryland 22044.

SUPPLEMENTARY INFORMATION:

Background

On April 7, 2000, a pipeline ruptured at Pepco's Chalk Point generating facility near Benedict, Maryland, spilling roughly 126,000 gallons of oil into Swanson Creek and the Patuxent River. About 40 miles of environmentally sensitive downstream creeks and shorelines along the Patuxent River were oiled.

Four government agencies—the National Oceanic and Atmospheric Administration, U.S. Fish and Wildlife Service, Maryland Department of Natural Resources, and Maryland Department of Environment—are responsible for restoring natural resources injured by the spill. These agencies act as Trustees on the public's behalf to conduct a natural resource damage assessment, a process for determining the nature and extent of injuries to natural resources and the restoration actions needed to reverse these losses (Oil Pollution Act, 33 U.S.C. 2706(b)).

The Trustees have reviewed the results of numerous studies and consulted with a wide variety of experts in relevant scientific and technical disciplines to determine potential injuries resulting from the spill. Based on this work, the Trustees have estimated losses to: wetlands, fish and shellfish, benthic communities, birds, terrapins and recreational uses.

The Trustees considered numerous restoration alternatives to compensate the public for spill-related injuries and restore similar types of resources, and the services provided by the resources, that were injured by the oil spill (15 CFR 990.54 and 990.55). The Preferred Alternatives include:

(1) *Creating tidal marsh and enhancing shoreline beach to address*

injury to wetlands, beach shoreline, and diamondback terrapins. Trustees propose to create five to six acres of intertidal marsh wetland adjacent to Washington Creek, a tributary of the Patuxent River, located south of Chalk Point. This wetland would be similar to those impacted by the spill and provide habitat for juvenile fish, shellfish, birds, and mammals; improve water quality by filtering sediments and other pollutants from the water column; and provide storm surge and flood protection. This project also includes creating roughly one acre of beach habitat to benefit diamondback terrapins and other organisms.

(2) *Acquiring and restoring ruddy duck nesting habitat to address injury to ruddy ducks.* Trustees propose to restore ruddy duck nesting habitat and acquire perpetual protective easements in areas of the Prairie Pothole Region of the Midwest. Ruddy ducks breed in wetlands located in the Midwest and southern Canada and migrate to the Chesapeake Bay to spend the winter. Restoration and protection of their nesting habitats would enhance ruddy duck populations in the vicinity of the spill.

(3) *Creating an oyster reef sanctuary to address injuries to fish, shellfish, benthic communities, and birds and waterfowl.* Trustees propose to create about five acres of oyster reef sanctuary in the Patuxent River to address injuries to fish, shellfish, non-ruddy duck birds, and benthic communities. The reef would enhance benthic communities, increase aquatic food for fish, birds, and waterfowl, and improve water quality by filtering out sediments and pollutants from the water column.

(4) *Addressing impacts to recreational opportunities.* Trustees propose the following alternatives to address the estimated 125,000 river trips that were affected by the spill: (a) Creating two canoe/kayak paddle-in campsites on the Patuxent River, one north of Golden Beach and one at Milltown Landing; (b) establishing a disabled-accessible kayak/canoe launch at Greenwell State Park; (c) improving recreational opportunities at Maxwell Hall Natural Resource Management Area; (d) rebuilding the King's Landing boardwalk and providing canoes for a river education program; and (e) building a fishing pier at Cedar Haven Park.

Administrative Record

Pursuant to the Natural Resource Damage Assessment regulations, the Trustees have developed an Administrative Record to support their restoration planning decisions and inform the public of the basis of their decisions (15 CFR 990.45). Additional information and documents, including public comments received on the Draft RP/EA, the Final RP/EA, and other related restoration planning documents, will also become a part of the Administrative Record, and will be submitted to a public repository upon their completion.

The documents comprising the public record (Administrative Record) can be viewed at the following locations: (1) Lighthouse Point Center, 30383 Three Notch Road, Charlotte Hall, MD (301) 290–0946, 1–800–685–1266, fax (301) 290–0943, Mon.–Fri. 9 am to 5 pm; (2) Information Resource Center, MD Dept. of Natural Resources, 580 Taylor Avenue, B–3, Annapolis, MD 21401, (410) 260–8830, fax (410) 260–8951, Mon.–Fri. 8 am to 4 pm; and (3) and *www.darp.noaa.gov/neregion/chalkpt.htm*.

Dated: April 12, 2002.

Jamison S. Hawkins,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 02–12075 Filed 5–14–02; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050102F]

Magnuson-Stevens Act Provisions; Atlantic Highly Migratory Species; Exempted Fishing Permits

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

ACTION: Issuance of Exempted Fishing Permits; request for comments.

SUMMARY: NMFS announces the receipt of requests for Exempted Fishing Permits (EFPs) for the retention of undersize swordfish bycatch for distribution at a charitable food kitchen, and for tuna purse seine vessels to begin fishing prior to the traditional start date in order to assist with scientific research. In addition, NMFS announces its intent to issue an EFP for longline fishing to take place within a closed area of the North Atlantic in order to assist with research addressing sea turtle bycatch in the fishery. NMFS invites comments from interested parties on potential concerns should these EFPs be issued.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. eastern standard time on May 29, 2002.

ADDRESSES: Send comments to Christopher Rogers, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to (301)713–1917. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Sari Kiraly, 301–713–2347; fax: 301–713–1917.

SUPPLEMENTARY INFORMATION: EFPs are requested and issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and/or the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, and exempted educational activity with respect to Atlantic HMS.

NMFS has received a request from Amazing Grace Church of Whaleyville, MD for an EFP to land swordfish below the allowable minimum size from two longline vessels operating out of Ocean City, MD for charitable donation at the church food kitchen. The requesters seek to land only those juvenile swordfish brought to the boat as dead bycatch. In addition, the requesters intend to assist NMFS with data collection on the distribution of juvenile swordfish.

The East Coast Tuna Association has requested an EFP for five tuna purse seine vessels to begin fishing their giant Atlantic bluefin tuna allocation on July 15, rather than the traditional start date of August 15. Beginning July 1 the vessels will facilitate research conducted by the New England Aquarium involving pop-up satellite tagging of bluefin tuna. The Aquarium's costs of chartering the purse seine vessels can be reduced if the vessels are in a position to conduct commercial fishing for their bluefin allocation upon the completion of the research on July 15 rather than return to other fishing activity requiring either vessel fishing gear changes or vessel relocation.

In addition, NMFS intends to issue an EFP for contracted longline vessels fishing in the Northeast Distant Water closed area of the North Atlantic. Approximately eight to fifteen longline vessels, depending upon availability, will be fishing under an Endangered Species Act Section 10 permit in order to conduct an experiment to determine alternative fishing methods to reduce sea turtle bycatch in the fishery.

Authority: 16 U.S.C. 971 *et seq.*and 16 U.S.C. 1801 *et seq.*

Dated: May 9, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–12166 Filed 5–14–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

AGENCY: United States Patent and Trademark Office (USPTO).

Title: Trademark Processing (proposed rulemaking, Processing Fee for Use of Paper Forms for Submission of Applications for Registration and Other Documents).

Form Number(s): PTO Form 4.8/4.9/4.16/1478/1478(a)/1553/1581/1583/1963/2000, PTO/TM/4.16/1583.

Agency Approval Number: 0651–0009.

Type of Request: Revision of a currently approved collection.

Burden: 144,587 hours annually.

Number of Respondents: 677,151 responses per year.

Avg. Hours Per Response: The time needed to respond is estimated to range from 3 to 30 minutes. It is estimated that the time needed to complete the electronic forms ranges from 4 to 21 minutes, and the time needed to complete the paper forms with the declaration ranges from 6 to 24 minutes. The information collection also includes four items, namely, powers of attorney, designations of domestic representatives, trademark amendments/corrections/ surrenders, and petitions to revive abandoned applications, for which forms have not been created and which are not subject to the proposed mandatory electronic filing rule. The USPTO estimates that completing these items ranges from 3 to 30 minutes. The time estimates include time to gather the necessary information, create the documents, and submit the completed requests.

Needs and Uses: This collection is being submitted as a proposed addition in support of a proposed rulemaking, ''Processing Fee for Use of Paper Forms for Submission of Applications for Registration and Other Documents.'' The USPTO proposes to amend 37 CFR § 2.6(a) of the Rules of Practice in Trademark Cases to require payment of a processing fee whenever a party elects to make a submission using paper in place of an electronically transmittable form available through the Trademark Electronic Application System (TEAS). If a party submits a paper document to the USPTO, and the TEAS system includes a form for preparing that document and transmitting it to the USPTO electronically, the fee for submitting the paper document will be fifty dollars ($50.00) more than the fee for submitting the equivalent electronic document.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; the federal Government; and state, local or tribal Government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Susan K. Brown, Records Officer, Office of Data Management, Data Administration Division, (703) 308–7400, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231, or by e-mail at *susan.brown@uspto.gov.*

Written comments and recommendations for the proposed collection should be sent on or before June 14, 2002 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 8, 2002.

Susan K. Brown,

Records Officer, USPTO, Office of Data Management, Data Administration Division.

[FR Doc. 02–12150 Filed 5–14–02; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

May 8, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 15, 2002.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover, the recrediting of unused carryforward, swing, special swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001). Also see 66 FR 63683, published on December 10, 2001.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 8, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 4, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on May 15, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month restraint limit [1]
Specific limits	
219	13,720,912 square meters.

Category	Twelve-month restraint limit [1]
226/313	129,031,506 square meters.
237	387,287 dozen.
239pt. [2]	2,882,040 kilograms.
314	9,619,245 square meters.
315	105,129,113 square meters.
317/617	57,006,364 square meters.
331pt./631pt. [3]	1,286,486 dozen pairs.
334/634	620,719 dozen.
335/635	910,083 dozen.
336/636	851,304 dozen.
338	8,614,748 dozen.
339	2,656,680 dozen.
340/640	1,375,553 dozen of which not more than 515,830 dozen shall be in Categories 340–D/640–D [4].
341/641	1,692,507 dozen.
342/642	594,534 dozen.
347/348	1,622,579 dozen.
351/651	737,723 dozen.
352/652	1,595,414 dozen.
359–C/659–C [5]	1,577,553 kilograms.
360	8,320,044 numbers.
361	9,674,468 numbers.
363	66,007,936 numbers.
369–S [6]	1,185,948 kilograms.
613/614	39,683,656 square meters
615	38,281,197 square meters.
625/626/627/628/629	98,345,774 square meters of which not more than 61,068,605 square meters shall be in Category 625; not more than 61,068,605 square meters shall be in Category 626; not more than 61,068,605 square meters shall be in Category 627; not more than 12,634,885 square meters shall be in Category 628; and not more than 61,068,065 square meters shall be in Category 629.
638/639	373,692 dozen.
647/648	1,535,806 dozen.
666–P [7]	1,157,969 kilograms.
666–S [8]	6,130,419 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[3] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510; Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[4] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[5] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[6] Category 369–S: only HTS number 6307.10.2005.

[7] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[8] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–12102 Filed 5–14–02; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Coverage of Import Limit and Visa and Certification Requirements for a Certain Part-Category Produced or Manufactured in Malaysia

May 9, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending coverage for an import limit and visa and certification requirements.

EFFECTIVE DATE: May 15, 2002.

FOR FURTHER INFORMATION CONTACT: Keith Daly, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Harmonized Tariff Schedule of the United States (HTS) has been amended, and goods formerly classified in HTS heading 6110.10.2070 are now classified in HTS heading 6110.12.2070. The Uruguay Round Agreement on Textiles and Clothing and the U.S.-Malaysia export visa arrangement both utilize the HTS and include such goods within their scope. To facilitate implementation of these agreements, CITA is directing the Commissioner of Customs to amend monitoring and import control directives and visa and certification requirement directives for Malaysia to account for this change, amending part-Category 438-O.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend monitoring, import control, and visa and certification requirements with respect to part–Category 438–O.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 9, 2002.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the monitoring and import control directives, and all visa and certification requirement directives for Malaysia, issued to you by the Chairman, Committee for the Implementation of Textile Agreements, which include wool textile products in part-Category 438–O produced or manufactured in Malaysia and imported into the United States on and after May 15, 2002, regardless of the date of export.

Effective on May 15, 2002, you are directed to make the change shown below in the aforementioned directives for products entered in the United States for consumption or withdrawn from warehouse for consumption on and after May 15, 2002 for part-Category 438–O, regardless of the date of export:

Category	HTS change
438–O	Delete 6110.10.2070 Replace with 6110.12.2070

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

James C. Leonard III
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–12103 Filed 5–14–02; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmitted No. 02–25]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–25 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 8, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

29 APR 2002
In reply refer to:
I-02/004703

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-25, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services estimated to cost $578 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-25

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser:** Japan

(ii) **Total Estimated Value:**

Major Defense Equipment*	$218 million
Other	$360 million
TOTAL	$578 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** one MK 7 MOD 6(V) AEGIS Weapon System, one AN/SQQ-89(V)15R Surface Ship Undersea Combat System, one AN/UPX-29(V) Aircraft Identification Monitoring System MK XII Identification Friend or Foe system, one shipboard gridlock system, one Common Data Link Management System/Joint Tactical Information Distribution System, one MK 34 gun weapon system, one Navigation Sensor System Interface, one MK36 Decoy Launching System, one AN/WSN-7 Ring Laser Gyro Navigator, one AN/SQQ-121 Computer Aided Dead Reckoning Tracker, testing and combat system engineering technical assistance, computer programs and support maintenance, U.S. Government and contractor engineering and technical assistance, testing, publications and documentation, training, spare and repair parts, and other related elements of logistics support

(iv) **Military Department:** Navy (LSU)

(v) **Prior Related Cases, if any:**

FMS case LPE	- $462 million	- 27Aug93
FMS case LNW	- $450 million	- 11Sep91
FMS case LND	- $478 million	- 29Aug90
FMS case LKL	- $468 million	- 24Jun88

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached

(viii) **Date Report Delivered to Congress:** 29 APR 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Japan – AEGIS Combat System

The Government of Japan has requested a possible sale of one MK 7 MOD 6(V) AEGIS Weapon System, one AN/SQQ-89(V)15R Surface Ship Undersea Combat System, one AN/UPX-29(V) Aircraft Identification Monitoring System MK XII Identification Friend or Foe system, one shipboard gridlock system, one Common Data Link Management System/Joint Tactical Information Distribution System, one MK 34 gun weapon system, one Navigation Sensor System Interface, one MK36 Decoy Launching System, one AN/WSN-7 Ring Laser Gyro Navigator, one AN/SQQ-121 Computer Aided Dead Reckoning Tracker, testing and combat system engineering technical assistance, computer programs and support maintenance, U.S. Government and contractor engineering and technical assistance, testing, publications and documentation, training, spare and repair parts, and other related elements of logistics support. The estimated cost is $578 million.

Japan is one of the major political and economic powers in East Asia and the Western Pacific and a key ally of the United States in ensuring the peace and stability of that region. It is vital to the U.S. national interest to assist Japan to develop and maintain a strong and ready self-defense capability, which will contribute to an acceptable military balance in the area. This proposed sale is consistent with these U.S. objectives and with the 1960 Treaty of Mutual Cooperation and Security.

Installation of the AEGIS combat system on ships of the Japan Maritime Self Defense force will provide enhanced capabilities to Japan in providing for defense of its critical Sea Lines of Communication (SLOCs). AEGIS will be the keystone in Japan's effort to upgrade its anti-air warfare (AAW) capability. Japan is fully capable of integrating this system into its operational forces and will receive data sufficient for basic maintenance of the equipment. Japan, which already has AEGIS systems, will have no difficulty absorbing the additional system.

The principal contractors will be: Lockheed Martin Naval Electronics Systems and Support of Morristown, New Jersey; Lockheed Martin Naval Electronics Systems and Support of Syracuse, New York; Raytheon Company of Andover, Massachusetts; General Dynamics Armament Systems of Burlington, Vermont; and Lockheed Martin Naval Electronics Systems and Support of Eagan, Minnesota. There are no offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment to Japan of any U.S. Government representatives. It will require the assignment of approximately 40 contractor representatives for approximately five years to support integration and testing of the AEGIS Combat Systems.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-25

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. AEGIS Weapon System (AWS) hardware is unclassified, with the exception of the RF oscillator used in the Fire Control transmitter, which is classified Confidential. AEGIS documentation in general is unclassified. However, seven operation and maintenance manuals are classified Confidential, and there is also a classified Secret supplement to the AEGIS Combat System Maintenance Manual. Access to the manuals and technical documents is limited to those for whom the manuals and documents are necessary for operational use and organizational maintenance.

2. While the hardware associated with the SPY-1D(V) radar and AN/SQQ-89 sonar of the Undersea Warfare System (UWS) are unclassified, the computer programs are classified Secret. It is the combination of the SPY-1D(V) and AN/SQQ-89 sonar hardware and the computer programs that constitutes the technology sensitive aspects. The SPY-1D(V) radar and AN/SQQ-89 sonar hardware design and computer program documentation will not be released. Additionally, life cycle maintenance of the AWS computer programs will be performed by the U.S. Navy.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Japan can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 02–12054 Filed 5–14–02; 8:45 am]
BILLING CODE 50001–08–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0010]

Federal Acquisition Regulation; Information Collection; Progress Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0010).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning progress payments. This OMB clearance currently expires on September 30, 2002.

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 on or before July 15, 2002.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jeremy F. Olson, Acquisition Policy Division, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Certain Federal contracts provide for progress payments to be made to the contractor during performance of the contract. The requirement for certification and supporting information are necessary for the administration of statutory and regulatory limitation on the amount of progress payments under a contract. The submission of supporting cost schedules is an optional procedure that, when the contractor elects to have a group of individual orders treated as a single contract for progress payments purposes, is necessary for the administration of statutory and regulatory requirements concerning progress payments.

The reduced estimate for this burden results from the lower number of respondents due to the increased threshold for use of progress payments published in FAC 97–16, FAR case 1998–400.

B. Annual Reporting Burden

Respondents: 18,000.
Responses Per Respondent: 32.
Annual Responses: 576,000.
Hours Per Response: .55.
Total Burden Hours: 316,800.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVP), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0010, Progress Payments, in all correspondence.

Dated: May 8, 2002.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 02–12128 Filed 5–14–02; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Air Force HQ USAF Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the forthcoming meeting of the Predictive Battlespace Awareness (PBA) Study Information Integration and Prediction/Confirmation Tools Panels. The purpose of the meeting is to allow the SAB and study leadership to gather information from Space and Naval Warfare Systems Command (SPAWAR) related to PBA information integration and prediction/confirmation tools. Because of meeting classification level, this meeting will be closed to the public.

DATES: 16 May 2002, 0800–1600L.

ADDRESSES: SPAWAR, 4301 Pacific Highway, San Diego, CA 92110.

FOR FURTHER INFORMATION CONTACT: Colonel Marian Alexander, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington, DC 20330–1180, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–12084 Filed 5–14–02; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the forthcoming meeting of the Predictive Battlespace Awareness (PBA) to improve military effectiveness, Operational Architecture Panel. The purpose of the meeting is to allow the SAB and study leadership to discuss operational architecture issues in a classified forum with the CINC's representatives. This meeting will be closed to the public.

DATES: 20–24 May 2002.

ADDRESSES: HQ SPACECOM (Building and Room: TBD), Colorado Springs, CO. HQ STRATCOM (Building and Room: TBD), Omaha, NE.

FOR FURTHER INFORMATION CONTACT: Colonel Marian Alexander, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington DC 20330–1180, (703) 697–4811.

Pamela D. Fitzgerald,

Air Force Federal Register Liaison Officer.

[FR Doc. 02–12085 Filed 5–14–02; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Final Environmental Impact Statement (FEIS) for the Northern Training Complex with a Multi-Purpose Digital Training Range and Expanded Maneuver Areas, Drop Zones and Landing Zones at Fort Knox, Kentucky

AGENCY: U.S. Army Armor Center and Fort Knox, Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA), the Army has prepared a FEIS for the construction and operation of a multi-purpose digital training range and a series of maneuver areas, drop zones and landing zones at Fort Knox. The FEIS analyzes the impacts of the proposed facilities. These facilities would provide a multi-functional war-fighting capability to meet the Army's training needs for soldiers in urban and restricted terrain combat scenarios and the new digital technology to support the M1A2 System Enhancement Package (SEP) Main Battle Tank. The FEIS identifies various alternatives and the associated environmental impacts of the proposed alternatives.

DATES: The post-filing waiting period for this EIS will end 30 days after publication of the notice of availability in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Requests for copies of the FEIS may be made to Environmental Management Division, Directorate of Base Operations Support, U.S. Army Armor Center, ATTN: ATZK–OSE, Building 1110, Room 216, Ironsides & 6th Avenue, Fort Knox, KY 40121–5000; by phone at (502) 624–3629, or by fax at (502) 624–3000. Questions about the FEIS and written comments may be sent to the same mailing address. Submit electronic comments and data by sending email to: *Linda.Pollock@knox.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Al Freeland or Mrs. Gail Pollock at (502) 624–3629.

SUPPLEMENTARY INFORMATION: The proposed project includes upgrading an existing training range to a modern digitized multi-purpose training range; construction of a series of landing zones, drop zones and maneuver areas and a grassed mock C130 landing strip; upgrade of existing roads; installation of fiber optics and other infrastructure improvements. The facilities would prepare the mounted force warriors for full spectrum combat operations. The proposed facilities would fully support new equipment training such as the M1A2 Main Battle Tank (MBT) System Enhancement Package (SEP), the M2A3 Bradley Fighting Vehicle, and the Light Armored Vehicle (LAV III), as well as other enhanced vehicles requiring digital capability. These vehicles are equipped with a dynamic new computer system that uses digital technology to provide soldiers with on the move and instantaneous battlefield communications.

Individuals who wish to review the FEIS may examine a copy at any of the following locations: Barr Library; 400 Quartermaster Street, Fort Knox, Kentucky 40121–5000 and Ridgeway Memorial Library, 127 North Walnut Street, P.O. Box 146, Sheperdsville, Kentucky 40165.

Adoption: The U.S. Army Corps of Engineers hereby adopts (pursuant to 40 CFR 1506.3(a)) this FEIS for the U.S. Army Armor Center and Fort Knox Northern Training Complex, Fort Knox, Kentucky. This FEIS shall be used as the Corps' NEPA documentation for purposes of the Corps' Section 404 Clean Water Act permit review.

Dated: May 7, 2002.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I&E).

[FR Doc. 02–12086 Filed 5–14–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice 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 will be effective without further notice on (insert date thirty days from date published in the FR) unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army 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 proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 7, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 8, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0385–10/40 ASO

SYSTEM NAME:

Army Safety Management Information System (ASMIS) (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM LOCATION:

Add a second paragraph 'U.S. Army Corps of Engineers: Chief, Safety and Occupational Health Office, Headquarters, U.S. Army Corps of Engineers, 441 G Street NW, Washington, DC 20314–1000, and all U.S. Army Corps of Engineers (USACE) Safety and Occupational Health Offices. Official mailing addresses are published as an Appendix to the Army's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Individuals (includes contractors, volunteer personnel, and members of the public) involved in accidents incident to Army and U.S. Army Corps of Engineers operations and recreational facilities.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Records include name of injured individual, Social Security Number, job title, date of injury, location of accident, activity at time of injury, type of injury,

board findings, recommendations, witness statements, wreckage distribution diagrams, maintenance and material data, and other personal and accident related and environmental information.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; 5 U.S.C. 7902, Safety Programs; Public Law 91–596, Occupational Safety and Health Act of 1970; Army Regulations 385–10, Army Safety Program; Army Regulation 385–40, Accident Reporting and Records; and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'Information will be used to monitor and facilitate the Army's and the USACE Safety and Occupational Health Offices' safety programs; to analyze accident experience and exposure information; and to support the Army's accident prevention efforts.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: DELETE PARAGRAPHS TWO AND THREE.

STORAGE:

Delete entry and replace with 'Magnetic tapes, electronic storage media and printouts.'

RETRIEVABILITY:

Delete entry and replace with 'Information is retrieved by individual's name and Social Security Number.'

SAFEGUARDS:

Delete entry and replace with 'Paper records are maintained in locked file cabinets. Information is accessible only by authorized personnel with appropriate clearance/access in the performance of their duties. Remote terminal accessible only by authorized personnel. Specific to USACE: Computer stored records are secured behind security doors, accessible only by authorized personnel provided password access.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Accident and incident case records and aviation accident and incident case records maintain for 5 years then destroy, except for: U.S. Army Safety Center and U.S. Army Corps of Engineers maintain for 30 years in current file area then destroy; Office of Corps of Engineers records created prior to January 1, 1982 maintain for 30 years then destroy. Environmental restoration reports are maintained for 50 years then destroyed (5 years in current file area then transferred to records holding area). Reports of artillery mis-firings or accidents and harmful chemical, biological and radiological exposures accumulated in combat or combat support elements are permanent.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Army and USACE records and reports of accident, injury, fire, morbidity, law enforcement, traffic accident investigations, vehicle accident reports, and marine accident/casualty reports, individual sick clips, and military aviation records/reports.'

* * * * *

A0385–10/40 ASO

SYSTEM NAME:

Army Safety Management Information System (ASMIS).

SYSTEM LOCATION:

U.S. Army Safety Center, 4905 5th Avenue, Fort Rucker, AL 36362–5363.

U.S. Army Corps of Engineers: Chief, Safety and Occupational Health Office, Headquarters, U.S. Army Corps of Engineers, 441 G Street NW, Washington, DC 20314–1000, and all U.S. Army Corps of Engineers (USACE) Safety and Occupational Health Offices. Official mailing addresses are published as an Appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (includes contractors, volunteer personnel, and members of the public) involved in accidents incident to Army and U.S. Army Corps of Engineers operations and recreational facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name of injured individual, Social Security Number, job title, date of injury, location of accident, activity at time of injury, type of injury, board findings, recommendations, witness statements, wreckage distribution diagrams, maintenance and material data, and other personal and accident related and environmental information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 5 U.S.C. 7902, Safety Programs; Public Law 91–596, Occupational Safety and Health Act of 1970; Army Regulations 385–10, Army Safety Program; Army Regulation 385–40, Accident Reporting and Records; and E.O. 9397 (SSN).

PURPOSE(S):

Information will be used to monitor and facilitate the Army's and the USACE Safety and Occupational Health Offices' safety programs; to analyze accident experience and exposure information; and to support the Army's accident prevention efforts.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Labor, the Federal Aviation Agency, the National Transportation Safety Board, and to Federal, State, and local agencies, and applicable civilian organizations, such as the National Safety Council, for use in a combined effort of accident prevention.

In some cases, data must also be disclosed to an employee's representative under the provisions of 29 CFR 1960.29.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tapes, electronic storage media and printouts.

RETRIEVABILITY:

Information is retrieved by individual's name and Social Security Number.

SAFEGUARDS:

Paper records are maintained in locked file cabinets. Information is accessible only by authorized personnel with appropriate clearance/access in the performance of their duties. Remote terminal accessible only by authorized personnel. Specific to USACE: Computer stored records are secured behind security doors, accessible only by authorized personnel provided password access.

RETENTION AND DISPOSAL:

Accident and incident case records and aviation accident and incident case records maintain for 5 years then destroy, except for: U.S. Army Safety Center and U.S. Army Corps of Engineers maintain for 30 years in current file area then destroy; Office of Corps of Engineers records created prior

to January 1, 1982 maintain for 30 years then destroy. Environmental restoration reports are maintained for 50 years then destroyed (5 years in current file area then transferred to records holding area). Reports of artillery mis-firings or accidents and harmful chemical, biological and radiological exposures accumulated in combat or combat support elements are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Safety Center, 4905 5th Avenue, Fort Rucker, AL 36362–5363.

For USACE: Chief, Safety and Occupational Health Office, Headquarters, U.S. Army Corps of Engineers, 441 G Street, NW, Washington, DC 20314–1000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Safety Center, 4905 5th Avenue, Fort Rucker, AL 36362–5363.

For USACE: Chief, Safety and Occupational Health Office, Headquarters, U.S. Army Corps of Engineers, 441 G Street, NW, Washington, DC 20314–1000.

Individual must furnish his/her full name, Social Security Number, current address and telephone number, when and where the accident occurred, type of equipment involved in the accident, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Safety Center, 4905 5th Avenue, Fort Rucker, AL 36362–5363.

For USACE: Chief, Safety and Occupational Health Office, Headquarters, U.S. Army Corps of Engineers, 441 G Street, NW, Washington, DC 20314–1000.

Individual must furnish his/her full name, Social Security Number, current address and telephone number, when and where the accident occurred, type of equipment involved in the accident, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Army and USACE records and reports of accident, injury, fire, morbidity, law enforcement, traffic accident investigations, vehicle accident reports, and marine accident/casualty reports, individual sick clips, and military aviation records/reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–12056 Filed 5–14–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The alteration expands the category of individuals covered.

DATES: This proposed action would be effective without further notice on (insert date thirty days from date published in the FR) unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army 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 proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 7, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 8, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0640–3 CFSC

SYSTEM NAME:

Privilege Card Application Files (February 22, 1993, 58 FR 10002).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'A0600–8–14 DAPE'.

SYSTEM NAME:

Delete entry and replace with 'Uniformed Services Identification Card.'

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters, Department of the Army, Major Army commands, staff and field operating agencies, installations and activities, Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Active duty, Reserve, National Guard and retired members of the uniformed services and their family members; Department of the Army civilian employees assigned overseas or residing on a military installation within the United States and their authorized family members; eligible foreign military personnel and their family members; civilian employees under contract with the Department of Defense, Uniformed Services and other government agencies and their authorized family members; Red Cross personnel authorized by the Geneva Convention to accompany the Armed Forces; as well as other civilian and uniformed service members found eligible in accordance with eligibility requirements.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Application for a Uniformed Services Identification Card/DEERS Enrollment, service members name, Social Security Number, unit address and phone number, date of birth, age, blood type, marital status, family member's name, age, home address and phone number.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army;

Army Regulation 600–8–14, Identification Cards for Members of The Uniformed Services, Their Family Members, and Other Eligible Personnel; and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'Provide a record of identification cards issued and DEERS enrollment to ensure positive identification of personnel authorized privileges and service on military installations and/or activities.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'By service members' name and Social Security Number; by applicant's name and Social Security Number.'

SAFEGUARDS:

Delete entry and replace with 'Records are maintained in secured buildings and are accessed only by authorized personnel who are trained and cleared for access, in the performance of their duties. Established procedures for the control of computer access are in placed and periodically reviewed and updated to prevent unwarranted access.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Applications for military identification cards are destroyed after 1 year. Uniformed services identification cards are destroyed when no longer needed for current operations. Registers are destroyed after 5 years, unless they are bound which are maintained for 5 years after last entry then destroyed.

Uniformed Services identification cards for family members and other eligible personnel are destroyed when voided, replaced or is no longer valid (has expired).'

* * * * *

A0600–8–14 DAPE

SYSTEM NAME:

Uniformed Services Identification Card.

SYSTEM LOCATION:

Headquarters, Department of the Army, Major Army commands, staff and field operating agencies, installations and activities, Army-wide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, Reserve, National Guard and retired members of the uniformed services and their family members; Department of the Army civilian employees assigned overseas or residing on a military installation within the United States and their authorized family members; eligible foreign military personnel and their family members; civilian employees under contract with the Department of Defense, Uniformed Services and other government agencies and their authorized family members; Red Cross personnel authorized by the Geneva Convention to accompany the Armed Forces; as well as other civilian and uniformed service members found eligible in accordance with eligibility requirements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for a Uniformed Services Identification Card/DEERS Enrollment, service members name, Social Security Number, unit address and phone number, date of birth, age, blood type, marital status, family member's name, age, home address and phone number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 600–8–14, Identification Cards for Members of The Uniformed Services, Their Family Members, and Other Eligible Personnel; and E.O. 9397 (SSN).

PURPOSE(S):

Provide a record of identification cards issued and DEERS enrollment to ensure positive identification of personnel authorized privileges and service on military installations and/or activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Use' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes; discs; cassettes; computer printouts, and microfiche.

RETRIEVABILITY:

By service members' name and Social Security Number; by applicant's name and Social Security Number,

SAFEGUARDS:

Records are maintained in secured buildings and are accessed only by authorized personnel who are trained and cleared for access, in the performance of their duties. Established procedures for the control of computer access are in place and periodically reviewed and updated to prevent unwarranted access.

RETENTION AND DISPOSAL:

Applications for military identification cards are destroyed after 1 year. Uniformed services identification cards are destroyed when no longer needed for current operations. Registers are destroyed after 5 years, unless they are bound which are maintained for 5 years after last entry then destroyed.

Uniformed Services identification cards for family members and other eligible personnel are destroyed when voided, replaced or is no longer valid (has expired).

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the issuing office where the individual obtained the identification card or to the system manager.

Individual should provide the full name, number of the identification card, current address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the issuing officer at the appropriate installation.

Individual should provide the full name, number of the identification card, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–12057 Filed 5–14–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend a system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 14, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army 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 system being amended are set forth below followed by the notice, as amended, published in its 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: May 8, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0715rrr USAEUR

SYSTEM NAME:

DoD Technical Experts/Troop Care/ Analytical Support Contractor Employees (October 9, 2001, 66 FR 51401).

CHANGE:

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are kept 6 years and 3 months after the completion of the contract.'

* * * * *

A0715rrr USAEUR

SYSTEM NAME:

DoD Technical Experts/Troop Care/ Analytical Support Contractor Employees.

SYSTEM LOCATION:

Headquarters, U.S. Army Europe and Seventh Army, Unit 29150, ATTN: Department of Defense Contractor Personnel Office, APO AE 09100–9150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for Troop Care Status Accreditation or Technical Expert Status Accreditation pursuant to an Exchange of Notes, Numbers 146 and 147, dated March 27, 1998, and Exchanges of Notes, Numbers 866 and 883, dated June 29, 2001, in accordance with Articles 72 and 73 of the German Supplementary Agreement to the NATO Status of Forces Agreement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' name; Social Security Number; passport number; citizenship; local address; applications for status accreditation with substantiating documents, evaluations, correspondence and responses thereto; applications for status accreditation; questions pertaining to entitlement to status accreditation, allowances, privileges or other benefits granted as a result of accreditation; revocation of accreditation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; NATO SOFA Supplementary Agreement, Article 72 and 73 between the United States of America and the Federal Republic of Germany; and E.O. 9397 (SSN).

PURPOSE(S):

To ensure compliance with the established bilateral implementation of Articles 72 and 73 of the Supplementary Agreement to the NATO Status of Forces Agreement. These two Articles govern the use in Germany of DoD contractor employees as Technical Experts, Troop Care, and Analytical Support providers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information from this system may be disclosed to officials of the Federal Republic of Germany (the host nation) and its various States (Laender) responsible for the enforcement of tax, labor and other host nation law.

Information from this system may be disclosed to officials of the Federal Republic of Germany and its various States (Laender) responsible for the implementation of the Exchange of Notes.

The DoD 'Blanket Routine Uses' published at the beginning of the Army's compilation of systems of records notices also apply to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

STORAGE:

Paper records in file folders and on electronic storage media.

RETRIEVABILITY:

By individual's surname or Social Security Number.

SAFEGUARDS:

Records are maintained in locked file cabinets and/or in locked offices in buildings employing security guards or on military installations protected by military police patrols.

RETENTION AND DISPOSAL:

Records are kept 6 years and 3 months after the completion of the contract.

SYSTEMS MANAGER AND ADDRESS:

Headquarters, U.S. Army Europe and Seventh Army, ATTN: Unit 29150, Director, Department of Defense Contractor Personnel Office, APO AE 09100–9150.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in the record system should address written inquiries to the Director, Department of Defense Contractor Personnel Office, Headquarters, U.S. Army Europe and Seventh Army, Unit 29150, APO AE 09100–9150.

Individual should provide his/her full name, the address and telephone number, and any other personal data that would assist in identifying records pertaining to him/her.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Director, Department of Defense Contractor Personnel Office, Headquarters, U.S. Army Europe and Seventh Army, Unit 29150, APO AE 09100–9150.

Individual should provide his/her full name, the address and telephone number, and any other personal data that would assist in identifying records pertaining to him/her.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records, and other public and private records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–12058 Filed 5–14–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

National Security Agency

Privacy Act of 1974; System of Records

AGENCY: National Security Agency/Central Security Service, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The National Security Agency/Central Security Service proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective on June 14, 2002 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the National Security Agency, Office of Policy, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Hill at (301) 688–6527.

SUPPLEMENTARY INFORMATION: The National Security Agency's record system notices for records systems 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 proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on May 7, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: May 8, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

GNSA 19

SYSTEM NAME:

Child Development Services.

SYSTEM LOCATION:

National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755–6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Children and their sponsors (NSA/CSS civilian employees, military assignees, non-appropriated fund instrumentality (NAFI) personnel, employees of other Federal agencies, and contractor employees); and individual day care providers at the NSA/CSS day care facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records kept on the child include enrollment information and attendance records; medical care authorizations; names of family members; preferred activities and foods; photos; emergency forms and release authorizations; child care information as reported by the sponsor; physical health information, including allergies; custody paperwork (if applicable); special needs instructions; progress and report cards; and incident reports of injuries.

Records kept on the sponsor include: sponsor's name, grade or rank; Social Security Number; home and work addresses; home and work telephone numbers; contact information; employment affiliation (civilian, military, other, etc.); application identification number; photos; and comments/remarks related to the sponsor's status on the waiting list. Similar information is kept on other family members, as provided by the sponsor.

Records kept on day care providers and other contractors include: name; home and work addresses; home, cellular, and work telephone numbers; email addresses; citizenship; date and place of birth; social security number; physical characteristics; military service records; previous employment/duty/volunteer experience; results of local and national security/police file checks; drug, alcohol use, and mental health information; and vendor employment application forms, which include references, automobile operator's and educational information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Agency Act of 1959, 50 U.S.C. 402 note (Pub.L. 86–36) and 403 (Pub. L. 80–253); 5 U.S.C. 301, Departmental Regulations; DoD Instruction 6060.2, Child Development Programs; NSA/CSS Reg. No. 30–34, Child Development Programs; and E.O. 9397 (SSN).

PURPOSE(S):

To develop childcare programs that meets the needs of NSS/CSS employees and their families; provide child and family program eligibility and background information; record consent for access to emergency medical care and information. Information may also be used to verify health status of children, verify immunizations, note special program requirements, compliance with USDA food standards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the NSA/CSS' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper files and on electronic mediums.

RETRIEVABILITY:

By parent or child's name, and Social Security Number.

SAFEGUARDS:

The NSA/CSS Fort Meade facility is secured by a series of guarded pedestrian gates and checkpoints. Access to the facility is limited to security cleared personnel and escorted visitors only. Within the facility itself, access to paper and computer printouts is controlled by limited-access facilities and lockable containers. Access to electronic mediums is controlled by computer password protection.

Access to information is limited to those individuals specifically authorized and granted access by NSA/CSS regulations. For records on the computer system, access is controlled by passwords and limited to authorized personnel only.

RETENTION AND DISPOSAL:

Disposition pending (until NARA has approved a retention and disposal schedule for these records, the records will be treated as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director of Policy, National Security Agency/Central Security Service, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether records about themselves are contained in this record system should address written inquires to the Deputy Director of Policy, National Security Agency/Central Security Service, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquiries should include the parent or child's name, along with his or her Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Deputy Director of Policy, National Security Agency/Central Security Service, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

Written inquiries should include the parent or child's name, along with his or her Social Security Number.

CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for accessing records, and for contesting contents and appealing initial determinations are published at 32 CFR part 322 or may be obtained from the Deputy Director of Policy, National Security Agency/Central Security Service, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248.

RECORD SOURCE CATEGORIES:

Individuals themselves; parents or guardians of individuals enrolled in day care programs; NSA personnel; medical providers who have provided information about family members needing or receiving care; and contractor personnel and/or teachers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–12055 Filed 5–14–02; 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 July 15, 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: May 8, 2002.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: National Assessment for Education Statistics: 2003.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 658,800.

Burden Hours: 169,084.

Abstract: The 2003 National Assessment of Educational Progress (NAEP) Assessment will encompass the two curricular areas of Reading and Mathematics. Since 1984, NAEP has obtained descriptive information from three different sets of respondents: students, teachers, and school administrators. Questionnaires are administered to students at grades 4, 8, and 12, to teachers at grades 4 and 8, to school administrators at grades 4, 8, and 12. This process continues in 2003.

The student background questionnaires consist of two types of questions: (1) Core questions and (2) subject-specific background questions.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2032. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742. 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. 02–12081 Filed 5–14–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed

information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by May 13, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before July 15, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, 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 *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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 Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED 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 respondents, including through the use of information technology.

Dated: May 10, 2002.

Joseph Schubart,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: Revision.

Title: Evaluation of the Partnership Grants Program, Title II, Higher Education Act.

Abstract: The purpose of the Title II Partnership Grants Program evaluation is to assess the impact, strengths and weaknesses of the Partnership Grants Program, one of the three programs authorized in Title II of the Higher Education Act (HEA) Amendments of 1998. This request, to revise the Title II evaluation to include a school/university partnership survey for elementary school principals, will assist the U.S. Department of Education in understanding the characteristics of collaborations between public elementary schools and institutions of higher education (IHEs) that are participating in Title II partnership activities, as well as the assocations between school/IHE collaborations and school-level student achievement outcomes.

Additional Information: This survey is an essential component of the evaluation of the Title II HEA Partnership Grants Program and has been designed to address the Administration's interest in understanding the associations between school/university partnership activities and student assessments at the school level. Without an emergency clearance, the data collection would have to be postponed until Fall, 2002, which would have two adverse consequences. First, it would require a change in the target year of inquiry to be the 2001–2002 school year, which would likely increase the sampling frame substantially. This would, therefore, have a serious effect on survey costs. Second, this survey is designed to be longitudinal. Delaying the first data collection until Fall, 2002 would mean that no data would be available about the earliest stages of partnership activities. This will make it difficult to describe the evolution of partnership activities from their earliest stages forward. Clearance is needed by May 13, 2002 to ensure that survey data can be collected before the end of the 2001–02 school year this Spring/Summer.

Frequency: Biennially.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 800.

Burden Hours: 178.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2034. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@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, contact Kathy Axt at her internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–12090 Filed 5–14–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Acting Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by May 29, 2002. A regular clearance process is also beginning. Interested persons are

invited to submit comments on or before July 15, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, 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 Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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 Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED 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 respondents, including through the use of information technology.

Dated: May 10, 2002.

Joseph Schubart,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Strengthening Historically Black Colleges and Universities Program.

Abstract: The information is required of institutions of higher education designated as Historically Black Colleges and Universities and Qualified Graduate Programs. Title III, Part B of the Higher Education Act of 1965, as amended. This information will be used for the evaluation process to determine whether proposed activities are consistent with the legislation and to determine dollar share of congressional appropriation.

Additional Information: Administrative requirements have forced this collection to be processed under an emegency schedule. Public comments are due to OMB by May 29, 2002. The regular, three-year clearance public comments are due to the Department of Education by July 29, 2002.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 117.

Burden Hours: 2,106.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 1576. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov.* Requests may also be electronically mailed to the Internet address OCIO_RIMG@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, contact 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. 02–12091 Filed 5–14–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Number DE–PS36–02GO92008]

Solicitation for Financial Assistance Applications; Inventions and Innovation Program

AGENCY: Golden Field Office, Department of Energy (DOE).

ACTION: Notice of solicitation for financial assistance applications.

SUMMARY: The Department of Energy's Office of Industrial Technologies (OIT) is funding a competitive grant program entitled the Inventions and Innovation (I&I) Program. The goals of the I&I Program are to improve energy efficiency through the promotion of innovative ideas and inventions that have a significant, potential energy impact and a potential, future commercial market. The following mission focus industries, comprised of the most energy intensive industries in the U.S. manufacturing sector, are of particular interest to the Program: Agriculture, Aluminum, Chemicals, Forest products, Glass, Metal-casting, Mining, Petroleum, and Steel. Category 1 and category 2 applications are open to all the mission focus industries and the building, transportation, and power sectors.

DATES: DOE issued the solicitation on April 29, 2002. The deadline for receipt of applications is 3 p.m. Mountain Time on June 28, 2002.

ADDRESSES: All Golden Field Office (GO) solicitations will be posted on the Industry Interactive Procurement System (IIPS) Web Site at *http://e-center.doe.gov;* however, you may access them, along with IIPS instructions, through links on the GO Web Site at: *http://www.golden.doe.gov/businessopportunities.html* by clicking on ''Solicitations.'' IIPS provides the medium for disseminating solicitations, receiving financial assistance applications, and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. Individuals who have the authority to enter their company into a legally binding contract/agreement and intend to submit proposals/applications via the IIPS system must register and receive confirmation that they are registered prior to being able to submit an application on the IIPS system.

Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov* or call the help desk at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Margo Gorin, Contract Specialist, at go_I&I@nrel.gov.

SUPPLEMENTARY INFORMATION:

Solicitation Specifications

Eligibility requirements include the following: (1) Individuals that are U.S. citizens, either native-born or naturalized; (2) small businesses (as defined by the Small Business Administration) that are U.S. owned, as defined in 10 CFR Part 600.501; or (3) institutions of higher learning located in the U.S. Individual inventors and very small businesses (15 or fewer employees) are especially encouraged to participate. More than one application may be submitted by an applicant for different innovations. However, funding will be limited to one award per applicant, per cycle. Also more than one organization may be involved in an application as long as the lead organization and lead financial assistance management responsibilities are defined. The Catalog of Federal Domestic Assistance number assigned to the I&I Program is 81.036. Cost sharing by applicants and/or cooperating participants is not required but highly encouraged. In addition to direct financial contributions, cost sharing can include beneficial services or items such as manpower, equipment, consultants, and computer time that are allowable in accordance with applicable cost principles.

The Golden Field Office has been assigned the responsibility of issuing the solicitation and administering the awards. Ideas that have a significant energy savings impact and future commercial market potential are chosen for financial support through the competitive solicitation process. The I&I Program will provide financial assistance of up to $40,000 for Category 1 and up to $200,000 for Category 2 to applications that fall within the ''conceptual'' and ''developmental'' stages of development, respectively. To be considered for a Category 2 award, a bench-scale model and/or other preliminary investigations must be complete. Each award may cover a project period of up to one year for Category 1 and up to two years for Category 2. In addition to financial assistance, the I&I Program offers technical guidance and commercialization support to successful applicants through the Resource Centers for Innovation (RCI).

A selection of former projects funded by the I&I Program that have reached commercial markets include the following:

- Meta-Lax Stress Relief Equipment offers distinct advantages over conventional heat treatment methods. It uses less energy, is portable, can handle any size metal part, and treats metal stress in hours versus days.
- Aero Cylinder Technology replaces conventional cylinders by combining air spring bellows into assemblies for use on machines (such as punch presses) to control motion and large masses. The air springs act as counter balancers and press cushioners to eliminate alignment problems. This proper alignment reduces downtime and compressed air losses, resulting in significant energy savings.
- Electro-Optic Inspection of Heat Exchangers is a laser-based, nondestructive evaluation system for inspecting heat exchanger tubing for internal corrosion, erosion, scale buildup, and deformation. Benefits to petrochemical, pulp and paper, and power-generation plants include reduced downtime and increased efficiency.
- Hydrodynamic Multi-Deflection Pad Bearings optimize bearing operation in high-speed, combined heat and power turbines, high-load electric motors or gear boxes, air or gas compressors, and air conditioning refrigeration equipment. Energy loss due to friction is reduced up to forty-percent by using fluids as a wedge between pads and moving parts.

Availability of Funds for FY 2003

DOE is announcing the availability of up to $2.7 million dollars in agreement funds for Fiscal Year 2003. The awards will be made through a competitive solicitation. DOE reserves the right to fund in whole or in part any, all, or none of the proposals submitted in response to this notice.

Issued in Golden, Colorado on April 29, 2002.

Matthew A. Barron,

Acting Director, Office of Acquisition and Financial Assistance, Golden Field Office.

[FR Doc. 02–12098 Filed 5–14–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Number DE–PS36–02GO92009]

Solicitation for Financial Assistance Applications; National Industrial Competitiveness Through Energy, Environment, and Economics (NICE ^{3}) Program

AGENCY: Golden Field Office, Department of Energy (DOE).

ACTION: Notice of solicitation for financial assistance applications.

SUMMARY: The Department of Energy's Office of Industrial Technologies (OIT) is funding a competitive grant program entitled the National Industrial Competitiveness Through Energy, Environment, and Economics (NICE ^{3}) Program. The goal of the NICE ^{3} Program is to advance U.S. competitiveness through commercial demonstration of energy efficient and clean production manufacturing and industrial technologies in industry. This is accomplished by providing cost-shared, financial assistance to state and industry partnerships. The following focus industries, which are the dominant energy users and waste generators in the U.S. manufacturing sector, are of particular interest to the DOE program: agriculture, aluminum, chemicals, forest products, glass, metal-casting, mining, petroleum, and steel.

DATES: DOE issued the solicitation on May 1, 2002. The deadline for receipt of applications is 3:00 pm Mountain Time on June 28, 2002.

ADDRESSES: The formal solicitation document will be disseminated electronically as Solicitation Number DE–PS36–02GO92009, National Industrial Competitiveness Through Energy, Environment, and Economics (NICE ^{3}) Program. Access DOE Golden Field Office Home Page at *http://www.golden.doe.gov/businessopportunities.html,* click on ''Solicitations'', and then access the solicitation number. The Golden Home Page will also provide instructions on registering and submitting applications in the Industry Interactive Procurement System (IIPS) web site. The Solicitation can also be obtained directly through IIPS at *http://e-center.doe.gov* by browsing opportunities by Contracting Activity. DOE will not issue paper copies of the solicitation. IIPS provides the medium for disseminating solicitations, receiving financial assistance applications, and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. Individuals who have the authority to

enter their company into a legally binding contract/agreement and intend to submit proposals/applications via the IIPS system must register and receive confirmation that they are registered prior to being able to submit an application on the IIPS system. An IIPS ''User Guide for Contractors'' can be obtained by going to the Golden Field Office Homepage at *http://www.golden.doe.gov/businessopportunities.html.* Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at IIPS_*HelpDesk@e-center.doe.gov* or call the help desk at (800) 683–0751.

FOR FURTHER INFORMATION CONTACT: Margo Gorin, Contract Specialist, at *go_I&I@nrel.gov.*

SUPPLEMENTARY INFORMATION: *Solicitation Specifications:* To be eligible to apply for this financial assistance program, applicants must be a state agency in partnership with an industry partner(s) or an industry partner(s) who has coordinated state agency endorsement. Endorsement, here, refers to the act of a state(s): (1) Recommending the proposed technology demonstration, (2) waiving its role as the primary applicant, and (3) assigning that role to industry via signature on the ''State Endorsement Form.'' The ''State Endorsement Form'' must be reprinted on official state agency letterhead for signature by a state official, in cases where state agencies decline to be the primary applicant. State agencies include state energy, state environmental, state business development, or any state agency as defined by 10 CFR 600.202. In addition to the 50 states, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, any territory or possession of the U.S., and all federally-recognized Indian tribes are eligible as described in 10 CFR 600.202. Applicants are not limited in the number of applications they can submit, provided that multiple applications are not submitted for the same project. Also more than one organization may be involved in an application, as long as the lead organization and lead financial assistance management responsibilities are defined. The Catalog of Federal Domestic Assistance number assigned to the NICE ^{3} Program is 81.105. Non-federal cost share from a combination of state and industrial partner sources for a single award must be at least 50% of the total cost of the project (if $500,000 in federal funding is requested, cost-share must equal at least $500,000. Cash, equipment, labor, and in-kind contributions are all allowable as cost share as defined in 10 CFR 600.123 and 600.224).

The Golden Field Office has been assigned the responsibility of issuing the solicitation, and the awards will be administered by DOE's Regional Offices. The Program's intent is to encourage highly leveraged funding to get an innovative project commercially demonstrated in industry by the end of the award period. The NICE ^{3} Program will provide financial assistance for the first production-scale, commercial demonstration of an industrial process. To be ready for commercial demonstration, all research and development activities must already be completed with successful test results. By the end of the financial assistance project period, an industrial scale, commercial demonstration must be completed in the U.S. At the end of the project, the technology/process must be ready for commercialization. Grants range up to $525,000. A 50% cost share is required. DOE anticipates awarding up to 4 awards, and each award may cover a project period of up to 3 years. No additional funding of applications for continuation of work beyond the award period is envisioned or planned by DOE.

A selection of former projects funded by the NICE^3 Program include the following:

- AAP St. Mary's in Ohio is improving cost of sales and reducing waste and pollution by recycling aluminum on-site.
- Beta Control Systems in Oregon has developed a closed loop hydrochloric acid recovery system for small to mid-size steel companies by integrating innovative materials with automatic controls.
- Brittany Dyeing & Printing in Massachusetts has developed a new process that increases productivity and energy efficiency in fabric finishing.
- Caterpillar in Illinois is recycling paint overspray in heavy construction equipment.
- ChemStone Inc. of South Carolina is demonstrating a newly developed patented chemistry for the pulp and paper industry that results in better fiber breakdown, higher pulp yields, and cleaner pulp when added to the pulping process.

Availability of Funds for FY 2003: DOE is announcing the availability of up to $2 million dollars in grant agreement funds for Fiscal Year 2003. The awards will be made through a competitive solicitation process. DOE reserves the right to fund in whole or in part any, all, or none of the proposals submitted in response to this notice.

Issued in Golden, Colorado on May 1, 2002.

Matthew A. Barron,

Acting Director, Office of Acquisition and Financial Assistance, Golden Field Office.

[FR Doc. 02–12099 Filed 5–14–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket Nos. 02–14–NG, 02–16–NG, 02–17–NG, 02–21–NG, 02–22–NG, 00–80–NG, 95–27–NG, 02–24–NG, 02–18–NG]

Office of Fossil Energy; New York State Electric & Gas Corporation, et. al.; Orders Granting and Vacating Authority To Import and Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during April 2002, it issued Orders granting and vacating authority to import and export natural gas. These Orders are summarized in the attached appendix and may be found on the FE Web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on May 9, 2002.

Yvonne Caudillo,

Acting Manager, Natural Gas Regulation , Office of Natural Gas & Petroleum, Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting and Vacating Import/Export Authorizations

Order No.	Date issued	Importer/exporter Fe docket No.	Import volume	Export volume	Comments
1764	4–1–02	New York State Electric & Gas Corporation—02–14–NG.	50 Bcf		Import and export a combined total of natural gas from and to Canada, beginning on July 1, 2002, and extending through June 30, 2004.

Order No.	Date issued	Importer/exporter Fe docket No.	Import volume	Export volume	Comments
1766	4–18–02	NJR Energy Services Company—02–16–NG.	200 Bcf		Import and export a combined total of natural gas from and to Canada, beginning on May 1, 2002, and extending through April 30, 2004.
1767	4–18–02	Entergy-Koch Trading, LP—02–17–NG.	800 Bcf		Import and export a combined total of natural gas from and to Canada and Mexico, beginning on May 1, 2002, and extending through April 30, 2004.
1768	4–18–02	Alcoa Inc.—02–21–NG	15 Bcf		Import natural gas from Canada, beginning on May 1, 2002, and extending through April 30, 2004.
1769	4–18–02	WGR Canada, Inc.—02–22–NG.	73 Bcf	73 Bcf	Import and export natural gas from and to Canada, beginning on July 14, 2002, and extending through July 13, 2004.
1639–A	4–22–02	Entergy-Koch Trading, LP (the successor to Koch Energy Trading, Inc.)—00–80–NG.			Order vacating blanket import authority.
1047–B	4–22–02	Entergy-Koch Trading, LP (The successor to Koch Energy Trading, Inc.)—95–27–NG.			Order vacating blanket import authority.
1770	4–22–02	Newport Northwest, L.L.C.—02–24–NG.	127.75 Bcf	127.75 Bcf	Import and export natural gas from and to Canada, beginning on November 1, 2002, and extending through October 30, 2004.
1771	4–29–02	UBS AG, London Branch—02–18–NG.	700 Bcf, 700 Bcf		Import and export a combined total of natural gas from and to Canada, and import and export a combined total of natural gas from and to Mexico, beginning on April 29, 2002, and extending through April 28, 2004.

[FR Doc. 02–12101 Filed 5–14–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–967–001, et al.]

Wisvest-Connecticut, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

May 9, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Wisvest-Connecticut, L.L.C.

[Docket No. ER99–967–001]

Take notice that on May 3, 2002, Wisvest-Connecticut, L.L.C. (Wisvest) filed a triennial update to its market rate tariff of general applicability under which it sells capacity, energy and ancillary services at market-based rates.

Comment Date: May 24, 2002.

2. Otter Tail Power Company

[Docket Nos. ER02–912–003]

Take notice that on May 3, 2002, Otter Tail Power Company tendered for filing with the Federal Energy Regulatory Commission (Commission) the compliance filing required by the Commission's April 5, 2002 order in Docket No. ER02–912–000. Copies of this filing were served on all parties included on the Commission's official service list established in this proceeding.

Comment Date: May 24, 2002.

3. MidAmerican Energy Company

[Docket No. ER02–1681–000]

Take notice that on May 3, 2002, MidAmerican Energy Company (MidAmerican) filed an amendment to its April 30, 2002 filing in the above-captioned proceeding.

Comment Date: May 24, 2002.

4. Pacific Gas and Electric Company

[Docket No. ER02–1704–000]

Take notice that on May 3, 2002, Pacific Gas and Electric Company (PG&E) tendered for filing Amendment No. 7 to PG&E Rate Schedule FERC No. 136, PG&E-Sacramento Municipal Utility District (SMUD) Interconnection Agreement. SMUD requests that the agreement be made effective before June 1, 2002.

Copies of this filing were served upon SMUD, the California Independent System Operator Corporation and the California Public Utilities Commission.

Comment Date: May 24, 2002.

5. Southwest Power Pool, Inc.

[Docket No. ER02–1705–000]

Take notice that on May 3, 2002, Southwest Power Pool, Inc. (SPP) submitted for filing an unexecuted interconnection agreement with Duke Energy Leavenworth (Duke) under the SPP Open Access Transmission Tariff. SPP requests an effective date of April 3, 2002 for this interconnection agreement.

A copy of the filing was served on representatives of Duke and other affected parties.

Comment Date: May 24, 2002.

6. PJM Interconnection, L.L.C.

[Docket No. ER02–1706–000]

Take notice that on May 3, 2002, PJM Interconnection, L.L.C. (PJM), filed amendments to the PJM Open Access Transmission Tariff and the Amended and Restated PJM Operating Agreement to amend the rules under which PJM accepts for monitoring and dispatch control local lower voltage transmission facilities not currently under PJM's monitoring responsibility and dispatch control and to provide a transition process for local lower voltage transmission facilities already under PJM monitoring and dispatch control that do not meet PJM reliability planning criteria set forth in the PJM manuals to become compliant with such criteria. Copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM region. PJM requests an effective date of June 1, 2002 for the amendments.

Comment Date: May 24, 2002.

7. Southwest Power Pool, Inc.

[Docket No. ER02–1707–000]

Take notice that on May 3, 2002, Southwest Power Pool, Inc. (SPP) submitted for filing a revised service agreement for Firm Point-to-Point Transmission Service with Southwest Public Service Company (Transmission Customer). SPP seeks an effective date of March 1, 2002 for this service agreement.

The Transmission Customer was served with a copy of this filing.

Comment Date: May 24, 2002.

8. Maine Public Service Company

[Docket No. ER02–1708–000]

Take notice that on May 3, 2002, Maine Public Service Company (Maine Public) submitted for filing an executed Service Agreement for Network Integration Transmission Service under Maine Public's open access transmission tariff with Houlton Water Company.

Comment Date: May 24, 2002.

9. Southwest Power Pool, Inc.

[Docket No. ER02–1709–000]

Take notice that on May 2, 2002, Southwest Power Pool, Inc. (SPP) submitted for filing two executed service agreements for Firm Point-to-Point Transmission Service with Southwest Public Service Company d.b.a. Xcel Energy (Transmission Customer). SPP seeks an effective date of January 1, 2003 for these service agreements.

The Transmission Customer was served with a copy of this filing.

Comment Date: May 23, 2002.

10. Southwest Power Pool, Inc.

[Docket No. ER02–1710–000]

Take notice that on May 2, 2002, Southwest Power Pool, Inc. (SPP) submitted for filing an executed service agreement for Firm Point-to-Point Transmission Service with Texas New Mexico Power Company (Transmission Customer). SPP seeks an effective date of April 15, 2002 for this service agreement.

The Transmission Customer was served with a copy of this filing.

Comment Date: May 23, 2002.

11. Entergy Services, Inc.

[Docket No. ER02–1711–000]

Take notice that on May 2, 2002, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and J. Aron & Company.

Comment Date: May 23, 2002.

12. Somerset Power LLC

[Docket No. ER02–1712–000]

Take notice that on May 3, 2002, Somerset Power LLC filed with the Federal Energy Regulatory Commission (Commission) pursuant to section 205 of the Federal Power Act, Part 35 of the Commission's regulations, and Commission Order No. 614, a request that the Commission (1) accept for filing a revised market-based rate tariff; (2) waive any obligation to submit a red-lined version of the currently effective tariff; and (3) grant any waivers necessary to make the revised tariff sheets effective as soon as possible, but no later than 60 days from the date of this filing. Somerset's proposed tariff revisions merely seek to properly designate, update and conform the tariff to a format like those that the Commission has approved for Somerset's affiliates.

Comment Date: May 24, 2002.

13. South Carolina Electric & Gas Company

[Docket No. ER02–1713–000]

Take notice that on May 3, 2002, South Carolina Electric & Gas Company (SCE&G) submitted a firm point-to-point transmission service agreement and a non-firm transmission service agreement (the Agreements) establishing Progress Ventures, Inc. (Progress Ventures) as a customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of April 4, 2002 for the Agreements. Copies of this filing were served upon Progress Ventures and the South Carolina Public Service Commission.

Comment Date: May 24, 2002.

14. LTV Steel Mining Company

[Docket No. ER02–1714–000]

Take notice that on May 3, 2002, LTV Steel Mining Company (LTVSMC) tendered for filing a notice of cancellation of its Rate Schedule FERC No. 1 and Rate Schedule FERC No. 2 under which it provided service to Minnesota Power (MP) and MP's wholly-owned indirect subsidiary, Rainy River Energy Corporation—Taconite Harbor (RRTH). The rate schedules being cancelled authorized LTVSMC to interconnect with, sell power at market-based rates to and provide temporary interconnection and transmission service to MP or its affiliate RRTH. LTVSMC requests that its notice of cancellation be accepted effective on or about May 1, 2002.

Comment Date: May 24, 2002.

15. American Electric Power

[Docket No. ER02–1715–000]

Take notice that American Electric Power Service Corporation, on May 2, 2002, tendered for filing with the Commission a Facilities, Operation and Maintenance Agreement (Facility Agreement) dated September 1, 2001, between Ohio Power Company (d/b/a AEP), South Central Power Company (hereinafter called SCP) and Buckeye Power, Inc. (hereinafter called Buckeye).

The Facility Agreement provides for the establishment of a new delivery point, pursuant to the provisions of the Power Delivery Agreement between Ohio Power, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Columbus Southern Power Company and Toledo Edison Company, dated January 1, 1968. AEP requests an effective date of September 1, 2001 for the Facility Agreement.

EP states that copies of its filing were served upon SCP, Buckeye and the Public Utilities Commission of Ohio.

Comment Date: May 23, 2002.

16. Sierra Pacific Power Company, Nevada Power Company

[Docket No. ER02–1716–000]

Take notice that on May 2, 2002 Sierra Pacific Power Company and Nevada Power Company (jointly Operating Companies) tendered for filing a Service Agreements (Service Agreements) with Allegheny Energy Supply for Short-Term Firm Point-to-Point Transmission Service and UBS AG, London Branch for Non-Firm and Short-Term Firm Point-to-Point Transmission Service under Sierra Pacific Resources Operating Companies FERC Electric Tariff, First Revised Volume No. 1, Open Access Transmission Tariff (Tariff).

The Operating Companies are filing the executed Service Agreement with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission regulations. The Operating Companies (Attachment E) to the Tariff, which is an updated list of current subscribers. The Operating Companies request waiver of the Commission's notice requirements to permit an effective date of May 3, 2002 for Attachment E, and to allow the Service Agreement to become effective according to their terms.

Copies of this filing were served upon the Public Utilities Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment Date: May 23, 2002.

17. Xcel Energy Services, Inc.

[Docket No. ER02–1717–000]

Take notice that on May 2, 2002, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company and Northern States Power Company (Wisconsin) (collectively, NSP), submitted for filing a Form of Service Agreement with West Texas Municipal Power Agency (WTMPA), which is in accordance with NSP's Rate Schedule for Market-Based Power Sales (NSP Companies FERC Electric Tariff, Original Volume No. 6).

XES requests that this agreement become effective on April 23, 2002.

Comment Date: May 23, 2002.

18. Xcel Energy Services, Inc.

[Docket No. ER02–1718–000]

Take notice that on May 2, 2002, Xcel Energy Services, Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), submitted for filing a Master Power Purchase and Sale Agreement between Public Service and Desert Power, L.P. (Desert Power), which is in accordance with Public Service's Rate Schedule for Market-Based Power Sales (Public Service FERC Electric Tariff, First Revised Volume No. 6).

XES requests that this agreement become effective on April 15, 2001.

Comment Date: May 23, 2002.

19. California Independent System Operator Corporation

[Docket No. ER02–1719–000]

Take notice that on May 3, 2002, the California Independent System Operator Corporation (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Scheduling Coordinator Agreement between the ISO and UBS AG, London Branch for acceptance by the Commission. The ISO is requesting that the Scheduling Coordinator Agreement be made effective as of April 24, 2002.

The ISO states that this filing has been served on UBS AG, London Branch and the California Public Utilities Commission.

Comment Date: May 24, 2002.

20. California Independent System Operator Corporation

[Docket No. ER02–1720–000]

Take notice that on May 3, 2002, the California Independent System Operator Corporation (ISO) tendered for filing a Meter Service Agreement for Scheduling Coordinators between the ISO and UBS AG, London Branch for acceptance by the Federal Energy Regulatory Commission. The ISO is requesting that the Meter Service Agreement be made effective as of April 24, 2002.

The ISO states that this filing has been served on UBS AG, London Branch and the California Public Utilities Commission.

Comment Date: May 24, 2002.

21. California Independent System Operator Corporation

[Docket No. ER02–1721–000]

Take notice that on May 3, 2002, the California Independent System Operator Corporation (ISO) tendered for filing a Participating Generator Agreement between the ISO and CalPeak Power-Vaca Dixon LLC for acceptance by the Federal Energy Regulatory Commission.

The ISO states that this filing has been served on CalPeak Power-Vaca Dixon LLC and the California Public Utilities Commission.

The ISO is requesting that the Participating Generator Agreement be made effective April 24, 2002.

Comment Date: May 24, 2002.

22. California Independent System Operator Corporation

[Docket No. ER02–1722–000]

Take notice that on May 3, 2002, the California Independent System Operator Corporation (ISO) tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and CalPeak Power-Vaca Dixon LLC for acceptance by the Federal Energy Regulatory Commission. The ISO is requesting that the Meter Service Agreement for ISO Metered Entities be made effective April 24, 2002.

The ISO states that this filing has been served on CalPeak Power-Vaca Dixon LLC and the California Public Utilities Commission.

Comment Date: May 24, 2002.

23. California Independent System Operator Corporation

[Docket No. ER02–1723–000]

Take notice that on May 3, 2002, the California Independent System Operator Corporation (ISO) tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and CalPeak Power-El Cajon LLC for acceptance by the Federal Energy Regulatory Commission. The ISO is requesting that the Meter Service Agreement for ISO Metered Entities be made effective April 24, 2002.

The ISO states that this filing has been served on CalPeak Power-El Cajon LLC and the California Public Utilities Commission.

Comment Date: May 24, 2002.

24. California Independent System Operator Corporation

[Docket No. ER02–1724–000]

Take notice that on May 3, 2002, the California Independent System Operator Corporation (ISO) tendered for filing a Participating Generator Agreement between the ISO and CalPeak Power-El Cajon LLC for acceptance by the Commission. The ISO is requesting that the Participating Generator Agreement be made effective April 24, 2002.

The ISO states that this filing has been served on CalPeak Power-El Cajon LLC and the California Public Utilities Commission.

Comment Date: May 24, 2002.

25. David Sholk

[Docket No. ER02–1725–000]

Take notice that on April 26, 2002, David Sholk tendered for filing with the Federal Energy Regulatory Commission (Commission) a Petition for Blanket Authority to Purchase and Resell Electricity at Market-Based Rates.

Comment Date: May 24, 2002.

Standard Paragraph

E. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 02–12104 Filed 5–14–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Use Alternative Procedures in Preparing a License Application

May 9, 2002.

Take notice that the following request to use alternative procedures to prepare a license application has been filed with the Commission.

a. *Type of Application:* Request to use alternative procedures to prepare a new license application.

b. *Project No.:* 2204.

c. *Date filed:* April 24, 2002.

d. *Applicant:* City and County of Denver, Colorado, acting by and through its Board of Water Commissioners (Denver Water).

e. *Name of Project:* Williams Fork Reservoir Project.

f. *Location:* On the Williams Fork River, in Grand County, northern Colorado. The project occupies no federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Kevin Urie, Licensing Project Manager, Denver Water, 1600 West 12th Avenue, Denver, CO 80254, (303)628–5987.

i. *FERC Contact:* Dianne Rodman at (202) 219–2830; e-mail *dianne.rodman@ferc.gov*.

j. *Deadline for Comments:* 30 days from the date of this notice.

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 may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. The existing 3.0-megawatt project consists of a 706-foot-long, 217-foot-high dam; an impoundment with a storage capacity of 96,822 acre-feet; a power plant with one turbine and one generator; and appurtenant facilities.

l. A copy of the request to use alternative procedures is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Denver Water has demonstrated that it has made an effort to contact all federal and state resources agencies, non-governmental organizations (NGOs), and others affected by the project. Denver Water has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. Denver Water has submitted a communications protocol that is supported by the majority of stakeholders. Denver Water intends to file 6-month progress reports during the alternative procedures process that leads to the filing of a license application by December 31, 2004.

The purpose of this notice is to invite any additional comments on Denver Water's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. Denver Water will complete and file a preliminary Environmental Assessment, in lieu of Exhibit E of the license application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the license application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12105 Filed 5–14–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Use the Alternative Licensing Process in Preparing a License Application

May 9, 2002.

Take notice that the following request to use the Alternative Licensing Process (ALP) to prepare a license application has been filed with the Federal Energy Regulatory Commission (Commission).

a. *Type of Application:* Request to use the ALP to prepare a new license application.

b. *Project No.:* 2216–058.

c. *Date Filed:* March 6, 2002.

d. *Applicant:* New York Power Authority.

e. *Name of Project:* Robert Moses-Niagara Project.

f. *Location:* On the Niagara River, in Niagara County, New York. The project does not occupy any Federal lands.

g. *Filed Pursuant To:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Keith G. Silliman, *Esq.*, Director, Niagara Relicensing, New York Power Authority, 30 South Pearl Street, Albany, NY 12207–3425, (518) 433–6735.

i. *Commission Contact:* Patti Leppert at (202) 219–2767; e-mail *patricia.leppert@ferc.gov*.

j. *Deadline for Comments:* 30 days from the date of this notice.

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. All comment filings must bear the heading ''Comments on the Alternative Licensing Process'', and include the project name and number (Robert Moses-Niagara Project No. 2216–058). Comments may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. The existing project consists of a conventional development and a pumped storage development for a total licensed capacity of 2,755,500 kilowatts. Existing project facilities include two 700-foot-long intake structures located on the upper Niagara River about 2.6 miles upstream from the American Falls; two 4.3-mile-long concrete underground water supply conduits, each measuring 46 feet wide by 66.5 feet high; a forebay; the Lewiston Pump-Generating Plant, measuring 975 feet long by 240 feet wide by 160 feet high; the 1,900-acre Lewiston reservoir at a maximum water surface elevation of 658 feet United States Lake Survey Datum; the Robert Moses Niagara Power plant, including an intake structure, measuring 1,100 feet long by 190 feet wide by 100 feet high; a switch yard; and appurtenant facilities.

l. A copy of the request to use the ALP is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (for assistance call (202) 208–2222). A copy is also available for inspection and reproduction at the address in item h above.

m. NYPA has been engaged in an extensive outreach effort with Federal and state resource agencies, the Tuscarora Nation, non-governmental organizations (NGO), state and local governments, various companies, and the public regarding the Robert Moses-Niagara Project, and that a consensus exists that the use of the ALP is appropriate in this case. NYPA has submitted a Communications Protocol that is supported by most interested entities. NYPA intends to file 6-month progress reports during the ALP that leads to the filing of a license application by August 31, 2005.

The purpose of this notice is to invite any additional comments on NYPA's request to use the ALP, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. NYPA proposes to complete and file an Applicant-Prepared Environmental Assessment in lieu of Exhibit E of the license application. This differs from the traditional process, in which the applicant consults with resource agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff conducts the environmental review after the application is filed. The ALP is intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12106 Filed 5–14–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

May 9, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No.:* 2232–442.

c. *Date Filed:* April 2, 2002.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Catawba-Wateree Hydroelectric Project.

f. *Location:* On Lake Norman at the Long Island Marina, in Catawba County, North Carolina. The 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:* Mr. E.M. Oakley, Duke Energy Corporation, P.O. Box 1006 (EC12Y), Charlotte, NC 28201–1006. Phone: (704) 382–5778.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 219–3076, or e-mail address: *brian.romanek@ferc.gov*.

j. *Deadline for filing comments and motions:* June 14, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. Please include the project number (2232–442) on any comments or motions filed.

k. *Description of Proposal:* Duke Energy Corporation proposes to lease to Eben L. Pyle, DBA Long Island Marina (Long Island Marina) one parcel of land underlying the project reservoir (a total of 2.815 acres) for a proposed expansion of an existing commercial/ non-residential marina (C/NR). The existing marina has three cluster docks accommodating 36 boats and one boat ramp. At the proposed C/NR lease area four new cluster docks accommodating 60 boats would be constructed and 12 boat slips would be added to an existing cluster dock. In total there would be 7 cluster docks accommodating 108 boats. The facility would provide access to the reservoir for patrons of the marina. Long Island Marina would also provide a pump out facility for boats with sanitation equipment. No dredging is proposed.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12107 Filed 5–14–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Solicitation of Comments, Motions To Intervene, and Protests

May 9, 2002.

a. *Application Type:* Application to Amend License for the Llyod Shoals Project.

b. *Project No.:* 2336–051.

c. *Date Filed:* April 10, 2002.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Llyod Shoals Project.

f. *Location:* The project is located on the Ocumulgee River in Butts, Henry, Jasper, and Newton counties in Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Larry J. Wall, Hydro License Coordinator, Georgia Power Company, 241 Ralph McGill Boulevard NE, Atlanta, GA 30308 Tel: (404) 506–2054.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Vedula Sarma at (202) 219–3273 or by e-mail at *vedula.sarma@ferc.gov*.

j. *Deadline for filing comments and/or motions:* June 10, 2002.

k. *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, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. Please include the project number (2336–051) on any comments or motions filed.

l. *Description of Filing:* Georgia Power Company, proposes to revise the existing Llyod Shoals Project boundary by removing 26.4 acres of non-essential project land along the South River in Henry County, Georgia. The project's boundary at the property's location would change from the existing 545 foot elevation contour to 530 feet contour.

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. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

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. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

q. 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.

r. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12108 Filed 5–14–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 9, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12155–000.

c. *Date filed:* March 14, 2002.

d. *Applicant:* Arizona Independent Power, Inc.

e. *Name of Project:* Starhills Pumped Storage Project.

f. *Location:* The proposed project would be located on lands administered by the Bureau of Indian Affairs on the Gila River Indian Reservation, in Pinal County, Arizona.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Frank L. Mazzone, President, Arizona Independent Power, Inc., 746 Fifth Street East, Sonoma, CA 95476, Phone (707) 996–2573.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. Please include the project number (P–12155–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed pumped storage project would consist of: (1) A proposed 3025-foot-long, 135-foot-high earth and rocked filled upper dam with an impervious core structure located in the southeastern reach of the Sierra Estrella Mountain Range, (2) a proposed upper reservoir having a surface area of 220 acres with a storage capacity of 14,300 acre-feet and a normal water surface elevation of 3,025 feet msl, (3) a proposed 2,600-foot-long, 110-foot-long earth and rock filled lower dam with an impervious core structure, (4) a proposed lower reservoir having a surface area of 240 acres with a storage capacity of 15,000 acre-feet with a normal water surface elevation of 1,700 feet msl, (5) two proposed 7,100-foot-long, 23-foot-diameter underground penstocks, (6) a proposed powerhouse containing 5 generating units having a total installed capacity of 1,250 MW, (7) a two proposed 26-foot-diameter tailraces, (8) a proposed 40-mile-long 500 kV twin circuit transmission line, and (9) appurtenant facilities.

The project would have an annual generation of 1,682 GWh that would be sold to a local utility.

l. A copy of the application is available for inspection and

reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on *http://www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12109 Filed 5–14–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

May 9, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12156–000.

c. *Date filed:* April 8, 2002.

d. *Applicant:* Minnesota Municipal Power Agency.

e. *Name of Project:* Coon Rapids Project.

f. *Location:* On the Mississippi River, in Hennepin and Anoka Counties, Minnesota. The project would not use any federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Derick Dahlen, Agent for, Minnesota Municipal Power Agency, 120 South Sixth Street, Suite 850, Minneapolis, MN 55402, phone (612) 349–6868.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Copies of this filing are on file with the Commission and are available for public inspection. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. Please include the project number (P–12156–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Competing Application:* Project No. 12142–000, Date Filed: January, 8, 2002, Date Notice Closed: April 22, 2002.

l. *Description of Project:* The proposed project would consist of: (1) An existing 260-foot-long, 30-foot-high dam, (2) an existing impoundment having a surface area of 600 acres with negligible storage and a normal water surface elevation of 830.1 feet NGVD, (3) a proposed powerhouse containing 2 generating units having a total installed capacity of 7.2 MW, (4) a proposed 600-foot-long, 4.16 kV underground transmission line, and (5) appurtenant facilities.

The project would have an annual generation of 41.3 GWh that would be sold to a local utility.

m. Copies of this filing are on file with the Commission and are available for public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

n. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30 (b) and 4.36.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. 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.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. 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.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–12110 Filed 5–14–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Parker-Davis Project—Notice of Proposed Extension of the Rate Methodology for Firm Power Service and Firm and Nonfirm Transmission Service—Rate Order No. WAPA–98

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed extension.

SUMMARY: This action is a proposal to extend the existing Parker-Davis Project (P-DP) rate methodology for determining the firm power service rate and the firm and nonfirm point-to-point transmission service rates, Rate Order No. WAPA–75, through September 30, 2004. The existing rate methodology will expire September 30, 2002. This notice of proposed extension of rate methodology is issued pursuant to 10 CFR part 903.23(a)(1). As permitted by 10 CFR part 903.23(a)(2), Western Area Power Administration (Western) will not have a consultation and comment period and will not hold public information and comment forums.

FOR FURTHER INFORMATION CONTACT: Mr. Todd Statler, Financial Analyst, Desert Southwest Customer Service Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, (602) 352–2781, or e-mail *statler@wapa.gov.*

SUPPLEMENTARY INFORMATION: By Delegation Order No. 00–037.00, effective December 6, 2001, the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to Western's Administrator, (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Federal Energy Regulatory Commission (FERC).

Pursuant to applicable Delegation Orders and existing Department of Energy (DOE) procedures for public participation in power and transmission rate adjustments in 10 CFR part 903, Western's P–DP rate methodology for firm power service and firm and nonfirm point-to-point transmission service was submitted to FERC for confirmation and approval on November 19, 1997. On March 10, 1998, in Docket No. EF98–5041–000, at 82 FERC ¶ 62,164, FERC issued an order confirming, approving, and placing in effect on a final basis the P–DP rate methodology for firm power service and firm and nonfirm point-to-point transmission service. The rate methodology set forth in Rate Order No. WAPA–75 was approved for the period beginning November 1, 1997, and ending September 30, 2002.

On September 30, 2002, Western's P–DP rate methodology for firm power service and firm and nonfirm point-to-point transmission service will expire. Western proposes to extend the current rate methodology pursuant to 10 CFR part 903. Upon its approval, Rate Order No. WAPA–75 will be extended under Rate Order No. WAPA–98.

Western proposes to extend the existing P–DP rate methodology used each Fiscal Year (FY) to calculate the firm power service rates for capacity and energy (Rate Schedule PD–F6), the

firm point-to-point transmission service rate (Rate Schedule PD–FT6), the firm point-to-point transmission service rate for Salt Lake City Area Integrated Projects Power (Rate Schedule PD–FCT6) and the nonfirm point-to-point transmission service rate (Rate Schedule PD–NFT6). This existing rate methodology ensures rates are set to collect annual revenues sufficient to recover annual expenses (including interest) and capital requirements, thus ensuring repayment of the project within the cost-recovery criteria set forth in DOE Order RA 6120.2. Under the existing rate methodology, the revenue requirements for generation and transmission are determined annually based on FY projections in the cost apportionment study. The cost apportionment study allocates all P–DP expenses and other revenues between generation and transmission. The revenue requirement for generation determines the amount of funds to collect through firm power service rates for capacity and energy. Similarly, the revenue requirement for transmission determines the amount of funds to collect through firm point-to-point transmission service rates.

During this extension period of the existing rate methodology, Western will initiate a rate adjustment process in accordance with procedures for public participation in power and transmission rate adjustments in 10 CFR part 903. Western anticipates this rate adjustment process to begin when audited financial data for FY 2001 and FY 2002 becomes available. In the meantime, Western will continue to conduct informal customer meetings to ensure involvement of interested parties in the rate process.

All documents made or kept by Western for developing the proposed extension of the P–DP rate methodology for firm power service and firm and nonfirm point-to-point transmission service will be made available for inspection and copying at the Desert Southwest Customer Service Region, located at 615 South 43rd Avenue, Phoenix, Arizona.

Within 90 days after publication of this notice, Rate Order No. WAPA–98 will be submitted to the Deputy Secretary for approval through September 30, 2004.

Dated: April 30, 2002.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 02–12100 Filed 5–14–02; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0005; FRL–7179–5]

Data Submissions for the Voluntary Children's Chemical Evaluation Program; Request for Comment on Information Collection Activities; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA announced in the **Federal Register** a proposed information collection activity and a request for public comment for an Information Collection Request (ICR) entitled: Data Submissions for the Voluntary Children's Chemical Evaluation Program (VCCEP) (EPA ICR No. 2055.01, OMB No. 2070–tbd) on April 16, 2002 (67 FR 18609) (FRL–6832–8). In that **Federal Register** document, the Agency inadvertently provided the public with only 30 days to comment on the proposed information collection. Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are required to provide the public with 60 days to comment when announcing a proposed information collection activity. This **Federal Register** document announces an 30–day extension of the previously announced public comment period.

DATES: Written comments, identified by docket ID number OPPT–2002–0005 and administrative record number AR–238, must be received on or before June 17, 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 ID 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
Industrial organic chemicals	325
Adhesives and sealants	32552
Paints and allied products	32551
Textile goods	313
Petroleum products	42272

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 Industrial Classification System (NAICS) 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 ID 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. What Action is EPA taking?

EPA is extending the comment period for the following proposed ICR: Data Submissions for the Voluntary Children's Chemical Evaluation Program (VCCEP) (EPA ICR No. 2055.01, OMB No. 2070–tbd). EPA announced a 30–day comment period for this proposed ICR renewal in the **Federal Register** on April 16, 2002 (67 FR 18609). In that document, you will find a complete description of the ICR, as well as detailed instructions for submitting comments. This document announces a 30–day extension of the comment period in order to provide the public with 60 days to comment, pursuant to the PRA. Comments must be received on or before June 17, 2002.

As described in Unit III. of the document announcing the proposed ICR that published in the **Federal Register** of April 16, 2002 (67 FR 18609), you may submit your comments through the mail, in person, or electronically. Please follow the instructions that are provided in the document published on April 16, 2002. Do not submit any information electronically that you consider to be CBI. To ensure proper receipt by EPA, be sure to identify docket ID number OPPT–2002–0005 and administrative record number AR–238 in the subject line on the first page of your response.

IV. 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: May 10, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–12266 Filed 5–13–02; 1:43 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0004; FRL–7179–6]

TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals; Request for Comment on Renewal of Information Collection Activities; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA announced in the **Federal Register** a proposed renewal of an information collection activity and a request for public comment for an Information Collection Request (ICR) entitled: TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals (EPA ICR No. 1188.07, OMB No. 2070–0038) on April 16, 2002 (67 FR 18606) (FRL–6832–7). In that **Federal Register** document, the Agency inadvertently provided the public with only 30 days to comment on the proposed information collection. Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are required to provide the public with 60 days to comment when announcing a proposed information collection activity. This **Federal Register** document announces a 30–day extension of the previously announced public comment period.

DATES: Written comments, identified by the docket ID number OPPT–2002–0004 and administrative record number AR–240, must be received on or before June 17, 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 ID 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: Barbara Leczynski, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–4770; fax number: (202) 564–4775; e-mail address: leczynski.barbara@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
Basic chemical manufacturing	3251
Resin, synthetic rubber and artificial synthetic fibers, and filaments manufacturing	3252
Paint, coating, and adhesive manufacturing	3255
Pesticide, fertilizer, and other agricultural chemical manufacturing	3253
Petroleum refineries	32411

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

Industrial Classification System (NAICS) 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 ID 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. What Action is EPA taking?

EPA is extending the comment period for the proposed renewal of the following ICR: TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals (EPA ICR No. 1188.07, OMB No. 2070–0038). EPA announced a 30–day comment period for this proposed ICR renewal in the **Federal Register** on April 16, 2002 (67 FR 18606). In that document, you will find a complete description of the ICR, as well as detailed instructions for submitting comments. This document announces a 30–day extension of the comment period in order to provide the public with 60 days to comment, pursuant to the PRA. Comments must be received on or before June 17, 2002.

In addition, EPA announces a change of the technical contact person listed under **FOR FURTHER INFORMATION CONTACT** in the April 16, 2002, document. The public should contact the technical expert listed in this document with any questions regarding the proposed ICR renewal. As described in Unit III. of the document announcing the proposed ICR renewal that published in the **Federal Register** on April 16, 2002 (67 FR 18606), you may submit your comments through the mail, in person, or electronically. Please follow the instructions for submitting comments that are provided in the document which published on April 16, 2002. Do not submit any information electronically that you consider to be CBI. To ensure proper receipt by EPA, be sure to identify docket ID number OPPT–2002–0004 and administrative record number AR–240 in the subject line on the first page of your response.

IV. 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: May 10, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–12267 Filed 5–13–02; 1:43 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0002; FRL–7179–7]

TSCA Section 8(c) Health and Safety Data Reporting Rule; Request for Comment on Renewal of Information Collection Activities; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA announced in the **Federal Register** a proposed renewal of an information collection activity and a request for public comment for an Information Collection Request (ICR) entitled: TSCA Section 8(c) Health and Safety Data Reporting Rule (EPA ICR No. 1031.07, OMB No. 2070–0017) on April 16, 2002 (67 FR 18604) (FRL–6832–3). In that **Federal Register** document, the Agency inadvertently provided the public with only 30 days to comment on the proposed information collection. Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies are required to provide the public with 60 days to comment when announcing a proposed information collection activity. Today, EPA is announcing a 30–day extension of the previously announced public comment period.

DATES: Written comments, identified by docket ID number OPPT–2002–0002 and administrative record number AR–239, must be received on or before June 17, 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 ID 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
Basic chemical manufacturing	3251
Resin, synthetic rubber and artificial synthetic fibers, and filaments manufacturing	3252
Paint, coating, and adhesive manufacturing	3255
Pesticide, fertilizer, and other agricultural chemical manufacturing	3253
Petroleum refineries	32411

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 Industrial Classification System (NAICS) 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 ID 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. What Action is EPA taking?

EPA is extending the comment period for the proposed renewal of the following ICR: TSCA Section 8(c) Health and Safety Data Reporting Rule (EPA ICR No. 1031.07, OMB No. 2070–0017). EPA announced a 30–day comment period for this proposed ICR renewal in the **Federal Register** on April 16, 2002 (67 FR 18604). In that document, you will find a complete description of the ICR, as well as detailed instructions for submitting comments. This document announces a 30–day extension of the comment period in order to provide the public with 60 days to comment, pursuant to the PRA. Comments must be received on or before June 17, 2002.

As described in Unit III. of the document announcing the proposed ICR renewal that published in the **Federal Register** on April 16, 2002 (67 FR 18604), you may submit your comments through the mail, in person, or electronically. Please follow the instructions that are provided in the document which published on April 16, 2002. Do not submit any information electronically that you consider to be CBI. To ensure proper receipt by EPA, be sure to identify docket ID number OPPT–2002–0002 and administrative record number AR–239 in the subject line on the first page of your response.

IV. 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: May 10, 2002.

Stephen L. Johnson,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 02–12268 Filed 5–13–02; 1:43 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[Regional Docket No. II–2001–05; FRL–7212–1]

Clean Air Act Operating Permit Program; Petitions for Objection to State Operating Permit for the Orange Recycling and Ethanol Production Facility of Pencor-Masada Oxynol, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petitions to object to a State operating permit.

SUMMARY: This document announces that the EPA Administrator has responded to several citizen petitions asking EPA to object to an operating permit issued by the New York State Department of Environmental Conservation (NYSDEC). Specifically, the Administrator has denied 14 petitions asking EPA to object to the State operating permit issued to the Orange Recycling and Ethanol Production Facility, proposed by Pencor-Masada Oxynol, LLC (Masada), for construction and operation in Middletown, NY.

Pursuant to section 505(b)(2) of the Clean Air Act (Act), petitioners may seek judicial review of this petition

response in the United States Court of Appeals for the second circuit. Any petition for review shall be filed within 60 days from the date this notice appears in the **Federal Register**, pursuant to section 307 of the Act.

ADDRESSES: You may review copies of the final order, the petitions, and other supporting information at the EPA, Region 2, 290 Broadway, New York, New York 10007–1866. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. The final order is also available electronically at: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitiondb2001.htm.*

FOR FURTHER INFORMATION CONTACT: Steven Riva, Chief, Permitting Section, Air Programs Branch, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866, telephone (212) 637–4074.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

In October and November 2001, the EPA received four petitions from 14 different petitioners, requesting that EPA object to the issuance of the modified title V permit to Masada's facility. Specifically, we received separate petitions from Jeanette Nebus, Robert C. LaFleur, president of Spectra Environmental Group, Inc. (Spectra), and Deborah Glover. We also received a fourth petition with 11 signatories: Talkini Alves, Vidal Milland, Kristin Hannon, Bridgette Coppola, Nicole Young, Kathleen House, Campbell House, Susan Cohen, Debbie Carlisle, Roberta Constantino, and Elizabeth Collard.

These petitions challenged a revised permit issued on October 1, 2001, by NYSDEC for the Masada facility. NYSDEC revised the permit pursuant to a May 2, 2001 EPA order denying in part and granting in part prior title V petitions involving this facility. *See* 66 FR 30904, June 8, 2001. *See also http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/masada_decision2000.pdf.* In the new petitions challenging the adequacy of the permit revisions, the petitioners allege that (1) the permit fails to include the physical or operational limits necessary to properly limit the source's PTE; (2) the permit limits actual emissions instead of potential emissions; (3) the annual emissions limits are set too close to major thresholds; (4) the hourly emissions limits have too long an averaging period; (5) the consequences of deviations from or exceedances of permit limits are not severe enough; and (6) the inspection & maintenance measures for data from continuous emissions monitors (CEM) should be clarified. Additionally, the petitioners raise issues with respect to the applicable requirements of the Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units (NSPS) Subpart Db and Executive Order 12898 on Environmental Justice. Some of the petitioners also repeat issues previously addressed in the May 2001 Order.

On April 8, 2002, the Administrator issued an order denying the petitions. The order explains the reasons behind EPA's conclusion that petitioners have failed to demonstrate that Masada's permit does not assure compliance with the Act on the grounds raised.

Dated: May 8, 2002.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 02–12147 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7211–4]

Meeting of the Mobile Sources Technical Review Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee of the Clean Air Act Advisory Committee will meet three times annually. This is an open meeting. The theme will be ''Voluntary Programs'' and will include presentations from EPA and other outside organizations. The preliminary agenda for this meeting will be available on the Subcommittee's website in late May. Draft minutes from the previous meetings are available on the Subcommittee's Web Site now at: *http://epa.gov/air/caaac/mobile_sources.html.*

DATES: Wednesday, June 12 from 9 a.m. to 3:30 p.m. Registration begins at 8:30 a.m.

ADDRESSES: The meeting will be held at the Radisson Hotel Old Town Alexandria, 901 North Fairfax Street, Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: For technical information: Ms. Cheryl L. Hogan, Alternate Designated Federal Officer, Certification and Compliance Division, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, MI 48105, Ph: 734/214–4402, FAX: 734/214–4053, email: *hogan.cheryl@epa.gov.*

For logistical and administrative information: Ms. Mary F. Green, FACA Management Officer, U.S. EPA, 2000 Traverwood Drive, Ann Arbor, Michigan, Ph: 734/214–4411, Fax: 734/214–4053, email: *green.mary@epa.gov.*

Background on the work of the Subcommittee is available at: *http://transaq.ce.gatech.edu/epatac.*

For more current information: *http://epa.gov/air/caaac/mobile_sources.html.*

Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Ms. Hogan at the address above by May 31, 2002. The Mobile Sources Technical Review Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

SUPPLEMENTARY INFORMATION: During this meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

Dated: May 8, 2002.

Margo T. Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. 02–12149 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0045; FRL–6836–3]

Technical Briefing on Revisions to the Organophosphate Pesticide Cumulative Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Meeting.

SUMMARY: EPA is announcing a public technical briefing on June 18, 2002, to discuss the revisions to the preliminary organophosphate (OP) cumulative risk assessment. This technical briefing will provide the Agency with an opportunity to present revisions to the preliminary risk assessment in a public forum and answer clarifying questions. This briefing follows the January 15, 2002, technical briefing on the preliminary OP cumulative risk assessment. In addition, on June 19, 2002, EPA and the United States Department of Agriculture (USDA) will hold a public meeting of the CARAT Workgroup on Cumulative Risk Assessment/Public Participation Process.

DATES: The technical briefing will be held on Tuesday, June 18, 2002, from 9 a.m. to 5 p.m. On Wednesday, June 19, 2002, from 9 a.m. to 4 p.m., EPA and the USDA will hold a public meeting of the CARAT Workgroup on Cumulative Risk Assessment/Public Participation Process.

ADDRESSES: The technical briefing will be held at the Holiday Inn Select, 480 King Street, Old Town Alexandria, VA. The telephone number for the hotel is (703) 549–6080. The hotel is located about 10 blocks from the King Street Metro Station. The CARAT Workgroup Meeting will be held at Crystal Mall #2, room 1110 (Fishbowl), 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Karen Angulo, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address:angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphate pesticides, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. 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/.

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/. In addition, information about the cumulative process and the preliminary organophosphate cumulative risk assessment documents are found at http://www.epa.gov/pesticides/cumulative.

2. *In person.* The Agency has established an official record under docket control number OPP–2002–0045. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. How Can I Request to Participate in this Meeting?

This meeting is open to the public. Outside statements by observers are welcome. Oral statements will be limited to 3 to 5 minutes, and it is preferred that only one person per organization present the statement. Any person who wishes to file a written statement may do so immediately before or after the meeting. These statements will become part of the permanent record and will be available for public inspection at the address listed in Unit I.

List of Subjects

Environmental protection, organophosphate pesticides.

Dated: May 1, 2002.

Lois A. Rossi,

Director, Office of Pesticide Programs.

[FR Doc. 02–12008 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2002–0064; FRL–7177–6]

Organophosphate Pesticides; Methidathion, Availability of Interim Reregistration Eligibility Decision Document

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the Interim Registration Eligibility Decision (interim RED) document for the organophosphate pesticide (OP), methidathion. This interim decision was developed as part of the OP pilot public participation process that the EPA and the United States Department of Agriculture (USDA) are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA) and the reregistration of individual OPs under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

DATES: The interim RED document for methidathion is currently available in the OP Public Regulatory Docket under docket control number OPP–2002–0064.

FOR FURTHER INFORMATION CONTACT: Carmen Rodia, Chemical Review Manager, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 306–0327; e-mail address: rodia.carmen@epa.gov.

SUPPLEMENTARY INFORMATION

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the interim decision documents for methidathion, including environmental, human health and

agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the methidathion interim risk management decision documents released to the public may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–2002–0064. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Room 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202–4501, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

EPA has assessed the risks of methidathion and reached an Interim Reregistration Eligibility Decision (interim RED) for this OP. Provided that risk mitigation measures are adopted, methidathion fits into its own risk cup-its individual, aggregate risks are within acceptable levels. Methidathion is also eligible for reregistration, pending a full reassessment of the cumulative risk from all OP pesticides. Used on a variety of agricultural crops, predominantly alfalfa, citrus, and cotton, methidathion residues in food and drinking water do not pose risk concerns. Methidathion has no residential uses. EPA considered the mitigation proposal submitted by the technical registrant, as well as comments and mitigation ideas from other interested parties, and has decided on a number of label amendments (restrictions) to mitigate risks of concern posed by the uses of methidathion. With the implementation of these mitigation measures, methidathion's worker and ecological risks also will be below levels of concern for reregistration.

The methidathion interim RED was made through the OP pesticide pilot public participation process, which increases transparency and maximizes stakeholder involvement in EPA's development of risk assessments and risk management decisions. The pilot public participation process was developed as part of the EPA/USDA Tolerance Reassessment Advisory Committee, which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of OP pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation.

EPA worked extensively with affected parties to reach the decisions presented in the interim RED, which concludes the pilot public participation process for methidathion. As part of the pilot public participation process, numerous opportunities for public comment were offered as the interim RED was being developed. The methidathion interim RED is issued in final, without a formal public comment period. The OP Public Regulatory Docket remains open; however, and any comments submitted in the future will be placed in the docket.

The revised risk assessments for methidathion were released to the public through a notice published in the **Federal Register** of December 8, 1999 (OPP–34213), (FRL–6399–2).

EPA's next step under the FQPA is to consider available information on the basis of cumulative risk encompassing all of the OP pesticides, sharing a common mechanism of toxicity. The tolerance reassessment decision for methidathion cannot be considered final until the cumulative risks for all of the OPs is considered. The Agency may need to pursue further risk management measures at that time.

List of Subjects

Environmental protection, chemicals, insecticides, acaricides, Pesticides and pests.

Dated: May 6, 2002.

Lois Rossi,

Director Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–12009 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7212–3]

Water Quality Trading Policy; Proposed Policy

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for comment.

SUMMARY: Today's notice invites comment on the U.S. Environmental Protection Agency's (EPA's) proposed Policy on Water Quality Trading (''proposed policy''). The purpose of the proposed policy is to signal EPA support for soundly designed water quality trading programs developed by States and Tribes. Another purpose is to propose program components that EPA believes are appropriate for trading programs to be soundly designed and to operate successfully. In addition, the proposed policy is intended to address issues left open and limitations encountered implementing projects under EPA's January 1996 Effluent Trading Policy and May 1996 draft Framework for Watershed-Based Trading (EPA 800-R–96–001).

Water quality trading is a voluntary, incentive-based approach to more efficiently protect and restore the nation's waters. The proposed policy addresses trading to maintain water quality in unimpaired waters, trading in impaired waters before development of a Total Maximum Daily Load (TMDL) and trading to meet TMDLs. While the focus is on nutrients and sediment, the policy also discusses the potential for trading other pollutants under certain circumstances.

The proposed policy is available for review at *www.epa.gov/owow/watershed/trading.htm.*

DATES: The Agency requests comments on the proposed policy posted at *www.epa.gov/owow/watershed/trading.htm.* Comments must be received or post-marked by midnight on July 1, 2002.

ADDRESSES: The proposed policy is available for review at *www.epa.gov/owow/watershed/trading.htm.* Please send an original and three copies of your written comments and enclosures to W–02–07 Comment Clerk, Water Docket (MC4101), EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Comments may also be submitted electronically to *ow-docket@epamail.epa.gov.* Electronic comments must be submitted as an ASCII, WP5.1, WP6.1 or WP8 file avoiding the use of special characters and form of encryption. Electronic comments must be identified by the docket number W–02–07. Comments and data will also be accepted on disks in WP 5.1, 6.1, 8 or ASCII file format. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Hand deliveries should be delivered to: EPA's Water Docket at 401 M Street, SW., Room EB57, Washington, DC 20460.

The record for this proposed policy has been established under docket number W–02–07, and includes supporting documentation as well as printed, paper versions of electronic comments. The record is available for inspection from 9 to 4 p.m., Monday through Friday, excluding legal holidays at the Water Docket, EB 57, USEPA Headquarters, 401 M St SW., Washington, DC 20460. For access to docket materials, please call 202/260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: David Batchelor, EPA, Office of Water, (202) 564–5764, *batchelor.david@epa.gov*, or Lynda Hall Wynn, EPA, Office of Water, (202) 564–0472, *wynn.lynda@epa.gov.*

Dated: May 9, 2002.

Diane C. Regas,

Acting Assistant Administrator for Water.

[FR Doc. 02–12148 Filed 5–14–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

May 8, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 14, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0835.

Title: Ship Inspection Certificates.

Form No.: FCC Forms 806, 824, 827, and 829.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Number of Respondents: 3,770 respondents; 1,210 responses annually.

Estimated Time Per Response: .084 hours (average).

Frequency of Response: On occasion, annual and five year reporting requirements, recordkeeping requirement and third party disclosure requirement.

Total Annual Burden: 102 hours.

Total Annual Cost: N/A.

Needs and Uses: The Communications Act requires the inspection of small passenger ships at least once every five years. The Safety Convention (which the United States is signatory) also requires an annual inspection, however, permits an Administrator to entrust the inspections to either surveyors nominated for the purpose or to organizations recognized by it. Therefore, the United States can have other entities conduct the radio inspection of vessels for compliance with the Safety Convention. The Commission adopted rules that require this inspection to be conducted by a FCC-licensed technician. This requirement reduces administrative burden on the public and the Commission. The purpose of the information is to ensure that the inspection was successful so that passengers and crew members of certain United States ships have access to distress communications in case of an emergency.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12059 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

May 6, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that

does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 15, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman or Leslie Smith, Federal Communications Commission, Room 1–C804 or Room 1–A804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to *jboley@fcc.gov* or *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith Boley Herman at 202–418–0214 or via the Internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0704.

Title: Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96–61.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 519.

Estimated Time Per Response: 306.23 hours per response (avg). Range: .50 hours to 120 hours.

Frequency of Response: Recordkeeping requirement; annual and on occasion reporting requirements, third party disclosure requirement.

Total Annual Burden: 158,935 hours.

Total Annual Cost: $435,000.

Needs and Uses: In the Second Order on Reconsideration issued in CC Docket No. 96–61, the Commission reinstated the public disclosure requirement and also requires that nondominant interexchange carriers that have Internet websites pass this information on-line in a timely and easily accessible manner. See 47 CFR 42.10. These carriers also continue to be required to file annual certifications pursuant to section 254(g); maintain price and service information; and are forborne from filing certain tariffs. The information is collected under the information disclosure requirement and the Internet posting requirement must be disclosed to the public to ensure that consumers have access to the information they need to select a telecommunications carrier and to bring to the Commission's attention possible violations of the Communications Act without a specific public disclosure requirement. The other information will be used to ensure that affected interexchange carriers fulfill their obligations under the Communications Act of 1934, as amended.

OMB Control No.: 3060–0760.

Title: Access Charge Reform—CC Docket No. 96–262, First Report and Order, Second Order on Reconsideration and Memorandum Opinion and Order, Third Report and Order, and Fifth Report and Order.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 14.

Estimated Time Per Response: 4,165.64 hours per response (avg). Range: 3–2,117 hours.

Frequency of Response: On occasion reporting requirement, third party disclosure requirement.

Total Annual Burden: 58,319 hours.

Total Annual Cost: $23,000.

Needs and Uses: The Commission provides detailed rules for implementing the market-based approach, pursuant to which price cap local exchange carriers (LECs) would receive pricing flexibility in the provision of interstate access services as competition for those services develops. The Commission grants immediate pricing flexibility to price cap LECs in the form of streamlined introduction of new services, geographic de-averaging of rates for services in the trunking basket, and removal of certain interstate interexchange services from price cap regulation and provides for additional pricing flexibility upon showings. Some of the required information showings are as follows: showings under market-based approach (to obtain Phase I relief, price cap LECs must demonstrate that competitors have made irreversible, sunk investments in the facilities needed to provide the services at issue); cost study of interstate access service that remain subject to price cap regulation; tariff filings; third party disclosure (LECs were required to provide IXCs with customer-specific information about how many and what type of presubscribed interexchange carrier charges (PICCs) they are assessing for each of the IXCs presubscribed customers). The information is used in determining whether the incumbent LECs should receive the regulatory relief requested.

OMB Control No.: 3060–0770.

Title: Price Cap Performance Review for Local Exchange Carriers—CC Docket No. 94–1 (New Services).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 13 respondents; 26 responses.

Estimated Time Per Response: 10 hours per response (avg).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 130 hours.

Total Annual Cost: N/A.

Needs and Uses: In the Fifth Report and Order issued in CC Docket Nos. 96–262, 94–1, 98–157, released August 27, 1999, the Commission permits price cap LECs to introduce new services on a streamlined basis, without prior approval. The Commission modified the rules to eliminate the public interest showing required by 47 CFR Section 69.4(g) and to eliminate the new services text (except in the case of loop-based new services) required under 47 CFR Sections 61.49(f) and (g). Each tariff filing submitted by a price cap LEC that introduces a new loop-based service must be accompanied by cost data sufficient to establish that the new loop-based services or unbundled BSE will not recover more than a just and reasonable portion of the carrier's overhead costs. Each tariff filing submitted by a LEC subject to price cap regulation that introduces a new loop-based service or a restructured unbundled basic service element must be accompanied by, among other things, a study containing a projection of costs for a representative 12 month period. See 47 CFR 61.49. The information is needed by the Commission to carry out its statutory mandate.

OMB Control No.: 3060–0793.

Title: Procedures for States Regarding Lifeline Consents, Adoption of Intrastate Discount Matrix for Schools and Libraries, and Designation of Eligible Telecommunications Carriers.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, state, local or tribal government.

Number of Respondents: 260.

Estimated Time Per Response: .60 hours per response (avg). Range: .50 hours to 1 hour.

Frequency of Response: Annual and on occasion reporting requirements, third party disclosure requirement.

Total Annual Burden: 155 hours.

Total Annual Cost: N/A.

Needs and Uses: In the Universal Service Order, the Commission determined that rural and non-rural carriers will receive federal universal service support determined separate mechanisms. The Commission determined that local exchange carriers (LECs) should self-certify their status as a rural company each year to the Commission and their state commission. Carriers who serve fewer than 100,000 access lines do not have to file the annual rural certification letter unless their status has changed since their last filing. For carriers with more than 100,000 access lines, that seek rural status, must file rural self-certifications and such carriers also are required to file only in the event of a change in their status. States must submit a list of carriers designed as eligible telecommunications carriers and the service areas such as non-rural carriers are required to serve to the Universal Service Administrator and the Commission. If a LECs status as a rural telephone company changes to that it becomes ineligible for certification as a rural carrier, that carrier must inform the Commission and the Universal Service Administrator within one month of the change in status. All of the requirements are necessary to implement the congressional mandate for universal service. The reporting requirements are necessary to verify that particular carriers and other respondents are eligible to receive universal service support.

OMB Control No.: 3060–XXXX.

Title: Ultra Wideband Transmission Systems Operating under Part 15 (ET Docket No. 98–153).

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 500.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,000 hours.

Total Annual Cost: $12,500.

Needs and Uses: The information will be used to coordinate the operation of the Ultra Wideband (UWB) transmission systems in order to avoid interference with sensitive U.S. government radio systems. Initial operation in a particular area may not commence until authorization has been received from the Commission. The UWB operators will be required to provide the name, address, and other pertinent contact information of the user, the desired geographical area of operation, the FCC ID number, time period during which operations will take place, and other nomenclature of the UWB device. This information will be collected by the Commission and forwarded to the National Telecommunications and Information Administration (NTIA under the U.S. Department of Commerce). This information collection is essential to control potential interference to Federal radio communications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12060 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

May 6, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments July 15, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judith Boley Herman, Federal Communications Commission, 445 12th Street, SW, Room 1–C804, Washington, DC 20554 or via the internet to *jboley@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judith Boley Herman at 202–418–0214 or via the internet at *jboley@fcc.gov.*

SUPPLEMENTARY INFORMATION: OMB Control No.: 3060–0515.

Title: Miscellaneous Common Carrier Annual Letter Filing Requirement.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 32.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 32 hours.

Annual Reporting and Recordkeeping Cost Burden: N/A.

Frequency of Response: Annual reporting requirement.

Needs and Uses: Pursuant to 47 CFR Section 43.21(c) each miscellaneous common carrier with operating revenues in excess of the indexed threshold as defined in 47 CFR Section 32.9000 for a calendar year shall file with the Wireline Competition Bureau Chief a letter showing its operating revenues for that year and the value of its total communications plant at the end of that year. The letters must be filed no later than April 1 of the following year. The information is used by Commission staff to regulate and monitor the telephone industry and by the public to analyze the industry. The information on revenue and total plant is compiled and published in the Commission's annual common carrier statistical publication and long distance market share report.

OMB Control No.: 3060–0526.

Title: Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91–141.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents: 13.

Estimated Time Per Response: 48 hours.

Total Annual Burden: 624 hours.

Annual Reporting and Recordkeeping Cost Burden: N/A.

Frequency of Response: On occasion reporting requirement.

Needs and Uses: The Commission requires Tier 1 local exchange carriers (LECs) to provide expanded opportunities for third-party interconnection with their interstate special access facilities. The LECs are permitted to establish a number of rate zones within study areas in which expanded interconnection are operational. In the Fifth Report and Order in CC Docket No. 96–262, the Commission allows price cap LECs to define the scope and number of zones within the study area. These LECs must file and obtain approval of their pricing plans which will be used by FCC staff to ensure that the rates are just, reasonable and nondiscriminatory.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12061 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2551]

Petition for Reconsideration of Action in Rulemaking Proceeding

May 6, 2002.

Petition for Reconsideration has been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of this document is available for viewing any 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 this petition must be filed by May 30, 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: Modification and Clarification of Policies and Procedures Governing Siting and Maintenance of Amateur Radio Antennas and Support Structures, and Amendment of Section 97.15 of the Commission's Rules Governing the Amateur Radio Service (RM–8763).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. 02–12063 Filed 5–14–02; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011803.

Title: Maersk Sealand/Evergreen Slot Exchange Agreement.

Parties: A.P. Moller-Maersk Sealand, Evergreen Marine Corporation (Taiwan) Ltd.

Synopsis: The proposed agreement would authorize Maersk Sealand to charter slots on Evergreen's WAE service from East Asia to Tacoma and Evergreen to charter slots on Maersk Sealand's MECL service from India and Sri Lanka to the U.S. East Coast. The parties request expedited review.

Agreement No.: 011804.

Title: Eastern Car Liner/FOML Space Charter Agreement.

Parties: Eastern Car Liner, Ltd., Fesco Ocean Management Limited.

Synopsis: The proposed agreement would authorize Fesco Ocean Management to charter space from Eastern Car Liner from Japan to the U.S. Pacific Coast on an ad hoc basis, as needed and as available.

Agreement No.: 011805.

Title: Trans-Pacific Lines/Wan Hai Reciprocal Slot Charter Agreement.

Parties: Trans-Pacific Lines Ltd., Wan Hai Lines Ltd.

Synopsis: The agreement authorizes the two parties to exchange container slots on their respective vessels in the trade between the U.S. West Coast and Korea, China and Taiwan.

Agreement No.: 201072–004.

Title: New Orleans-Americana Ships Group Crane Lease.

Parties: Board of Commissioners of the Port of New Orleans, Americana Ships and its affiliates.

Synopsis: The amendment changes the payments for crane usage and updates the name of one of the parties. The agreement continues to run through December 31, 2002.

Agreement No.: 201134.

Title: New Orleans-Mediterranean Shipping Terminal Agreement.

Parties: Board of Commissioners of the Port of New Orleans, Mediterranean Shipping Co. (USA) Inc.

Synopsis: The agreement provides for volume discounts at the France Road and Nashville Avenue Container Terminals. The agreement runs through December 31, 2002.

Dated: May 10, 2002.

By Order of the Federal Maritime Commission

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–12163 Filed 5–14–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 3189N.

Name: All Express Cargo Inc.

Address: 114–16 Rockaway Blvd., South Ozone Park, NY 11420.

Date Revoked: March 27, 2002.

Reason: Failed to maintain a valid bond.

License Number: 17229NF.

Name: Cubic Express Company, Ltd.

Address: 60 Helwig Street, Berea, OH 44017.

Date Revoked: March 28, 2002.

Reason: Failed to maintain valid bonds.

License Number: 15846N.

Name: David Shek dba Addition Freight Forwarders.

Address: 1317 N. Carolan Avenue, Suite A, Burlingame, CA 94010.

Date Revoked: March 25, 2002.

Reason: Surrendered license voluntarily.

License Number: 15223N.

Name: DSL Transportation Services, Inc.

Address: 5011 Firestone Place, South Gate, CA 90280.

Date Revoked: April 24, 2002.

Reason: Failed to maintain a valid bond.

License Number: 15590N.
Name: Express Global Freight, Inc.
Address: 400 S. Atlantic Blvd., Suite 308, Monterey Park, CA 91754.
Date Revoked: April 24, 2002.
Reason: Failed to maintain a valid bond.

License Number: 12918N.
Name: Freight Options Unlimited.
Address: 12621 Crenshaw Blvd., Hawthorne, CA 90250.
Date Revoked: April 21, 2002.
Reason: Failed to maintain a valid bond.

License Number: 12279F.
Name: Frontrunner Worldwide, Inc.
Address: 215 W. Diehl Road, Naperville, IL 60563.
Date Revoked: April 12, 2002.
Reason: Failed to maintain a valid bond.

License Number: 4578NF.
Name: Global Logistics International Inc.
Address: 10858 NW 27th Street, Miami, FL 33172.
Date Revoked: March 21, 2002.
Reason: Failed to maintain valid bonds.

License Number: 17382NF.
Name: Latek USA, Inc.
Address: 662 Dell Road, Carlstadt, NJ 07072.
Date Revoked: March 27, 2002.
Reason: Failed to maintain valid bonds.

License Number: 16042N.
Name: MAI Global Transport, Inc.
Address: 1377 E. Irving Park Road, Itasca, IL 60143.
Date Revoked: March 26, 2002.
Reason: Surrendered license voluntarily.

License Number: 16650F.
Name: McCollister's Transportation Systems, Inc.
Address: 1800 Route 130 North, Burlington, NJ 08016.
Date Revoked: March 28, 2002.
Reason: Failed to maintain a valid bond.

License Number: 15778N.
Name: Overseasbridge Transport, Ltd.
Address: 5777 W. Century Blvd., Suite 1120, Los Angeles, CA 90045.
Date Revoked: April 24, 2002.
Reason: Failed to maintain a valid bond.

License Number: 4427F.
Name: Pegasus Transair, Inc.
Address: 612 East Dallas Road, Suite 100, Grapevine, TX 76099.
Date Revoked: March 30, 2002.
Reason: Failed to maintain a valid bond.

License Number: 17602NF.
Name: Plus System, Inc. dba PSI Express.
Address: 2263 W. 255th Street, Lomita, CA 90717.
Date Revoked: April 17, 2002.
Reason: Failed to maintain valid bonds.

License Number: 4197N.
Name: S.A.C. International Forwarding, Inc. dba, S.A.C. International Consolidators.
Address: 8442 N.W. 70th Street, Miami, FL 33166.
Date Revoked: April 10, 2002.
Reason: Failed to maintain a valid bond.

License Number: 2971NF.
Name: Seino America, Inc. dba Seino Moving Center, Seino Container Line, Croft & Scully, Tri-Way International Movers.
Address: 8728 Aviation Blvd., Inglewood, CA 90301.
Date Revoked: April 4, 2002.
Reason: Surrendered license voluntarily.

License Number: 16616N.
Name: Shine Express Inc.
Address: 147–38 182nd Street, Jamaica, NY 11413.
Date Revoked: April 21, 2002.
Reason: Failed to maintain a valid bond.

License Number: 17115N.
Name: Sky Way Shipping Inc.
Address: 357 E. Mooney Drive, Monterey Park, CA 91755.
Date Revoked: April 21, 2002.
Reason: Failed to maintain a valid bond.

License Number: 10879N.
Name: Trans Marine International Corporation dba, TMI Systems dba Trans Tank.
Address: 18 North Bothwell Street, Palatine, IL 60067.
Date Revoked: April 7, 2002.
Reason: Failed to maintain a valid bond.

License Number: 14067N.
Name: Western Transit Express Inc.
Address: 2489 Technology Drive, Hayward, CA 94545.
Date Revoked: April 21, 2002.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–12161 Filed 5–14–02; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants

J C Freight, Inc. dba JCTrans Freight, 15240 E. Nelson Avenue, City of Industry, CA 91744. Officers: Ann Yan, Chief Operating Officer, (Qualifying Individual); Wei-Yu Lee, President.

Elite Express Co., Inc., 10105 Dory Avenue, Suite A, Inglewood, CA 90303. Officers: Edward Shih, President, (Qualifying Individual); Judy Keh, Secretary.

DSI Tiger Group, Inc., 17595 Almahurst Street, #206A, City of Industry, CA 91748. Officers: Patricia Wu, Secretary, (Qualifying Individual); Chi Hao Hung, CEO.

D.K. Logistics, Inc., 1533 W. 139th Street, Gardena, CA 90249. Officers: Danny Kim, President, (Qualifying Individual); Yon Jin Kim, Secretary.

Houston Syrius USA, Inc. dba Syrius USA, 3027 Marina Bay Drive, Suite 107, League City, TX 77573. Officer: Christopher Lavan, General Manager, (Qualifying Individual).

International Transportation Group Inc., 372 Doughty Blvd., 2nd Floor, Inwood, NY 11096. Officers: Sui Lung, Shum, Vice President, (Qualifying Individual); Wei Lung, Chen, President.

Leric, Inc., 1930 Japonica Street, New Orleans, LA 70117. Officer: Gerald P. Risberg, President, (Qualifying Individual).

O. T. I. Cargo Inc., 2401 NW 69th Street, Miami, FL 33147. Officer: John Abisch, Director, (Qualifying Individual).

Jury Trans, Inc., 8244 N.W. 14th Street, Miami, FL 33126. Officer: Nabil Enrique Jury Bustamante, President, (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Energy Freight Systems Corp. of Florida, 6932 NW 51 Street, Miami, FL 33166. Officers: Rafael Fernandez, President, (Qualifying Individual); Jussepe Di Falco, President.

GQ Logistics, Inc., 11222 La Cienega Blvd., #510, Inglewood, CA 90304. Officers: Joon Sok Lee, CFO, (Qualifying Individual); Jun S. Park, CEO.

Interdel Logistics, Inc., 175–01 Rockaway Blvd., Suite 303A, Jamaica, NY 11434. Officer: Rodit R. Marco Vici, President, (Qualifying Individual).

Intermodal Bridge Services Inc., 100 Lighting Way, Suite 305, Secaucus, NJ 07094. Officers: John Knapp, Senior Vice President, (Qualifying Individual); Chen Xiaomin, President.

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicants

Buenos Dias America, Inc., 12440 Firestone Blvd., Suite #1009, Norwalk, CA 90650. Officers: Bonghoon Shin, Vice President, (Qualifying Individual); Sung Soo Lee, President.

Emmeli Shipping, 3200 Sunset Avenue, Suite 209, Ocean, NJ 07712. Officer: Kristen Brandimarte, President, (Qualifying Individual).

Flegenheimer International, Inc., 227 W. Grand Ave., El Segundo, CA 90227. Officers: Blanca R. Lopez, Export Manager, (Qualifying Individual); William A. Flengenheimer, President.

Master Freight International Ltd., 6312 Militia Court, Bensalem, PA 19020. Officer: Nanik P. Lalwani, President, (Qualifying Individual).

Dated: May 10, 2002.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 02–12160 Filed 5–14–02; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
3504F	Indo-China Express, Inc. dba Shipper's Express, 211 Tenth Street, Suite 201, Oakland, CA 94607.	March 4, 2002.
16421N	Korea Express Atlanta, Inc. dba Korea Freight Line, Inc., 5559 New Peachtree Road, Chamblee, GA 30341.	February 16, 2002.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 02–12162 Filed 5–14–02; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention; Public Health Service Act; Delegation of Authority

Notice is hereby given that I have delegated to the Director, Centers for Disease Control and Prevention (CDC) and the Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), with authority to redelegate, all of the authorities vested in the Secretary of Health and Human Services, under Title III of the Public Health Service Act, Part B—Loan Repayment Program, Section 317F (42 U.S.C. 247b–7), as amended hereafter, as they pertain to the functions of CDC and ATSDR.

This delegation shall be exercised under the Department's existing delegation of authority and policy on regulations.

This delegation became effective upon date of signature.

Dated: May 7, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–12131 Filed 5–14–02; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Submission for OMB Review; Comment Request; National Family Caregiver Support Program Survey: Grandparents and Other Relative Caregivers Raising Children

AGENCY: Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by June 14, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Allison Herron Eydt, Desk Officer for AoA.

FOR FURTHER INFORMATION CONTACT: Rick Greene, (202) 205–2814, *rick.greene@aoa.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, AoA has submitted the following proposed collection of information to OMB for review and clearance.

A one-time survey will collect information on organizations providing services to grandparents and other relatives caring for children, the nature of the services provided, the number of grandparents and other relatives served annually, the number of children assisted annually, and the training needs of these organizations. AoA estimates the burden of this collection of information as follows: 267 hours will be required to collect this information at an estimated cost of $5,340.

In the **Federal Register** of December 21, 2001 (Vol 66, Pages 65972–3), the agency requested comments on the proposed collection of information. No comments were received.

Dated: May 3, 2002.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 02–12132 Filed 5–14–02; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02091]

National Programs To Support Healthy Aging, Epilepsy, Prevention Activities, and Arthritis; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for National Programs to Support Healthy Aging, Epilepsy, Prevention Activities, and Arthritis. These programs address the ''Healthy People 2010'' focus areas of Access to Quality Health Services, Educational and Community Based Programs, Physical Activity and Fitness, Disability and Secondary Conditions, Arthritis, Osteoporosis, and Chronic Back Conditions, and Health Communication.

The CDC, National Center for Chronic Disease Prevention and Health Promotion, is issuing this Program Announcement in an effort to simplify and streamline the grant and cooperative agreement pre-award and post-award administrative process, provide increased flexibility in the use of funds, and measure performance related to each grantee's stated objectives. Some advantages of the streamlined process are: elimination of separate documents (continuation application and semi-annual progress report) to issue a continuation award; consistency in reporting expectations; and increased flexibility within approved budget categories.

This program announcement covers the following program areas:

Program Area 1: Healthy Aging

The purpose of the Healthy Aging Program is to establish national partnerships to enhance health and quality of life for older adults through a broad national strategy to: (1) Promote oral, physical, and mental health healthy behaviors, (2) reduce the impact of injuries and chronic diseases, and (3) maintain function and independence for older Americans. Applicants may apply for one or more of the following priority areas:

Priority A—Collaboration and Health Promotion: To strengthen and enhance collaborations between health departments at the state and local level, and/or community organizations/networks that focus on older adults, e.g. senior centers and area agencies on aging, to promote behaviors and practices that lead to healthier, more fulfilling, and more satisfying lives for older adults.

Priority B—Implementation and Evaluation: To strengthen the capacity of national, state, and/or local agencies to conduct and evaluate programs that promote health, reduce the impact of injuries and chronic diseases, and maintain function and independence for older adults.

Priority C—Evaluate and Develop Tools: To assess and develop consumer education tools and strategies to improve health, reduce the impact of disease and injury, and delay disability and the need for long-term care among older adults.

Program Area 2: Epilepsy

The purpose of this program is to conduct epilepsy programs that enhance the health and quality of life of people with epilepsy through health promotion, education and enhancement of communication channels. Applicants may apply for one or more of the following priority areas:

Priority A—Partnership Building: To promote public awareness of epilepsy and facilitate collaborative partnerships at all levels of public health.

Priority B—Create Awareness/Improve Health Communications: To expand the outreach of media campaigns to promote understanding and awareness and improve communication strategies to develop, disseminate, and evaluate epilepsy educational materials and programs.

Priority C—Consumer and Provider Education: To expand the availability of carefully designed and well tested low-literacy epilepsy education materials for minority groups, self-management materials for those with epilepsy, and continuing medical education for health care providers.

Program Area 3: Prevention Activities

The purpose of this program is to develop national health promotion and disease prevention strategies for health care organizations, state and local health departments, businesses, and other non profit organizations whose mission is to promote prevention, improve health care quality and improve the public's health.

Program Area 4: Arthritis

The purpose of the Arthritis program is to implement the National Arthritis Action Plan: A Public Health Strategy (NAAP). Specific activities are intended to improve the availability and quality of information and services in order to improve the quality of life for persons with arthritis.

B. Eligible Applicants

Assistance will be provided only to existing grantees under the following program announcements:

a. National Programs to Support Healthy Aging—Program Announcement 01133.

b. Initiatives to Develop and Implement Programs to Enhance Epilepsy, Public Awareness and Partnerships, Education, and Communication—Program Announcement 01134.

c. Implementation of the National Arthritis Action Plan: A Public Health Strategy—Program Announcement 99128.

d. National Strategies to Promote Disease Prevention and Health Promotion—Program Announcement 99153.

Attachment I at the end of this document contains a sole source justification for the Arthritis Foundation. **Note:** Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

C. Availability of Funds

Program Area 1: Healthy Aging

Approximately $500,000 is available in FY 2002 to fund five awards. The average award will be $100,000, with a range from $75,000 to $200,000.

Priority Area A—Collaboration and Health Promotion: Approximately $100,000 is available to fund one award under Priority Area A in FY 2002.

Priority Area B—Implementation and Evaluation: Approximately $200,000 is available to fund two awards under Priority Area B in FY 2002. The average award is expected to be $100,000.

Priority Area C—Evaluating and Developing Tools: Approximately $200,000 is available to fund two awards under Priority Area C in FY 2002. The average award is expected to be $100,000.

Program Area 2: Epilepsy

Approximately $2,100,000 is available in FY 2002 to fund one award.

Program Area 3: Prevention Activities

Approximately $500,000 is available in FY 2002 to fund one award.

Program Area 4: Arthritis

Approximately $1,000,000 is available in FY 2002 to fund one award.

Note: It is expected that all awards under this Program Announcement will be awarded on or before August 30, 2002 and will be made for a 12-month budget period. It is expected that Program Areas 1 and 2 (Healthy Aging and Epilepsy) will have project periods of up to five years; Program Areas 3 and 4 (Prevention Activities and Arthritis) are expected to have project periods of up to two years. Funding estimates may change due to availability of funds.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting the activities under 1. (Recipient activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

Program Area 1: Healthy Aging

Priority Area A—Collaboration and Health Promotion: Develop mechanisms to:

a. Provide resources to health departments at the state and local level and/or community organizations/networks that focus on promoting healthy behaviors and practices among older adults.

b. Develop communications resources for use by communications organizations and older adults.

c. Develop tools to help communities inventory and publicize their resources.

d. Integrate health plans and other health care resources into community demonstration projects.

Priority Area B—Implementation and Evaluation:

a. Identify innovative health and supportive programs for older adults;

b. Conduct systematic review and synthesis of quality programs including organizational capacity, resource requirements and outcomes achieved;

c. Disseminate findings to organizations and individuals who work in the field of aging studies.

Priority Area C—Evaluate and Develop Tools: Evaluate existing consumer education tools and strategies and develop new tools by:

a. Conducting consumer research and marketing activities (e.g. focus groups and other appropriate assessment activities) among older adults, including those from minority and other under-served communities.

b. Developing recommendations and strategies for group-specific future interventions, educational messages, and programs according to the findings.

Program Area 2: Epilepsy

The applicant shall conduct activities in one or more of the following three priority areas:

Priority Area A—Partnership Building:

a. Provide financial and personnel support to epilepsy affiliates/chapters and other health-related organizations to facilitate building collaborative public health partnerships with state and local health departments.

b. Provide financial and personnel support to health related organizations (other than epilepsy affiliates/chapters) to facilitate building collaborative partnerships.

c. Expand ongoing communication vehicles (i.e., listservs, web sites, newsletters, conference calls, meetings) to facilitate problem solving and idea sharing among organizations involved in collaborative activities to strengthen programs to promote public awareness of epilepsy, provide education for those with epilepsy, the general public, and for health care providers, and enhance communication channels.

Priority Area B—Create Awareness/Improve Health Communications:

a. Expand a sustained multifaceted media relations outreach program.

b. Expand, implement and evaluate strategies to disseminate existing educational materials to those with epilepsy who are under served.

Priority Area C—Consumer and Provider Education

a. Expand the development or adaption, evaluation, and dissemination of low-literacy epilepsy education materials and/or educational materials for under served segments of the population, including large minority groups (e.g., Hispanic, Asian, American Natives, African American).

b. Develop, evaluate, and disseminate epilepsy self-management materials delivered through traditional and/or alternative delivery mechanisms (i.e., Internet-based, CD ROM, other).

c. Develop appropriate training on selected epilepsy interventions with demonstrated cost-effectiveness with appropriate experts including international organizations.

d. Develop, evaluate, and disseminate continuing medical education (CME) or CME and continuing education units (CEU) granting self study professional education through alternative delivery mechanisms (i.e., Internet based, CD–ROM).

Program Area 3: Prevention Activities

a. Develop and implement national health disease prevention programs and preventive health models for use by the recipient in providing assistance to a broad range of organizations, including private sector health care organizations, State and local health departments, universities, managed care organizations, and businesses.

b. Collaborate nation-wide with public, private, nonprofit, and academic institutions to promote the goals of prevention.

c. Conduct process and outcome evaluation on all activities.

d. Disseminate information concerning effective prevention activities for health care organizations.

Program Area 4: Arthritis

The applicant should propose at least one activity in each of the two following areas:

Priority Area A—Partnership Activities

a. Develop mechanisms to provide financial support to Arthritis Foundation Chapters to participate in collaborative activities with state health department and other partners.

b. Develop mechanisms to support training for Arthritis Foundation Chapter staff, state and local health department staff, and others to provide evidence-based self management education and physical activity programs (i.e., Arthritis Self Help Course—ASHC, People with Arthritis Can Exercise®—PACE, and Arthritis Foundation Aquatics).

Priority Area B—Consumer education

a. Based on the results of evaluation activities funded in FY 2000 and FY 2001, further develop, evaluate, and disseminate self-management materials delivered through web-based or CD ROM delivery mechanisms. Applicant is strongly encouraged to review the adequacy of previous or ongoing evaluation efforts and propose new or expanded efforts as necessary.

b. Support evaluation activities that may include market research approaches to better characterize the use and non-use of evidence-based self management education (i.e., ASHC) or physical activity (i.e., PACE or Aquatics) programs. Specifically, this activity should (1) characterize program participants and non-participants, specifically addressing access and availability issues, and demographic characteristics; (2) examine current strategies for program dissemination and access; (3) identify factors,

facilitators and barriers, that limit or enhance the delivery and utilization of programs; and (4)recommend strategies to improve program delivery to significantly improve the utilization of the programs.

c. Support evaluation activities to determine the effectiveness of existing Arthritis Foundation self management education or physical activity interventions. The grantee is strongly encouraged to examine these interventions among large minority groups. The ASHC should not be considered under this activity.

d. Develop mechanisms to enhance the capacity of the Arthritis Foundation to respond to requests for information from the public.

e. Develop or support the development of innovative self management education or physical activity programs. These programs should have clearly defined purposes and objectives. Newly developed programs should be pilot tested in preparation for a more thorough evaluation. They should not be disseminated prior to evaluation. No more than $100,000 should be devoted to this activity. The grantee may conduct this activity through AF chapters.

f. Support or develop mechanisms to support training for leaders and trainers for the Spanish language version of the Arthritis Self Help Course.

g. Identify new opportunities to partner in the development of new health communications messages and materials. Hard to reach, underserved populations, especially African Americans and Hispanic Americans are of special interest.

2. CDC Activities for Program Areas 1, 2, 3, and 4 (Healthy Aging, Epilepsy, Arthritis and Prevention Activities)

a. Provide consultation on potential activities and mechanisms of fulfillment for partnership support, including chapters or affiliates and other partners. CDC will provide careful review of applicant grant announcements and where appropriate, participate in the review of applications.

b. Provide consultation on health communication and education efforts for the public in general, older adults, people with arthritis and people with epilepsy. CDC will provide review and input on the scope of work for proposed activities.

c. Provide consultation on the development and evaluation of self management education, physical activity, or other prevention programs. CDC will work with recipients to ensure proposed activities complement work already supported or conducted by CDC and are consistent with a public health approach to address arthritis, epilepsy, and older adults.

d. Provide consultation and support to analyze and interpret data from evaluation activities.

e. Provide assistance to plan and implement linkages among agencies funded under this program announcement. CDC will work to explore synergies among the activities of the different agencies funded under this announcement.

f. Provide assistance in the dissemination of interventions and training materials. CDC's support of and ongoing interaction with state health departments and other partners provide a mechanism for dissemination of evaluated health communication and self management materials developed under this announcement.

E. Content

Application

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated using the criteria listed, so it is important to follow them in laying out your program plan. All applications should have a type-written narrative of no more than 20 double-spaced pages, printed on one side, with one inch margins and 12 point Times New Roman font. The application should be organized into the following sections:

1. Executive Summary

Provide a clear, concise, and objectively written statement of the major objectives and components of the proposed activities, proposed time frame, and evaluation plan. Include proof of your non-profit status.

2. Needs Assessment

Describe the documented need for the proposed activities and current activities that provide relevant experience and expertise to perform the proposed activities.

3. Collaborative Relationships

Describe collaborative relationships with other agencies and organizations that will be involved in the proposed activities.

4. Operational and Evaluation Plan

Describe the specific process, impact, and outcome objectives for each proposed project, the major steps required to achieve the objectives, and a projected timetable for completion that displays dates for the accomplishment of specific proposed activities. Describe the evaluation process that will be used to determine effectiveness and initiate improvement as needed.

5. Management and Staffing Plan

Describe how the program will be effectively managed. Include the following:

a. Management structure including the lines of authority and plans for fiscal control.

b. The staff positions responsible for implementation of the program.

c. Qualifications and experience of the designated staff.

6. Budget and Justification

Provide a detailed budget request and line item justification of all proposed operating expenses.

F. Submission and Deadline

Applications

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the internet address: *http://www.cdc.gov/od/pgo/forminfo.htm* or in the application kit. Submit the application on or before July 1, 2002 to: Technical Information Management—PA02091, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd., Room 3000, Atlanta, GA 30341–4146.

Deadline: Applications shall be considered as meeting the deadline if they are received on or before the deadline date.

Late Applications: Applications which do not meet the criteria above are considered late applications, and will be returned to the applicant.

G. Evaluation Criteria (100 Points)

Applications received from grantees funded under Program Announcements 01133, 01134, 99128, or 99153 will be reviewed by independent reviewers utilizing the Technical Acceptability Review (TAR) process.

1. Needs Assessment: (25 points)

The extent to which the applicant demonstrates that the experience and expertise for the proposed projects.

2. Collaboration: (15 points)

The extent to which the applicant provides evidence of collaborative relationships with other agencies and organizations relevant to successful completion of the proposed projects.

3. Operational and Evaluation Plan: (35 points)

The extent to which the applicant clearly identifies the specific outcome and process objectives for the proposed projects, and the major steps required to meet the objectives; provides a realistic plan for collaboration with partners including CDC in the project; and proposes an evaluation plan that is likely to provide meaningful information about the achievement of the project's objectives.

4. Implementation Plan: (10 points)

The extent to which the projected timetable for completion of tasks and for meeting objectives is reasonable and realistic.

5. Project Management and Staffing Plan: (15 points)

The extent to which the applicant demonstrates management structure and staff positions with clear lines of authority and plans for fiscal control, and that designated staff have appropriate qualifications and experience.

6. Budget (Not Scored)

The extent to which the applicant provides a detailed budget and justification consistent with the proposed program objectives and activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. *Semi-annual progress reports.* The first report is due February 28, 2003. Subsequent semi-annual reports will be due on the 28th of February each year through February 28, 2006.

Continuation Application Guidance:

The February 28 semi-annual progress report and accompanying budget and budget justification will be used to process your continuation award. Semi-annual progress reports should include the following information outlined in the requirements under items (a) through (e):

a. A succinct description of the program accomplishments/narrative and progress made in meeting each program objective during the first six months of the budget period (August 30 through February 28) and should consist of no more than 20 pages.

b. The reason for not meeting established program goals and strategies to be implemented to achieve unmet objectives (see performance measures attached for each program area).

c. A description of any new objectives including the expected impact on the overall burden of cardiovascular diseases and related risk factors and method of evaluating effectiveness.

d. A one year line item budget and budget justification.

e. For all proposed contracts, provide the name of contractor, period of performance, method of selection, method of accountability, scope of work, and itemized budget and budget justification. If the information is not available when the application is submitted, please indicate *to be determined* until the information is available. When the information becomes available, it should be submitted to the CDC Procurement and Grants Management Office contact identified in this program announcement. Documenting and reporting the number of training programs offered and the number of people trained.

2. *Annual progress reports.* The annual report is due no more than 90 days after the end of the budget period (August 30, 2003) and should consist of the same information outlined for the semi-annual progress report in (a) through (c) above.

3. Financial status reports are due, no more than 90 days after the end of the budget period.

4. Final financial and performance reports are due, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Measures of Effectiveness

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the Program and Priority areas as stated below. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

Program Area 1: Healthy Aging

Priority Area A—Collaboration and Health Promotion: Document the change in healthy behavior of aging adults by developing resources that focus on promoting healthy behaviors and practices among older adults: documentation should include a description of the process used, the scientific rationale for the content of the resources, intended target audience, and proposed evaluation plans.

Priority Area B—Implementation and Evaluation: Review of programs for older adults and dissemination of findings: documentation should include a description of the evaluation and dissemination processes.

Priority Area C—Evaluation and Development of Tools:

Evaluate current consumer educational tools and develop new tools: Documentation should include a description of the evaluation and development processes.

Program Area 2: Epilepsy

1. Develop diverse and active partnerships: documentation should include materials (i.e., minutes of meetings that delineate partners' roles, lists of work group members, outcomes or products of partnerships, communication vehicles developed or expanded to facilitate idea sharing among partners) that demonstrate collaboration on epilepsy program activities. Partners should include state and local health departments, organizations other than epilepsy affiliates/chapters that promote or address epilepsy issues; organizations that improve health and quality of life for those with chronic disease, and organizations that address the health care and support needs of minority populations.

2. Develop multifaceted outreach activities to expand epilepsy awareness at national and local levels. Extend educational outreach to under served groups: Documentation should include listings of network activities from at least 15 grantee affiliates, an outline of the elements of the current national media campaign, types of educational and promotional materials developed and disseminated, communication channels developed or expanded, and target populations reached. Provide measurable outputs that demonstrate that the target populations have been reached.

3. Develop, disseminate and/or evaluate at least five types of targeted consumer and/or provider education materials that focus on epilepsy and seizures: Documentation should include type of materials (i.e., fact sheets, articles, brochures, exhibits, presentations, training modules, audio/video materials) target populations reached, and evaluation methods used.

Program Area 3: Prevention Activities

1. Develop health promotion/disease prevention web-based modules: Documentation should include a detailed description of module development, including scientific rationale, steps taken to develop module

based on the rationale, intended target audience, intended outcomes for participants, and proposed evaluation plans.

2. Provide information by documenting the response to phone calls, email requests, and other referred questions generated by the dissemination of web-based materials.

3. Develop partnerships with at least 30 diverse and active national organizations representing health care practitioners that will disseminate the web-based modules to their membership: Documentation should include communications methods developed or expanded to facilitate information exchange, demonstration of feedback from the national organizations, dissemination of materials, and signed documents of collaboration.

Program Area 4: Arthritis

1. Document and report the number of training programs offered and the number of people trained in Arthritis Foundation evidence-based programs (i.e., ASHC, PACE, AF Aquatics).

2. Develop no more than five innovative self management education or physical activity programs by providing detailed descriptions of the process and outcome of program development, including scientific rationale for the program, steps taken to develop program based on the rationale, intended target audience, intended outcomes for program participants, theoretical model or framework, results of pilot testing, and proposed evaluation plans.

3. Increase capacity to provide information by documenting an increased ability to handle phone and web requests and the development and production of new materials.

The following additional requirements are applicable to these programs. For a complete description of each, see Attachment II of the announcement.

AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the sections 301(a) and 317(k)(2) of the Public Health Service Act, (42 U.S.C. 241(a) and 247b(k)(2)), as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address *http://www.cdc.gov* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

If you have questions after reviewing the contents of all the documents, business management assistance may be obtained from: Michelle Copeland, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 02091, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2686, E-mail: *stc8@cdc.gov.*

See also the CDC home page on the Internet to obtain a copy of the announcement: *http://www.cdc.gov.*

For program technical assistance, contact: Mike Waller, Centers for Disease Control and Prevention, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, 4770 Buford Highway NE, Atlanta, GA, 30341–3717, Telephone: (770) 488–5264, E-mail: *mnw1@cdc.gov.*

Dated: May 6, 2002.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 02–12087 Filed 5–14–02; 8:45 am]

BILLING CODE 4063–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0398]

Agency Information Collection Activities; Announcement of OMB Approval; Format and Content Requirements for Over–the–Counter (OTC) Drug Product Labeling

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Format and Content Requirements for Over–the–Counter (OTC) Drug Product Labeling'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

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: In the **Federal Register** of September 27, 2001 (66 FR 49388), 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 0910–0340. The approval expires on April 30, 2005. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: May 8, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12093 Filed 5–14–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1034]

Agency Information Collection Activities; Announcement of OMB Approval; Medical Devices; Device Tracking

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Medical Devices; Device Tracking'' 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 February 8, 2002 (67 FR 5943), 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 0910–0442. The approval expires on April 30, 2005. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: May 8, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12094 Filed 5–14–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00E–1345]

Determination of Regulatory Review Period for Purposes of Patent Extension; ACTOS

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ACTOS and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Claudia V. Grillo, Office of Regulatory Policy (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3565.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted, as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product ACTOS (proglitazone hydrochloride). ACTOS is indicated for the improvement of glycemic control in patients with Type 2 diabetes as monotherapy, or in combination with a sulfonylurea, metformin or insulin when diet and the single agent does not result in adequate glycemic control. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ACTOS (U.S. Patent No. 4,687,777) from Takeda Chemical Industries, Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated January 17, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of ACTOS represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ACTOS is 3,556 days. Of this time, 3,374 days occurred during the testing phase of the regulatory review period, while 182 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: October 21, 1989. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on October 21, 1989.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: January 15, 1999. FDA has verified the applicant's claim that the new drug application (NDA) for ACTOS (NDA 21-073) was initially submitted on January 15, 1999.

3. *The date the application was approved*: July 15, 1999. FDA has verified the applicant's claim that NDA 21-073 was approved on July 15, 1999.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (see **ADDRESSES**) written comments and ask for a redetermination by July 15, 2002. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 12, 2002. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (see **ADDRESSES**). Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 2002.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 02–12092 Filed 5–14–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0169]

Combination Products Containing Live Cellular Components; Public Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing to discuss the jurisdictional classification, assignment, and premarket review of certain products that consist of living human cells in combination with a device matrix. The hearing will focus on products that are intended for wound healing (e.g., wound repair or skin regeneration, replacement, or reconstruction), although the information obtained may also be pertinent to questions concerning other combination products containing live cells. Combination products that include human cell or tissue components have significant potential to enhance the public health. The purpose of the hearing is to solicit information and views from interested persons, including scientists, clinical investigators, professional groups, trade groups, commercial enterprises, and consumers, on the issues and concerns relating to the premarket review and regulation of these combination products. To assist in the development of a consistent policy on jurisdiction for these products, FDA is interested in responses to specific questions and any other pertinent information stakeholders would like to share.

DATES: The public hearing will be held on Monday, June 24, 2002, from 9 a.m. to 5 p.m. Submit written or electronic notices of participation by June 14, 2002. Written comments will be accepted until August 23, 2002.

ADDRESSES: The public hearing will be held at the Double Tree Hotel, Plaza II and III, 1750 Rockville Pike, Rockville, MD 20852. Directions to the hotel can be found at www.doubletreerockville.com. Submit written notices of participation and comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, e-mail: FDADockets@oc.fda.gov. Submit electronic comments to http://www.accessdata.fda.gov/scripts/oc/dockets/meetings/meetingdocket.cfm. Transcripts of the hearing will be available for review at the Dockets Management Branch and on the Internet at http://www.fda.gov/ohrms/dockets.

FOR FURTHER INFORMATION CONTACT: Karen Wesley, Office of the Ombudsman, Office of Communications and Constituent Relations (HF–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3390, FAX 301–480–8039, e-mail: ombuds@oc.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing a public hearing to discuss the jurisdictional classification, assignment, and premarket review of products that consist of living human cells in combination with a device matrix that are intended for wound healing. The meeting is another step in the agency's continuing effort to clarify and refine its regulatory approach to products that are comprised in whole or in part of living cells or tissues.

As the field of cell and tissue therapy has evolved, the agency has developed policies and practices to regulate these emerging products appropriately. For example, FDA is developing a risk-based regulatory approach for human cells, tissues, and cellular and tissue-based products (HCT/Ps). Under this approach, certain HCT/Ps would be subject to various requirements, including registration and listing, donor eligibility requirements, and good tissue practice requirements, but would not be subject to premarket review and approval. Other HCT/Ps, including combination products consisting of a cellular product combined with a device, would be subject to premarket review and approval.

Most cell therapies currently under development involve the use of cells alone, or in combination with biological products, such as cytokines or growth factors. However, in recent years sponsors have begun to combine human cells with other FDA-regulated articles, including devices or drug products. The combination of two distinct components that would normally be regulated under different regulatory authorities introduces additional factors to consider in the determination of primary jurisdiction and the application of appropriate regulatory authorities. In accordance with section 503(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)(1), the agency is required to assign primary jurisdiction for premarket review of combination products based on the product's ''primary mode of action.'' In order to determine a combination product's primary mode of action the agency must be able to identify how the product acts on the body and to determine the relative contribution of each of its component parts.

In the absence of clear scientific data demonstrating which mode of action is primary, other factors have been considered to determine assignment of review responsibility within FDA. Historically, these other factors have included the guidance provided by the intercenter agreements, determination of the most novel element or component with the greatest safety risk and indication for use. Many of these products have been characterized as ''cultured skin'' products or interactive wound dressings and have been reviewed and regulated by the Center for Devices and Radiological Health (CDRH) under medical device authorities. Several such products have gone through CDRH administered review and are now marketed under approved premarket approval applications. FDA is soliciting information to determine whether this class of products should be transferred to the Center for Biologics Evaluation and Research (CBER) for premarket review and regulation.

II. Purpose and Scope of the Hearing

The promise of combination products that use living cells in combination with a device matrix for wound healing may be significant. Because such products combine cell and non-cell components successful development and marketing of these products may be slowed by uncertainty about jurisdiction, particularly as it relates to the nature and scope of regulatory requirements that must be met in order to bring these products to market. Moreover, such products have increasingly been the subject of questions regarding both jurisdiction and pre and postmarket requirements. The agency recognizes that it may need to modify existing paradigms to address the unique characteristics of these combinations.

In light of the regulatory and scientific issues posed by such combination products, the agency is holding a public hearing to solicit: (1) Information about these products, (2) recommendations on the formulation and implementation of a consistent policy for product assignment, and (3) appropriate requirements for approval.

The hearing will focus on a discussion of combination products that consist of autologous or allogeneic living human cells combined with a device matrix for wound healing. The agency notes that some of the products

that consist of living cells combined with a device matrix intended for wound healing are now assigned to CDRH. Depending upon the information presented at the hearing, the agency could conclude that the primary mode of action of some or all of these products is that of the cell component, and that the product(s) should therefore be reassigned to CBER.

Single entity products, combination products containing bone, ligament and vascular products used for structural purposes, and drug-device combination products are beyond the scope of this hearing. In addition, the hearing will not consider products intended for purposes other than wound healing, such as encapsulated pancreatic cells intended for implantation to produce insulin to treat diabetes.

Combination products that contain a gene therapy component are also beyond the scope of this hearing. The term gene therapy includes all products that contain genetic material administered to modify or manipulate the expression of genetic material or to alter the biological properties of living cells.

III. Issues for Discussion

The agency recognizes the importance of promoting the public health by promptly and efficiently reviewing clinical research and taking appropriate action on the marketing of regulated products in a timely manner, and of protecting the public health by assuring the safety and effectiveness of regulated medical products. New technologies and products that result from the combination of two distinct components provide not only unique scientific questions, but also challenges related to where and how the products should be regulated in order to ensure adequate, predictable, and consistent regulatory oversight. This public hearing is being held to discuss the classification, assignment, and premarket review of combination products comprised of live human cells used in combination with a device matrix for wound healing (e.g., wound repair, or skin regeneration, replacement or reconstruction). To assist in the development of a consistent policy on jurisdiction for these products, the agency invites information and comments on the following:

1. What are the public health concerns related to these combination products as a whole and with respect to their individual components? What information should the agency require in the premarket submission to demonstrate the safety and efficacy of combination products that contain live cells used in combination with a device matrix for wound healing (e.g., wound repair, or skin regeneration, replacement or reconstruction)? What regulatory requirements are necessary to ensure that adequate manufacturing controls are in place for both the device and live cell components? What other issues are important (e.g., clinical trial design, informed consent, infectious disease concerns)?

2. Given that primary mode of action determines jurisdiction for combination products, what information should the agency consider in identifying the level of contribution of each component to the therapeutic effect of the product? For example, skin replacement products are intended to act as wound coverings (historically considered a device action), and as mediators of tissue regeneration or repair by providing a living substrate to grow replacement tissue and through the production of soluble factors (historically considered to be biological product activities). What information should the agency consider in determining which action is primary?

3. In instances where both components of a combination product containing live cells appear to make a significant contribution to the therapeutic effect of the product and it is not possible to determine which mode of action is primary, what other factors should the agency consider in the assignment of primary jurisdiction? Is there a clear hierarchy among these additional factors that should be observed in order to ensure an adequate review? Should these same factors be used to determine the appropriate type of premarket application?

IV. Notice of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs (the Commissioner) is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). The presiding officer will be the Commissioner's designee, the Senior Associate Commissioner for Communications and Constituent Relations. The presiding officer will be accompanied by senior management from CBER, CDRH, and the Center for Drug Evaluation and Research (CDER).

Persons who wish to participate in the part 15 hearing must file a written or electronic notice of participation with the Dockets Management Branch (see **ADDRESSES**) before June 14, 2002. To ensure timely handling, any outer envelope should be clearly marked with the docket number listed at the head of this notice along with the statement ''Combination Products Containing Live Cellular Components Hearing.'' Groups should submit two written copies. The notice of participation should contain the person's name; address; telephone number; affiliation, if any; the sponsor of the presentation (e.g., the organization paying travel expenses or fees), if any; a brief summary of the presentation; and approximate amount of time requested for the presentation. The agency requests that interested persons and groups having similar interests consolidate their comments and present them through a single representative. After reviewing the notices of participation and accompanying information, FDA will schedule each appearance and notify each participant by telephone of the time allotted to the person and the approximate time the person's oral presentation is scheduled to begin. If time permits, FDA may allow interested persons attending the hearing who did not submit a written or electronic notice of participation in advance to make an oral presentation at the conclusion of the hearing. The hearing schedule will be available at the hearing. After the hearing, the hearing schedule will be placed on file in the Dockets Management Branch under the docket number listed at the head of this document.

Under § 15.30(f), the hearing is informal, and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation.

Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (part 10, subpart C (21 CFR part 10, subpart C)). Under § 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b). The transcript of the hearing will be available on the Internet at http://www.fda.gov/ohrms/dockets, and orders for copies of the transcript can be placed at the meeting or through the Dockets Management Branch (see **ADDRESSES**).

Any handicapped persons requiring special accommodations to attend the hearing should direct those needs to the contact person (see **FOR FURTHER INFORMATION CONTACT**).

To the extent that the conditions for the hearing, as described in this document, conflict with any provisions set out in part 15, this notice acts as a

waiver of those provisions as specified in § 15.30(h).

V. Request for Comments

Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written or electronic notices of participation and comments for consideration at the hearing by June 14, 2002. To permit time for all interested persons to submit data, information, or views on this subject, the administrative record of the hearing will remain open following the hearing until August 23, 2002. Persons who wish to provide additional materials for consideration should file these materials with the Dockets Management Branch (see **ADDRESSES**) by August 23, 2002. Two copies of any written comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VI. Electronic Access

Persons with access to the Internet may obtain more information about this hearing or combination products in general at http://www.fda.gov.

Dated: April 29, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–12171 Filed 5–10–02; 4:33 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: National Survey of Characteristics and Funding of School Mental Health Services: 2002–2003—New—SAMHSA's Center for Mental Health Services will sponsor this national study of the mental health services provided in U.S. public schools. A substantial proportion of public schools provide some level of mental health screening, prevention, and treatment services to their students. However, no national-level data are available on these services. The study is designed to document the types of mental health problems encountered in schools, the mental health services provided, the types and of qualifications of staff providing the services, the arrangements for delivery of services, and the funding of those services. The study will examine the prevalence of these mental health resources and their distribution across schools in the nation as they vary by grade level, size, locale, and the student populations served.

The survey will be conducted as a self-administered mail survey (with telephone followup) of a nationally representative sample of 2,000 public elementary, middle and secondary schools. The districts associated with the sampled schools will be asked to answer questions about funding sources, budgets, and issues related to funding. The results of the study will be available in the summer of 2003. Response burden for the survey is summarized in the following table.

Questionnaire	Number of respondents	Responses/ respondent	Burden/ response (hrs.)	Total burden hours
School district	1,200	1	.5	600
School	2,000	1	1.0	2,000
Total	3,200			2,600

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 8, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–12088 Filed 5–14–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Indian Arts and Crafts Board

Proposed Information Collection to Identify Tribal Non-Member Indian Artisan Certification Programs

AGENCY: Indian Arts and Crafts Board, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Indian Arts and Crafts Board (IACB) is announcing its intention to request approval for the collection of information from those federally recognized Indian tribes that have established a non-member Indian artisan certification program as described in Pub. L. 101–644. This request for information from the tribes 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 collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by June 14, 2002, in order to be assured of consideration.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503. Also, please send a copy of your comments to Meridith Z. Stanton, Indian Arts and Crafts Board, U.S. Department of the Interior, 1849 C Street, NW., MS–4004 MIB, Washington, DC 20240 or electronically by e-mail to *iacb@os.doi.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection instruments should be directed to Meridith Z. Stanton, Director, Indian Arts and Crafts Board, 1849 C Street, NW., MS 4004 MIB, Washington, DC 20240. You may also call (202) 208–3773 (not a toll free call), or send your request by e-mail to *iacb@os.doi.gov,* or by facsimile to (202) 208–5196.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Indian Arts and Crafts Board (Board) is the agency responsible for the enforcement of the Indian Arts and Crafts Act of 1990, Pub. L. 101–644. The Act is a truth-in-advertising law that prohibits the offer or display for sale, or sale of any art or craft product in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian tribe. Under the law, an ''Indian'' is defined as ''any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe.'' It is voluntary for a tribe to establish a certification program in accordance with 25 CFR part 309.

As the agency responsible for the enforcement of the Indian Arts and Crafts Act, it is necessary for the Board to know which federally recognized tribes have established a non-member artist certification program in accordance with the Act. This information is important for the effective enforcement of the Act because it will enable the Board to quickly verify whether or not a particular Federally recognized tribe has a certification program under the Act, and to make a preliminary determination as to whether an individual is making a truthful claim regarding his or her certification by a particular Federally recognized tribe.

Finally, this information will enable the Board to answer general inquiries from the public regarding tribal non-member certification programs.

II. Method of Collection

In order to identify those federally recognized Indian tribes that have established a non-member Indian artisan certification program as set forth in Public Law 101–644, the Indian Arts and Crafts Board is mailing a response form and a self-addressed stamped envelope to federally recognized Indian tribes requesting that they (1) identify whether or not they have established a non-member artist certification program and, (2) if the tribe has established such a program, whether or not the tribe is willing to mail or fax to the Board a copy of the tribal statutory language establishing the certification program, and (3) whether the federally recognized tribe authorizes the Board to distribute its tribal language upon request by other tribes in search of a model for establishing their certification program. Submission of the information and authorization is strictly voluntary on behalf of the tribe.

Information collected	Reason for collection
Name of organization, address, telephone number, and name of contact.	To identify the federally recognized Indian tribe responding and to obtain a method and name of contact.
Whether or not the tribe has established a non-member artist certification program.	To identify those federally recognized Indian tribes that have established a non-member artist certification program.
Whether or not the tribe is willing to send to the Board by mail or fax its non-member artist certification program language.	To identify those federally recognized tribes that are willing to submit to the Board a copy of the tribal language establishing a non-member artist certification program.
Whether or not the tribe authorizes the Board to use its non-member artist certification program language as a model for other tribes.	To obtain the federally recognized tribe's authorization to use the tribal language establishing a non-member artist certification program as a model for other tribes.

III. Proposed Use of the Information

The information collected will be used by the Indian Arts and Crafts Board to determine which federally recognized Indian tribes have established a non-member Indian artisan certification program as contemplated by the Indian Arts and Crafts Act of 1990. This will enable the Indian Arts and Crafts Board to provide accurate responses to inquires from artisans and members of the public seeking this information.

IACB has submitted a request to OMB to approve the collection of information for the Non-member Artist Certification Response form. IACB is requesting a 3-year term of approval for the 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 Office of Management and Budget control number. As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on August 2, 2001 (66 FR 40292). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

(1) *Title:* Non-member Indian Artisan Certification Program Form.

OMB Control Number: 1085–xxxx.

Type of Review: New Collection.

Affected Entities: Federally recognized Tribal Governments.

Number of Respondents: 580.

Frequency of Collection: One time data gathering.

(2) Total annual reporting and record keeping burden.

Total Reporting Per Respondent: 10 minutes.

Total Annual Burden Hours: 97 hours.

(3) *Description of the need for the information and proposed use of the information:* The Board is requesting the foregoing information from Federally recognized Indian tribes in order to identify those federally recognized tribes that have established a program for certifying non-member Indian artisans as described in Public Law 101–644 and 25 CFR part 309.

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection and validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Dated: December 21, 2002.

Meridith Z. Stanton,

Director, Indian Arts and Crafts Board.

[FR Doc. 02–12164 Filed 5–14–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Indian Arts and Crafts Board

Notice of Proposed Information Collection for Source Directory Publication

AGENCY: Indian Arts and Crafts Board, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Indian Arts and Crafts Board (IACB) is announcing its intention to request approval for the collection of information for the Source Directory of American Indian and Alaska native owned and operated arts and crafts businesses. Two Business Listing Applications for (1) new businesses—group; (2) new businesses-individual; two Source Directory Business Listing Renewal Forms for (1) renewal for businesses already listed—group; and (2) renewal for businesses already listed—individual. There are four (4) types of forms total. Each respondent will only be asked to complete one (1) applicable form. This collection request 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 collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by June 14, 2002, in order to be assured of consideration.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503. Also, please send a copy of your comments to Meridith Z. Stanton, Indian Arts and Crafts Board, U.S. Department of the Interior, 1849 C Street, NW., MS–4004 MIB, Washington, DC 20240 or electronically by e-mail to *iacb@os.doi.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the Source Directory application or renewal forms, *i.e.,* the information collection instruments, should be directed to Meridith Z. Stanton, Director, Indian Arts and Crafts Board, 1849 C Street, NW., MS 4004 MIB, Washington, DC 20240. You may also call (202) 208–3773 (not a toll free call), or send your request by e-mail to *iacb@os.doi.gov* or by facsimile to (202) 208–5196.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Source Directory of American Indian and Alaska Native owned and operated arts and crafts enterprises is a program of the Indian Arts and Crafts Board that promotes American Indian and Alaska Native arts and crafts. The Source Directory is a forty-one page full-color illustrated publication featuring fine examples of contemporary American Indian and Alaska Native art from the major cultural areas in the United States. The Source Directory also comes with a listing of American Indian and Alaska native owned and operated arts and crafts businesses. This listing is included as an insert in the back cover of the Source Directory.

The service of being listed in this publication is provided free-of-charge to members of Federally recognized tribes. Businesses listed in the Source Directory include American Indian and Alaska Native artists and craftspeople, cooperatives, tribal arts and crafts enterprises, businesses privately-owned-and-operated by American Indian and Alaska Native artists, designers, and craftspeople, and businesses privately owned-and-operated by American Indian and Alaska Native merchants who retail and/or wholesale authentic Indian and Alaska Native arts and crafts. Business listings in the Source Directory are arranged alphabetically by State. The Source Directory may be ordered from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, for a cost of $9.50 which includes shipping and handling. The business listings are also available on the Board's website located at *www.iacb.doi.gov.*

The Director of the Board uses this information to determine whether an individual or business applying to be listed in the Source Directory meets the requirements for listing. The approved application will be printed in the Source Directory. The Source Directory is updated annually to include new businesses and to update existing information.

II. Method of Collection

To be listed in the Source Directory, interested individuals and businesses must submit: (1) A letter requesting an entry in the Source Directory, (2) a draft of their business information in a format like the other Source Directory listings, (3) a copy of the individual's or business owner's tribal enrollment card; and for businesses, proof that the business is organized under tribal, State or Federal law; and (4) a certification that the business is an American Indian or Alaska Native owned and operated cooperative, tribal enterprise, or nonprofit organization or that the owner of the enterprise is an enrolled member of a Federally recognized American Indian tribe or Alaska Native group.

The following information is collected in a single-page form that is distributed by the Indian Arts and Crafts Board. Although listing in the Source Directory is voluntary, submission of this information is required for inclusion in the Directory.

Information collected	Reason for collection
Name of business, mailing address, city, zip code (highway location, Indian reservation, etc.), telephone number and e-mail address.	To identify the business to be listed in the Source Directory, and method of contact.
Type of organization	To identify the nature of the business entity.

Information collected	Reason for collection
Hours/season of operation	To identify those days and times when customers may contact the business.
Internet website address	To identify whether the business advertises and/or sells inventory on-line.
Main categories of products	To identify the products that the business produces.
Retail or wholesale products	To identify whether the business is a retail or wholesale business.
Mail order and/or catalog	To identify whether the business has a mail order and/or catalog.
Price list information, if applicable	To identify the cost of the listed products.
For a cooperative or tribal enterprise, a copy of documents showing that the organization is formally organized under tribal, State or federal law.	To determine whether the business meets the eligibility requirement for listing in the Source Directory.
Signed certification that the business is an American Indian or Alaska Native owned and operated cooperative, tribal enterprise, or non-profit organization.	To obtain verification that the business is an American Indian or Alaska Native owned and operated business.
Copy of the business owner's tribal enrollment card	To determine whether the business owner is an enrolled member of a federally-recognized tribe.
Signed certification that the owner of the business is a member of a federally-recognized tribe.	To obtain verification that the business owner is an enrolled member of a federally-recognized tribe.

The proposed use of the information: The information collected will be used by the Indian Arts and Crafts Board:

(a) to determine whether an individual or business meets the eligibility requirements for inclusion in the Source Directory, *i.e.,* whether they are either an American Indian or Alaska Native owned and operated cooperative, tribal enterprise, or nonprofit organization, or an enrolled member of a Federally-recognized American Indian tribe or Alaska Native group;

(b) to identify the applicant's business information to be printed in the Source Directory. IACB has submitted a request to OMB to approve the collection of information for the Source Directory. Two Business Listing Applications for (1) new businesses—group; (2) new businesses—individual; two Source Directory Business Listing Renewal Forms for (1) renewal for businesses already listed—group; and (2) renewal for businesses already listed—individual. There are four (4) types of forms total. Each respondent will only be asked to complete one (1) applicable form. The IACB is requesting a 3-year term of approval for the information collection activity.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on the collection of information was published on August 2, 2001 (66 FR 40293). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection activity:

(1) *Title:* Source Directory of American Indian and Alaska Native owned and operated arts and crafts businesses application and renewal forms.

OMB Control Number: 1085–xxxx.

Type of Review: New Collection.

Affected Entities: Business or other for-profit; Tribes.

Estimated Annual Number of Respondents: 100.

Frequency of Collection: Annual.

(2) Annual reporting and record keeping burden.

Total Annual Reporting Per Respondent: 15 minutes.

Total Annual Burden Hours: 25 hours.

(3) *Description of the need and use of the information:* Submission of this information is required to receive the benefit of being listed in the Indian Arts and Crafts Board Source Directory. The information is collected to determine the applicant's eligibility for the service and to obtain the applicant's name and business address to be printed in the publication.

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Dated: December 21, 2001.

Meridith Z. Stanton,

Director, Indian Arts and Crafts Board.

[FR Doc. 02–12165 Filed 5–14–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Central Utah Project Completion Act

AGENCY: Office of the Assistant Secretary for Water and Science, Department of the Interior.

ACTION: Notice of Availability of the Record of Decision documenting the Department of Interior's approval to proceed with the construction of the Diamond Fork System modifications, Utah County, Utah.

SUMMARY: On April 10, 2002, Tom Weimer, Deputy Assistant Secretary for Water and Science, Department of the Interior (Interior), signed the Record of Decision (ROD) which documents Interior's decision to modify a portion of the alignment of the Bonneville Unit Diamond Fork System of the Central Utah Project. The new alignment would eliminate the construction of a portion of the Upper Diamond Fork Tunnel and instead construct an alternative series of pipeline, tunnel, and shaft as presented in the Diamond Fork System 2002 Final Environmental Assessment for the Proposed Action Modifications and Finding of No Significant Impact (2002 Modifications EA/FONSI).

FOR FURTHER INFORMATION CONTACT: Additional information on matters related to this **Federal Register** notice can be obtained by contacting Mr. Reed Murray, Deputy Program Director, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT 84606–6154, (801) 379–1237, *rmurray@uc.usbr.gov.*

SUPPLEMENTARY INFORMATION: The ROD also approves the Central Utah Water Conservancy District (CUWCD) proceeding with the completion of the Diamond Fork System, in accordance with statutory and contractual obligations. The Proposed Action includes the following features: (1) Sixth Water Connection to Tanner Ridge Tunnel; (2) Tanner Ridge Tunnel; (3) Upper Diamond Fork Pipeline; (4) Upper Diamond Fork Flow Control Structure; (5) Upper Diamond Fork Shaft; (6) Aeration Chamber and Connection to Upper Diamond Fork Tunnel; and (7) Upper Diamond Fork Road Reconstruction.

The Proposed Action fulfills project needs to: (1) Maintain the statutorily mandated minimum flows in Sixth Water Creek and Diamond Fork Creek; (2) implement Interior's environmental commitments on the Diamond Fork System which includes but is not limited to removing high flows brought over from Strawberry Reservoir into the Sixth Water and Diamond Fork Creek drainages; (3) meet the CUWCD's M&I water contractual commitments to Salt Lake, Utah and Wasatch Counties, by conveying Bonneville Unit water to Utah Lake for exchange to Jordanelle Reservoir; and (4) provide the Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) the opportunity and flexibility for future restoration of aquatic and riparian habitat in Sixth Water and Diamond Fork creeks to protect water quality and threatened species in Diamond Fork Creek.

During preparation of the 2002 Modifications EA/FONSI, CUWCD consulted formally on listed species with the U.S. Fish and Wildlife Service (USFWS) under § 7 of the Endangered Species Act (16 U.S.C.A. sections 1531 to 1544, as amended). The Joint-Lead Agencies have included the USFWS recommendations as environmental commitments in the ROD.

Dated: May 1, 2002.

Ronald Johnston,

Program Director, Department of the Interior.

[FR Doc. 02–12089 Filed 5–14–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Tribal Consultation on Indian Education Topics; Correction

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of tribal consultation meetings; correction.

SUMMARY: This document corrects the notice that was published in the **Federal Register** on May 7, 2002 (67 FR 30722), by changing the comment deadline.

Correction

On page 30722, in the second column under the **DATES** section, the first sentence ''Comments are due on or before June 28, 2002.'' is corrected to read: ''Comments are due on or before July 26, 2002.''

All other information published in the May 7, 2002 notice remains unchanged.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Whitehorn, (202) 208–4976.

Dated: May 7, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–12053 Filed 5–14–02; 8:45 am]

BILLING CODE 4310–6W–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–449]

Certain Abrasive Products Made Using a Process for Powder Preforms, and Products Containing Same; Notice of Issuance of Limited Exclusion Order and Cease and Desist Order

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a limited exclusion order and a cease and desist order in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Michael K. Haldenstein, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3041. Copies of the limited exclusion order, the cease and desist order, the public version of the Commission's opinion, and all other nonconfidential documents filed in connection with 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.

General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. 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 February 5, 2001, based upon a complaint filed on January 5, 2001, by Minnesota Mining & Manufacturing Co. (''3M'') of St. Paul, Minnesota and Ultimate Abrasive Systems, LLC (''UAS'') of Atlanta, Georgia. 66 FR 9720 (Feb. 9, 2001). Their complaint named Kinik Company (''Kinik'') of Taipei, Taiwan and Kinik Corporation (''Kinik Corp.'') of Anaheim, California as respondents.

Complainants alleged that respondents had violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and selling within the United States after importation certain abrasive products that are made using a

process for making powder preforms that is covered by claims 1, 4, 5, and 8 of U.S. Letters Patent 5,620,489 (''the ''489 patent''), owned by UAS and exclusively licensed to 3M. The complaint further alleged that an industry in the United States exists as required by subsection (a)(2) of section 337.

Complainants moved to terminate the investigation with respect to Kinik Corp. after they concluded that Kinik Corp was not manufacturing or importing products that infringed the '489 patent. The ALJ granted this motion on June 19, 2001, in an initial determination (''ID'') (Order No. 15) and the Commission determined not to review that ID. On August 8, 2001, the ALJ issued an ID (Order No. 19) that the economic prong of the domestic industry requirement was satisfied with respect to the claims at issue of the '489 patent, and the Commission determined not to review that ID.

An evidentiary hearing was held on October 10–17, 27, and 30, 2001. On February 8, 2002, the ALJ issued his final ID, in which he determined that respondent Kinik's accused DiaGrid abrasive products infringed claims 1, 4, 5, and 8 of the '489 patent and that the '489 patent was valid and enforceable. Based upon these findings, he found a violation of section 337.

The ALJ recommended issuance of a limited exclusion order barring importation of all Kinik abrasive products that infringe the '489 patent, which includes products produced using Kinik's DiaGrid process. He also recommended issuance of a cease and desist order against Kinik, and a bond during the Presidential review period in the amount of five percent of the entered value of the infringing Kinik products.

On February 21, 2002, Kinik petitioned for review of the ALJ's final ID. Kinik also appealed Order No. 40, issued by the ALJ on October 12, 2001. That order precluded Kinik from asserting 35 U.S.C. 271(g) as a non-infringement defense. On February 28, 2002, 3M and the Commission investigative attorney (''IA'') filed oppositions to Kinik's petition for review and its appeal of Order No. 40.

On March 29, 2002, the Commission determined to affirm Order No. 40 and not to review the ALJ's final ID, and issued a notice to that effect. 67 FR 16116 (Apr. 4, 2002). The Commission also issued an opinion explaining its reasons for affirming Order No. 40.

Having determined that a violation of section 337 has occurred in this investigation, the Commission sought comments on and considered the issues of the appropriate form of relief, whether the public interest precludes issuance of such relief, and the bond during the 60-day Presidential review period.

The Commission determined that the appropriate remedy consists of a limited exclusion order prohibiting the importation of the infringing abrasive products manufactured abroad by Kinik Company of Taipei, Taiwan, and a cease and desist order directed to Kinik prohibiting that company from selling or engaging in various other commercial activities relating to such products within the United States. The Commission further determined that the statutory public interest factors do not preclude the issuance of such relief. Finally, the Commission determined that during the Presidential review period importation and sales within the United States should be permitted pursuant to a bond requirement in the amount of five percent of the entered value of the infringing abrasive products.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.50).

Issued: May 9, 2002.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 02–12157 Filed 5–14–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Community Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: new collection, Tribal Resources Grant Program Equipment and Training Progress 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. This proposed information collection was previously published in the **Federal Register** Volume 67, Number 25, page 5612 on February 6, 2002, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until June 14, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Tribal Resources Grant Program Equipment and Training Progress Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: None. U.S. Department of Justice, Office of Community Oriented Policing Services (COPS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federally Recognized Tribal Governments.

Other: None.

Abstract: The information collected will be used by the COPS Office to determine grantee's progress toward grant implementation and for compliance monitoring efforts.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 200 responses, one for each respondent.

The estimated amount of time required for the average respondent to respond: The estimated time required for the average respondent to respond is 3 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 600 annual burden hours associated with this collection.

FOR FURTHER INFORMATION CONTACT: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: May 9, 2002.

Brenda E. Dyer,

Department Deputy Clearance Officer, Department of Justice.

[FR Doc. 02–12082 Filed 5–14–02; 8:45 am]

BILLING CODE 4410–AT–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request; Correction

May 8, 2002.

On Monday, May 6, 2002, the Department of Labor (DOL) published a notice in **Federal Register** (Vol. 67, No. 87, pages 30401 to 30402) announcing an opportunity to comment on an information collection request (ICR) that was submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The notice announced an opportunity to comment on the ICR for OSHA's Hazard Communication Standard (OMB control number 1218–0072).

The corrections are as follows:

On page 30402, third column, the ''Title'' line is revised by inserting ''1910.'' Between ''CFR'' and ''1200;'' and inserting ''Parts'' between ''1200'' and ''1915 * * *''

On page 30402, first column, the ''Description'' paragraph is revised by inserting ''1910.'' Between ''CFR'' and ''1200'' and inserting ''Parts'' between ''1200;'' and ''1915 * * *''

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–12154 Filed 5–14–02; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Security Programs: Training and Employment Guidance Letter Interpreting Federal Law

The Employment and Training Administration interprets federal law requirements pertaining to unemployment compensation (UC) and public employment services (ES). These interpretations are issued in Training and Employment Guidance Letters (TEGLs) to the State Workforce Agencies. The TEGL described below is published in the **Federal Register** in order to inform the public.

TEGL 18–01

TEGL 18–01 advises states of the federal law requirements applicable to the $8 billion Reed Act distribution made on March 13, 2002.

Like other Reed Act distributions, federal law governs how states may use this money. This $8 billion Reed Act distribution is available for the payment of UC and the administration of the state's UC law and its ES offices.

While the use of the $8 billion distribution is limited by many of the same requirements that apply to other Reed Act distributions, there are also differences. Using a question and answer format, Attachment I to TEGL 18–01 explains these differences and other amendments to federal law relating to the Reed Act, and answers questions that have been raised by the states concerning the distribution.

Dated: May 10, 2002.

Emily Stover DeRocco,

Assistant Secretary of Labor.

Employment and Training Administration, Advisory System, U.S. Department of Labor, Washington, DC 20210

CLASSIFICATION: Reed Act
CORRESPONDENCE SYMBOL: OWS/OIS/DL
DATE: April 22, 2002

Training and Employment Guidance Letter No. 18–01

To: All State Workforce Liaisons; All State Workforce Agencies; All State Worker Adjustment Liaisons; All One-Stop Center System Leads.

From: Emily Stover DeRocco, Assistant Secretary.

Subject: Reed Act Distribution.

1. *Purpose.* To advise states of the federal law requirements applicable to the $8 billion Reed Act distribution made on March 13, 2002.

2. *References.* Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (TEUCA), which is Title II of the Job Creation and Worker Assistance Act of 2002, Public Law No. 107–147, signed by the President on March 9, 2002; Title IX of the Social Security Act (SSA); the Federal Unemployment Tax Act (FUTA); and Unemployment Insurance Program Letter (UIPL) 39–97 (62 FR 63960 (December 3, 1997)), UIPL 39–97, Change 1 (January 16, 2002) and UIPL 20–02 (April 4, 2002).

3. *Background.* On March 13, 2002, an $8 billion distribution was made to the states' accounts in the Unemployment Trust Fund. The TEUCA labeled this transfer a ''Reed Act'' distribution although it differs from traditional Reed Act distributions, most notably because it was a set dollar amount, made without regard to the statutory ceilings in the federal accounts. Each state was advised of its share of this distribution in UIPL 20–02.

Like other Reed Act distributions, federal law governs how states may use this money. This $8 billion Reed Act distribution is available for the payment of unemployment compensation (UC) and the administration of the state's UC law and its public employment service (ES) offices.

RESCISSIONS: None.
EXPIRATION DATE: Continuing

While the use of this $8 billion distribution is limited by many of the same requirements that apply to other Reed Act distributions, there are also differences. Using a question and answer format, Attachment I explains these differences and other amendments to federal law relating to the Reed Act, and answers questions that have arisen since the TEUCA became law. A separate advisory which discusses suggested uses for the $8 billion Reed Act distribution is under development.

4. *Action.* State administrators should distribute this advisory to appropriate staff. States must adhere to the requirements of federal law that are contained in this advisory.

5. *Inquiries.* Questions should be addressed to your Regional Office.

6. *Attachments.*

I. Reed Act Distributions Under the Temporary Extended Unemployment

Compensation Act of 2002—Questions and Answers
II. Text of Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 [1]

Attachment I

Reed Act Distributions Under the Temporary Extended Unemployment Compensation Act of 2002 – Questions and Answers

In General

1. *Question:* How was my state's share of the total amount of the $8 billion Reed Act distribution determined?

Answer: In general, each state's share is based on its proportionate share of FUTA taxable wages for calendar year 2000. The specific formula is as follows:

• First, the amount of Reed Act moneys that would have been distributed in October 2001, had the distribution not been capped at $100 million, was determined. This amount was about $9.34 billion. (Section 903(d)(2)(A)(i), SSA, as added by the TEUCA.)

• Second, each state's share of the $9.34 billion was determined based on the state's proportionate share of FUTA taxable wages in calendar year 2000. (Section 903(d)(2)(A), SSA, as added by the TEUC, and Section 903(a)(2), SSA.)

• Third, each state's share of the $100 million actually distributed in October 2001 was deducted. This resulted in a figure of about $9.24 billion. (Section 903(d)(2)(A)(ii), SSA, as added by the TEUCA.)

• Fourth, the $8 billion cap was applied. (Section 903(d)(2)(B)(i), SSA, as added by the TEUCA.) According to Section 903(d)(2)(B)(ii), SSA, as added by the TEUCA, this reduction is applied ''ratably.'' This means that each state's share of the $9.24 billion was reduced proportionately to result in the $8 billion distribution.

2. *Question:* My state has borrowed under Title XII, SSA, so that it can continue to pay benefits. Does this affect my Reed Act distribution?

Answer: Yes. The amendments state that the existing provisions applying to any outstanding advances shall apply. Specifically, Section 209(c), TEUCA, provides that Section 903(b), SSA, ''shall apply to'' the $8 billion Reed Act transfer. Section 903(b)(2), SSA, provides that the Reed Act distribution for a state will be reduced ''by the balance of advances made to the State under section 1201, SSA'' for purposes of reducing the outstanding loan. The upshot is that the state with an outstanding loan receives its full share of the distribution in terms of dollars; however, the amount distributed as Reed Act moneys is reduced or eliminated depending on whether the outstanding advance exceeds the state's share of Reed Act funds.

3. *Question:* For what may the $8 billion distribution be used?

Answer: As is the case with regular Reed Act distributions, the amounts are limited to the payment of UC and the administration of the state's UC law and its system of public employment offices. More specific information is provided in the Questions and Answers under ''Use for Benefits'' and ''Use for UC and ES Administration.'' Details about requirements related to use of these funds are provided in a series of Questions and Answers below.

4. *Question:* If the $8 billion transfer is limited to the payment of certain administrative costs and the payment of UC, does this mean it may not be used to reduce employer taxes?

Answer: No. The use limitations apply only to expenditures. A state's share of the Reed Act distribution may increase the balance in the state's unemployment fund, and, as a result, lower employer taxes. Employer rates must, however, continue to be assigned on the basis of an employer's experience as provided under Section 3303(a)(1), FUTA.

Use for Benefits

5. *Question:* Is the use for benefits of the $8 billion distribution in any way restricted? For example, is it restricted to the payment of part-time workers or payments based on alternative base periods?

Answer: There are some restrictions. In general, the distribution may be used for the payment of regular compensation, including increased weekly benefit amounts, and certain payments of additional compensation, but not for the state's share of extended benefits (EB). More specifically, the distribution may be used for any of the following benefit purposes for weeks of unemployment beginning after March 9, 2002:

• The distribution may be used for the payment of ''regular compensation.'' (Section 903(d)(3)(B)(i)(I), SSA, as added by the TEUCA.) Thus, any amount of regular UC payable under the state's UC law is permissible.

• ''At the option of the State,'' the regular compensation ''may include amounts which shall be payable to 1 or more categories of individuals not otherwise eligible for regular compensation,'' including part-time workers and those individuals who would qualify under an alternative base period. (Section 903(d)(3)(C), SSA, as added by the TEUCA.) Since this provision simply lists options, it is not exhaustive. However, if a state amends its law to pay any of these additional categories, the UC paid to such individuals ''may not, for any period of unemployment, exceed the maximum amount of regular compensation authorized'' under the state's UC law for the same period. Thus, if the state elects to pay these special categories out of this $8 billion Reed Act distribution, the benefit entitlement is limited to that applicable to other workers. For example, a worker using an alternative base period under this provision is limited to using it for purposes of qualifying for the same weekly and maximum benefit amounts as other workers.

• The distribution may be used for the payment of ''additional compensation,'' but only upon the exhaustion of TEUC for individuals who would be ''eligible for regular compensation,'' but for the fact that they had exhausted entitlement to that regular compensation. (Section 903(d)(3)(B)(i)(II), SSA, as amended by the TEUCA.) ''Additional compensation'' is defined as ''compensation payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors.'' (Section 205(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended.)

• The distribution may not be used for the state share of EB under the Federal-State Extended Unemployment Compensation Act of 1970. The distribution may only be used for payment of regular and additional compensation as described above.

Note that, if a payment is not allowed under the Reed Act requirements, the state may instead pay the amount from other moneys in its unemployment fund as long as the payment meets the definition of ''compensation,'' that is, cash benefits payable to individuals with respect to their unemployment. (Section 3306(h), FUTA.)

6. *Question:* There are workers in my state who exhausted regular compensation, but who are not eligible for TEUC. May I pay additional compensation to these workers from this Reed Act distribution? Does this additional compensation fall under the ''categories of individuals not otherwise eligible for regular compensation?'

Answer: The answer to both questions is ''no.'' Since the use of the Reed Act moneys for additional compensation is explicitly restricted to TEUC

[1] ATTACHMENT II is available in the *www.workforcesecurity.doleta.gov* Web site under Directives/Advisories.

exhaustees, additional compensation does not fall under the ''categories of individuals not otherwise eligible for regular compensation.'' Since the examples of these categories pertain only to payments of regular compensation, they do not authorize the payment of additional compensation to individuals ineligible for TEUC. (Section 903(d)(3)(C)(iii), SSA, as amended by the TEUCA.)

7. *Question:* May my state use the $8 billion Reed Act distribution to pay for weeks of unemployment occurring prior to the date of enactment (March 9, 2002)?

Answer: No. The law explicitly limits payments to ''weeks of unemployment beginning after the date of enactment.'' (Section 903(d)(3)(D), SSA, as amended by the TEUCA.)

8. *Question:* Do the amendments change the treatment of EB due to the receipt of additional benefits?

Answer: Yes. Under current EB law, any additional compensation received by an individual causes a reduction in the amount of EB payable. (Section 202(b)(1) of the Federal-State Extended Unemployment Compensation Act of 1970.) However, the amendments supersede this requirement. Additional compensation paid from the $8 billion Reed Act distribution, which is paid ''upon the exhaustion'' of TEUC, does not reduce EB entitlement by the amount of additional benefits paid. (Section 903(d)(3)(B)(ii), SSA, as added by the TEUCA.) The additional compensation to which this provision applies need not be created following the Reed Act distribution; it may be a longstanding state program. Instead, the key is whether the state uses the $8 billion distribution to finance these benefits. Once there are no longer TEUC exhaustees in the claimant population, this exception will have no effect.

Use for UC and ES Administration

9. *Question:* If my state wants to use the $8 billion Reed Act distribution for administrative purposes, must my state's legislature first appropriate the money?

Answer: Yes. The appropriation is explicitly required. (Specifically, Section 903(d)(4), SSA, as added by the TEUCA, says the distribution may be used for administrative purposes ''subject to'' the appropriation requirements of Section 903(c)(2), SSA.) However, the amendments also provide that one of the existing state appropriation requirements does not apply. State appropriations are not required to specify that moneys appropriated must be obligated within the two-year period beginning on the date of enactment of the state's appropriation law. States are free to obligate moneys beyond this two-year date. (State law may, however, restrict the obligation period to two years or less.)

10. *Question:* Prior to the enactment of the TEUCA, my state enacted an appropriation allowing Reed Act moneys distributed in fiscal year 2002 to be used for UC administrative purposes. Does this appropriation allow my state to use some/all of its share of the $8 billion Reed Act distribution for UC administration?

Answer: The Department has previously permitted Reed Act moneys to be appropriated in advance of their availability. Therefore, it is possible that an existing state appropriation of fiscal year 2002 Reed Act moneys permits the expenditure for UC administration of the state's share of the $8 billion Reed Act distribution. The state will need to examine its Reed Act appropriation law to determine if it is sufficiently broad to permit expenditure of amounts transferred to it under Section 903(d), SSA. Also, the state will need to determine if its general appropriation laws permit this.

11. *Question:* How long is the $8 billion Reed Act distribution available for administrative purposes?

Answer: There is no time limit on the use of this distribution (or any other Reed Act distribution) for administrative purposes.

12. *Question:* May the $8 billion Reed Act distribution be used for the administration of my state's One-Stop system?

Answer: Yes. Reed Act moneys may be used for the ''administration of * * * public employment offices.'' (Section 903(c)(2), SSA.) The Department has in the past taken the position that ''administration of * * * public employment offices'' means any function fundable under the Wagner-Peyser Act. As a result, Reed Act funds may be used in the same manner that Wagner-Peyser Act funds are used to support One-Stop systems. Examples of activities that support administration and service delivery of employment and workforce information services in One-Stop offices include:

- Staff for delivery of appropriate core and intensive service employment services;
- Equipment and resources for resource rooms;
- Payment for rent, utilities, and maintenance of facilities, including common spaces such as resource rooms, reception areas, conference areas, etc. in accordance with cost sharing guidelines;
- Shared costs for operation of local one-stops including payment for one-stop operators in accordance with cost sharing guidelines;
- Development of products that support service delivery such as labor market information products and job bank technology;
- Computer equipment, network equipment, telecommunications equipment, application development, and other technology resources, including assisted technology, that support employment and workforce information service delivery;
- Outreach and educational materials targeted at users of one-stop employment and workforce information services;
- Training, technical assistance, and professional development of staff who deliver employment and workforce information services.

This list is not exhaustive, but only intended to provide examples of activities in the One-Stop system for which Reed Act funds may be used. Guidelines on permissible uses of Wagner-Peyser funds are found in 20 CFR parts 652 and 667. In addition, the Department plans to post guidance entitled *One-Stop Comprehensive Financial Management Technical Assistance Guide* on Employment and Training Administration Web sites in the near future.

13. *Question:* May the $8 billion Reed Act distribution be used to pay the costs of job training?

Answer: No. Except for training provided to UC and ES staff, Reed Act moneys may not be used to provide occupational skill training because this training is not a cost of administering either the state's UC law or its public employment offices. Just as with Wagner-Peyser funds, the Reed Act moneys may, however, be used for activities that are presented in a training format or a group setting but generally fall within the category of job search and placement services (*e.g.,* teaching individuals how to interview for a job or how to complete a resume).

14. *Question:* My state is using its share of the $8 billion Reed Act distribution to pay the benefits costs associated with the enactment of an alternative base period (or other expansion). How will my state's implementation costs be paid?

Answer: A state may use its UC grant to pay for these implementation costs. Alternatively, since Reed Act moneys may be used for administration of the state's UC law, the state may appropriate Reed Act moneys to pay for costs of implementation.

15. *Question:* Will my state be able to use UC and ES administrative grants to amortize Reed Act purchases made with my state's share of the $8 billion distribution?

Answer: Yes. Amortization relates to the permissible use of UC and ES administrative grants; this area is not addressed by the TEUCA. See UIPLs 39–97 and UIPL 39–97, Change 1, for guidance on when amortization is permissible.

16. *Question:* Is OMB Circular A–87, Cost Principles for State, Local and Indian Tribal Governments, applicable to the $8 billion distribution or any other Reed Act distribution?

Answer: No. OMB Circular A–87 applies only to federal grants and cooperative agreements and Reed Act funds are neither. Use of Reed Act funds for administrative activities is governed by Section 903(c)(2), SSA, which limits use to administration of the state's UC law and/or public employment offices under the conditions specified in that section. However, since Reed Act moneys may not pay costs for non-UI/non-ES programs, in cases where an activity (such as purchasing a multi-agency computer) benefits other activities, it will still be necessary to ensure that non-UI/non-ES costs are not paid from Reed Act funds. In these cases, states must allocate costs. Although states will not be required to submit cost allocation plans in such cases, in the event any plan is reviewed by the Department, cost allocation requirements applicable to grants will be applied to the plan.

17. *Question:* May I withdraw some or all of the $8 billion Reed Act distribution and use it to set up an administrative fund at the state level that would earn interest that could be used for administrative expenses?

Answer: No. Withdrawing amounts to create an investment fund at the state level is inconsistent with the limitations on the use of Reed Act moneys. That is, the Reed Act moneys would not be used for the payment of compensation or the administration of the state's UC law or system of public employment offices. Instead, the money would be withdrawn for purposes of investment. *See* page 12 of Attachment I to UIPL 39–97.

18. *Question:* If my state uses the $8 billion Reed Act distribution to pay for benefits, may the amounts so used be restored so that the state can use them for administrative payments?

Answer: No. The restoration provisions of the SSA are limited to ''amounts transferred to the account of a State pursuant to subsections (a) and (b)'' of Section 903, SSA. (Emphasis added; Section 903(c)(3)(A)(i), SSA.) The $8 billion Reed Act distribution was not transferred to states under these two subsections; instead it was transferred under subsection (d) of Section 903, as added by the TEUCA.

19. *Question:* May the interest earned on the Reed Act balances be used for UC and ES administration?

Answer: No. The amount of any Reed Act distribution is limited to the actual dollar amount transferred to the states. Therefore, interest earnings are not available for administrative purposes.

$100 Million Distributions Made in 1999–2001

20. *Question:* Do the amendments affect the use of the capped $100 million Reed Act distributions that were made in October of 1999, 2000, and 2001?

Answer: No. Although the TEUCA amendments repealed those provisions of Section 903, SSA, addressing these capped distributions, it also contained a savings clause providing that ''[a]ny amounts transferred before the date of enactment of this Act * * * shall remain subject to section 903 of the Social Security Act, as last in effect before such date of enactment.'' (Section 209(a)(2), TEUCA.) Since all these capped distributions were transferred prior to the TEUCA's enactment, their use continues to be restricted to UC administration, and no appropriation by the state legislature is required. Although there is some indication in the legislative history that Congress intended to repeal this use limitation and reimpose the appropriation requirement, the plain language of the law produces the opposite result.

State Reed Act Laws

21. *Question:* Is the Department providing draft appropriation language?

Answer: Two alternative versions of draft language were provided in Attachment II of UIPL 39–97. Both of these may be used without change, except as noted in the following paragraph. Also, Alternative II may be modified to delete the provision required by Section 2 of that alternative, which pertains to the 2-year limitation on obligations since, as explained above, the 2-year limitation does not apply to the $8 billion distribution.

Care should be taken in crafting state appropriation bills to assure the source of the Reed Act moneys is clear. There should be no doubt about whether the moneys used derive from traditional Reed Act distributions (those made in the 1950's and in October of 1998); the $100 million distributions made in October of 1999, 2000, and 2001; and the $8 billion Reed Act distribution. The state may indicate that it is using its share of the $8 billion by specifically referencing Section 903(d), SSA, in the appropriation bill or referencing the specific date on which the transfer was made to the state (March 13, 2002). Without this information, the Department will be unable to determine if the appropriation is consistent with the applicable use requirements.

22. *Question:* Will the states need to change their permanent Reed Act provisions?

Answer: This will need to be determined by each state. Some states may restrict the use of Reed Act funds for administration purposes to amounts transferred under Section 903(c), SSA. Since the $8 billion transfer was made under Section 903(d), SSA, states may need to make this change. The Department is evaluating whether draft language should be provided in this area.

Reporting Requirements

23. *Question:* What are the reporting instructions for the Reed Act money?

Answer: States are required to report all Reed Act transactions on the ETA 8403. The report is required each month a transaction occurs (*e.g.,* deposits to the state account, withdrawals from the account, enactment of state appropriations). These reports are not required if there is no Reed Act activity. *See* ETA Handbook 401. The Department expects to have these transactions reported on-line through the Treasury's Automated Standard Application for Payments (ASAP) soon, and states will receive additional instructions at that time.

Reed Act reporting instructions for the ETA 2112 are unchanged. (*See* ETA Handbook 401, 3rd Edition, May 2000.)

[FR Doc. 02–12153 Filed 5–14–02; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Labor Research Advisory Council: Notice of Meetings and Agenda

The Spring meetings of committees of the Labor Research Advisory Council will be held on June 3, 4, and 5, 2002. All of the meetings will be held in the Conference Center, of the Postal Square Building (PSB), 2 Massachusetts Avenue, NE., Washington, DC.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of

union research directors and staff members. The schedule and agenda of the meetings are as follows:

Monday, June 3, 2002

9:30 a.m.—Committee on Employment and Unemployment Statistics—Meeting Room 9

1. Current Employment Statistics (CES) survey North American Industry Classification System (NAICS) conversion plans.
2. BLS research into establishment wage differentials (using Occupational Employment Statistics (OES) data).
3. Current Population Survey (CPS) topics:
   a. Issues in converting to new standards for race and ethnicity.
   b. Overview of May 2001 Supplement results related to work at home, shift work, overtime, and work preferences.
4. Topics for the next meeting.

1:30 p.m.—Committee on Productivity, Technology and Growth—Meeting Room 9

1. The impact of alternative measures of nonproduction and supervisory worker hours on productivity growth.
2. Status report on likely new measures for service sector industries.
3. Productivity growth in manufacturing industries characterized by ''high tech'' workers.
4. Highlights of the BLS 2000–2010 projections.
5. Topics for the next meeting.

Committee on Foreign Labor Statistics Meeting Room 9

1. Results from updated comparative labor force series.
2. Topics for the next meeting.

Tuesday, June 4, 2002

9:30 a.m.—Committee on Compensation and Working Conditions—Meeting Room 9

1. Recent issues concerning retirement plans.
2. Overview of the Employment Cost Index.
3. Calculation of hours in the Employment Cost Index.
4. Topics for next meeting.

1:30 p.m.—Committee on Prices and Living Conditions—Meeting Room 9

1. Update on program developments.
   a. Consumer Price Index.
   b. International Price Indexes.
   c. Producer Price Indexes.
2. Topics for the next meeting.

Wednesday, June 5, 2002

1:00 p.m.—Committee on Occupational Safety and Health Statistics—Meeting Room 9

1. 2000 Survey of Occupational Injuries and Illnesses-Industry Incidence Rates and Number of Cases.
2. 2000 Survey of Occupational Injuries and Illnesses-Worker Demographics and Case Circumstances.
3. Survey of Respirator Use and Practices.
4. Status Reports on:
   a. 2001 Survey of Occupational Injuries and Illnesses.
   b. 2002 Survey of Occupational Injuries and Illnesses.
5. Injury and Illness Follow-back Surveys.
6. Injuries and Illnesses involving restricted activity only.
7. Budget status.
8. Topics for the next meeting.

The meetings are open to the public. Persons planning to attend these meetings as observers may want to contact Wilhelmina Abner on 202–691–5970.

Signed at Washington, DC this 6th day of May, 2002.

Lois L. Orr,

Acting Commissioner.

[FR Doc. 02–12152 Filed 5–14–02; 8:45 am]

BILLING CODE 4510–24–P

LEGAL SERVICES CORPORATION

Notice of Availability of Calendar Year 2003 Competitive Grant Funds

AGENCY: Legal Services Corporation.

ACTION: Solicitation for Proposals for the Provision of Veterans Legal Services.

SUMMARY: The Legal Services Corporation (LSC) is the national organization charged with administering Federal funds provided for civil legal services to the poor.

LSC hereby announces the availability of competitive grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient and high quality legal services to eligible veterans appearing before the United States Court of Veterans Appeals. The exact amount of congressionally appropriated funds and the date, terms and conditions of their availability for calendar year 2003 have not been determined.

DATES: See **SUPPLEMENTARY INFORMATION** section for grants competition dates.

ADDRESSES: Legal Services Corporation—Veterans Grant Competition, Attn: Jennifer Bateman, 750 First Street NE., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Office of Program Performance, Veterans Grant Competition—by FAX at (202) 336–7272, by e-mail at *batemanj@lsc.gov*

SUPPLEMENTARY INFORMATION: Request for Proposals (RFP) will be available beginning May 28, 2002.

LSC is seeking proposals from: (1) Non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients; (2) private attorneys; (3) groups of private attorneys or law firms; (4) State or local governments; and (5) substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The RFP, containing the grant application, guidelines, proposal content requirements and specific selection criteria, can be requested by contacting Jennifer Bateman at 202.336.8835 or by email at *batemanj@lsc.gov.* LSC will not FAX the solicitation package to interested parties. The deadline for submission of the Grant Application is August 9, 2002 by 5:00 p.m. EDT.

Dated: May 9, 2002.

Michael A. Genz,

Director, Office of Program Performance.

[FR Doc. 02–12021 Filed 5–14–02; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL COUNCIL ON DISABILITY

Cancellation of Advisory Committee Meeting/Teleconference

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: April 30, 2002, FR Doc. 02–1525, on page 21281.

TIME AND DATE: 4 p.m. EST, May 8, 2002.

PLACE: National Council on Disability, 1331 F Street, NW., Suite 850, Washington, DC.

AGENCY: National Council on Disability (NCD).

STATUS: Meeting canceled.

CONTACT PERSON FOR MORE INFORMATION: Gerrie Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), *ghawkins@ncd.gov* (e-mail).

YOUTH ADVISORY COMMITTEE MISSION: The purpose of NCD's Youth Advisory Committee is to provide input into NCD activities consistent with the values and

goals of the Americans with Disabilities Act.

Dated: May 2, 2002.

Ethel D. Briggs,

Executive Director.

[FR Doc. 02–12151 Filed 5–14–02; 8:45 am]

BILLING CODE 6820–MA–M

NUCLEAR REGULATORY COMMISSION

Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated March 11, 2002, and supplements dated March 21, 22, and 27, 2002, Mr. David A. Lochbaum, Nuclear Safety Engineer in the Washington, DC, Office of the Union of Concerned Scientists (petitioner), and the co-petitioners identified in the petition supplements dated March 21 and March 22, 2002, have requested that the U.S. Nuclear Regulatory Commission (NRC or the Commission) take action with regard to the nuclear power facilities listed in Attachment 1 to the petition (multiple facilities). The petitioners request that the NRC immediately issue orders to the owners of all operating nuclear power plants to take measures that will reduce the risk from sabotage of irradiated fuel. Specifically, those measures are:

(1) The NRC should ''impose a 72-hour limit for operation when the number of operable onsite alternating current power sources (*i.e.,* emergency diesel generators) is one less than the number in the Technical Specification limiting condition for operation. This 72-hour limit would be applicable when the nuclear plant is in any mode of operation other than hot shutdown, cold shutdown, refueling, or defueled.'' Oconee Nuclear Station does not rely on emergency diesel generators but ''equivalent protection for its emergency power supply'' should be provided. The NRC should also ''cease and desist issuing NOEDs [Notices of Enforcement Discretion] that allow nuclear reactors to operate for longer periods of time with broken emergency diesel generators.'' This requested action would apply to the facilities listed in Attachment 1 to the petition.

(2) The NRC should ''impose a minimum 24-hour time-to-boil for the spent fuel pool water. This limit would be applicable at all times.'' This requested action would apply to the facilities listed in Attachment 1 to the petition.

The petition also requested that the NRC hold a public meeting to precede ''the Petition Review Board (PRB) non-public meeting regarding this petition'' and assign ''someone other than the Director of NRR [Office of Nuclear Reactor Regulation] to be responsible for our petition. The Deputy Executive Director for Reactor Programs or the Deputy Director of NRR would be acceptable to UCS [Union of Concerned Scientists].''

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director, NRR. As provided by Section 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time. On March 26, 2002, the petitioner participated in a teleconference with the PRB to discuss the petition, as supplemented. The PRB considered the petitioner's contributions to the teleconference in deciding on the requests for immediate action and in setting the schedule for review of the petition. A copy of the petition and its supplements is available for inspection at the Commission's Public Document Room (PDR), 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 System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who have problems in accessing the documents in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 8th day of May 2002.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 02–12125 Filed 5–14–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued revisions to two guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 1 of Regulatory Guide 8.30, ''Health Physics Surveys in Uranium Recovery Facilities,'' describes guidance acceptable to the NRC staff on health physics surveys at uranium recovery facilities. These health physics surveys are used in protecting workers at uranium recovery facilities from radiation and the chemical toxicity of uranium.

Revision 1 of Regulatory Guide 8.31, ''Information Relevant to Ensuring that Occupational Radiation Exposures at Uranium Recovery Facilities Will Be As Low As Is Reasonably Achievable,'' provides guidance on design criteria and administrative practices that are acceptable to the NRC staff for maintaining occupational exposures as low as is reasonably achievable (ALARA) in uranium recovery facilities.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or downloading at the NRC's Web Site at <*WWW.NRC.GOV*> under Regulatory Guides and in NRC's Electronic Reading Room (ADAMS System) at the same site. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289, or by e-mail to <*DISTRIBUTION@NRC.GOV*>. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 2nd day of May, 2002.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 02–12126 Filed 5–14–02; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in May 2002. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in June 2002.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. The required interest rate is the ''applicable percentage'' (currently 100 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). (Although the Treasury Department has ceased issuing 30-year securities, the Internal Revenue Service announces a surrogate yield figure each month—based on the 30-year Treasury bond maturing in February 2031—which the PBGC uses to determine the required interest rate.)

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in May 2002 is 5.68 percent.

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between June 2001 and May 2002.

For premium payment years beginning in	The required interest rate is
June 2001	4.91
July 2001	4.82
August 2001	4.77
September 2001	4.66
October 2001	4.66
November 2001	4.52
December 2001	4.35
January 2002	5.48
February 2002	5.45
March 2002	5.40
April 2002	5.71
May 2002	5.68

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in June 2002 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 10th day of May 2002.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 02–12159 Filed 5–14–02; 8:45 am]

BILLING CODE 7708–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for an Emergency Information Collection: Website Customer Satisfaction Survey

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) will submit to the Office of Management and Budget (OMB) an emergency request for review of a new information collection. The Website Customer Satisfaction Survey satisfies the requirements of Executive Order 12862 and the guidelines set forth in OMB's Resources Manual for Customer Surveys.

The completed survey will be web-based (electronic). We estimate approximately 300,000 surveys will be completed during the survey period. The time estimate is 7 minutes. The annual estimated burden is 35,000 hours.

Comments are particularly invited on:

- Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, 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; and
- Ways in which we can minimize the burden of the collection of information on those who respond through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on FAX (202) 418–3251 or e-mail *mbtoomey,@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 3 calendar days from the date of this publication. We request OMB to take action within 15 calendar days of the close of this Notice.

ADDRESSES: Send or deliver comments to: Mary Beth Smith-Toomey, OPM PRA Officer, U.S. Office of Personnel Management, 1900 E St., NW, Room 5415, Washington, DC 20415, and Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW, Room 10235, Washington, DC 20503.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 02–12078 Filed 5–14–02; 8:45 am]

BILLING CODE 6325–46–P

SECURITIES AND EXCHANGE COMMISSION

Existing Collection; Comment Request

[Extension: Rule 17f–5, SEC File No. 270–259, OMB Control No. 3235–0269; Rule 17f–7, SEC File No. 270–470, OMB Control No. 3235–0529; Form N–17D–1, SEC File No. 270–231, OMB Control No. 3235–0229; Rule 18f–1 and Form N–18F–1, SEC File No. 270–187, OMB Control No. 3235–0211; Rule 19b–1, SEC File No. 270–312, OMB Control No. 3235–0354]

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, NW, Washington, DC 20549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 USC 3501–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17f–5 under the Investment Company Act of 1940 [15 USC 80a] (''Investment Company Act'' or ''Act'') governs the custody of the assets of registered management investment companies (''funds'') with custodians outside the United States. Under Rule 17f–5, the fund's board of directors must find that it is reasonable to rely on each delegate it selects to act as the fund's foreign custody manager. The delegate must agree to provide written reports that notify the board when the fund's assets are placed with a foreign custodian and when any material change occurs in the fund's custody arrangements. The delegate must agree to exercise reasonable care, prudence, and diligence, or to adhere to a higher standard of care. When the foreign custody manager selects an eligible foreign custodian, it must determine that the fund's assets will be subject to reasonable care if maintained with that custodian, and that the written contract that governs each custody arrangement will provide reasonable care for fund assets. The contract must contain certain specified provisions or others that provide at least equivalent care. The foreign custody manager must establish a system to monitor the contract and the appropriateness of continuing to maintain assets with the eligible foreign custodian.

The collection of information requirements in rule 17f–5 are intended to provide protection for fund assets maintained with a foreign bank custodian whose use is not authorized by statutory provisions that govern fund custody arrangements,[1] and is not subject to regulation and examination by U.S. regulators. The requirement that the fund board determine that it is reasonable to rely on each delegate is intended to ensure that the board carefully considers each delegate's qualifications to perform its responsibilities. The requirement that the delegate provide written reports to the board is intended to ensure that the delegate notifies the board of important developments concerning custody arrangements so that the board may exercise effective oversight. The requirement that the delegate agree to exercise reasonable care is intended to provide assurances to the fund that the delegate will properly perform its duties.

The requirements that the foreign custody manager determine that fund assets will be subject to reasonable care with the eligible foreign custodian and under the custody contract, and that each contract contain specified provisions or equivalent provisions, are intended to ensure that the delegate has evaluated the level of care provided by the custodian, that it weighs the adequacy of contractual provisions, and that fund assets are protected by minimal contractual safeguards. The requirement that the foreign custody manager establish a monitoring system is intended to ensure that the manager periodically reviews each custody arrangement and takes appropriate action if developing custody risks may threaten fund assets.

The Commission's staff estimates that each year, approximately 160 registrants[2] could be required to make an average of one response per registrant under rule 17f–5, requiring approximately 2 hours of director time per response, to make the necessary findings concerning foreign custody managers. The total annual burden associated with these requirements of the rule would be up to approximately 320 hours (160 registrants × 2 hours per registrant). The staff further estimates that during each year, approximately 15 global custodians[3] would be required to make an average of 4 responses per custodian concerning the use of foreign custodians other than depositories, requiring approximately 800 total hours annually per custodian.[4] The total annual burden associated with these requirements of the rule would be approximately 12,000 hours (15 global custodians × 800 hours per global custodian). Therefore, the total annual burden of all collection of information requirements of rule 17f–5 is estimated to be up to 12,320 hours (320 + 12,000). The total annual cost of burden hours is estimated to be $6,760,000 (12,320 hours × $500/hour for director time, plus 12,000 hours × $50/hour of professional time).

Rule 17f–7 permits funds to maintain their assets in foreign securities with depositories under certain conditions. The rule contains some ''collection of information'' requirements. An eligible securities depository has to meet minimum standards for a depository. The fund or its investment adviser generally determines whether the depository complies with those requirements based on information provided by the fund's primary custodian (a bank that acts as global custodian). The depository custody arrangement has to meet certain risk limiting requirements. The fund can obtain indemnification or insurance arrangements that adequately protect the fund against custody risks. The fund or its investment adviser generally determines whether indemnification or insurance provisions are adequate. If the fund does not rely on indemnification or insurance, the fund's contract with its primary custodian is required to state that the custodian will provide to the fund or its investment adviser a custody risk analysis of each depository, monitor risks on a continuous basis, and promptly notify the fund or its adviser of material changes in risks. The primary custodian and other custodians also are required to agree to exercise reasonable care.

The collection of information requirements in rule 17f–7 are intended to provide workable standards that protect funds from the risks of using securities depositories while assigning appropriate responsibilities to the fund's primary custodian and investment adviser based on their capabilities. The requirement that the depository meet specified minimum standards is intended to ensure that the depository is subject to basic safeguards deemed appropriate for all depositories. The requirement that the custody

[1] See section 17(f) of the Investment Company Act [15 USC 80a–17(f)].

[2] This figure is an estimate of the number of new funds each year, based on data reported by funds in 2001 on Form N–1A and Form N–2 [17 CFR 274.101]. In practice, not all funds will use foreign custody managers, and the actual figure may be smaller.

[3] This estimate is the same used in connection with the adoption of the amendments to rule 17f–5 and of rule 17f–7 in 1999, based on staff review of custody contracts and other research. The number of global custodians has not changed significantly since 1999.

[4] These estimates are based on a survey of global custodians.

contract state that the fund's primary custodian will provide an analysis of the custody risks of depository arrangements, monitor the risks, and report on material changes is intended to provide essential information about custody risks to the fund's investment adviser as necessary for it to approve the continued use of the depository. The requirement that the primary custodian agree to exercise reasonable care is intended to provide assurances that its services and the information it provides will meet an appropriate standard of care. The alternative requirement that the fund obtain adequate indemnification or insurance against the custody risks of depository arrangements is intended to provide another, potentially less burdensome means to protect assets held in depository arrangements.

The staff estimates that approximately 900 investment advisers [5] would make an average of 4 responses annually per adviser under the proposed rule, requiring a total of approximately 20 hours for each adviser, to address depository compliance with minimum requirements, any indemnification or insurance arrangements, and reviews of risk analyses or notifications. The total annual burden associated with these requirements of the rule would be approximately 18,000 hours (900 advisers × 20 hours per adviser). The staff further estimates that during each year, approximately 15 global custodians would make an average of 4 responses per custodian under the rule, requiring approximately 800 hours annually per custodian.[6] The total annual burden associated with these requirements of the new rule would be approximately 12,000 hours (15 custodians × 800 hours). Therefore, the staff estimates that the total annual burden associated with all collection of information requirements of the rule would be 30,000 hours (18,000 + 12,000). The total annual cost of burden hours is estimated to be $1,500,000 (30,000 hours × $50/hour of professional time).

Section 17(d) [15 U.S.C. 80a–17(d)] of the Investment Company Act authorizes the Commission to adopt rules that protect investment companies and their security holders from overreaching by affiliated persons when the fund and the affiliated person participate in any joint enterprise or other joint arrangement or profit-sharing plan. Rule 17d–1 under the Act [17 CFR 270.17d–1] prohibits funds and their affiliated persons from participating in a joint enterprise, unless an application regarding the transaction has been filed with and approved by the Commission. Subparagraph (d)(3) of the rule provides an exemption from this requirement for any loan or advance of credit to, or acquisition of securities or other property of, a small business concern, or any agreement to do any of the foregoing (''investments'') made by a small business investment company (''SBIC'') and an affiliated bank, provided that reports about the investments are made on forms the Commission may prescribe. Rule 17d–2 [17 CFR 270.17d–2] designates Form N–17D–1 as the form for reports required by rule 17d–1(3).

SBICs and their affiliated banks use Form N–17D–1 to report any contemporaneous investments in a small business concern. The form provides shareholders and persons seeking to make an informed decision about investing in an SBIC an opportunity to learn about transactions of the SBIC that have the potential for self dealing and other forms of overreaching by affiliated persons of the SBIC at the shareholders' expense.

Form N–17D–1 requires SBIC's and their affiliated banks to report identifying information about the small business concern and the affiliated bank. The report includes, among other things, the SBIC's and affiliated bank's outstanding investments in the small business concern, the use of the proceeds of the investments made during the reporting period, any changes in the nature and amount of the affiliated bank's investment, the name of any affiliated person of the SBIC or the affiliated bank (or any affiliated person of an affiliated person of the SBIC or affiliated bank) who has any interest in the transactions, the basis of the affiliation, the nature of the interest, and the consideration the affiliated person has received or will receive.

Up to seven SBICs may file the form in any year. [7] The Commission estimates the burden of filling out the form is approximately one hour per response and would likely be completed by an accountant or other professional. Based on past filings, the Commission estimates that no more than one SBIC is likely to use the form each year. The total annual burden of filling out the form is one hour and the total annual cost is approximately $38.[8]

Rule 18f–1 [17 CFR 270.18f–1] enables a registered open-end management investment company that may redeem its securities in-kind, by making a one-time election, to commit to make cash redemptions pursuant to certain requirements without violating section 18(f) of the Investment Company Act [15 U.S.C. 80a–18(f)]. A fund relying on the rule must file Form N–18F–1 [17 CFR 274.51] to notify the Commission of this election. The Commission staff estimates that approximately 70 funds file Form N–18F–1 annually, and that each response takes approximately one hour. Based on these estimates, the total annual burden hours associated with the rule is estimated to be 70 hours.

Rule 19b–1 is entitled ''Frequency of Distribution of Capital Gains.'' The rule prohibits registered investment companies from distributing long-term capital gains more than once every twelve months unless certain conditions are met. Rule 19b–1(c) permits unit investment trusts (''UITs'') engaged exclusively in the business of investing in certain eligible fixed-income securities to distribute long-term capital gains more than once every twelve months, if (i) the capital gains distribution falls within one of several categories specified in the rule [rule 19b–1(c)(1)] and (ii) the distribution is accompanied by a report to the unit holder that clearly describes the distribution as a capital gains distribution [rule 19b–1(c)(2)] (the ''notice requirement''). The purpose of this notice requirement is to ensure that unit holders understand that the source of the distribution is long-term capital gains.

Rule 19b–1(e) permits a fund to apply for permission to distribute long-term capital gains more than once a year if the fund did not foresee the circumstances that created the need for the distribution. The application must set forth the pertinent facts and explain the circumstances that justify the distribution. An application that meets those requirements is deemed to be granted unless the Commission denies the request within 15 days after the Commission receives the application. The Commission uses the information required by rule 19b–1(e) to facilitate the processing of requests from funds for authorization to make a distribution that would not otherwise be permitted by the rule.

[5] This figure is based on an estimate by the staff that there are approximately 3,650 registered funds within approximately 900 fund complexes. A fund complex is a group of funds with the same adviser.

[6] These estimates are based on a survey of global custodians.

[7] As of December 31, 2001, seven SBICs were registered with the Commission.

[8] Commission staff estimates that the annual burden would be incurred by accounting professionals with an average hourly wage rate of $37.50 per hour. *See* Securities Industry Association, *Report on Management and Professional Earnings in the Securities Industry—2000* (2000) (reporting median salary paid to senior accountants outside New York).

The Commission staff estimates that the time required to prepare an application under rule 19b–1(e) is approximately four hours. The staff estimates that on average one fund files one application per year under this rule. Based on these estimates, the total paperwork burden is 4 hours for paragraph (e) of rule 19b–1. The Commission staff estimates that there is no hour burden associated with rule 19b–1(c).

There is, however, a cost burden associated with rule 19b–1(c). The staff estimates that there are approximately 8,800 fixed-income UITs, which may rely on rule 19b–1(c) to make capital gains distributions. We estimate that on average each of these UITs relies on rule 19b–1(c) once a year to make a capital gains distribution.[9] We estimate that a UIT incurs a cost of $50, which is encompassed within the fee the UIT pays its trustee, to prepare a notice for a capital gains distribution under rule 19b–1(c)(2). Because the notices are mailed with the capital gains distribution, there is no separate mailing cost. Thus, the staff estimates that the notice requirement imposes an annual cost on UITs of approximately $440,000.

Based on these calculations, the total number of respondents for rule 19b–1 is estimated to be 8,801 (8,800 UIT portfolios + 1 fund filing an application under rule 19b–1(e)), the total hour burden is estimated to be 4 hours, and the total cost burden is estimated to be $440,000.

The collections of information required by 19b–1(c) and 19b–1(e) are necessary to obtain the benefits described above.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. The Commission will consider comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: May 3, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12111 Filed 5–14–02; 8:45 am]

BILLING CODE 8010–01–P

[9] The number of times UITs rely on the rule to make capital gains distributions depends on a wide range of factors and, thus, can vary greatly across years.

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–7256]

Issuer Delistings; Notice of Application to Withdraw From Listing and Registration on the Pacific Exchange, Inc. (International Aluminum Corporation, Common Stock, $1.00 Par Value)

May 9, 2002.

International Aluminum Corporation, a California corporation, (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $1.00 par value (''Security''), from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The Board of Directors (''Board'') of the Issuer approved a resolution on March 15, 2002 to withdraw its Security from listing on the Exchange. The Board cited low trading volume and negligible benefit derived from the Issuer's listing as reasons for delisting its Security on the PCX. The Issuer will continue to list its Security on the New York Stock Exchange, Inc. (''NYSE'').

The Issuer stated in its application that it has complied with the rules of the PCX that govern the removal of securities from listing and registration on the Exchange. The Issuer's application relates solely to the withdrawal of the Securities from listing on the PCX and shall have no affect upon the Security's continued listing on the NYSE and registration under Section 12(b) of the Act.[3]

Any interested person may, on or before May 30, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the PCX and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–12112 Filed 5–14–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25573; 812–12738]

The Wachovia Funds, et al.; Notice of Application

May 9, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of registered open-end management investment companies to acquire all of the assets and certain identified liabilities of certain other series of the investment companies. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: The Wachovia Funds, The Wachovia Municipal Funds, The Wachovia Variable Insurance Funds (collectively, the ''Wachovia Trusts''); Evergreen Equity Trust, Evergreen Select Equity Trust, Evergreen Fixed Income Trust, Evergreen Select Fixed Income Trust, Evergreen International Trust, Evergreen Select Money Market Trust, Evergreen Municipal Trust, and Evergreen Variable Annuity Trust (collectively, the ''Evergreen Trusts''); and Wachovia Bank National Association (''Wachovia Bank'').

FILING DATES: The application was filed on December 27, 2001 and amended on May 9, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 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 Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Wachovia Trusts, 1001 Liberty Avenue, Pittsburgh, PA 15222; Wachovia Bank, 201 S. College Street, Charlotte, NC 28288; and Evergreen Trusts, 200 Berkeley Street, Boston, MA 02116–9000.

FOR FURTHER INFORMATION CONTACT: Keith A. Gregory, Senior Counsel, at (202) 942–0611, 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 Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Wachovia Trusts, each a Massachusetts business trust, are open-end management investment companies registered under the Act. The Wachovia Trusts together have a total of 27 series, of which 22 series are involved in the proposed transactions (the ''Wachovia Acquired Funds''). The Wachovia Funds is presently comprised of 20 series, of which 15 series are involved in the proposed transactions. The Wachovia Municipal Funds is presently comprised of 4 series, all of which are involved in the proposed transactions. The Wachovia Variable Insurance Funds is presently comprised of 3 series, all of which are involved in the proposed transactions. Shares of the series of The Wachovia Variable Insurance Funds are sold only to separate accounts of insurance companies to serve as the investment medium for variable life insurance policies and variable annuity contracts issued by the insurance companies, and to qualified pension and retirement plans.

2. The Evergreen Trusts, each a Delaware business trust, are open-end management investment companies registered under the Act. The Evergreen Trusts together have a total of 92 series, of which 27 series are involved in the proposed transactions (the ''Evergreen Funds''). Evergreen Equity Trust is presently comprised of 23 series, of which 5 series are involved in the proposed transactions. Evergreen Select Equity Trust is presently comprised of 8 series, of which 4 series are involved in the proposed transactions. Evergreen Fixed Income Trust is presently comprised of 7 series, of which 4 series are involved in the proposed transactions. Evergreen Select Fixed Income Trust is presently comprised of 9 series, of which 3 series are involved in the proposed transactions. Evergreen International Trust is presently comprised of 6 series, of which 3 series are involved in the proposed transactions. Evergreen Select Money Market Trust is presently comprised of 10 series, of which one series is involved in the proposed transactions. Evergreen Municipal Trust is presently comprised of 14 series, of which 4 series are involved in the proposed transactions. Evergreen Variable Annuity Trust is presently comprised of 15 series, of which 3 series are involved in the proposed transactions. Shares of the series of Evergreen Variable Annuity Trust are sold only to separate accounts funding variable annuity contracts and variable life insurance policies issued by life insurance companies, and to qualified pension and retirement plans. Certain Evergreen Funds are the ''Acquiring Funds'' and certain other Evergreen Funds are the ''Evergreen Acquired Funds,'' and together with the Wachovia Acquired Funds, are the ''Acquired Funds.'' The Acquired Funds and the Acquiring Funds are collectively referred to as the ''Funds'' and individually as a ''Fund.''[1]

3. Evergreen Investment Management Company, LLC (''EIMC''), an indirect wholly owned subsidiary of Wachovia Corporation, is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). EIMC serves as investment adviser to the Evergreen Funds. The Wachovia Trusts, on behalf of their series which are Wachovia Acquired Funds, have each entered into an interim advisory agreement with EIMC dated as of January 1, 2002, in reliance on rule 15a–4 under the Act.

4. Wachovia Bank, a national banking association, is a wholly owned subsidiary of Wachovia Corporation. Wachovia Bank, as fiduciary for its customers, owns of record or beneficially or both 5% or more (and in some cases, 25% or more) of the outstanding voting securities of certain of the Funds.[2] All of these shares are held by Wachovia Bank in a fiduciary capacity and Wachovia Bank does not have an economic interest in such shares.

5. On December 6, 2001 and January 15, 2002, and December 13–14, 2001, respectively, the board of trustees of each Wachovia Trust (the ''Wachovia Board'') and the board of trustees of each Evergreen Trust (the ''Evergreen Board,'' and together with the Wachovia Board, the ''Boards''), including a majority of the trustees of each Board who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (the ''Independent Trustees''), considered and approved each applicable Fund Reorganization (as

[1] The Acquired Funds and the corresponding Acquiring Funds are: (i) Wachovia Balanced Fund and Evergreen Balanced Fund; (ii) Wachovia Quantitative Equity Fund and Evergreen Stock Selector Fund; (iii) Wachovia Special Values Fund and Evergreen Special Values Fund; (iv) Wachovia Blue Chip Value Fund and Evergreen Value Fund; (v) Wachovia New Horizons Fund and Evergreen Omega Fund; (vi) Wachovia Equity Fund, Wachovia Growth & Income Fund, Wachovia Personal Equity Fund and Evergreen Core Equity Fund; (vii) Wachovia Equity Index Fund and Evergreen Equity Index Fund; (viii) Wachovia Fixed Income Fund, Evergreen Intermediate Term Bond Fund, Evergreen Income Plus Fund and Evergreen Core Bond Fund; (ix) Wachovia Short-Term Fixed Income Fund, Wachovia Intermediate Fixed Income Fund, Evergreen Short duration Income Fund and Evergreen Fixed Income Fund; (x) Wachovia Emerging Markets Fund, Evergreen Latin America Fund and Evergreen Emerging Markets Growth Fund; (xi) Wachovia International Equity Fund and Evergreen International Growth Fund; (xii) Wachovia Prime Cash Management Fund and Evergreen Prime Cash Management Fund; (xiii) Wachovia Georgia Municipal Bond Fund and Evergreen Georgia Municipal Bond Fund; (xiv) Wachovia North Carolina Municipal Bond Fund and Evergreen North Carolina Municipal Bond Fund; (xv) Wachovia South Carolina Municipal Bond Fund and Evergreen South Carolina Municipal Bond Fund; (xvi) Wachovia Virginia Municipal Bond Fund and Evergreen Virginia Municipal Bond Fund; (xvii) Wachovia Equity Fund II and Evergreen VA Fund; (xviii) Wachovia Special Values Fund II and Evergreen VA Small Cap Value Fund; (xix) Wachovia Balanced Fund II and Evergreen VA Foundation Fund; (xx) Evergreen Quality Income Fund and Evergreen Diversified Bond Fund; and (xxi) Evergreen Secular Growth Fund and Evergreen Select Strategic Growth Fund.

[2] Although the proposed transactions between certain of the Funds do not currently require exemptive relief, applicants are requesting relief in the event that Wachovia Bank's ownership as fiduciary increases to 5% or more of the respective Funds' assets prior to the proposed transactions. If Wachovia Bank does not acquire as record owner such ownership, the respective Funds will not rely on the requested relief.

defined below), including each applicable agreement and plan of reorganization (each, a ''Plan'' and collectively, the ''Plans''). Pursuant to the Plans, the Acquiring Funds will acquire all of the assets and assume the identified liabilities of the corresponding Acquired Funds, in exchange for shares of designated classes of the respective Acquiring Funds (the ''Fund Reorganizations''). The shares of each Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the corresponding Acquired Fund's shares determined as of the close of business on the business day immediately prior to the date on which the Fund Reorganizations will occur (the ''Valuation Date''). The net asset value of the assets of the Funds will be determined in the manner set forth in the Acquiring Funds' then-current prospectuses and statements of additional information.[3] The Fund Reorganizations are expected to occur on or about June 7, 2002 for the fixed income, money market, and variable annuity Funds and June 14, 2002 for the equity and international Funds (the ''Closing Date''). On or as soon as is conveniently practicable after the Closing Date, each Acquired Fund will distribute its full and fractional shares of the applicable classes of the Acquiring Fund *pro rata* to its shareholders of record, determined as of the Valuation Date. After the distribution of the Acquiring Fund's shares and the winding up of the Acquired Fund's business, each Acquired Fund will be liquidated.

6. Applicants state that the investment objectives and strategies of each Acquired Fund are identical or substantially similar to its corresponding Acquiring Fund. Shareholders of Class A, Class B, Class C, Class Y, and the Institutional Class of the Wachovia Acquired Funds, and shareholders of Class A, Class B, Class C, Class I, and Class IS of the Evergreen Acquired Funds, as applicable, will exchange their shares for Class A, Class B, Class C, Class I, and Class IS shares, respectively, of the corresponding Acquiring Funds (except that shareholders of Class A, Class B, and Class C of three Wachovia Acquired Funds will exchange their shares for Class IS shares of the corresponding Acquiring Fund). Shareholders of the Wachovia Variable Insurance Funds will exchange their one class of shares for shares of the corresponding series of Evergreen Variable Annuity Trust. Applicants represent that the rights and obligations of each class of shares of the Acquired Funds are generally similar to those of the corresponding class of shares of the respective Acquiring Funds into which they will be reorganized. Applicants also state that each class of shares of the Acquiring Fund has the same or substantially similar distribution-related fees, if any, as the shares of the respective class of the Acquired Fund held prior to the Fund Reorganizations. For the purposes of calculating deferred sales charges, shareholders of Class B or Class C shares of an Acquired Fund will be deemed to have held the corresponding class of shares of the Acquiring Fund since the date such shareholder initially purchased the shares of the Acquired Fund. No sales charge will be imposed in connection with the Fund Reorganizations. EIMC or an affiliate will pay the expenses of the Fund Reorganizations.

7. The Boards, including a majority of the Independent Trustees, determined that participation in the Fund Reorganizations is in the best interests of each of the applicable Funds and its shareholders and determined that the interests of each Fund's existing shareholders will not be diluted as a result of the Fund Reorganizations. In approving the Fund Reorganizations, the Boards considered various factors, including, among others: (a) The investment objectives and policies of the Acquired Fund and the Acquiring Fund; (b) the terms and conditions of each Fund Reorganization; (c) the tax-free nature of the Fund Reorganizations; (d) the expense ratios, fees, and expenses of the Acquired Fund and the Acquiring Fund; and (e) the fact that the costs of the Fund Reorganizations will be borne by EIMC or an affiliate.

8. The Plans are subject to a number of conditions precedent, including that: (a) The Plans shall have been approved by the Boards of each of the Funds and approved by the shareholders of each Acquired Fund; (b) the Funds shall have received an opinion of counsel that the Fund Reorganizations will be tax-free for each Fund and its shareholders; (c) registration statements on Form N–14 containing combined prospectus/proxy statements relating to the Acquiring Funds will have become effective with the Commission; and (d) applicants receive from the Commission an exemption from section 17(a) of the Act for the Fund Reorganizations. Each Plan may be terminated by the mutual agreement of the Acquiring Fund and the Acquired Fund, or by either party in the case of a breach of the Plan. Applicants agree not to make any material changes to the Plans that would affect the application without prior approval of the Commission.

9. Registration statements on Form N–14 with respect to each Fund Reorganization containing a prospectus/proxy statement were filed with the Commission on February 4, 2002 through February 26, 2002, and became effective on March 6, 2002 through March 28, 2002. Definitive prospectus/proxy statement materials were mailed to shareholders of the Acquired Funds beginning on or about March 22, 2002. A special meeting of the shareholders of each Acquired Fund is scheduled to be held on or about May 13, 2002 (except for the special meeting of shareholders of The Wachovia Municipal Funds which was held on April 29, 2002).

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Section 2(a)(9) of the Act defines ''control'' in part to mean the power to exercise a controlling influence over the management or policies of a company, and provides that any person who owns beneficially, either directly or through one or more controlled companies, more than 25% of a company's voting securities shall be presumed to control such company.

3. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that

[3] In the Fund Reorganizations, each Acquired Fund and the corresponding Acquiring Fund will use all commercially reasonable efforts to resolve any material differences between the prices of portfolio securities determined in accordance with the pricing policies and procedures of its corresponding Acquiring Fund and those determined in accordance with the pricing policies and procedures of its corresponding Acquired Fund, and where a pricing difference results from a difference in pricing methodology, the parties will eliminate such difference by using the corresponding Acquiring Fund's methodology in valuing the Acquired Fund's assets.

are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied.

4. Applicants state that they may not rely on rule 17a–8 in connection with the Fund Reorganizations because the Funds may be deemed to be affiliated for reasons other than those set forth in the rule. Applicants state that Wachovia Bank, as fiduciary for its customers, owns of record 5% or more (and in some cases, 25% or more) of the outstanding voting securities of certain Wachovia Acquired Funds. Applicants also state that Wachovia Bank, as fiduciary for its customers, owns of record 5% or more (and in some cases, 25% or more) of the outstanding voting securities of certain Evergreen Acquired Funds and certain Acquiring Funds.

As a result of these relationships, the Acquired Funds and the Acquiring Funds may be deemed to be affiliated persons of one another within the meaning of sections 2(a)(3)(A), (B) and (C) of the Act.

5. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

6. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) to the extent necessary to complete the Fund Reorganizations. Applicants submit that the Fund Reorganizations satisfy the standards of section 17(b) of the Act. Applicants state that the Wachovia Board and the Evergreen Board, including a majority of each Board's Independent Trustees, determined that participation in the Fund Reorganizations is in the best interests of each of the applicable Funds and its shareholders, and that the interests of existing shareholders of the applicable Funds will not be diluted as a result of the Fund Reorganizations. Applicants also note that the exchange of the Acquired Funds' assets for shares of the Acquiring Funds will be based on relative net asset value.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12113 Filed 5–14–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25572; 812–12438]

The Willamette Funds and Willamette Asset Managers, Inc.; Notice of Application

May 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.

Summary of the Application: The Willamette Funds (the ''Fund'') and Willamette Asset Managers, Inc. (the ''Manager'') (together, ''Applicants'') request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval.

Filing Dates: The application was filed on February 2, 2001, and amended on December 19, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the 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 June 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, One Pacific Square, 220 NW 2nd, Suite 950, Portland, OR 97209.

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 Fund, a Delaware business trust, is registered under the Act as an open-end management investment company. The Fund currently is comprised of four series (each a ''Portfolio,'' collectively, the ''Portfolios''), each with its own investment objectives and policies.[1]

2. The Manager, registered under the Investment Advisers Act of 1940 (the ''Advisers Act''), serves as the investment adviser to the Portfolios pursuant to an investment advisory agreement with the Fund (''Management Agreement'') that was approved by the board of trustees of the Fund (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 Portfolio's initial shareholder. Under the terms of the Management Agreement, the Manager provides investment management services for each Portfolio and may hire one or more subadvisers (''Sub-Advisers'') to exercise day-to-day investment discretion over the assets of the Portfolio pursuant to separate investment sub-advisory agreements (''Sub-Advisory Agreements''). All current and future Sub-Advisers will be registered under the Advisers Act or exempt from registration. Sub-Advisers are recommended to the Board by the Manager and selected and approved by the Board, including a majority of the Independent Trustees. The Manager compensates each Sub-Adviser out of the fees paid to the Manager by the applicable Portfolio.

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[1] Applicants also request relief with respect to future series of the Fund and any other registered open-end management investment companies and their series that in the future (a) are advised by the Manager or any entity controling, controlled by, or under common control with the Manager; (b) use the manager of managers structure described in the application; and (c) comply with the terms and conditions in the application (''Future Portfolios,'' included in the term ''Portfolios''). The Fund is the only existing registered open-end management investment company that currently intends to rely on the requested order. If the name of any Portfolio contains the name of a Sub-Adviser (as defined below), the name of the Manager will precede the name of the Sub-Adviser.

3. Subject to Board review, the Manager selects Sub-Advisers for the Portfolios, monitors and evaluates Sub-Adviser performance, and oversees Sub-Adviser compliance with the Portfolios' investment objectives, policies, and restrictions. The Manager recommends Sub-Advisers based upon a number of factors used to evaluate their skills in managing assets pursuant to particular investment objectives. The Manager also recommends to the Board whether a Sub-Adviser's Sub-Advisory Agreement should be renewed, modified or terminated.

4. Applicants request relief to permit the Manager, subject to Board approval, to enter into and materially amend Sub-Advisory Agreements without shareholder approval. The requested relief will not extend to a Sub-Adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Fund or the Manager, other than by reason of serving as a Sub-Adviser to one or more of the Portfolios (an ''Affiliated Sub-Adviser'').

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. 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.

3. The investment structure of the Portfolios is different from that of traditional investment companies. Applicants assert that investors are relying on the Manager's experience to select one or more Sub-Advisers best suited to achieve a Portfolio's desired investment objectives. Applicants assert that, from the perspective of the investor, the role of the Sub-Advisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of the Sub-Advisory Agreements would impose unnecessary costs and delays on the Portfolios, and may preclude the Manager from acting promptly in a manner considered advisable by the Board. Applicants note that the Management Agreement will remain subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Portfolio may rely on the requested order, the operation of the Portfolio in the manner described in the application will be approved by a majority of the Portfolio's outstanding voting securities, as defined in the Act, or, in the case of a Portfolio whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before the shares of the Portfolio are offered to the public.

2. The prospectus of each Portfolio relying on the requested relief will disclose the existence, substance and effect of any order granted pursuant to the application. In addition, each Portfolio relying on the requested relief will hold itself out to the public as employing the manager of managers structure described in the application. A Portfolio's prospectus will prominently disclose that the Manager has ultimate responsibility to oversee the Sub-Advisers and recommend their hiring, termination and replacement.

3. The Manager will provide general management services to each of the Portfolios, including overall supervisory responsibility for the general management and investment of each Portfolio's assets, and, subject to the review and approval by the Board will: (i) Set each Portfolio's overall investment strategies; (ii) evaluate, select, and recommend Sub-Advisers to manage all or part of a Portfolio's assets; (iii) when appropriate, allocate and reallocate a Portfolio's assets among multiple Sub-Advisers; (iv) monitor and evaluate the investment performance of Sub-Advisers; and (v) implement procedures reasonably designed to ensure that the Sub-Advisers comply with the relevant Portfolio's investment objectives, policies, and restrictions.

4. At all times, a majority of the Board will be persons who are Independent Trustees, and the nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

5. The Manager will not enter into a Sub-Advisory Agreement on behalf of a Portfolio with any Affiliated Sub-Adviser, unless such agreement, including the compensation to be paid thereunder, has been approved by the shareholders of the applicable Portfolio.

6. When a Sub-Adviser change is proposed for a Portfolio with an Affiliated Sub-Adviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the minutes of the meeting of the Board, that such change is in the best interests of the applicable Portfolio and its shareholders and does not involve a conflict of interest from which the Manager or the Affiliated Sub-Adviser derives an inappropriate advantage.

7. No trustee or officer of the Fund or director or officer of the Manager will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that director, trustee, or officer) any interest in a Sub-Adviser except for: (i) ownership of interests in the Manager or any entity that controls, is controlled by, or is under common control with the Manager; 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 Sub-Adviser or an entity that controls, is controlled by, or is under common control with a Sub-Adviser.

8. Within 90 days of the hiring of any new Sub-Adviser, the Manager will furnish the shareholders of the applicable Portfolio all the information about the new Sub-Adviser that would be included in a proxy statement. This information will include any changes in such disclosure caused by the addition of a new Sub-Adviser. To meet this obligation, the Manager will provide the shareholders of the applicable Portfolio with an information statement meeting the requirements of Regulation 14C and Schedule 14C under the Securities Exchange Act of 1934 (''the 1934 Act''), as well as the requirements of Item 22 of Schedule 14A under the 1934 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12114 Filed 5–14–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act; Meeting

Federal Register Citation of Previous Announcement: [67 FR 31856, May 10, 2002]

Status: Closed Meeting.

Place: 450 Fifth Street, NW., Washington, DC.

Date and Time of Previously Announced Meeting: Monday, May 13, 2002, at 10 a.m.

Change in the Meeting: Additional item.

The following item has been added to the closed meeting scheduled for Monday, May 13, 2002:

Consideration of amicus participation.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: May 10, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12188 Filed 5–10–02; 4:11 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Notice

Federal Register Citation of Previous Announcement: [67 FR 31856, May 10, 2002].

Status: Closed Meeting.

Place: 450 Fifth Street, NW., Washington, DC.

Date and Time of Previously Announced Meeting: Monday, May 13, 2002, at 10 a.m.

Change in the Meeting: Additional items.

The following items have been added to the closed meeting scheduled for Monday, May 13, 2002:

Opinion;
Adjudicatory matter; and
Cooperation with other regulatory organizations.

Commissioner Hunt, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: May 10, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12189 Filed 5–10–02; 4:11 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45895; File No. SR–Amex–2002–15]

Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange LLC to Amend Commentary .02(c) of Amex Rule 901C to Include Volume Weighted Average Pricing as a Permissible Index Option Settlement Value Calculation Methodology

May 8, 2002.

I. Introduction

On March 5, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Commentary .02(c) of Amex Rule 901C to add volume weighted average pricing (''VWAP'') as a permissible index option settlement value calculation methodology for National Association of Securities Dealers Automated Quotation System (''NASDAQ'') National Market System (''NMS'') listed components. Notice of the proposed rule change was published for comment in the **Federal Register** on April 10, 2002.[3] This order approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to amend Commentary .02(c) to Amex Rule 901C to add VWAP as a permissible index option settlement value calculation methodology for NASDAQ/NMS listed components. Currently, Commentary .02(c) of Amex Rule 901C provides that index settlement values are determined by using the regular way opening sale price for each of an index's component stocks in its primary market on the last trading day prior to expiration.[4] Unlike exchange-listed securities where there is a market opening price at which all investors entering a market-on-open order can participate, investors in NASDAQ/NMS securities cannot be sure of transactions at a price equal to the first reported print. In some instances, this price may be significantly different than the first price at which most investors can conduct transactions. As a result, investors, market-makers and the specialist cannot be sure that any hedges into which they may have entered will converge to the settlement value for the index; and, in some cases, the value of the hedge may differ significantly from the index settlement value. This uncertainty adds to the cost of trading the options and makes them less desirable to trade.

While it may still be difficult to get complete convergence, the Exchange believes that using the VWAP would provide more opportunity for investors to transact at a price near the settlement price, making it much less likely that there will be any significant difference between the hedge and the settlement value. For this reason, the Exchange proposes to permit, in addition to ''regular way'' opening price settlement, the VWAP settlement calculation methodology for NASDAQ/NMS listed components.

III. Discussion

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the Act and the rules and regulations promulgated thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b).[5] Specifically, the Commission finds that approval of the proposed rule change is consistent with Section 6(b)(5) [6] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 45692 (April 4, 2002), 67 FR 17475. In the notice, the Commission stated it would consider granting accelerated approval of the proposed rule change after a 15-day comment period.

[4] *See, e.g.,* Securities Exchange Act Release No. 36283 (September 26, 1995), 60 FR 51825 (October 3, 1995) (SR–Amex–95–26) (order approving the listing and trading of options on the Morgan Stanley High Technology 35 Index).

[5] 15 U.S.C. 78f(b). In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

public interest. The Commission believes that permitting the VWAP settlement calculation methodology for NASDAQ/NMS component securities of an index option may provide more opportunity for investors to transact at a price near the settlement price, and should result in a settlement value more reflective of the markets in NASDAQ/NMS securities.[7]

The Commission finds good cause for approving the proposed rule change before the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In the notice,[8] the Commission indicated that it would consider granting accelerated approval of the proposal after a 15-day comment period. The Commission received no comments on the proposal during the 15-day comment period. The Commission believes it is reasonable to implement the proposal on an accelerated basis, in view of the anticipated benefits of the proposal. For these reasons, the Commission finds good cause for accelerating approval of the proposed rule change.

IV. Conclusion

For the above reasons, the Commission finds that the proposed rule change is consistent with the provisions of the Act, in general, and with Section 6(b)(5)[9] in particular.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[10] that the proposed rule change (SR–AMEX–2002–15) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12115 Filed 5–14–02; 8:45 am]

BILLING CODE 8010–01–U

[7] This approval order limits use of the VWAP as a permissible index option settlement value calculation methodology for NASDAQ/NMS listed components. Should the Amex wish to use the VWAP as the methodology for securities other than NASDAQ/NMS component securities, the Commission expects the Exchange to file a proposed rule change for Commission consideration.

[8] *See* footnote 3, *supra.*

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45894; File No. SR–PCX–2002–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Market Maker Auto-Ex Log On Requirements

May 8, 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 25, 2002, the Pacific Exchange, Inc. (''Exchange'' or ''PCX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PCX. The proposed rule change has been filed by the PCX as a ''non-controversial'' rule change under rule 19b–4(f)(6) under the Act.[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

PCX proposes to amend its rules in order to eliminate the current requirements for Market Makers, set forth in PCX Rule 6.87(e)(4), to log on to PCX's automatic execution system (''Auto-Ex'').[4]

Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in [brackets].

* * * * *

Automatic Execution System

Rule 6.87

(a)–(d)—No change.

(e) Market Maker Requirements and Eligibility. Any Exchange Member who is registered as a Market Maker and who has obtained written authorization from a clearing member is eligible to participate on the Auto-Ex system, subject to the following conditions and requirements:

(1)–(3)—No change.

(4) *Reserved.* [Log on Requirement. A Market Maker who has been logged on to Auto-Ex in an option issue at any time during an expiration month must continue to be logged on to Auto-Ex in that issue whenever present in that trading crowd, until the close of business on the next Expiration Friday. A Market Maker who is limited to ''closing only'' transactions pursuant to PCX Rules or the requirements of that Market Maker's clearing firm will be exempt from this provision upon approval of two Floor Officials.]

(5)–(7)—No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX 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 PCX 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

On July 10, 2000, the Exchange effected a new PCX rule establishing Auto-Ex log-on requirements for Market Makers.[5] The current Auto-Ex rules outline the requirements with which a Market Maker (other than a Lead Market Maker (''LMM'')) must comply in order to be eligible to participate on Auto-Ex. Among the requirements, a Market Maker who has been logged on to Auto-Ex in an option issue at any time during an expiration month must continue to be logged on to Auto-Ex in that issue whenever present in that trading crowd, until the close of business on the next expiration Friday. The PCX represents that, by implication, a Market Maker who logs off of Auto-Ex may not log back on until the beginning of the next expiration cycle. The Exchange voluntarily implemented the rule in order to encourage Market Makers to remain on Auto-Ex throughout the trading month.

After assessing the impact of the Auto-Ex log on requirement, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] The PCX Auto-Ex system permits eligible market or marketable limit orders sent from member firms to be executed automatically at the displayed bid or offering price. Participating Market Makers are designated as the contra side to each Auto-Ex order on a rotating basis. Automatic executions through Auto-Ex are currently available for public customer orders at 250 contracts or less in all series of options traded on the PCX's options floor.

[5] *See* Securities Exchange Act Release No. 43150 (August 14, 2000), 65 FR 51390 (August 23, 2000).

Exchange believes that, because the requirement provides so little flexibility, it no longer serves the purpose for which it was created, *i.e.,* encouraging greater Market Maker participation on Auto-Ex. Thus, despite the fact that LMMs would prefer Market Makers to participate on Auto-Ex as their risk profiles allow, the Exchange believes that the current requirement limits participation in an all-or-none fashion. As a consequence, the Exchange proposes to remove the log on requirement in its entirety in order to encourage Market Makers to log on to Auto-Ex to the extent that their business models permit.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act [6] in general, and furthers the objectives of section 6(b)(5) of the Act [7] in particular, because it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) [8] of the Act and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The PCX seeks to have the proposed rule change become operative immediately in order to maintain competition and efficiency among its market makers.

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately upon filing as of April 25, 2002, to allow the PCX to maintain competition among its market makers and to encourage market makers to participate on Auto-Ex. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2002–23 and should be submitted by June 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12116 Filed 5–14–02; 8:45 am]

BILLING CODE 8010–01–U

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45893; File No. SR–Phlx–2002–25]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Increasing the Maximum Guaranteed AUTO–X Size to 250 Contracts

May 8, 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 19, 2002, the Philadelphia Stock Exchange, Inc. (''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On April 25, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change has been filed by the Phlx as a ''non-controversial'' rule change under Rule 19b–4(f)(6) under the Act.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to amend Phlx Rule 1080(c) to increase to 250 contracts the maximum order size of option contracts that are eligible to be executed on the Exchange's automatic execution system (''AUTO–X''), which is part of the Exchange's Automated Options

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated April 24, 2002 (''Amendment No. 1''). In Amendment No. 1, the Phlx amended its proposed rule text to eliminate a redundant sentence regarding the 250 contract maximum AUTO–X guarantee size for options on the Nasdaq–100 Index Tracking Stock (''QQQ'').

[4] 17 CFR 240.19b–4(f)(6).

Market (''AUTOM'') System. AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually or routed to AUTOM's automatic execution feature, AUTO–X, if they are eligible for execution on AUTO–X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. Currently, customer market and marketable limit orders of up to 100 contracts are eligible for AUTO–X.[5]

Below is the text of the proposed rule change. Proposed new language is *italicized* and proposed deletions are in [brackets].

* * * * *

Rule 1080. Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

(a)-(b) No change.

(c) AUTO–X—AUTO–X is a feature of AUTOM that automatically executes public customer market and marketable limit orders up to the number of contracts permitted by the Exchange for certain strike prices and expiration months in equity options and index options, unless the Options Committee determines otherwise. AUTO–X automatically executes eligible orders using the Exchange disseminated quotation and then automatically routes execution reports to the originating member organization. AUTOM orders not eligible for AUTO–X are executed manually in accordance with Exchange rules. Manual execution may also occur when AUTO–X is not engaged. An order may also be executed partially by AUTO–X and partially manually.

The Options Committee may for any period restrict the use of AUTO–X on the Exchange in any option or series. Currently, orders up to [100] *250* contracts, subject to the approval of the Options Committee, are eligible for AUTO–X. [With respect to options on the Nasdaq-100 Index Tracking Stock (''QQQ''), orders of up to 250 contracts are eligible for AUTO–X.]

The Options Committee may, in its discretion, increase the size of orders in one or more classes of multiply-traded equity options eligible for AUTO–X to the extent necessary to match the size of orders in the same options eligible for entry into the automated execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Securities and Exchange Commission pursuant to section 19(b)(3)(A) of the Securities Exchange Act of 1934.

(c)(i)(A)-(E) No change.

(d)-(j) No change.

Commentary. No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposes to increase the maximum order size for eligibility for AUTO–X from 100 contracts to 250 contracts.[6] Under the rules of the Exchange, through AUTOM, orders are routed from member firms directly to the appropriate specialist on the trading floor. Of the public customer market and marketable limit orders routed through AUTOM, certain orders are eligible for AUTOM's automatic execution feature, AUTO–X. These orders are automatically executed at the disseminated quotation price on the Exchange and reported back to the originating firm.[7]

The Exchange represents that AUTO–X affords prompt and efficient automatic executions at the disseminated quotation price on the Exchange. Therefore, the Exchange believes that increasing automatic execution levels should provide the benefits of automatic execution to a larger number of customer orders. Further, the Exchange notes that this increase from 100 contracts to 250 contracts is consistent with similar Commission-approved increases to the automatic executions levels on other options exchanges.[8]

The Exchange notes that there are many safeguards incorporated into Exchange rules to ensure the appropriate handling of AUTO–X orders. For example, Phlx Rule 1080(f)(iii) states that the specialist is responsible for the remainder of an AUTOM order where a partial execution has occurred. Phlx Rule 1015 governs execution guarantees and requires the trading crowd to ensure that public orders are filled at the best market to a minimum of the disseminated size. Violations of any of these provisions could be referred to the Business Conduct Committee for disciplinary action.

The Wheel is a mechanism that allocates AUTO–X trades among specialists and Registered Options Traders (''ROTs'').[9] An ROT has discretion to participate on the Wheel to trade any option class to which he is assigned. An increase in the maximum AUTO–X order size does not prevent an ROT from declining to participate on the Wheel.[10] Because the Wheel rotates in two-lot to ten-lot increments depending upon the size of the order, no single ROT will be allocated the entire 250 contracts.

The Exchange also has procedures that permit a specialist to disengage AUTO–X in extraordinary circumstances.[11] AUTOM users are notified of such circumstances.

With respect to financial responsibility issues, the Exchange notes that it has a minimum net capital

[5] *See* Securities Exchange Act Release No. 44404 (June 11, 2001), 66 FR 32857 (June 18, 2001) (File No. SR–Phlx–2001–51) (order approving maximum order size eligibility of 100 contracts for AUTO–X).

[6] *Id.*

[7] *See* Phlx Rule 1080(c).

[8] The Exchange notes that the Commission has approved increases in automatic execution levels from 100 contracts to 250 contracts on the American Stock Exchange LLC (''Amex''). *See* Securities Exchange Act Release No. 45628 (March 22, 2002), 67 FR 15262 (March 29, 2002) (SR–Amex–2001–94). The Exchange further notes that the Commission has approved increases in automatic execution levels from 100 contracts to 250 contracts on the Pacific Exchange, Inc. (''PCX''). *See* Securities Exchange Act Release No. 45641 (March 25, 2002), 67 FR 15445 (April 1, 2002) (SR–PCX–2001–48).

[9] Unlike ROTs, specialists are required to participate on the Wheel. *See* Phlx Rule 1080(g).

[10] *See* Exchange Options Floor Procedure Advice F–24(e)(i).

[11] *See* Phlx Rule 1080(e). The Exchange notes that it has filed amendments relating to the disengagement of AUTO–X in extraordinary circumstances pursuant to the Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) (File No. 3–10282), which are not effective as of the date of filing of the instant proposal. *See* File No. SR–Phlx–2001–27.

requirement respecting ROTs.[12] Furthermore, an ROT's clearing firm performs risk management functions to ensure that the ROT has sufficient financial resources to cover positions throughout the day. In this regard, the function includes real-time monitoring of positions. The Exchange believes that clearing firm procedures address the issue of whether an ROT has the financial capability to support trading of options orders as large as 250 contracts.

The Exchange believes that the increase in order size eligibility for AUTO–X orders should provide customers with quicker executions for a larger number of orders, by providing automatic rather than manual executions, thereby reducing the number of orders subject to manual processing. The Exchange also believes that increasing the AUTO–X maximum order size should not impose a significant burden on operation or capacity of the AUTOM System and will give the Exchange better means of competing with other options exchanges for order flow.

The Exchange represents that it will issue a circular to members and member organizations advising them of the increased maximum AUTO–X guarantee. The Exchange also represents that it posts AUTO–X guarantees on its web site on an issue-by-issue basis.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with section 6(b) of the Act [13] in general, and furthers the objectives of section 6(b)(5) of the Act [14] in particular, because it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by enhancing efficiency by providing automatic executions to a larger number of options orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition that is not necessary in furtherance of the purposes of the Act.

[12] *See* Phlx Rule 703.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to section 19(b)(3)(A) [15] of the Act and Rule 19b–4(f)(6) [16] thereunder.[17]

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx seeks to have the proposed rule change, as amended, become operative immediately in order to remain competitive with other exchanges with similar rules in effect.[18]

The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change, as amended, operative immediately upon filing as of April 19, 2002, to allow the Phlx to compete with other options exchanges that currently have a maximum automatic execution eligibility limit of 250 contracts.[19] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[20]

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

[18] *See supra* note 8.

[19] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2002–25 and should be submitted by June 5, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–12117 Filed 5–14–02; 8:45 am]

BILLING CODE 8010–01–P

[20] *See* section 19(b)(3)(C) of the Act, 15 U.S.C. 78(b)(3)(C). For purposes of calculating the 60 day abrogation period, the Commission considers the period to commence on April 25, 2002, the date that the Exchange filed Amendment No. 1.

[21] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3415]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on May 7, 2002, I find that Breckinridge, Crittenden, Grayson, Hancock, Hardin, Henderson, Hopkins, McLean, Meade, Ohio, Union and Webster Counties in the Commonwealth of Kentucky constitute a disaster area due to damages caused by severe storms, tornadoes and flooding occurring on April 27, 2002 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on July 6, 2002 and for economic injury until the close of

business on February 7, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bullitt, Butler, Caldwell, Christian, Daviess, Edmonson, Hart, Larue, Livingston, Lyon, Muhlenberg and Nelson in the Commonwealth of Kentucky; Gallatin and Hardin Counties in the State of Illinois; Crawford, Harrison, Perry, Posey, Spencer, Vanderburgh and Warrick Counties in the State of Indiana.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.750
Homeowners without credit available elsewhere	3.375
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury: Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 341511. For economic injury the number is 9P5800 for Kentucky; 9P5900 for Illinois; and 9P6000 for Indiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 8, 2002.

Herbert L. Mitchell,

Associate Administrator, For Disaster Assistance.

[FR Doc. 02–12074 Filed 5–14–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3411]

State of Tennessee

Rutherford County and the contiguous Counties of Bedford, Cannon, Coffee, Davidson, Marshall, Williamson and Wilson in the State of Tennessee constitute a disaster area due to damages caused by a tornado, high wind and heavy rains that occurred on April 28, 2002. Applications for loans for physical damage may be filed until the close of business on July 8, 2002 and for economic injury until the close of business on February 10, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.750
Homeowners without credit available elsewhere	3.375
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 341112 and for economic injury the number is 9P5400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 8, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–12130 Filed 5–14–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3412]

State of Texas; Disaster Loan Areas

Shackelford County and the contiguous counties of Callahan, Eastland, Haskell, Jones, Stephens, Taylor and Throckmorton in the State of Texas constitute a disaster area as a result of damages caused by excessive rain, flash flooding and hail that occurred on April 25, 2002. Applications for loans for physical damage may be filed until the close of business on July 8, 2002, and for economic injury until the close of business on February 10, 2003, at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

For Physical Damage:

Homeowners with credit available elsewhere, *6.750%*.

Homeowners without credit available elsewhere, *3.375%*.

Businesses with credit available elsewhere, *7.000%*.

Businesses and non-profit organizations without credit available elsewhere, *3.500%*.

Others (including non-profit organizations) with credit available elsewhere, *6.375%*.

For Economic Injury

Businesses and small agricultural cooperatives without credit available elsewhere, *3.500%*.

The numbers assigned to this disaster are 341211 for physical damage and 9P5500 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 8, 2002.

Hector V. Barreto,

Administrator.

[FR Doc. 02–12129 Filed 5–14–02; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region III Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Hearing

The Small Business Administration Region III Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Monday, June 10, 2002 at 1:30 p.m. at the J. Sargeant Reynolds Community North Run Corporate Center, 1630 East Parham Road, North Run Business Park, Richmond, Virginia 23228, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Lucy Gardner Davis in writing or by fax, in order to be put on the agenda. Lucy Gardner Davis, U.S. Small Business Administration, Richmond District Office, 400 North 8th Street, Federal Building, Suite 1150, P.O. Box 10126, Richmond, VA 23240, phone (804) 771–2400 ext. 145, fax (804) 771–2580, e-mail *lucy.davis@sba.gov.*

For more information, *see* our Web site at *www.sba.gov/ombudsman.*

Dated: May 8, 2002.

Michael L. Barrera,

National Ombudsman.

[FR Doc. 02–12073 Filed 5–14–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4019]

Amendment to Bureau of Educational and Cultural Affairs Request for Proposals: Islamic Life in the United States

SUMMARY: The Office of Citizen Exchanges, Bureau of Educational and Cultural Affairs of the U.S. Department of State announces the addition of Thailand to the Southeast Asian region for which proposals will be accepted.

The Islamic Life in the United States Grants Competition was announced on May 2, 2002 in the **Federal Register** (67 FR 22149). The deadline for proposals is June 20, 2002.

FOR FURTHER INFORMATION CONTACT: Interested organizations should contact Thomas Johnston, 202/619–5325; E-mail *tjohnsto@pd.state.gov.*

Dated: May 9, 2002.

Rick A. Ruth,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 02–12141 Filed 5–14–02; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice #3983]

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 Friday, May 24, 2002, in Room 1408 of the U.S. Department of State at 2201 C Street, NW., Washington, DC. The meeting will take place from 10:00 a.m. to 12:00 p.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.

To attend the meeting, please contact Matt Lauer at (202) 619–4463. For more information visit *www.state.gov/r/adcompd.*

Dated: May 8, 2002.

Matthew Lauer,

Executive Director, U.S. Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 02–12047 Filed 5–14–02; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 3962]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 AM on Wednesday June 12, 2002, in room 6319, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of the meeting is to prepare for the 48th session of the Subcommittee on Safety of Navigation (NAV) of the International Maritime Organization (IMO) which is scheduled for July 8–12, 2002, at the IMO Headquarters in London.

Items of principal interest on the agenda are:

—Routing of ships, ship reporting and related matters
—Integrated bridge systems (IBS) operational aspects
—Places of refuge
—Revision of fishing vessel Safety Code and Voluntary Guidelines
—Anchoring, mooring and towing equipment
—Feasability study on carriage of Voyage Data Recorders (VDR) on existing cargo ships
—Revision of performance standards for radar reflectors
—Review of performance standards for radar equipment
—International Telecommunication Union (ITU) matters, including Radiocommunication ITU–R Study Group 8
—Large passenger ship safety: Effective voyage planning
—Measures to prevent accidents with lifeboats
—Matters related to bulk carrier safety
—Casualty analysis

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Edward J. LaRue, Jr., U.S. Coast Guard (G–MWV–2, Room 1407, 2100 Second Street SW, Washington, DC 20593–0001 or by calling: (202) 267–0416.

Dated: April 10, 2002.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 02–12046 Filed 5–14–02; 8:45 am]

BILLING CODE 4710–11–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Initiation of Environmental Review of Doha Multilateral Trade Negotiations; Public Comments on Scope of Environmental Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: Pursuant to Executive Order 13141, 64 FR 63169 (Nov. 18, 1999), and implementing guidelines, 65 FR 79442 (Dec. 19, 2000), the Office of the United States Trade Representative (USTR), through the Trade Policy Staff Committee (TPSC), is initiating an environmental review of the multilateral negotiations launched in November 2001 at the World Trade Organization's Fourth Ministerial Meeting in Doha, Qatar. The negotiations are to be concluded within three years (not later than January 1, 2005).

The TPSC requests written public comments on the scope of the environmental review, including any reasonably foreseeable significant positive and negative environmental effects that might flow from economic changes attributable to the prospective agreements, and potential implications for environmental laws, regulations and other measures. The TPSC also welcomes public views on appropriate methodologies for conducting the review and the appropriate time to perform the environmental analysis, given the three-year time frame for the negotiations.

DATES: Public comments should be received no later than July 26, 2002.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, TPSC, Office of the

USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202) 395–3475. Questions concerning the environmental review should be addressed to the Environment and Natural Resources Section, USTR, telephone (202) 395–7320.

SUPPLEMENTARY INFORMATION: At the Fourth WTO Ministerial Meeting in Doha, Qatar, trade ministers representing more than 140 countries launched new multilateral trade negotiations. The agenda calls for a comprehensive 3-year negotiation, covering a variety of areas such as agriculture, services, industrial tariffs, WTO rules (including ways to clarify and improve disciplines on environmentally harmful fish subsidies), reduction in trade barriers to environmental goods and services, and limited aspects of the relationship between the WTO and multilateral environmental agreements. In a separate notice, the TPSC has requested public views on the general U.S. negotiating objectives and country and item-specific priorities for the Doha negotiations, including with respect to environmental objectives. 67 FR 12637 (March 19, 2002). That notice contains more detailed information concerning the scope of the negotiations. The Doha Ministerial Declaration and further information about the negotiations are available on USTR's website at *www.ustr.gov.* or on the WTO's website at *www.wto.org.*

Executive Order 13141–*Environmental Review of Trade Agreements* (November 1999) and implementing guidelines (December 2000) formalize the U.S. policy of conducting environmental reviews for certain major trade agreements. Reviews are used to identify potentially significant, reasonably foreseeable environmental impacts (both positive and negative), and information from the review can help facilitate consideration of appropriate responses where impacts are identified. The Order requires environmental reviews of certain types of agreements, including comprehensive multilateral trade rounds. *See* 64 FR 63169. Reviews address potential environmental impacts that may be associated with projected economic changes expected to occur as a result of the proposed agreement, and potential implications for environmental laws and regulations. The focus of the reviews is on impacts on the United States, although global and transboundary impacts may be considered, where appropriate and prudent.

In April 2001, USTR initiated an environmental review of the mandated WTO negotiations on agriculture and services, known as the ''built-in agenda'' negotiations. 66 FR 20846 (April 25, 2001). The ''built-in agenda'' review will be consolidated with this review of the Doha negotiations. It is not necessary to repeat comments submitted in response to the April 25, 2001 notice; those comments are being considered and are available for public inspection in the USTR Reading Room (see below). However, supplemental comments on the agriculture and services negotiations are welcome.

The TPSC recognizes that the Doha negotiations are at an early stage. As developments in the negotiations further clarify the scope of potential agreements, the TPSC anticipates that there will be other opportunities for the public to provide additional input as appropriate.

Written Comments

Persons submitting written comments should provide twenty (20) copies no later than July 26, 2002, to Gloria Blue at the above address. Where possible, respondents should also submit comments in electronic form by providing a disk together with the required twenty hard copies. The disk should be labeled and should clearly identify the software used and the respondent.

Written comments submitted in response to this request will be available for public inspection in the USTR Reading Room, in Room 3 of the USTR Annex, 1724 F Street, NW., Washington DC. An appointment to review the file may be made by calling (202) 395–6186. The Reading Room is open to the public from 10–12 a.m. and from 1–4 p.m., Monday through Friday.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 02–12120 Filed 5–14–02; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement: Fulton County and Cobb County, Georgia

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA) is issuing this notice to advise agencies and the public that, in accordance with the National Environmental Policy Act, an Alternatives Analysis/Environmental Impact Statement (EIS) is being prepared for a proposed transportation improvement in the Metropolitan Atlanta Region's Northwest Corridor. Located in Fulton and Cobb counties, the proposed Northwest Corridor would extend between an Atlanta connection with the existing MARTA rail line (at Arts Center, Midtown or Bankhead stations) and the Town Center/Kennesaw State University activity center area in Cobb County. The corridor is centered on US 41, I–75 and the W&A (CSX) Railroad. The corridor boundaries are roughly defined by Midtown Atlanta on the south, Powers Ferry Road on the northeast, Georgia 280 (Hamilton E. Holmes Drive/James Jackson Parkway/South Cobb Drive) on the southwest and Town Center on the north. The lead agency will also seek the cooperation of the Federal Highway Administration (FHWA), the U.S. Fish and Wildlife Service (USFWS), the U.S. Army Corps of Engineers (USCOE), the U.S. Environmental Protection Agency (USEPA), and the Federal Railroad Administration (FRA) in conducting this review.

DATES: *Comment Due Date:* Written comments on the scope of the alternatives and the impacts to be considered should be sent to Sylvia Greer, State & Community Affairs Specialist, at GRTA 404–463–2430; TDD phone number 711 by July 11, 2002. *Scoping Meetings:* GRTA will conduct three (3) identical public scoping meetings and an agency scoping meeting. The public scoping meetings will be held on Monday, June 10, 2002 in two locations, as follows: Kennesaw State University Center, Kennesaw, Georgia 11 a.m; and the Smyrna Community Center, Smyrna, Georgia 7 p.m. and on Tuesday, June 11, 2002 at the Carl E. Sanders YMCA in Buckhead at 6:30 p.m. The agency scoping meeting will be held on June 27, 2002 at 2 p.m. in the GRTA Board Room. The locations of the scoping meetings are accessible to persons with disabilities and open to all members of the community. Any individual with a disability who requires special assistance, such as a sign language interpreter, to participate in the scoping meetings should contact Sylvia Greer, State & Community Affairs Specialist, at GRTA 404–463–2430; TDD phone number 711 by June 9, 2002.

ADDRESSES: To be added to the mailing list or to provide written comments, please contact Sylvia Greer, State & Community Affairs Specialist, at GRTA,

245 Peachtree Center Avenue, NE, Suite 900, Atlanta, Georgia 30329, phone 404–463–2430. The dates and addresses of the scoping meetings are given in the **DATES** section above.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Dittmeier, Transportation Program Specialist, Federal Transit Administration 404–562–3512, or Mr. Crew Heimer, Manager of Passenger Rail, Georgia Regional Transportation Authority (GRTA) 404–463–3054.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA, in cooperation with GRTA, will prepare an Alternatives Analysis (AA)/ Environmental Impact Statement (EIS) to examine alternative improvement strategies to enhance transit access and mobility, respond to projected growth and increased traffic congestion, and address regional air quality issues. A *Project Advisory Committee,* representing local jurisdictions and key community leaders will provide guidance to GRTA on local decisions. Input received during the EIS scoping meetings will be summarized and provided to the Advisory Committee and the GRTA Board prior to the final selection of a Locally Preferred Alternative, which will include the selection of a preferred mode and alignment.

The following alternatives will be evaluated in the Environmental Impact Statement: a No-Build Alternative, Transportation Systems Management Alternative, and one or more mass transit Build Alternatives.

Scoping activities will include public meetings and an agency scoping meeting during the month of June 2002, and correspondence and discussions with interested persons, organizations, as well as federal, state and local agencies.

The Federal Transit Administration (FTA) and Georgia Regional Transportation Authority (GRTA) invite all interested individuals and organizations, and federal, state, and local agencies to provide comments on the scope of the study. During the scoping process, comments should focus on defining the alternatives to be studied in the EIS, identifying specific social, economic, or environmental issues to be evaluated, and suggesting alternatives that may be less costly or have less environmental impact, while achieving similar transportation objectives. A Scoping Information Booklet will be circulated to all federal, state, and local agencies having jurisdiction in the project and all interested parties currently on the Northwest Connectivity Study mailing list. The Scoping Information Booklet will be available at the meetings or in advance of the meetings by contacting Sylvia Greer, State & Community Affairs Specialist, at GRTA, as indicated above in **ADDRESSES**.

During Scoping, comments should focus on identifying the range of reasonable alternatives that should be considered and not stating a preference for a particular alternative. Individual preference for an alternative should be communicated during the comment period for the Draft EIS. Scoping comments may be made at the public scoping meetings listed above in the **DATES** section of this notice or in writing within 30-days of this notice to the individual in the **ADDRESSES** section of this notice.

The comments received during the public scoping meeting will be summarized and provided to the Project Advisory Committee, which will make a formal scoping decision on the alternatives to be carried forward in the EIS and the scope of the study in conjunction with selecting a Locally Preferred Alternative.

II. Description of Study Area and Project Needs

The purpose of the project is to identify a transportation solution that provides additional choices for travelers within and through the corridor. The identified transportation solution should decrease the vehicle miles traveled in the region, decrease emissions and, in turn, alleviate Atlanta's severe non-attainment status for air quality. To accomplish this, the proposed project will explore transportation alternatives that reduce the number of vehicle miles traveled; will enhance mobility within and through the corridor; will improve air quality; will increase connectivity between major activity centers; and will provide opportunities for integrating the existing and proposed land uses along the corridor with a transportation investment that maximizes transit and land use benefits within the northwest corridor of Metropolitan Atlanta. The additional travel choices and mode connectivity should provide travel along the study corridor, improved accessibility to jobs and essential activities within the region, and services throughout the corridor for all of the greater Atlanta region's citizens.

The project is to identify alternatives to address an increase in travel demand from projected increases in population and employment growth throughout the Northwest Corridor between the City of Atlanta and Town Center. Roadways in the corridor are currently congested and are projected to operate with moderate to severe congestion by 2015 (level of service C, D, and F), limited in both capacity and within existing rights-of-way. The number of vehicle miles traveled in the corridor has increased by 42 percent between 1990 and 2000 and contributes to poor air quality. Existing transit service in the corridor is limited and currently focused on serving work-based trips between Cobb County and the region's core.

III. Alternatives

A brief description of the initial alternatives is provided below:

No-Build Alternative. This Alternative consists of highway and transit system existing as of the year 2002, plus projects programmed for construction in the FY 2003–2005 Transportation Improvement Program adopted by the Atlanta Regional Commission, the region's metropolitan planning organization.

Transportation Systems Management Alternative. This Alternative consists of all reasonable cost-effective [low-cost, operationally oriented] transit improvements included in the region's current, constrained long-range transportation plan, the *2025 Regional Transportation Plan.*

Build Alternatives. One or more mass transit Build Alternatives providing service between the existing MARTA Arts Center station and the Town Center activity center will be evaluated. The mass transit Build Alternatives may include express bus, bus rapid transit, light rail transit, heavy rail transit, or commuter rail. Ancillary facilities, such as maintenance garages, rail yards, and parking facilities will be considered, as appropriate, for the mass transit Build Alternatives.

Scoping meetings, stakeholder interviews, and written comments will be sources of additional alternatives for consideration in this study.

IV. Probable Effects/Potential Impacts for Analysis

The purpose of the EIS process is to fully disclose the environmental consequences associated with each of the alternatives being evaluated. FTA and GRTA will assess all social, economic, and environmental impacts of the No-Build, TSM, and Build Alternatives selected for detailed evaluation at the end of the Alternative Analysis phase. Impacts may include the following: land use, zoning, and economic development; secondary development; cumulative impacts; land acquisition, displacements and relocation of existing uses; historic,

archaeological and cultural resources; parklands and recreation areas; visual and aesthetic qualities; neighborhoods and environmental justice; air quality; noise and vibration; contaminated materials; ecosystems; water resources; energy; construction impacts; safety and security; finance; and transportation impacts. The impacts will be evaluated both for the construction period and for the long-term operation of each alternative. Measures to avoid, minimize or mitigate any significant adverse impacts will be identified.

V. FTA Procedures

FTA and GRTA invite comments on the content of the EIS related to the proposed project in order to ensure that the full range of issues and concerns of the public, interested parties, and federal, state, and local agencies are addressed. Comments are invited from all parties and should be directed to the name listed in the **ADDRESSES** section above within the time frame set forth in the **DATES** section above.

In accordance with the federal transportation planning regulations (23 CFR part 450) and the federal environmental impact regulations and related procedures (23 CFR part 771), the DEIS will be prepared to include an evaluation of the social, economic, and environmental impacts of the alternatives. Upon completion, the DEIS will be available for public and agency review and comment. Public hearing(s) will be held on the DEIS within the study area. The DEIS will also constitute the Alternatives Analysis required by the New Starts regulations.

The Final EIS will consider comments received during the DEIS public review process and will identify the preferred alternative.

Issued on: May 9, 2002.

Jerry Franklin,

Regional Administrator, Atlanta, Georgia.

[FR Doc. 02–12124 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Environmental Impact Statement for the Spokane Regional Light Rail (South Valley Corridor) Project in Spokane, Washington Metropolitan Area

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA), Spokane Transit Authority (STA), and the Spokane Regional Transportation Council (SRTC) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for transit improvements in Spokane County, between downtown Spokane and Liberty Lake. The EIS will be prepared to satisfy both NEPA and the Washington State Environmental Policy Act (SEPA). This project was originally scoped as an Environmental Assessment (EA), with one build Alternative. Recently, conditions have changed with an additional build alternative being considered. Therefore, it has been determined that an Environmental Impact Statement (EIS) is more suitable for the project.

The purpose of this Notice of Intent is to notify interested parties of the intent to prepare an EIS, the addition of a second build alternative for consideration and to invite participation in the study. The project proposes to implement a major high capacity rail transit improvement in the Spokane Metropolitan area that maintains livability, manages growth and provides a balanced transportation system. The Proposed Action is intended to contribute to implementation of a series of state, regional, and local planning policies that address air quality, sprawl, and growth. Three alternatives (described below) will be evaluated in the EIS.

DATES: The public is welcome to make comments on the scope of the proposed project. Written comments should be sent to the Spokane Transit Authority within 30 days from the date of publication of this notice in the local newspaper or June 18, 2002, whichever is later. A packet on the proposed project, project alternatives and the scoping process may be obtained from the Spokane Transit Authority. The information may also be obtained through a public website for the project, *www.spokanelightrail.com*. A *Public Open House/Scoping Meeting* will be held on Tuesday June 4, 2002 at 7:00 p.m. PDT, at the Spokane County Valley Library, 12004 East Main Avenue, Spokane, WA 99206. An *Agency Scoping Meeting* will be held at 2:30 p.m. PDT on Tuesday, June 4, 2002, at the Spokane Transit Authority (STA) Board Room, 1230 West Boone Avenue, Spokane, WA 99201. Both meeting locations are accessible to persons with disabilities. Any individual with a disability who requires special assistance, such as a sign language interpreter, should contact Geralyn Garberg at (509) 325–6000, ext. 196 or email *ggarberg@spokanetransit.com*, at least 48-hours in advance of the meeting in order for STA to make necessary arrangements.

FOR FURTHER INFORMATION CONTACT: The Spokane Transit Authority Agency Coordination contact is Greg Northcutt, Project Director at (509) 325–6056 or e-mail *gnorthcutt@spokanetransit.com*. The STA Public Information contact is Molly Myers, Public Involvement Manager at (509) 325–6090 or e-mail *mmyers@spokanetransit.com*. The STA TDD number is (509) 456–4327. Written comments should be sent to Greg Northcutt, Project Director, Spokane Transit Authority, 1230 West Boone Ave., Spokane, WA 99201.

The Federal agency contact is F. William Fort, Federal Transit Administration, 915 Second Avenue, Suite 3142 Jackson Federal Building, 915 Second Avenue, and Seattle, WA 98174. Phone (206) 220–4461.

SUPPLEMENTARY INFORMATION:

1. Notice of Intent

This Notice of Intent to prepare an EIS is being published to notify interested parties. The Spokane South Valley Corridor Project is examining two high capacity rail transit build alternatives and a no-build alternative in the south valley portion of the Spokane metropolitan area. Because the study is a transit alternatives study, FTA regulations and guidance will be used for the analysis and preparation of the South Valley Corridor Project EIS.

2. Study Area

The South Valley Corridor includes an area roughly parallel to I–90 running east through downtown Spokane, southeast Spokane, unincorporated urban Spokane County, and into the City of Liberty Lake. The proposed alternatives primarily utilize existing right-of-ways along operational and former railroad corridors and roadways.

3. Alternatives

Three alternatives will be evaluated in the EIS. The No-Build Alternative will provide the basis for comparison of the build alternatives. The No-Build Alternative includes the existing transportation system plus projects listed in the Spokane Metropolitan Area Transportation Improvement Program (TIP). The Separate Rail Alignment Alternative includes a light rail transit line running from downtown Spokane to Liberty Lake on an exclusive alignment. The new Shared Rail Alignment includes a light rail line from downtown Spokane to Liberty Lake

sharing existing rail lines with the Union Pacific Railroad along portions of the alignment. This alternative would use operating time restrictions to separate light rail traffic from heavy rail traffic. Between the two termini there would be intermediate stations and associated local parking. Both the separate rail alignment and shared rail alignment Build Alternatives may use either electrified or diesel multiple unit (DMU) vehicle technology. These alternatives will also incorporate in-street operations along Riverside Avenue, between Post Street and Division Street. The rail options will utilize the former Milwaukee Road rail corridor, east of University Road.

4. Probable Effects

FTA and Spokane Transit Authority will evaluate the environmental, social and economic impacts of the alternatives and measures to mitigate any adverse impacts.

Dated: May 9, 2002.

Blas M. Uribe,

Acting Regional Administrator, FTA Region 10.

[FR Doc. 02–12122 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Pipeline Safety: Development of Consensus Standards on Pipeline Public Awareness Programs

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice of development of consensus standards.

SUMMARY: Trade associations for the natural gas and hazardous liquid pipeline industry are working together to develop consensus standards to expand the public awareness programs that pipeline operators conduct, and to further involve the local communities in ensuring pipeline safety. This notice provides information about how the public can participate in this consensus standard-setting process. The Research and Special Program Administration's (RSPA) Office of Pipeline Safety (OPS) is committed to improving the public education programs that are a part of the pipeline safety public awareness programs. Public participation is being sought as part of this standard-setting for industry public awareness programs, with the expected result of improved public education regarding pipeline safety.

Background

Current Federal regulations require that pipeline operators conduct public education campaigns so that members of the public, excavators, residents along pipeline rights-of-way, emergency responders and local officials understand what to do in a pipeline emergency. OPS has encouraged pipeline operators to review existing programs and to make needed improvements. The National Transportation Safety Board has also issued a recommendation urging that gas and hazardous liquid pipeline operators increase public education about pipeline safety operations.

In response to concerns raised by RSPA, the American Petroleum Institute (API) has initiated a revision of its Recommended Practice (RP) 1123, Development of Public Awareness Programs. This document was originally issued for use by API members which transport petroleum and other hazardous liquids. However, the need for public education standards extends beyond hazardous liquid operators. To promote a standardized approach to public education among pipeline operators, OPS encouraged natural gas pipeline operators to work with their colleagues in the liquid pipeline industry on the API revision of recommended practice. The recommended practice, upon completion of this consensus standard-setting process, will be assigned a new ANSI identification number, and will be referred to in that manner in all future correspondence.

The Interstate Natural Gas Association of America, the American Gas Association and the American Public Gas Association have joined API in this effort. This collaborative process will bring a measure of consistency to such programs throughout the industry, and will expand the effort to include public education not solely of pipeline operators, but of all relevant stakeholders. However, this revised recommended practice would apply to existing pipelines only.

RSPA in interested in the success of this effort because OPS had already begun work in the area of public education. In the fall of 2000, at the request of the OPS Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC), OPS formed a group with equal representation from government, industry and public sectors to explore this issue. OPS also held a well-attended public meeting in February 2001 to solicit input on the information needs of the public and other audiences.

The revision of the recommended practice will provide guidelines that operators can use to develop or improve existing public awareness and community outreach programs. In advance of this revision, API surveyed a number of its members to determine the effectiveness of existing public awareness programs and to identify areas which required improvement. The results of this survey are being used to help guide the revision of the recommended practice, which is expected to be complete by the end of 2002.

The API has created a Web site, *http://www.api.org/pipelinepublicawareness* to obtain informal, early feedback and to solicit public input. OPS hopes that the public will take this opportunity to provide its comments. It is important to note that the American National Standards Institute (ANSI) will also provide the opportunity for formal Notice and Comment on the revision of the recommended practice. OPS urges interested parties to submit their remarks on the completed revision to ANSI.

OPS, as the Federal government representative, and the National Association of Pipeline Safety Representatives (NAPSR), the body representing the State pipeline safety agencies, are participating in this process as observers. After industry has finalized the revision, OPS will decide whether or not to adopt it as a regulatory requirement. Alternatively, OPS may adopt only those portions of the document that meet its needs. While OPS has encouraged this process, the decision on whether to adopt this standard has not been pre-determined. If OPS decides to incorporate the revised recommended practice by reference, a Notice of Proposed Rulemaking will be published in the **Federal Register** for public comment.

FOR FURTHER INFORMATION CONTACT: Mary-Jo Cooney, OPS, (202) 366–4774, regarding the subject matter of this notice.

Issued in Washington, DC, on May 10, 2002.

Jeffrey D. Wiese,

Manager, Program Development, Office of Pipeline Safety.

[FR Doc. 02–12168 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–60–P

Federal Register

Wednesday,
May 15, 2002

Part II

Department of Transportation

Coast Guard

33 CFR Parts 175, 177, et al.

46 CFR Parts 2, 10, et al.

Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (PVSA); Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 175, 177, 179, 181, and 183

46 CFR Parts 2, 10, 15, 24, 25, 26, 30, 70, 90, 114, 169, 175, 188, and 199

[USCG–1999–5040]

RIN 2115–AF69

Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (PVSA)

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard establishes this final rule to implement safety measures for uninspected passenger vessels under the Passenger Vessel Safety Act of 1993 (PVSA). This Act authorizes the Coast Guard to amend operating and equipment guidelines for uninspected passenger vessels over 100 gross tons, carrying 12 or fewer passengers for hire. These regulations will implement this new class of uninspected passenger vessel, provide for the issuance of special permits to uninspected vessels participating in a Marine Event of National Significance (e.g., OPSAIL 2000 and Tall Ships 2000), and develop specific manning, structural fire protection, operating, and equipment requirements for a limited fleet of PVSA-exempted vessels.

DATES: This final rule is effective June 14, 2002.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–1999–5040 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 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 rule, call Michael A. Jendrossek, Office of Operating and Environmental Standards (G–MSO–2), Coast Guard, telephone 202–267–0836. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

On March 2, 2000, we published a notice of proposed rulemaking (NPRM) entitled ''Safety of Uninspected Passenger Vessels Under the Passenger Vessel Safety Act of 1993 (PVSA)'' in the **Federal Register** (65 FR 11410). In order to prepare for the Year 2000's millennium sailing events, a 30-day comment period was provided for the changes proposed to 46 CFR 26.03–8, and an interim rule (IR) amending that section was published April 28, 2000 (65 FR 24878). Other changes proposed by the March 2, 2000 NPRM were subject to a 90-day comment period. We received six letters commenting on the proposed rule. No public hearing was requested and none was held.

Background and Purpose

We discussed the background and purpose of this rulemaking in fuller detail in the March 2, 2000 NPRM (65 FR 11410). Briefly, the Passenger Vessel Safety Act of 1993 (PVSA) (Pub. L. 103–206, title V, Dec. 20, 1993, 107 Stat. 2439) dealt with subjecting some formerly chartered vessels to Coast Guard inspection.

The PVSA also made several changes to the laws for vessels that carry passengers.

First, the PVSA required a vessel of less than 100 gross tons to be inspected as a small passenger vessel if it is—

- Carrying more than six passengers, including at least one passenger-for-hire;
- Chartered with crew provided or specified by the owner or owner's representative and carrying more than six passengers;
- Chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers; or
- A submersible vessel carrying at least one passenger-for-hire.

Second, the PVSA provided an exemption for certain vessels that were unable to meet inspection criteria. Sixteen vessels applied to the Coast Guard for exemptions, and four exemptions were granted. The PVSA authorized the Coast Guard to develop specific operating and equipment requirements for these vessels.

Third, the PVSA broadened the definition of uninspected passenger vessel to include vessels of at least 100 gross tons carrying not more than 12 passengers, including at least one passenger-for-hire; or vessels that are chartered with crew provided or specified by the owners or the owners' representatives and carrying not more than 12 passengers. These vessels are commonly referred to as 12-pack vessels. Vessels of at least 100 gross tons that carry more than 12 passengers, at least one of whom is for hire, must be inspected as passenger vessels under Code of Federal Regulations (CFR) Title 46, chapter I, subchapter H.

Fourth, the PVSA directed the Coast Guard to develop regulations necessary to implement equipment, construction, and operating requirements for uninspected passenger vessels operating as 12-pack vessels.

Fifth, the PVSA authorized the Coast Guard to develop regulations to issue special permits to uninspected vessels, thus, broadening authority from the now standard excursion permit for inspected vessels to include special permits for uninspected vessels. Special permits may be issued to an uninspected passenger vessel for charitable purposes up to a maximum of four times in a 12-month period. Special permits may also be issued to the owner or operator of a vessel that is a registered participant in an event that the Commandant, U.S. Coast Guard, declares to be a Marine Event of National Significance.

Discussion of Comments and Changes

The March 2, 2000 NPRM details the specific changes made by this rulemaking. We received six letters in response to the NPRM (excluding those relating to 46 CFR 26.03–8, which were discussed in the interim rule published April 28, 2000, at 65 FR 24878). The discussion below is limited to a review of those public comments, along with our response to each, and a discussion of the specific changes now being made in addition to or instead of changes proposed in the NPRM.

(1) One comment stated that we should establish a user fee for the issuance of excursion permits per 46 U.S.C. 2110. We already collect inspection-service user fees from inspected passenger vessels and do not have the authority to establish a new user fee category.

(2) One comment stated that we failed to account for the full costs of equipping the 406 MHz EPIRB, including battery replacement and additional ''false alert'' responses due to the additional units in service. EPIRB battery replacement costs were included in the Analysis Documentation, Appendix 6, supporting the March 2, 2000 NPRM (This documentation is available in the docket for this rulemaking at *http://dms.dot.gov.*). We do not agree that there is any tangible false alert cost associated with additional EPIRBs. Satellite EPIRBs are required to be registered. In addition, their digital message includes beacon identification.

With this information, the signaling EPIRB can quickly identify the distressed vessel and its owner. A radio or telephone call will normally confirm a false alarm. If an EPIRB on a docked, unattended vessel malfunctions, the COSPAS–SARSAT satellite system makes locating it relatively simple. False alerts from interference sources are not a problem on the 406 MHz satellite frequency, as they were with the old 121.5 MHz frequency. The false alert rate from 406 MHz satellite EPIRBs is low, and any added load created by this rulemaking can be handled without additional resources.

(3) Two comments state that we lack authority to modify the clear provisions of 46 U.S.C. 8102 and 46 U.S.C. 8104, regarding cabin watchmen and watch standing. Section 511 of the PVSA gives us the necessary authority to establish different operating and equipment requirements for uninspected passenger vessels over 100 gross tons carrying 12 or fewer passengers.

(4) One comment says we should clarify the provisions of proposed 46 CFR 26.03–6(b)(2) regarding the deduction of vessel operating expenses from ''charitable donations'' prior to their disbursement. We do not have the authority to allow any retention of these proceeds. The Internal Revenue Service (IRS) should be consulted regarding any tax relief that may be available. If such vessel operating expenses are allowed by the IRS as tax deductions, the Coast Guard will not view this as a consideration when determining whether a vessel is carrying passengers for hire.

(5) One comment asks why the requirement for signaling lights is limited to vessels on an international voyage when chapter V of SOLAS is not so limited. Our proposed requirement reflects the wording of SOLAS Chapter V, regulation 11, which does include such a limitation.

(6) One comment stresses the importance of getting disaster survivors out of the water as quickly as possible, and asks us to delete buoyant apparatuses and life floats from proposed 46 CFR 25.25–17. We agree and will make this change. We believe that because these vessels are uninspected and for the most part capable of extended ocean voyages, a higher level of safety equipment is required.

(7) One comment suggests we add a basic definition and clarifying language for bareboat charters. The comment states that this is necessary to help alleviate confusion over the types of arrangements made in contracting a vessel and its manner of use. We agree with this comment and will add the definition of demise charter to 46 CFR 169.107.

(8) One comment expresses concern that the change to 46 CFR 15.905 would inadvertently penalize a large segment of licensed mariners by restricting them to the tonnage limit of their license (e.g., a master of inspected vessels up to 50 gross tons would be limited to operating a 50 gross ton uninspected passenger vessel). We agree with this comment and will incorporate clarifying language into 46 CFR 15.905.

(9) One comment suggests we are perpetuating the carrying of passengers on uninspected barges that were designed solely for the carriage of bulk cargoes or for use as work platforms. We have investigated past allegations of uninspected barges carrying passengers and found that these operations were purely voluntary. No consideration flowed to the operators involved. Vessel operations of this type are not regulated by the Coast Guard as commercial operations and, therefore, are not subject to the requirements of the PVSA. We are committed to ensuring that all vessels that carry passengers comply with the laws and regulations that apply to their specific operations.

(10) One comment expresses concern that 12-pack vessels will be required to comply with load line requirements, where applicable. Noting the expense and burden of compliance, the comment asks us to establish alternative criteria to make load line assignment less difficult and more cost effective. We disagree with this comment. As stated in the NPRM, the load line is a safety device that verifies, through annual surveys, a vessel's seaworthiness. This is an important factor for 12 pack vessels that are capable of trans-oceanic intercontinental voyages.

(11) One comment questions the application of 46 CFR, part 175 to vessels operating under an exemption afforded in the PVSA. The comment states that an exempt vessel presently operates under the scrutiny of the Coast Guard and, therefore, has an existing Certificate of Inspection (COI) reflecting its seaworthiness. We are adding 46 CFR 175.118 so that the provisions of 46 CFR, chapter I, subchapter T apply to PVSA-exempt vessels. This is necessary because these vessels, all of which are over 100 gross tons, currently are not capable of meeting the more stringent requirements of 46 CFR, chapter I, subchapter H.

(12) One comment asks if the regulation for special permits for charitable fundraising activities applies to a non-profit organization that owns its own vessel. That regulation applies to any vessel owner/operator, including a non-profit organization.

(13) One comment asks how we can enforce the requirement for a voyage plan if a plan is transmitted verbally from the vessel to the berthing location or managing representative. Under 46 CFR 26.03–9, the required information must be provided on request, making it prudent for responsible persons to record the information to ensure its availability if needed.

(14) Although not prompted by public comment, we have revised several other proposed changes made in the NPRM. These nonsubstantive revisions are explained below:

- In § 10.466, Requirements for licenses as apprentice mate (steersman) of towing vessels, we revised this section in order to upgrade licensing requirements. In an action unrelated to this rulemaking, § 10.466 was redesignated § 10.467 after we published the NPRM. We have decided to change the section heading of new § 10.467 by adding the phrase ''of less than 100 gross tons.'' However, we will make no other changes to that section. Instead, the upgrade in licensing requirements originally proposed for old § 10.466/new § 10.467 now is made in 46 CFR 15.605, using slightly different but substantively unchanged language.
- In § 15.301, Definitions of terms used in this part, we added the definition of ''operate, operating, or operation'' for clarity.
- In § 24.10–1, we rewrote the definition of ''international voyage'' (which was previously located at § 24.10–13) to match the definition of that term in 46 CFR 175.400.
- In § 70.10–1, we rewrote the definition of ''vessel'' (which was previously located at § 70.10–45) for clarity.
- In § 169.107, Definitions, we reformatted the section and rewrote the definition of ''sailing instruction'' to conform to the reformatting.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

A final Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in

the docket as indicated under **ADDRESSES**.

A summary of the Regulatory Evaluation follows: Each vessel greater than 100 gross tons, which is currently operating as an uninspected passenger vessel and carries 12 or fewer passengers, has to obtain: (1) An Emergency Position Indicating Radio Beacon (EPIRB), (2) enough survival craft for all persons onboard, and (3) an operator with the appropriate master-level license. The Coast Guard estimates that all vessels operating in this type of trade are already in compliance with the proposed survival craft and licensing requirements; however, they are not in compliance with the EPIRB requirement. The use of EPIRBs will allow the Coast Guard to respond quicker to incidents by providing the location of the casualty and additional, relevant information prior to the arrival of the rescue team. The 10-year (2001 to 2010) present value cost of complying with the EPIRB requirement is estimated to be $100,121.

This rulemaking creates a class of vessel (i.e., 12 pack) not previously in existence. If no vessel owner decides to enter this new class of vessel, the cost of this component of the rulemaking would be $0, as it is not a requirement for any existing vessel to enter this class. However, the Coast Guard estimates that the owners of 570 vessels will choose to enter this class of vessel. The 10-year present value cost of this non-mandatory component is $12,882,008. The Coast Guard considers the cost to be non-mandatory because owners are not required to enter this new class of vessel.

Additionally, this rule affects uninspected passenger vessels participating in Marine Events of National Significance. The Coast Guard will inspect the vessels not possessing the appropriate certification and issue special permits that allow these vessels to carry passengers during the event. Vessel owners will have an information request burden as they must apply for permits. The 10-year, present value cost of this information collection request is $2,064. As participation in these events is not a requirement of the rulemaking, these costs are considered non-mandatory. The intent of this requirement is to provide a safer marine environment at Marine Events of National Significance. While there have been no notable problems at such past events, the Coast Guard is acting proactively to reduce the risk of marine casualties.

In summary, the total cost of this rulemaking is attributed to the requirement to install and maintain EPIRBs on vessels. The 10-year present value cost of this requirement is $100,121.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. No comments were received to our previous certification in the NPRM regarding the regulatory flexibility impact.

The only type of small entity that will be affected by this rulemaking is small business. The size standards for the relevant North American Industry Classification System (NAICS) codes (Deep Sea Passenger Transportation, 483112; Coastal and Great Lakes Passenger Transportation, 483114; Inland Water Passenger Transportation, 483212; and Scenic and Sightseeing Transportation, Water, 48721) consider enterprises with 500 or fewer employees to be small businesses, making practically all owners in the 12-pack industry small entities. However, the only mandatory cost in this rulemaking is the cost of an EPIRB. We do not expect that owners of vessels of this size and type, whose annual revenue ranges from about $100 thousand to about $5 million, will consider an additional cost of $1,000 per EPIRB to be significant. In addition, since the useful life of an EPIRB is indefinite, the annualized cost for this item over the 10-year period of analysis is $110, which is furthermore likely to be insignificant. The rule also has a 6-month phase-in period for owners to comply with the carriage of an EPIRB onboard.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking.

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

Collection of Information

This rule calls for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As required in 46 CFR 26.03–8, an owner, operator, or agent of a vessel that is registered as a participant in a Marine Event of National Significance may submit an application for special permit (form CG–950A) to carry passengers-for-hire for the duration of the event. The application will be used to initiate the inspection process to determine whether a vessel is properly equipped to be granted the special permit.

No comments were received regarding the collection of information burden.

This rule amends an existing Office of Management and Budget (OMB) approved collection, OMB Control Number 2115–0133, that expires on April 30, 2003. As required by 44 U.S.C. 3507(d), we submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has not yet approved the changes to this collection. We will publish an additional notice when they do. Until we publish its approval, you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them.

We have analyzed this rule and have determined that it does not have federalism implications under that Order because it regulates with respect to categories, (construction, equipment and operation of certain uninspected passenger vessels) in such a comprehensive manner, that State laws or regulations on the same subjects are precluded. Any such state laws or regulations would necessarily either conflict with, or frustrate the purpose of this rule. See, *Ray* v. *Atlantic Richfield Co.* 435 U.S. 151 (1978); and *United States and Intertanko* v. *Locke*, 529 U.S. 89 (2000).

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 of $100 million or more in any one year by a State, local, or tribal government, in the aggregate, or by the private sector. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(c), (d), and (e) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This rule will not result in any significant cumulative impact on the human environment; any substantial controversy or substantial change to existing environmental conditions; any impact, which is more than minimal, on properties protected under 4(f) of the DOT Act, as superseded by Public Law 97–449 and Section 106 of the National Historic Preservation Act; or any inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 175

Marine safety.

33 CFR Part 177

Marine safety.

33 CFR Part 179

Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 183

Marine safety.

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 10

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

46 CFR Part 24

Marine safety.

46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 26

Marine safety, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 114

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 169

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

46 CFR Part 199

Cargo vessels, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 175, 177, 179, 181, and 183 as well as 46 CFR parts 2, 10, 15, 24, 25, 26, 30, 70, 90, 114, 169, 175, 188, and 199 as follows:

33 CFR Chapter I

PART 175—EQUIPMENT REQUIREMENTS

1. The authority citation for part 175 is revised to read as follows:

Authority: 46 U.S.C. 4302; Pub. L. 103–206, 107 Stat. 2439; 49 CFR 1.46.

2. In § 175.3, revise the definition of the following terms, in alphabetical order, to read as follows:

§ 175.3 Definitions.

* * * * *

Boat means any vessel—

(1) Manufactured or used primarily for noncommercial use;

(2) Leased, rented, or chartered to another for the latter's noncommercial use; or

(3) Operated as an uninspected passenger vessel subject to the requirements of 46 CFR chapter I, subchapter C.

Passenger means an individual carried on a vessel except—

(1) The owner or an individual representative of the owner or, in the case of a vessel chartered without a crew, an individual charterer, or an individual representative of the charterer;

(2) The master or operator of a recreational vessel; or

(3) A member of the crew engaged in the business of the vessel, who has not contributed consideration for carriage, and who is paid for onboard services.

* * * * *

Recreational vessel means any vessel being manufactured or operated primarily for pleasure, or leased, rented, or chartered to another for the latter's pleasure. It does not include a vessel engaged in the carriage of passengers-for-hire as defined in 46 CFR chapter I, subchapter C, or in other subchapters of this title.

* * * * *

3. Revise § 175.110(a) to read as follows:

§ 175.110 Visual distress signals required.

(a) No person may use a boat 16 feet or more in length, or any boat operating as an uninspected passenger vessel subject to the requirements of 46 CFR chapter I, subchapter C, unless visual distress signals selected from the list in § 175.130 or the alternatives in § 175.135, in the number required, are onboard. Devices suitable for day use and devices suitable for night use, or devices suitable for both day and night use, must be carried.

* * * * *

PART 177—CORRECTION OF ESPECIALLY HAZARDOUS CONDITIONS

4. The authority citation for part 177 is revised to read as follows:

Authority: 46 U.S.C. 4302, 4311; Pub. L. 103–206, 107 Stat. 2439; 49 CFR 1.45 and 1.46.

5. Revise § 177.03(b) to read as follows:

§ 177.03 Definitions.

* * * * *

(b) *Boat* means any vessel—

(1) Manufactured or used primarily for noncommercial use;

(2) Leased, rented, or chartered to another for the latter's noncommercial use; or

(3) Operated as an uninspected passenger vessel subject to the requirements of 46 CFR chapter I, subchapter C.

* * * * *

PART 179—DEFECT NOTIFICATION

6. The authority citation for part 179 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 4302, 4307, 4310, and 4311; Pub. L 103–206, 107 Stat. 2439; 49 CFR 1.46.

7. In § 179.03, revise the definition of the term ''Boat'' to read as follows:

§ 179.03 Definitions.

* * * * *

Boat means any vessel—

(1) Manufactured or used primarily for noncommercial use;

(2) Leased, rented, or chartered to another for the latter's noncommercial use; or

(3) Operated as an uninspected passenger vessel subject to the requirements of 46 CFR chapter I, subchapter C.

* * * * *

PART 181—MANUFACTURER REQUIREMENTS

8. The authority citation for part 181 is revised to read as follows:

Authority: 46 U.S.C. 4302 and 4310; Pub.L 103–206, 107 Stat. 2439; 49 CFR 1.46.

9. In § 181.3, revise the definition of the term ''Boat'' to read as follows:

§ 181.3 Definitions.

* * * * *

Boat means any vessel—

(1) Manufactured or used primarily for noncommercial use;

(2) Leased, rented, or chartered to another for the latter's noncommercial use; or

(3) Operated as an uninspected passenger vessel subject to the requirements of 46 CFR chapter I, subchapter C.

* * * * *

PART 183—BOATS AND ASSOCIATED EQUIPMENT

10. The authority citation for part 183 is revised to read as follows:

Authority: 46 U.S.C. 4302; Pub. L 103–206, 107 Stat. 2439; 49 CFR 1.46.

11. In § 183.3, revise the definition of the term ''Boat'' to read as follows:

§ 183.3 Definitions.

* * * * *

Boat means any vessel—

(1) Manufactured or used primarily for noncommercial use;

(2) Leased, rented, or chartered to another for the latter's noncommercial use; or

(3) Operated as an uninspected passenger vessel subject to the requirements of 46 CFR chapter I, subchapter C.

* * * * *

46 CFR Chapter I

PART 2—VESSEL INSPECTIONS

12. The authority citation for part 2 is revised to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3103, 3205, 3306, 3307, 3703; Pub. L 103–206, 107 Stat. 2439; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; subpart 2.45 also issued under the authority of Act Dec. 27, 1950, Ch. 1155, secs. 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

13. In § 2.01–7(a), redesignate table 2.01–7(A) as table 2.01–7(a) and revise it to read as follows:

§ 2.01–7 Classes of vessels (including motorboats) examined or inspected and certificated.

(a) * * *

BILLING CODE 4910–15–P

Table 2.01-7(a)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(1)	Motor, all vessels except seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels > 15 gross tons carrying freight-for-hire, except those covered by columns 2 and 3, and all vessels when carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, 6 And 7.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 2.01-7(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(2)	Motor, seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels, including recreational vessels not engaged in trade. This does not include vessels covered by columns 2 and 3, and vessels engaged in the fishing industry.	All vessels not covered by columns 2, 3, 4, 6, and 7.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(3)	Non-self-propelled, vessels < 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by column 3.	None.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]
(4)	Non-self-propelled, vessels ≥ 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels, or E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by columns 3 and 6.	All seagoing barges engaged in oceanographic research.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]

Table 2.01-7(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(5)	Sail,[13] vessels ≤ 700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(6)	Sail,[13] vessels >700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying passengers or passengers-for-hire, except recreational vessels.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	None.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 2.01-7(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(7)	Steam, vessels ≤ 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All tugboats and towboats. All vessels carrying dangerous cargoes when required by 46 CFR Part 98.	All vessels not covered by columns 2, 3, 4, 6 and 7.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 2.01-7(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(8)	Steam, vessels > 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels not covered by columns 2, 3, 6, and 7.	None.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Key to symbols used in this table: ≤ is less than or equal to, > is greater than, < is less than, and ≥ is greater than or equal to.

Footnotes:

1 Where length is used in this table, it means the length measured from end to end over the deck, excluding sheer. This expression means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline.

2 Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), N (Dangerous Cargoes), S (Subdivision and Stability), and W (Lifesaving Appliances and Arrangements) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR parts 171-179 apply whenever packaged hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

3 Public nautical schoolships, other than vessels of the Navy and Coast Guard, must meet the requirements of part 167 of subchapter R (Nautical Schools) of this chapter, Civilian nautical schoolships, as defined by 46 U.S.C. 1331, must meet the requirements of subchapter H (Passenger Vessels) and part 168 of subchapter R (Nautical Schools) of this chapter.

4 Subchapter H (Passenger Vessels) of this chapter covers only those vessels of 100 gross tons or more, subchapter T (Small Passenger Vessels) of this chapter covers only those vessels of less than 100 gross tons, and subchapter K (Small Passenger Vessels) of this chapter covers only those vessels less than 100 gross tons carrying more than 150 passengers or overnight accommodations for more than 49 passengers.

5 Vessels covered by subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter, where the principal purpose or use of the vessel is not for the carriage of liquid cargo, may be granted a permit to carry a limited amount of flammable or combustible liquid cargo in bulk. The portion of the vessel used for the carriage of the flammable or combustible liquid cargo must meet the requirements of subchapter D (Tank Vessels) in addition to the requirements of subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter.

6 Any vessel on an international voyage is subject to the requirements of the International Convention for Safety of Life at Sea, 1974 (SOLAS).

7 The terms "passenger(s)" and "passenger(s)-for-hire" are as defined in 46 U.S.C. 2101(21)(21a). On oceanographic vessels, scientific personnel onboard shall not be deemed to be passengers nor seamen, but for calculations of lifesaving equipment, etc., must be counted as persons.

8 Boilers and machinery are subject to examination on vessels over 40 feet in length.

9 Under 46 U.S.C. 441 and oceanographic research vessel "* * * being employed exclusively in instruction in oceanography or linmology, or both, or exclusively in oceanographic research, * * *." Under 46 U.S.C. 443, "an oceanographic research vessel shall not be deemed to be engaged in trade or commerce." If or when an oceanographic vessel engages in trade or commerce, such vessel cannot operate under its certificate of inspection as an oceanographic vessel, but shall be inspected and certificated for the service in which engaged, and the scientific personnel aboard then become persons employed in the business of the vessel.

10 Bulk dangerous cargoes are cargoes specified in table 151.01-10(b); in table 1 of part 153, and in table 4 of part 154 of this chapter.

11 For manned tankbarges, see § 151.01-10(c) of this chapter.

12. See § 151.01-15, 153.900(d), or 154.30 of this chapter as appropriate.

13. Sail vessel means a vessel with no auxiliary machinery on board. If the vessel has auxiliary machinery, refer to motor vessels.

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* * * * *

14. Revise § 2.01–45 to read as follows:

§ 2.01–45 Excursion permit.

(a) Under 46 U.S.C. 2113, the Coast Guard may issue a permit to the owner, operator, or agent of a passenger vessel, allowing the vessel to engage in excursions that carry additional numbers of passengers, extend an existing route, or both. Details concerning the application process for excursion permits for inspected passenger vessels are contained in §§ 71.10, 115.204, or §176.204 of this chapter. Details concerning the application process for special permits for uninspected passenger vessels are contained in § 26.03–6 of this chapter.

(b) For Marine Events of National Significance, as determined by the Commandant, U.S. Coast Guard, a vessel may be permitted to engage in these events while carrying passengers-for-hire for the duration of the event. Event sponsors must request this determination in writing from the Commandant (G–M) at least 1 year prior to the event. Details concerning the application process for special permits for Marine Events of National Significance are contained in § 26.03–8 of this chapter.

(c) The application for an excursion permit is made by the master, owner, or agent of the vessel to the Officer in Charge, Marine Inspection, on Coast Guard Form CG–950, Application for Excursion Permit. If, after inspection, permission is granted, it is given on Coast Guard form CG–949, Permission to Carry Excursion Party. The permit describes the vessel, the route over which and the period during which the excursions may be made, and the safety equipment required for the additional persons indicated.

PART 10—LICENSING OF MARITIME PERSONNEL

15. The authority citation for part 10 is revised to read as follows:

Authority: 31 U.S.C. 9701, 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, 7701; Pub. L. 103–206, 107 Stat. 2439; 49 CFR 1.45, 1.46; Sec. 10.107 also issued under the authority of 44 U.S.C. 3507.

16. Revise the heading of § 10.467 to read as follows:

§ 10.467 Licenses for operators of uninspected passenger vessels of less than 100 gross tons.

* * * * *

PART 15—MANNING REQUIREMENTS

17. The authority citation for part 15 is revised to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 9102; Pub. L. 103–206, 107 Stat. 2439; 49 CFR 1.45 and 1.46.

18. In § 15.301(a), add, in alphabetical order, the definitions of ''Operate, operating, or operation'' and ''Underway'' to read as follows:

§ 15.301 Definitions of terms used in this part.

(a) * * *

Operate, operating, or *operation,* as applied to vessels, refers to a vessel anytime passengers are embarked whether the vessel is underway, at anchor, made fast to shore, or aground.

* * * * *

Underway means that a vessel is not at anchor, made fast to the shore, or aground.

* * * * *

19. Revise § 15.605 to read as follows:

§ 15.605 Licensed operators for uninspected passenger vessels.

Each uninspected passenger vessel must be under the direction and control of an individual licensed by the Coast Guard as follows:

(a) Every self-propelled, uninspected vessel as defined by 46 U.S.C. 2101(42)(B), carrying not more than six passengers, must be under the direction and control of an individual holding a license as operator.

(b) Every uninspected passenger vessel of 100 gross tons or more, as defined by 46 U.S.C. 2101(42)(A), must be under the direction and control of a licensed master, pilot, or mate as appropriate.

20. Add § 15.705(f) to read as follows:

§ 15.705 Watches.

* * * * *

(f) Properly manned uninspected passenger vessels of at least 100 gross tons—

(1) Which are underway for no more than 12 hours in any 24-hour period, and which are adequately moored, anchored, or otherwise secured in a harbor of safe refuge for the remainder of that 24-hour period may operate with one navigational watch;

(2) Which are underway more than 12 hours in any 24-hour period must provide a minimum of a two-watch system;

(3) In no case may the crew of any watch work more than 12 hours in any 24-hour period, except in an emergency.

21. Add § 15.805(a)(6) to read as follows:

§ 15.805 Master.

(a) * * *

(6) Every uninspected passenger vessel of at least 100 gross tons.

* * * * *

22. Add § 15.855(c) to read as follows:

§ 15.855 Cabin watchmen and fire patrolmen.

* * * * *

(c) For the watchmen described in paragraph (a) of this section, the owner or operator of an uninspected passenger vessel not more than 300 gross tons may substitute the use of fire detectors, heat detectors, smoke detectors, and high-water alarms with audible- and visual-warning indicators, in addition to other required safety alarms, only when each of the following conditions are met:

(1) Fire detectors are located in each space containing machinery or fuel tanks per § 181.400(c) of this chapter.

(2) All grills, broilers, and deep-fat fryers are fitted with a grease extraction hood per § 181.425 of this chapter.

(3) Heat and/or smoke detectors are located in each galley, public accommodation space, enclosed passageway, berthing space, and all crew spaces.

(4) High-water alarms are located in each space with a through hull fitting below the deepest load waterline, a machinery space bilge, bilge well, shaft alley bilge, or other space subject to flooding from sea water piping within the space, and a space below the waterline with non-watertight closure such as a space with a non-watertight hatch on the main deck.

(5) Each alarm has an audible- and visual-alarm indicator located at the normal operating station and, if the normal operating position is not continually manned and not navigating underway, in an alternate location that must provide the crew, and may at all times provide the passengers, immediate warning of a hazardous condition.

(6) The vessel is underway for no more than 12 hours in any 24-hour period, and the master of the vessel has chosen to operate with less than a three-watch system in accordance with § 15.705.

23. Revise § 15.905 to read as follows:

§ 15.905 Uninspected passenger vessels.

(a) An individual holding a license as master or pilot of an inspected, self-propelled vessel is authorized to serve as operator of an uninspected passenger vessel under 100 gross tons within any

restrictions, other than gross tonnage limitations, on the individual's license.

(b) An individual holding a license as a master or pilot of an inspected, self-propelled vessel is authorized to serve as master, as required by 46 CFR 15.805(a)(6), of an uninspected passenger vessel of at least 100 gross tons within any restrictions, including gross tonnage and route, on the individual's license.

(c) An individual holding a license as mate of inspected, self-propelled vessels (other than Great Lakes, inland, or river vessels of not more than 200 gross tons) is authorized to serve as operator of uninspected passenger vessels of less than 100 gross tons within any restrictions, other than gross tonnage limitations, on the individual's license.

PART 24—GENERAL PROVISIONS

24. The authority citation for part 24 is revised to read as follows:

Authority: 46 U.S.C. 2113, 3306, 4104, 4302; Pub. L. 103–206, 107 Stat. 2439; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

25. In § 24.05–1, revise paragraph (a), introductory text, and table 24.05–1(a) to read as follows:

§ 24.05–1 Vessels subject to the requirements of this subchapter.

(a) This subchapter is applicable to all vessels indicated in Column 5 of Table 24.05–1(a), and is applicable to all such U.S.-flag vessels, and to all such foreign-flag vessels, except as follows:

* * * * *

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Table 24.05-1(a)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceano-graphic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(1)	Motor, all vessels except seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels > 15 gross tons carrying freight-for-hire, except those covered by columns 2 and 3, and all vessels when carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 24.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(2)	Motor, seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels, including recreational vessels not engaged in trade. This does not include vessels covered by columns 2 and 3, and vessels engaged in the fishing industry.	All vessels not covered by columns 2, 3, 4, 6, and 7.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(3)	Non-self-propelled, vessels < 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by column 3.	None.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]
(4)	Non-self-propelled, vessels ≥ 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	ii) All vessels that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel, or E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by columns 3 and 6.	All seagoing barges engaged in oceanographic research.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]

24.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(5)	Sail,[13] vessels ≤ 700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(6)	Sail,[13] vessels >700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i.) All vessels carrying passengers or passengers-for-hire, except recreational vessels.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	None.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 24.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
(7)	Steam, vessels ≤ 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All tugboats and towboats. All vessels carrying dangerous cargoes when required by 46 CFR Part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 24.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
(8)	Steam, vessels > 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels not covered by columns 2, 3, 6, and 7.	None.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or Part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Key to symbols used in this table: ≤ is less than or equal to, > is greater than, < is less than, and ≥ is greater than or equal to.

Footnotes:

1 Where length is used in this table, it means the length measured from end to end over the deck, excluding sheer. This expression means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline.

2 Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), N (Dangerous Cargoes), S (Subdivision and Stability), and W (Lifesaving Appliances and Arrangements) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR parts 171-179 apply whenever packaged hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

3 Public nautical schoolships, other than vessels of the Navy and Coast Guard, must meet the requirements of part 167 of subchapter R (Nautical Schools) of this chapter, Civilian nautical schoolships, as defined by 46 U.S.C. 1331, must meet the requirements of subchapter H (Passenger Vessels) and part 168 of subchapter R (Nautical Schools) of this chapter.

4 Subchapter H (Passenger Vessels) of this chapter covers only those vessels of 100 gross tons or more, subchapter T (Small Passenger Vessels) of this chapter covers only those vessels of less than 100 gross tons, and subchapter K (Small Passenger Vessels) of this chapter covers only those vessels less than 100 gross tons carrying more than 150 passengers or overnight accommodations for more than 49 passengers.

5 Vessels covered by subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter, where the principal purpose or use of the vessel is not for the carriage of liquid cargo, may be granted a permit to carry a limited amount of flammable or combustible liquid cargo in bulk. The portion of the vessel used for the carriage of the flammable or combustible liquid cargo must meet the requirements of subchapter D (Tank Vessels) in addition to the requirements of subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter.

6 Any vessel on an international voyage is subject to the requirements of the International Convention for Safety of Life at Sea, 1974 (SOLAS).

7 The terms "passenger(s)" and "passenger(s)-for-hire" are as defined in 46 U.S.C. 2101(21)(21a). On oceanographic vessels, scientific personnel onboard shall not be deemed to be passengers nor seamen, but for calculations of lifesaving equipment, etc., must be counted as persons.

8 Boilers and machinery are subject to examination on vessels over 40 feet in length.

9 Under 46 U.S.C. 441 and oceanographic research vessel "* * * being employed exclusively in instruction in oceanography or linmology, or both, or exclusively in oceanographic research, * * *." Under 46 U.S.C. 443, "an oceanographic research vessel shall not be deemed to be engaged in trade or commerce." If or when an oceanographic vessel engages in trade or commerce, such vessel cannot operate under its certificate of inspection as an oceanographic vessel, but shall be inspected and certificated for the service in which engaged, and the scientific personnel aboard then become persons employed in the business of the vessel.

10 Bulk dangerous cargoes are cargoes specified in table 151.01-10(b); in table 1 of part 153, and in table 4 of part 154 of this chapter.

11 For manned tankbarges, see § 151.01-10(c) of this chapter.

12. See § 151.01-15, 153.900(d), or 154.30 of this chapter as appropriate.

13. Sail vessel means a vessel with no auxiliary machinery on board. If the vessel has auxiliary machinery, refer to motor vessels.

26. Revise subpart 24.10, consisting of § 24.10–1 to read as follows:

Subpart 24.10—Definition of Terms Used in This Subchapter

§ 24.10–1 Definitions.

Approved means approved by the Commandant, unless otherwise stated.

Barge means a non-self-propelled vessel.

Carrying freight for hire means the carriage of any goods, wares, or merchandise, or any other freight for a consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel.

Coast Guard District Commander means an officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within his or her district, which includes the inspection, enforcement, and administration of Subtitle II, Title 46 U.S. Code; Title 33 U.S. Code; and regulations issued under these statutes.

Commandant means the Commandant of the United States Coast Guard.

Consideration means an economic benefit, inducement, right, or profit, including pecuniary payment accruing to an individual, person, or entity but not including a voluntary sharing of the actual expenses of the voyage by monetary contribution or donation of fuel, food, beverage, or other supplies.

Headquarters means the Office of the Commandant, United States Coast Guard, Washington, DC.

International voyage means a voyage between a country to which SOLAS applies and a port outside that country. A country, as used in this definition, includes every territory for the international relations of which a contracting government to the convention is responsible or for which the United Nations is the administering authority. For the U.S., the term ''territory'' includes the Commonwealth of Puerto Rico, all possessions of the United States, and all lands held by the United States under a protectorate or mandate. For the purposes of this subchapter, vessels are not considered as being on an ''international voyage'' when solely navigating the Great Lakes and the St. Lawrence River as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side of Anticosti Island, the 63rd meridian.

Marine inspector or *inspector* means any person from the civilian or military branch of the Coast Guard assigned under the direction of an Officer in Charge, Marine Inspection, or any other person designated to perform duties related to the inspection, enforcement, and administration of Subtitle II, Title 46 U.S. Code; Title 33 U.S. Code; and regulations issued under these statutes.

Motor vessel means any vessel more than 65 feet in length, which is propelled by machinery other than steam.

Motorboat means any vessel indicated in column five of Table 24.05–1(a) in § 24.05–1, 65 feet in length or less, which is equipped with propulsion machinery (including steam). The length must be measured from end-to-end over the deck, excluding sheer. This term includes a boat equipped with a detachable motor. For the purpose of this subchapter, motorboats are included under the term *vessel*, unless specifically noted otherwise.

(1) The various length categories of motorboats are as follows:

(i) Any motorboat less than 16 feet in length.

(ii) Any motorboat 16 feet or over and less than 26 feet in length.

(iii) Any motorboat 26 feet or over and less than 40 feet in length.

(iv) Any motorboat 40 feet or over and not more than 65 feet in length.

(2) The expression ''length must be measured from end-to-end over the deck excluding sheer'' means a straight-line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bowsprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments, are not to be included in the measurement. Length must be stated in feet and inches.

Oceans means a route that goes beyond 20 nautical miles offshore on any of the following waters:

(1) Any ocean.

(2) The Gulf of Mexico.

(3) The Caribbean Sea.

(4) The Bering Sea.

(5) The Gulf of Alaska.

(6) Such other similar waters as may be designated by a Coast Guard District Commander.

Officer in Charge, Marine Inspection or *OCMI* means any person from the civilian or military branch of the Coast Guard designated as such by the Commandant and who, under the direction of the Coast Guard District Commander, is in charge of an inspection zone for performance of duties related to the inspection, enforcement, and administration of Subtitle II, Title 46 U.S. Code; Title 33 U.S. Code; and regulations issued under these statutes.

Passenger means an individual carried on a vessel, except—

(1) The owner or an individual representative of the owner, or in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

(2) The master; or

(3) A member of the crew engaged in the business of the vessel, who has not contributed consideration for carriage, and who is paid for onboard services.

Passenger-for-hire means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

Survival craft, when used on an uninspected passenger vessel over 100 gross tons means a lifeboat, inflatable liferaft, inflatable buoyant apparatus, or small boat.

Vessel, as used in this subpart includes all vessels indicated in column five of Table 24.05–1(a) in § 24.05–1, unless otherwise noted in this subpart.

Uninspected passenger vessel means an uninspected vessel—

(1) Of at least 100 gross tons;

(i) Carrying not more than 12 passengers, including at least one passenger-for-hire; or

(ii) That is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; and

(2) Of less than 100 gross tons;

(i) Carrying not more than six passengers, including at least one passenger-for-hire; or

(ii) That is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than six passengers.

PART 25—REQUIREMENTS

27. The authority citation for part 25 is revised to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4302; Pub. L 103–206, 107 Stat. 2439; 49 CFR 1.46.

28. Revise § 25.25–5(d) to read as follows:

§ 25.25–5 Life preservers and other lifesaving equipment required.

* * * * *

(d) In addition to the equipment required by paragraph (b) and (c) of this section, each vessel 26 feet in length or longer must have at least one approved ring life buoy, and each uninspected passenger vessel of at least 100 gross tons must have at least three ring life buoys. Ring life buoys must be constructed per subpart 160.050 of part 160 of this chapter. The exception is a ring life buoy that was approved prior

to May 9, 1979, under former subpart 160.009 of part 160 of this chapter (see 46 CFR chapter I, revised as of October 1, 1979), which may be used as long as it is in good and serviceable condition.

* * * * *

29. Add § 25.25–17 to read as follows:

§ 25.25–17 Survival craft requirements for uninspected passenger vessels of at least 100 gross tons.

(a) Each uninspected passenger vessel of at least 100 gross tons must have adequate survival craft with enough capacity for all persons aboard and must meet one of the following requirements:

(1) An inflatable liferaft must be approved under 46 CFR part 160, subparts 160.051 or 160.151, and be equipped with an applicable equipment pack or be approved by another standard specified by the Commandant. Inflatable liferafts must be serviced at a servicing facility approved under 46 CFR part 160, subpart 160.151.

(2) An inflatable buoyant apparatus must be approved under 46 CFR part 160, subpart 160.010 or under another standard specified by the Commandant. An inflatable buoyant apparatus must be serviced at a servicing facility approved under 46 CFR part 160, subpart 160.151.

(b) If the vessel carries a small boat or boats, the capacity of the small boat or boat(s) may be counted toward the survival craft capacity required by this part. Such small boat or boat(s) must meet the requirements for safe loading and floatation in 33 CFR part 183.

30. Add § 25.25–19 to read as follows:

§ 25.25–19 Visual distress signals.

Each uninspected passenger vessel must meet the visual distress signal requirements of 33 CFR part 175 applicable to the vessel.

31. Revise § 25.26–10 to read as follows:

§ 25.26–10 EPIRB requirements for uninspected passenger vessels.

(a) Uninspected passenger vessels less than 100 gross tons are not required to carry an EPIRB.

(b) The owner, operator, or master of an uninspected passenger vessel of at least 100 gross tons must ensure that the vessel does not operate beyond three miles from shore as measured from the territorial sea baseline seaward or more than three miles from the coastline of the Great Lakes, unless it has onboard a float-free, automatically activated Category 1 406 MHz EPIRB stowed in a manner so that it will float free if the vessel sinks.

32. In § 25.30–20, redesignate paragraphs (b) and (c) as paragraphs (c) and (d), respectively, and add a new paragraph (b) to read as follows:

§ 25.30–20 Fire extinguishing equipment required.

* * * * *

(b) *Uninspected passenger vessels of at least 100 gross tons.* All uninspected passenger vessels of at least 100 gross tons must carry onboard hand-portable and semi-portable fire extinguishers per Table 76.50–10(a) in § 76.50–10 of this chapter.

* * * * *

PART 26—OPERATIONS

33. The authority citation for part 26 is revised to read as follows:

Authority: 46 U.S.C. 3306, 4104, 6101, 8105; Pub. L. 103–206, 107 Stat. 2439; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

34. Revise § 26.03–1(a), introductory text, to read as follows:

§ 26.03–1 Safety orientation.

(a) Before getting underway on any uninspected passenger vessel, the operator or master must ensure that suitable public announcements, instructive placards, or both, are provided in a manner that affords all passengers the opportunity to become acquainted with:

* * * * *

35. Revise § 26.03–2(a) to read as follows:

§ 26.03–2 Emergency instructions.

(a) The operator or master of each uninspected passenger vessel must ensure that an emergency check-off list is posted in a prominent and accessible place to notify the passengers and remind the crew of precautionary measures that may be necessary if an emergency situation occurs.

* * * * *

36. Add § 26.03–4 to read as follows:

§ 26.03–4 Charts and nautical publications.

(a) As appropriate for the intended voyage, all vessels must carry adequate and up-to-date—

(1) Charts of appropriate scale to make safe navigation possible;

(2) ''U.S. Coast Pilot'' or similar publication;

(3) Coast Guard light list;

(4) Tide tables; and

(5) Current tables, or a river current publication issued by the U.S. Army Corps of Engineers, or a river authority.

(b) As an alternative, you may substitute extracts or copies from the publications in paragraph (a) of this section. This information must be applicable to the area transited.

§ 26.03–5 [Removed]

37. Remove § 26.03–5.

38. Add § 26.03–6 to read as follows:

§ 26.03–6 Special permit.

(a) If the owner, operator, or agent donates the use of an uninspected passenger vessel to a charity for fundraising activities, and the vessel's activity would subject it to Coast Guard inspection, the OCMI may issue a special permit to the owner, operator, or agent for this purpose if, in the opinion of the OCMI, the vessel can be safely operated. Each special permit is valid for only one voyage of a donated vessel, which is used for a charitable purpose. Applications are considered and approved on a case-by-case basis.

(b) The criteria of § 176.204 of this chapter will apply to the issuance of a special permit. In addition, the owner, operator, or agent must meet each of these conditions—

(1) Any charity using a donated vessel must be a bona fide charity or a non-profit organization qualified under section 501(c)(3) of the Internal Revenue Code of 1986;

(2) All donations received from the fundraising must go to the named charity;

(3) The owner, operator, or agent may obtain a special permit for an individual vessel not more than four times in a 12-month period; and

(4) The owner, operator, or agent must apply to the local OCMI for a special permit prior to the intended voyage, allowing adequate time for processing and approval of the permit.

(c) Nothing in this part may be construed as limiting the OCMI from making such tests and inspections, both afloat and in dry-dock, that are reasonable and practicable to be assured of the vessel's seaworthiness and safety.

39. Revise § 26.03–8 to read as follows:

§ 26.03–8 Marine Event of National Significance special permits.

(a) For a Marine Event of National Significance, as determined by the Commandant, U.S. Coast Guard, a vessel may be permitted to engage in excursions while carrying passengers-for-hire for the duration of the event. Event sponsors seeking this determination must submit a written request to the Commandant (G-M) at least one year prior to the event.

(b) The owner, operator, or agent of a vessel that is registered as a participant in a Marine Event of National Significance may apply for a special

permit to carry passengers-for-hire for the duration of the event. The master, owner, or agent of the vessel must apply to the Coast Guard OCMI who has jurisdiction over the vessel's first United States port of call. The OCMI may issue a Form CG–949 ''Permit to Carry Excursion Party'' if, in the opinion of the OCMI, the operation can be undertaken safely. The OCMI may require an inspection prior to issuance of a special permit to ensure that the vessel can safely operate under the conditions for which the permit is issued.

(c) The permit will state the conditions under which it is issued. These conditions must include the number of passengers-for-hire the vessel may carry, the crew required, the number and type of lifesaving and safety equipment required, the route and operating details for which the permit is issued, and the dates for which the permit will be valid.

(d) The permit must be displayed in a location visible to passengers.

(e) The carrying of passengers-for-hire during a Marine Event of National Significance must comply with the regulations governing coastwise transportation of passengers under 19 CFR 4.50(b) and 19 CFR 4.80(a).

40. Add § 26.03–9 to read as follows:

§ 26.03–9 Voyage plans for uninspected passenger vessels of at least 100 gross tons.

(a) The master must prepare a voyage plan that includes a crew and passenger list before taking an uninspected passenger vessel of at least 100 gross tons on a Great Lake, an ocean, or an international voyage.

(b) Before departure, the master must communicate the voyage plan ashore, either verbally or in writing. The voyage plan must go to either the vessel's normal berthing location or a representative of the owner or managing operator of the vessel. The master, owner, or operator of the vessel must make the voyage plan available to the Coast Guard upon request.

Subpart 26.20—Exhibition of Coast Guard License

41. Revise the heading of subpart 26.20 to read as set forth above.

42. Revise § 26.20–1 to read as follows:

§ 26.20–1 Must be available.

If a person operates a vessel that carries one or more passengers-for-hire, he or she is required to have a valid Coast Guard license suitable for the vessel's route and service. He or she must have the license in his or her possession and must produce it immediately upon the request of a Coast Guard boarding officer.

PART 30—GENERAL PROVISIONS

43. The authority citation for part 30 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–05 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

44. In § 30.01–5, revise paragraph (d), introductory text, redesignate table 30.01–5(D) as table 30.01–5(d), and revise redesignated table 30.01–5(d) to read as follows:

§ 30.01–5 Application of regulations—TB/ALL.

* * * * *

(d) This subchapter is applicable to all U.S.-flag vessels indicated in Column 2 of Table 30.01–5(d), except as follows:

* * * * *

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Table 30.01-5(d)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(1)	Motor, all vessels except seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels > 15 gross tons carrying freight-for-hire, except those covered by columns 2 and 3, and all vessels when carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 30.01-5(d) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(2)	Motor, seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels, including recreational vessels not engaged in trade. This does not include vessels covered by columns 2 and 3, and vessels engaged in the fishing industry.	All vessels not covered by columns 2, 3, 4, 6, and 7.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(3)	Non-self-propelled, vessels < 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	(i) All vessels that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by column 3.	None.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]
(4)	Non-self-propelled, vessels ≥ 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel, or E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by columns 3 and 6.	All seagoing barges engaged in oceanographic research.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]

Table 30.01-5(d) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(5)	Sail,[13] vessels ≤ 700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(6)	Sail,[13] vessels >700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying passengers or passengers-for-hire, except recreational vessels.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	None.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 30.01-5(d) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(7)	Steam, vessels ≤ 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to: A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All tugboats and towboats. All vessels carrying dangerous cargoes when required by 46 CFR Part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(8)	Steam, vessels > 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a	All vessels not covered by columns 2, 3, 6, and 7.	None.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 30.01-5(d) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(8)	Steam vessels >19.8 meters (65 feet) in length	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to: A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]				

Key to symbols used in this table: ≤ is less than or equal to, > is greater than, < is less than, and ≥ is greater than or equal to.

Footnotes:

1 Where length is used in this table, it means the length measured from end to end over the deck, excluding sheer. This expression means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline.

2 Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), N (Dangerous Cargoes), S (Subdivision and Stability), and W (Lifesaving Appliances and Arrangements) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR parts 171-179 apply whenever packaged hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

3 Public nautical schoolships, other than vessels of the Navy and Coast Guard, must meet the requirements of part 167 of subchapter R (Nautical Schools) of this chapter, Civilian nautical schoolships, as defined by 46 U.S.C. 1331, must meet the requirements of subchapter H (Passenger Vessels) and part 168 of subchapter R (Nautical Schools) of this chapter.

4 Subchapter H (Passenger Vessels) of this chapter covers only those vessels of 100 gross tons or more, subchapter T (Small Passenger Vessels) of this chapter covers only those vessels of less than 100 gross tons, and subchapter K (Small Passenger Vessels) of this chapter covers only those vessels less than 100 gross tons carrying more than 150 passengers or overnight accommodations for more than 49 passengers.

5 Vessels covered by subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter, where the principal purpose or use of the vessel is not for the carriage of liquid cargo, may be granted a permit to carry a limited amount of flammable or combustible liquid cargo in bulk. The portion of the vessel used for the carriage of the flammable or combustible liquid cargo must meet the requirements of subchapter D (Tank Vessels) in addition to the requirements of subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter.

6 Any vessel on an international voyage is subject to the requirements of the International Convention for Safety of Life at Sea, 1974 (SOLAS).

7 The terms "passenger(s)" and "passenger(s)-for-hire" are as defined in 46 U.S.C. 2101(21)(21a). On oceanographic vessels, scientific personnel onboard shall not be deemed to be passengers nor seamen, but for calculations of lifesaving equipment, etc., must be counted as persons.

8 Boilers and machinery are subject to examination on vessels over 40 feet in length.

9 Under 46 U.S.C. 441 and oceanographic research vessel "* * * being employed exclusively in instruction in oceanography or linmology, or both, or exclusively in oceanographic research, * * *." Under 46 U.S.C. 443, "an oceanographic research vessel shall not be deemed to be engaged in trade or commerce." If or when an oceanographic vessel engages in trade or commerce, such vessel cannot operate under its certificate of inspection as an oceanographic vessel, but shall be inspected and certificated for the service in which engaged, and the scientific personnel aboard then become persons employed in the business of the vessel.

10 Bulk dangerous cargoes are cargoes specified in table 151.01-10(b); in table 1 of part 153, and in table 4 of part 154 of this chapter.

11 For manned tank barges, see § 151.01-10(c) of this chapter.

12. See § 151.01-15, 153.900(d), or 154.30 of this chapter as appropriate.

13. Sail vessel means a vessel with no auxiliary machinery on board. If the vessel has auxiliary machinery, refer to motor vessels.

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PART 70—GENERAL PROVISIONS

45. The authority citation for part 70 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub. L 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.45, 1.46; Section 70.01–15 also issued under the authority of 44 U.S.C. 3507.

46. In § 70.05–1, revise paragraph (a), introductory text, and table 70.05–1(a) to read as follows:

§ 70.05–1 United States flag vessels subject to the requirements of this subchapter.

(a) This subchapter is applicable to all U.S.-flag vessels indicated in Column 3 of table 70.05–1(a) that are 100 gross tons or more, except as follows:

* * * * *

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Table 70.05-1(a)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(1)	Motor, all vessels except seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels > 15 gross tons carrying freight-for-hire, except those covered by columns 2 and 3, and all vessels when carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 70.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(2)	Motor, seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels, including recreational vessels not engaged in trade. This does not include vessels covered by columns 2 and 3, and vessels engaged in the fishing industry.	All vessels not covered by columns 2, 3, 4, 6, and 7.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(3)	Non-self-propelled, vessels < 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by column 3.	None.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]
(4)	Non-self-propelled, vessels ≥ 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel, or E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by columns 3 and 6.	All seagoing barges engaged in oceanographic research.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]

Table 70.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vesssels inspected and certificaqted under--			Vessels subject to the provisions of --		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(5)	Sail,[13] vessels ≤ 700 gross tons	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(6)	Sail,[13] vessels >700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying passengers or passengers-for-hire, except recreational vessels.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	None.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 70.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(7)	Steam, vessels ≤ 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and are submersible vessels.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All tugboats and towboats. All vessels carrying dangerous cargoes when required by 46 CFR Part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 70.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(8)	Steam, vessels > 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to: A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels not covered by columns 2, 3, 6, and 7.	None.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Key to symbols used in this table: ≤ is less than or equal to, > is greater than, < is less than, and ≥ is greater than or equal to.

Footnotes:

1 Where length is used in this table, it means the length measured from end to end over the deck, excluding sheer. This expression means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline.

2 Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), N (Dangerous Cargoes), S (Subdivision and Stability), and W (Lifesaving Appliances and Arrangements) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR parts 171-179 apply whenever packaged hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

3 Public nautical schoolships, other than vessels of the Navy and Coast Guard, must meet the requirements of part 167 of subchapter R (Nautical Schools) of this chapter, Civilian nautical schoolships, as defined by 46 U.S.C. 1331, must meet the requirements of subchapter H (Passenger Vessels) and part 168 of subchapter R (Nautical Schools) of this chapter.

4 Subchapter H (Passenger Vessels) of this chapter covers only those vessels of 100 gross tons or more, subchapter T (Small Passenger Vessels) of this chapter covers only those vessels of less than 100 gross tons, and subchapter K (Small Passenger Vessels) of this chapter covers only those vessels less than 100 gross tons carrying more than 150 passengers or overnight accommodations for more than 49 passengers.

5 Vessels covered by subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter, where the principal purpose or use of the vessel is not for the carriage of liquid cargo, may be granted a permit to carry a limited amount of flammable or combustible liquid cargo in bulk. The portion of the vessel used for the carriage of the flammable or combustible liquid cargo must meet the requirements of subchapter D (Tank Vessels) in addition to the requirements of subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter.

6 Any vessel on an international voyage is subject to the requirements of the International Convention for Safety of Life at Sea, 1974 (SOLAS).

7 The terms "passenger(s)" and "passenger(s)-for-hire" are as defined in 46 U.S.C. 2101(21)(21a). On oceanographic vessels, scientific personnel onboard shall not be deemed to be passengers nor seamen, but for calculations of lifesaving equipment, etc., must be counted as persons.

8 Boilers and machinery are subject to examination on vessels over 40 feet in length.

9 Under 46 U.S.C. 441 and oceanographic research vessel "* * * being employed exclusively in instruction in oceanography or linmology, or both, or exclusively in oceanographic research, * * *." Under 46 U.S.C. 443, "an oceanographic research vessel shall not be deemed to be engaged in trade or commerce." If or when an oceanographic vessel engages in trade or commerce, such vessel cannot operate under its certificate of inspection as an oceanographic vessel, but shall be inspected and certificated for the service in which engaged, and the scientific personnel aboard then become persons employed in the business of the vessel.

10 Bulk dangerous cargoes are cargoes specified in table 151.01-10(b); in table 1 of part 153, and in table 4 of part 154 of this chapter.

11 For manned tank barges, see § 151.01-10(c) of this chapter.

12. See § 151.01-15, 153.900(d), or 154.30 of this chapter as appropriate.

13. Sail vessel means a vessel with no auxiliary machinery on board. If the vessel has auxiliary machinery, refer to motor vessels.

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47. Add § 70.05–18 to read as follows:

§ 70.05–18 Applicability to vessels operating under an exemption afforded in the Passenger Vessel Safety Act of 1993 (PVSA).

(a) The Passenger Vessel Safety Act of 1993 (PVSA) contained an allowance for the exemption of certain passenger vessels that are—

(1) At least 100 gross tons but less than 300 gross tons; or

(2) Former public vessels of at least 100 gross tons but less than 500 gross tons.

(b) The owner or operator of a vessel must have applied for an exemption under the PVSA by June 21, 1994, and then brought the vessel into compliance with the interim guidance in Navigation and Inspection Circular (NVIC) 7–94 not later than December 21, 1996. The PVSA exemption is valid for the service life of the vessel, as long as the vessel remains certified for passenger service. If the Certificate of Inspection (COI) is surrendered or otherwise becomes invalid (not including a term while the vessel is out of service but undergoing an inspection for recertification), the owner or operator must meet the appropriate inspection regulations to obtain a new COI without the PVSA exemption. See 46 CFR 175.118 for information about applicable regulations for vessels that operate under the PVSA exemption.

48. Revise subpart § 70.10, consisting of § 70.10–1, to read as follows:

Subpart 70.10—Definition of Terms Used in This Subchapter

§ 70.10–1 Definitions.

Approved means approved by the Commandant, unless otherwise stated.

Barge means any non-self-propelled vessel.

Carrying freight for hire means the carriage of any goods, wares, or merchandise, or any other freight for a consideration, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person interested in the vessel.

Classed vessel means any vessel classed by the American Bureau of Shipping or other recognized classification society.

Coast Guard District Commander means an officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within his or her district, which include the inspection, enforcement, and administration of Subtitle II, Title 46 U.S. Code; Title 33 U.S. Code; and regulations issued under these statutes.

Coastwise is a designation of service that includes all vessels normally navigating the waters of any ocean or the Gulf of Mexico 20 nautical miles or less offshore.

Commandant means the Commandant of the United States Coast Guard.

Consideration means an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity but not including a voluntary sharing of the actual expenses of the voyage by monetary contribution or donation of fuel, food, beverage, or other supplies.

Ferry is a designation that includes those vessels, in other than ocean or coastwise service, having provisions only for deck passengers and/or vehicles, operating on a short run, on a frequent schedule between two points over the most direct water route, and offering a public service of a type normally attributed to a bridge or tunnel.

Great Lakes is a designation of service that includes all vessels navigating the Great Lakes.

Headquarters means the Office of the Commandant, United States Coast Guard, Washington, DC 20593.

Lakes, bays, and sounds is a designation of service that includes all vessels navigating the waters of the lakes, bays, or sounds other than the waters of the Great Lakes.

Marine inspector or *inspector* means any person from the civilian or military branch of the Coast Guard assigned under the direction of an Officer in Charge, Marine Inspection, or any other person designated to perform duties related to the inspection, enforcement, and administration of Subtitle II, Title 46 U.S. Code; Title 33 U.S. Code; and regulations issued under these statutes.

Motor vessel means any vessel more than 65 feet in length, which is propelled by machinery other than steam.

Ocean is a designation of service that includes all vessels navigating the waters of any ocean or the Gulf of Mexico more than 20-nautical miles offshore.

Officer in Charge, Marine Inspection means any person from the civilian or military branch of the Coast Guard designated as such by the Commandant and who, under the direction of the Coast Guard District Commander, is in charge of an inspection zone for the performance of duties related to the inspection, enforcement, and administration of Subtitle II, Title 46 U.S. Code; Title 33 U.S. Code; and regulations issued under these statutes.

Passenger means—

(1) On an international voyage, every person other than—

(i) The master and the members of the crew or other persons employed or engaged in any capacity onboard a vessel on the business of that vessel; and

(ii) A child under the age of one.

(2) On other than an international voyage, an individual carried on the vessel, except—

(i) The owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

(ii) The master; or

(iii) A member of the crew engaged in the business of the vessel, who has not contributed consideration for carriage, and who is paid for onboard services.

Passenger-for-hire means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

Passenger vessel means—

(1) On an international voyage, a vessel of at least 100 tons gross tonnage carrying more than 12 passengers; and

(2) On other than an international voyage, a vessel of at least 100 tons gross tonnage—

(i) Carrying more than 12 passengers, including at least one passenger-for-hire;

(ii) That is chartered and carrying more than 12 passengers; or

(iii) That is a submersible vessel and carrying at least one passenger-for-hire.

Pilot boarding equipment means a pilot ladder, accommodation ladder, pilot hoist, or combination of them, as required by this subchapter.

Point of access means the place on the deck of a vessel where a person steps onto or off pilot boarding equipment.

Recognized classification society means the American Bureau of Shipping or other classification society as recognized by the Commandant.

Rivers is a designation of service that includes all vessels whose navigation is restricted to rivers and/or canals, and to such other waters as may be designated by the Coast Guard District Commander.

Sailing vessel means a vessel with no mechanical means of propulsion, all propulsive power being provided by sails.

Short international voyage means an international voyage in the course of which a vessel is not more than 200 miles from a port or place in which the passengers and crew could be placed in safety. Neither the distance between the last port of call in the country in which

the voyage begins and the final port of destination, nor the return voyage, may exceed 600 miles. The final port of destination is the last port of call in the scheduled voyage at which the vessel commences its return voyage to the country in which the voyage began.

Specially suitable for vehicles is a designation used for a space that is designed for the carriage of automobiles or other self-propelled vehicles with batteries connected and fuel tanks containing gasoline on vessels on ocean or unlimited coastwise voyages. Requirements for the design and protection of spaces specially suitable for vehicles appear in subparts 72.15, 76.15, 77.05, 78.45, 78.47, and 78.83 of parts 72, 76, 77, and 78 of this subchapter. In addition, preparation of automobiles prior to carriage, with the exception of disconnecting battery cables, must be in accordance with the applicable provision of 49 CFR 176.905.

Submersible vessel means a vessel that is capable of operating below the surface of the water.

Vessel, unless otherwise noted in this subpart, includes all vessels indicated in column three of table 70.05–1(a) in § 70.05–1 that exceed 65 feet in length (measured from end-to-end over the deck, excluding sheer) and that carry more than six passengers-for-hire.

PART 90—GENERAL PROVISIONS

49. The authority citation for part 90 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub.L 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

50. In § 90.05.1, revise paragraph (a), introductory text, and table 90.05–1(a) to read as follows:

§ 90.05–1 Vessels subject to the requirements of this subchapter.

(a) This subchapter is applicable to all U.S.-flag vessels indicated in Column 4 of Table 90.05–1(a) and to all such foreign-flag vessels which carry 12 or fewer passengers from any port in the United States to the extent prescribed by law, except as follows:

* * * * *

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Table 90.05-1(a)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(1)	Motor, all vessels except seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels > 15 gross tons carrying freight-for-hire, except those covered by columns 2 and 3, and all vessels when carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 90.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(2)	Motor, seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels, including recreational vessels not engaged in trade. This does not include vessels covered by columns 2 and 3, and vessels engaged in the fishing industry.	All vessels not covered by columns 2, 3, 4, 6, and 7.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(3)	Non-self-propelled, vessels < 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by column 3.	None.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]
(4)	Non-self-propelled, vessels ≥ 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel, or E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by columns 3 and 6.	All seagoing barges engaged in oceanographic research.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]

Table 90.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(5)	Sail,[13] vessels ≤ 700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(6)	Sail,[13] vessels >700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying passengers or passengers-for-hire, except recreational vessels.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	None.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or Part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 90.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(7)	Steam, vessels ≤ 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All tugboats and towboats. All vessels carrying dangerous cargoes when required by 46 CFR Part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(8)	Steam, vessels > 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the	All vessels not covered by columns 2, 3, 6, and 7	None.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would

Table 90.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(8)	Steam, vessels > 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]				otherwise be subject to these parts.[12]

Key to symbols used in this table: ≤ is less than or equal to, > is greater than, < is less than, and ≥ is greater than or equal to.

Footnotes:

1 Where length is used in this table, it means the length measured from end to end over the deck, excluding sheer. This expression means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline.

2 Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), N (Dangerous Cargoes), S (Subdivision and Stability), and W (Lifesaving Appliances and Arrangements) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR parts 171-179 apply whenever packaged hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

3 Public nautical schoolships, other than vessels of the Navy and Coast Guard, must meet the requirements of part 167 of subchapter R (Nautical Schools) of this chapter, Civilian nautical schoolships, as defined by 46 U.S.C. 1331, must meet the requirements of subchapter H (Passenger Vessels) and part 168 of subchapter R (Nautical Schools) of this chapter.

4 Subchapter H (Passenger Vessels) of this chapter covers only those vessels of 100 gross tons or more, subchapter T (Small Passenger Vessels) of this chapter covers only those vessels of less than 100 gross tons, and subchapter K (Small Passenger Vessels) of this chapter covers only those vessels less than 100 gross tons carrying more than 150 passengers or overnight accommodations for more than 49 passengers.

5 Vessels covered by subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter, where the principal purpose or use of the vessel is not for the carriage of liquid cargo, may be granted a permit to carry a limited amount of flammable or combustible liquid cargo in bulk. The portion of the vessel used for the carriage of the flammable or combustible liquid cargo must meet the requirements of subchapter D (Tank Vessels) in addition to the requirements of subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter.

6 Any vessel on an international voyage is subject to the requirements of the International Convention for Safety of Life at Sea, 1974 (SOLAS).

7 The terms "passenger(s)" and "passenger(s)-for-hire" are as defined in 46 U.S.C. 2101(21)(21a). On oceanographic vessels, scientific personnel onboard shall not be deemed to be passengers nor seamen, but for calculations of lifesaving equipment, etc., must be counted as persons.

8 Boilers and machinery are subject to examination on vessels over 40 feet in length.

9 Under 46 U.S.C. 441 and oceanographic research vessel "* * * being employed exclusively in instruction in oceanography or linmology, or both, or exclusively in oceanographic research, * * *." Under 46 U.S.C. 443, "an oceanographic research vessel shall not be deemed to be engaged in trade or commerce." If or when an oceanographic vessel engages in trade or commerce, such vessel cannot operate under its certificate of inspection as an oceanographic vessel, but shall be inspected and certificated for the service in which engaged, and the scientific personnel aboard then become persons employed in the business of the vessel.

10 Bulk dangerous cargoes are cargoes specified in table 151.01-10(b); in table 1 of part 153, and in table 4 of part 154 of this chapter.

11 For manned tank barges, see § 151.01-10(c) of this chapter.

12. See § 151.01-15, 153.900(d), or 154.30 of this chapter as appropriate.

13. Sail vessel means a vessel with no auxiliary machinery on board. If the vessel has auxiliary machinery, refer to motor vessels.

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PART 114—GENERAL PROVISIONS

51. The authority citation for part 114 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 114.900 also issued under 44 U.S.C. 3507.

52. In § 114.400(b), add, in alphabetical order, the definition of ''Submersible vessel'' to read as follows:

§ 114.400 Definitions of terms used in this subchapter.

* * * * *

Submersible vessel means a vessel that is capable of operating below the surface of the water.

* * * * *

PART 169—SAILING SCHOOL VESSELS

53. The authority citation for part 169 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; Pub. L. 103–206, 107 Stat. 2439; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.45, 1.46; § 169.117 also issued under the authority of 44 U.S.C. 3507.

54. Revise § 169.103(a) and (b) to read as follows:

§ 169.103 Applicability.

(a) This subchapter applies to each domestic vessel operating as a sailing school vessel.

(b) This subchapter does not apply to—

(1) Any vessel operating exclusively on inland waters, which are not navigable waters of the United States;

(2) Any vessel while laid up, dismantled, and out of service;

(3) Any vessel with title vested in the United States and which is used for public purposes except vessels of the U.S. Maritime Administration;

(4) Any vessel carrying one or more passengers;

(5) Any vessel operating under the authority of a current valid certificate of inspection issued per the requirements of 46 CFR chapter I, subchapter H or T, 46 CFR parts 70 through 78 and parts 175 through 187, respectively; or

(6) Any foreign vessel.

* * * * *

55. Amend § 169.107 as follows:

(1) Remove paragraph (g);

(2) Remove only the paragraph designations from remaining paragraphs (a) through (f) and (h) through (z);

(3) Add, in alphabetical order, the definition of ''demise charter''; and

(4) Revise the definitions of ''passenger'' and ''sailing instruction''.

The additions and revisions read as follows:

§ 169.107 Definitions.

* * * * *

Demise charter means a legally binding document for a term of one year or more under which for the period of the charter, the party who leases or charters the vessel, known as the demise or bareboat charterer, assumes legal responsibility for all of the incidents of ownership, including insuring, manning, supplying, repairing, fueling, maintaining and operating the vessel. The term demise or bareboat charterer is synonymous with ''owner pro hac vice''.

* * * * *

Passenger on a sailing school vessel means an individual carried on the vessel except—

(1) The owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

(2) The master;

(3) A member of the crew engaged in the business of the vessel, who has not contributed consideration for carriage, and who is paid for onboard services;

(4) An employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

(5) An employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

(6) A sailing school instructor or sailing school student.

* * * * *

Sailing instruction means teaching, research, and practical experience in operating vessels propelled primarily by sail, and may include any subject related to that operation and the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature. In conjunction with any of those subjects, ''sailing instruction'' also includes instruction in mathematics and language arts skills to a sailing school student with a learning disability.

* * * * *

PART 175—GENERAL PROVISIONS

56. The authority citation for part 175 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3205, 3306, 3703; Pub.L 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; 175.900 also issued under authority of 44 U.S.C. 3507.

57. Add § 175.118 to read as follows:

§ 175.118 Vessels operating under an exemption afforded in the Passenger Vessel Safety Act of 1993 (PVSA).

(a) The Passenger Vessel Safety Act of 1993 (PVSA) contained an allowance for the exemption of certain passenger vessels that are—

(1) At least 100 gross tons but less than 300 gross tons; or

(2) Former public vessels of at least 100 gross tons but less than 500 gross tons.

(b) The owner or operator of a vessel must have applied for an exemption under PVSA by June 21, 1994, and then brought the vessel into compliance with the interim guidance in Navigation and Inspection Circular (NVIC) 7–94 not later than December 21, 1996. The PVSA exemption is valid for the service life of the vessel, as long as the vessel remains certified for passenger service. If the Certificate of Inspection (COI) is surrendered or otherwise becomes invalid (not including a term while the vessel is out of service but undergoing an inspection for recertification), the owner or operator must meet the appropriate inspection regulations to obtain a new COI without the PVSA exemption.

(c) Except where the provisions of subchapter H of this chapter apply, the owner or operator must ensure that the vessel meets the requirements of this subchapter, meets any requirements the OCMI deems applicable, and meets any specific additions or exceptions as follows:

(1) If a vessel does not meet the intact stability requirements of subchapter S of this chapter, the vessel's route(s) will be limited to an area within 20 nautical miles from a harbor of safe refuge, provided the vessel has a history of safe operation on those waters. The OCMI may further restrict the vessel's routes if the vessel's service history, condition, or other factors affect its seaworthiness or safety.

(2) The vessel may not carry more than 150 passengers, and not more than 49 passengers in overnight accommodations.

(3) The owner or operator must crew the vessel under the requirements of this subchapter. All officers must be licensed for the appropriate vessel tonnage. The OCMI may require a licensed engineer for those vessels of at least 200 gross tons. Vessels carrying more than 50 passengers must have an additional deckhand, and all deckhands on vessels carrying more than 50 passengers must be adequately trained. The crew members on a vessel of at least 200 gross tons, except those operated exclusively on lakes and rivers, are required to hold merchant mariner

documents and 50 percent of the unlicensed deck crew must be rated as at least an able seaman.

(4) The vessel owner or operator must comply with the lifesaving arrangements located in part 180 of this chapter, except that inflatable liferafts are required for primary lifesaving. A rescue boat or suitable rescue arrangement must be provided to the satisfaction of the OCMI.

(5) The vessel owner or operator must comply with the fire protection requirements located in part 181 of this chapter. When a vessel fails to meet the fire protection and structural fire protection requirements of this subchapter, the vessel owner or operator must meet equivalent requirements to the satisfaction of the cognizant OCMI or submit plans for approval from the Coast Guard Marine Safety Center.

(6) At a minimum, the owner or operator must outfit the vessel with portable fire extinguishers per 46 CFR 76.50. In addition, the vessel must meet any additional requirements of the OCMI, even if they exceed the requirements in 46 CFR 76.50.

(7) In addition to the means-of-escape requirements of 46 CFR 177.500, the vessel owner or operator must also meet the requirements for means of escape found in 46 CFR 78.47–40.

(d) The OCMI conducts an inspection and may issue a COI if the vessel meets these requirements. The COI's condition of operation must contain the following endorsement: ''This vessel is operating under an exemption afforded in The Passenger Vessel Safety Act of 1993 and as such is limited to domestic voyages and a maximum _____ of passengers and may be subject to additional regulations and restrictions as provided for in Sections 511 and 512 of the Act.''

58. In § 175.400, add a definition for ''Submersible vessel'', in alphabetical order, to read as follows:

§ 175.400 Definitions of terms used in this subchapter.

* * * * *

Submersible vessel means a vessel that is capable of operating below the surface of the water.

* * * * *

PART 188—GENERAL PROVISIONS

59. The authority citation for part 188 is revised to read as follows:

Authority: 46 U.S.C. 2113, 3306; Pub. L 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

60. In § 188.05–1, revise paragraph (a), introductory text, and table 188.05–1(a) to read as follows:

188.05–1 Vessels subject to requirements of this subchapter.

(a) This subchapter is applicable to all U.S.-flag vessels indicated in Column 6 of Table 188.05–1(a) to the extent prescribed by applicable laws and the regulations in this subchapter, except as follows:

* * * * *

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Table 188.05-1(a)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(1)	Motor, all vessels except seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels > 15 gross tons carrying freight-for-hire, except those covered by columns 2 and 3, and all vessels when carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 188.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(2)	Motor, seagoing motor vessels ≥ 300 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels, including recreational vessels not engaged in trade. This does not include vessels covered by columns 2 and 3, and vessels engaged in the fishing industry.	All vessels not covered by columns 2, 3, 4, 6, and 7.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(3)	Non-self-propelled, vessels < 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by column 3.	None.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]
(4)	Non-self-propelled, vessels ≥ 100 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	ii) All vessels that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel, or E) Carry more than 12 passengers on an international voyage.[7]	All seagoing barges except those covered by columns 2 and 3.	All barges carrying passengers or passengers-for-hire, except those covered by columns 3 and 6.	All seagoing barges engaged in oceanographic research.	All tank barges carrying cargoes listed in Table 151.05 of this chapter or unlisted cargoes that would otherwise be subject to part 151.[1, 11, and 12]

Table 188.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(5)	Sail,[13] vessels ≤ 700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]
(6)	Sail,[13] vessels >700 gross tons.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying passengers or passengers-for-hire, except recreational vessels.[7]	Those vessels carrying dangerous cargoes when required by 46 CFR part 98.	None.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 188.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscell-aneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Ocean-ographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(7)	Steam, vessels ≤ 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All tugboats and towboats. All vessels carrying dangerous cargoes when required by 46 CFR Part 98.	All vessels not covered by columns 2, 3, 4, and 6.	None.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Table 188.05-1(a) (continued)

Method of propulsion, qualified by size or other limitation.[1]		Vessels inspected and certificated under--			Vessels subject to the provisions of--		
		Subchapter D--Tank Vessels.[2]	Subchapter H--Passenger Vessels[2, 3, 4, and 5] or Subchapter K or T--Small Passenger Vessels.[2, 3, and 4]	Subchapter I--Cargo and Miscellaneous Vessels.[2 and 5]	Subchapter C--Uninspected Vessels.[2, 3, 6, 7, and 8]	Subchapter U—Oceanographic Vessels.[2, 3, 6, 7, and 9]	Subchapter O--Certain Bulk and Dangerous Cargoes.[10]
Column 1		Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
(8)	Steam, vessels > 19.8 meters (65 feet) in length.	All vessels carrying combustible or flammable liquid cargo in bulk.[5]	i) All vessels carrying more than 12 passengers on an international voyage, except recreational vessels not engaged in trade.[7] ii) All vessels < 100 gross tons that-- A) Carry more than 6 passengers-for-hire whether chartered or not, or B) Carry more than 6 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iii) All vessels ≥ 100 gross tons that-- A) Carry more than 12 passengers-for-hire whether chartered or not, or B) Carry more than 12 passengers when chartered with the crew provided, or C) Carry more than 12 passengers when chartered with no crew provided, or D) Carry at least 1 passenger-for-hire and is a submersible vessel.[7] iv) These regulations do not apply to-- A) Recreational vessels not engaged in trade. B) Documented cargo or tank vessels issued a permit to carry 16 or fewer persons in addition to the crew. C) Fishing vessels, not engaged in ocean or coastwise service, may carry persons on the legitimate business of the vessel[5] in addition to the crew, as restricted by the definition of passenger.[7]	All vessels not covered by columns 2, 3, 6, and 7.	None.	All vessels engaged in oceanographic research.	All vessels carrying cargoes in bulk that are listed in part 153, table 1, or part 154, table 4, or unlisted cargoes that would otherwise be subject to these parts.[12]

Key to symbols used in this table: ≤ is less than or equal to, > is greater than, < is less than, and ≥ is greater than or equal to.

Footnotes:

1 Where length is used in this table, it means the length measured from end to end over the deck, excluding sheer. This expression means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline.

2 Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), N (Dangerous Cargoes), S (Subdivision and Stability), and W (Lifesaving Appliances and Arrangements) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR parts 171-179 apply whenever packaged hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

3 Public nautical schoolships, other than vessels of the Navy and Coast Guard, must meet the requirements of part 167 of subchapter R (Nautical Schools) of this chapter, Civilian nautical schoolships, as defined by 46 U.S.C. 1331, must meet the requirements of subchapter H (Passenger Vessels) and part 168 of subchapter R (Nautical Schools) of this chapter.

4 Subchapter H (Passenger Vessels) of this chapter covers only those vessels of 100 gross tons or more, subchapter T (Small Passenger Vessels) of this chapter covers only those vessels of less than 100 gross tons, and subchapter K (Small Passenger Vessels) of this chapter covers only those vessels less than 100 gross tons carrying more than 150 passengers or overnight accommodations for more than 49 passengers.

5 Vessels covered by subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter, where the principal purpose or use of the vessel is not for the carriage of liquid cargo, may be granted a permit to carry a limited amount of flammable or combustible liquid cargo in bulk. The portion of the vessel used for the carriage of the flammable or combustible liquid cargo must meet the requirements of subchapter D (Tank Vessels) in addition to the requirements of subchapter H (Passenger Vessels) or I (Cargo and Miscellaneous Vessels) of this chapter.

6 Any vessel on an international voyage is subject to the requirements of the International Convention for Safety of Life at Sea, 1974 (SOLAS).

7 The terms "passenger(s)" and "passenger(s)-for-hire" are as defined in 46 U.S.C. 2101(21)(21a). On oceanographic vessels, scientific personnel onboard shall not be deemed to be passengers nor seamen, but for calculations of lifesaving equipment, etc., must be counted as persons.

8 Boilers and machinery are subject to examination on vessels over 40 feet in length.

9 Under 46 U.S.C. 441 and oceanographic research vessel "* * * being employed exclusively in instruction in oceanography or linmology, or both, or exclusively in oceanographic research, * * *." Under 46 U.S.C. 443, "an oceanographic research vessel shall not be deemed to be engaged in trade or commerce." If or when an oceanographic vessel engages in trade or commerce, such vessel cannot operate under its certificate of inspection as an oceanographic vessel, but shall be inspected and certificated for the service in which engaged, and the scientific personnel aboard then become persons employed in the business of the vessel.

10 Bulk dangerous cargoes are cargoes specified in table 151.01-10(b); in table 1 of part 153, and in table 4 of part 154 of this chapter.

11 For manned tankbarges, see § 151.01-10(c) of this chapter.

12. See § 151.01-15, 153.900(d), or 154.30 of this chapter as appropriate.

13. Sail vessel means a vessel with no auxiliary machinery on board. If the vessel has auxiliary machinery, refer to motor vessels.

BILLING CODE 4910–15–C

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

61. The authority citation for part 199 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; Pub. L 103–206, 107 Stat. 2439; 46 CFR 1.46.

62. In § 199.30, revise the definition of ''passenger vessel'' to read as follows:

§ 199.30 Definitions.

* * * * *

Passenger vessel means—

(1) On an international voyage, a vessel of at least 100 tons gross tonnage carrying more than 12 passengers; and

(2) On other than an international voyage, a vessel of at least 100 tons gross tonnage—

(i) Carrying more than 12 passengers, including at least one passenger-for-hire; or

(ii) That is chartered and carrying more than 12 passengers; or

(iii) That is a submersible vessel carrying at least one passenger-for-hire.

* * * * *

Dated: April 18, 2002.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–11060 Filed 5–14–02; 8:45 am]

BILLING CODE 4910–15–P

Federal Register

Wednesday,
May 15, 2002

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulation; Training and Education Cost Principle; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

[FAR Case 2001–021]

RIN 9000–AJ38

Federal Acquisition Regulation; Training and Education Cost Principle

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) ''Training and Education Costs'' cost principle.

DATES: Interested parties should submit comments in writing on or before July 15, 2002 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: *farcase.2001–021@gsa.gov.* Please submit comments only and cite FAR case 2001–021 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson at (202) 501–3221. Please cite FAR case 2001–021.

SUPPLEMENTARY INFORMATION:

A. Background

Currently, FAR 31.205–44, Training and education costs, is somewhat restrictive in that the cost principle—

• Differentiates between vocational training, part-time college level education, full-time education, and specialized programs with numerous specific limitations on the allowability of costs associated with each of these categories. Historically, most of these specific allowability limitations were intended to reflect industry practices, *e.g.,* the 156 hours per year limit on compensation for part-time college level education, the 2-year limitation on full-time graduate education, and the 16 weeks per year limit for specialized programs; and

• Requires full-time education courses or degrees be ''related to the field in which the employee is working or may reasonably be expected to work.'' The Councils propose to eliminate the current or future job relationship requirement since the associated costs represent minimal risk to the Government; and the standard is difficult to enforce, and counter to Government initiatives supporting upward mobility, job retraining, and educational advancement.

The proposed rule makes the costs associated with training and education generally allowable, subject to five public policy exceptions that are retained from the current cost principle. Except for these five expressly unallowable cost exceptions, the reasonableness of specific contractor training and education costs can best be assessed by reference to FAR 31.201–3, Determining reasonableness.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive, fixed-price basis, and do not require application of the cost principle discussed in this rule. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part 31 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2001–021), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: May 9, 2002.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 31 as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Revise section 31.205–44 to read as follows:

31.205–44 Training and education costs.

Training and education costs are allowable, except as follows:

(a) Overtime compensation for training and education is unallowable.

(b)(1) *Full-time college level education.* Costs of tuition, fees, training materials and textbooks, subsistence, salary, and any other emoluments in connection with full-time college level education, including that provided at the contractor's own facilities, are unallowable at—

(i) An undergraduate level; and

(ii) A postgraduate level, except where the course or degree pursued is related to the field in which the employee is working or may reasonably be expected to work and is limited to a total period not to exceed 2 school years or the length of the degree program, whichever is less, for each employee so trained.

(2) *Part-time college level education.* The cost of salaries for attending undergraduate or graduate level classes on a part-time basis is unallowable, except for attending such classes during working hours where circumstances do not permit attendance at these classes before or after regular working hours.

(c) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, and fellowships, are considered contributions and are unallowable.

(d) Training or education costs for other than bona fide employees are unallowable, except that the costs incurred for educating employee dependents (primary and secondary level studies) when the employee is working in a foreign country where suitable public education is not available may be included in overseas differential pay.

(e) Costs of college plans for employee dependents are unallowable.

[FR Doc. 02–12079 Filed 5–14–02; 8:45 am]

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Federal Register

Wednesday,
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Part IV

The President

Proclamation 7560—National Hurricane Awareness Week, 2002

Federal Register
Vol. 67, No. 94
Wednesday, May 15, 2002

Presidential Documents

Title 3—

The President

Proclamation 7560 of May 13, 2002

National Hurricane Awareness Week, 2002

By the President of the United States of America

A Proclamation

Hurricanes can devastate our communities, endangering thousands of human lives and causing billions of dollars in property damage. Stemming from the ocean, the atmosphere, and heat from the sea, hurricanes bring with them the potential for high winds, tornadoes, torrential rains, flooding, and ocean water storm surges. Their fierce and destructive power requires that we all take steps to reduce our vulnerability to this natural hazard.

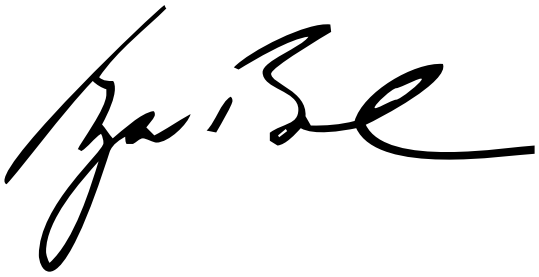
According to the Federal Emergency Management Agency (FEMA) and the National Oceanic and Atmospheric Administration, an average of ten tropical storms develop annually over the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico. Every year, an average of six of these storms grow strong enough to become hurricanes. Approximately five hurricanes strike the United States coastline every 3 years. Out of these, two will have winds above 111 miles per hour, qualifying them as major hurricanes. The resulting high winds and high waves can seriously damage homes, businesses, public buildings, and critical infrastructure, and ultimately have the potential to injure people and claim lives.

To help avoid damage and help ensure the public's safety from hurricane hazards, FEMA recommends a variety of preventative steps for both individuals and communities. For example, construction measures can help minimize property destruction. These include installing storm shutters over exposed glass and adding hurricane straps to hold the roof of a structure to its walls and foundation. More complex measures, such as elevating coastal homes and businesses, can further reduce a property's susceptibility. In addition, communities can reduce their vulnerability by adopting wind- and flood-resistant building codes and by implementing sound land-use planning.

More than 50 million people live along hurricane-prone coastlines in the United States, with millions of tourists visiting these areas annually. During National Hurricane Awareness Week, I encourage those who live in coastal areas, as well as all concerned Americans, to be more vigilant in preparing for hurricanes and other natural disasters before they occur. By promoting awareness of hurricane hazards and helping with relief efforts when these powerful storms strike, we can reduce the risks of hurricane damage and help our neighbors recover more quickly from their devastating effects. With preparation, forecasting, and coordination, we can save lives and improve our Nation's ability to withstand the impact of hurricanes.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 19 through May 25, 2002, as National Hurricane Awareness Week. I call on government agencies, private organizations, schools, news media, and residents in hurricane-prone areas to share information about hurricane preparedness and response in order to help prevent storm damage and save lives.

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



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LIST OF PUBLIC LAWS

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Farm Security and Rural Investment Act of 2002 (May 13, 2002; 116 Stat. 134)

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